Senate Budget and Fiscal Review

Subcommittee No. 4 2012 Agendas

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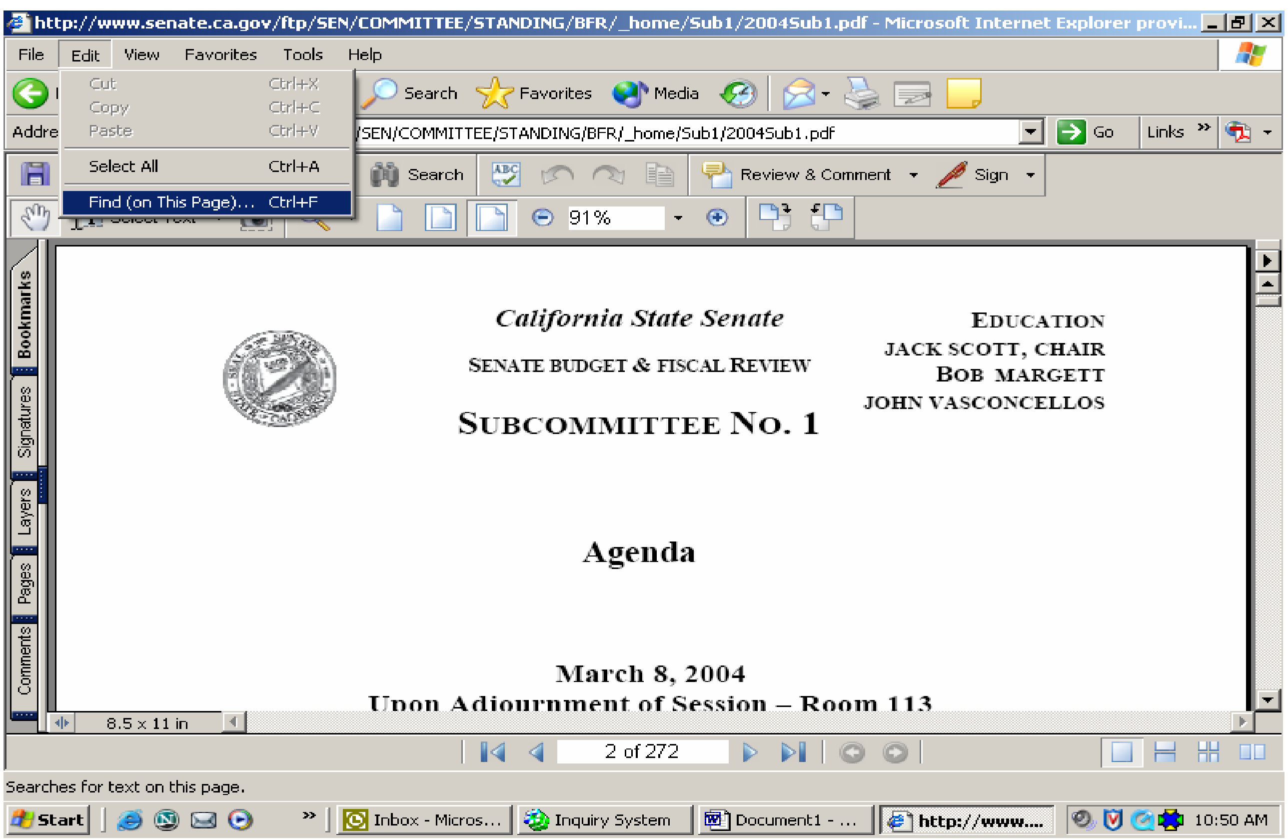

Members:
NOREEN EVANS
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California State Senate

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COMMITTEE
ON
BUDGET AND FISCAL REVIEW

**SUBCOMMITTEE #4 ON
STATE ADMINISTRATION AND
GENERAL GOVERNMENT**

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Gloria Negrete McLeod, Chair

UPDATE ON SAFE ACT IMPLEMENTATION

BACKGROUND PAPER

JOINT INFORMATIONAL HEARING OF THE

SENATE BANKING AND FINANCIAL INSTITUTIONS COMMITTEE
Juan Vargas, Chair

and the

SENATE BUDGET AND FISCAL REVIEW SUBCOMMITTEE NO. 4 ON STATE ADMINISTRATION AND GENERAL GOVERNMENT
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JOINT INFORMATIONAL HEARING OF THE

SENATE COMMITTEE ON BANKING & FINANCIAL INSTITUTIONS AND THE SENATE BUDGET SUBCOMMITTEE NO. 4 ON STATE ADMINISTRATION AND GENERAL GOVERNMENT

Senators Juan Vargas and Gloria Negrete McLeod, Chairs

Wednesday, March 7, 2012
State Capitol, Room 112
1:30 PM – 3:00 PM

I. Welcome and Opening Remarks – *Chairs McLeod and Vargas*

II. Update on SAFE Act Implementation

  A. *Colleen Monahan, Louisa Broudy, and Michele Bond, Deputy Commissioners, Department of Corporations*

  B. *Tom Pool and Steve Ellis, Assistant Commissioners, Department of Real Estate*

III. Public Comment

IV. Closing Remarks and Next Steps – *Chairs Vargas and McLeod*

UPDATE ON SAFE ACT IMPLEMENTATION IN CALIFORNIA
JOINT INFORMATIONAL HEARING OF THE SENATE BANKING AND FINANCIAL INSTITUTIONS COMMITTEE AND THE SENATE BUDGET AND FISCAL REVIEW SUBCOMMITTEE NO. 4 ON STATE ADMINISTRATION AND GENERAL GOVERNMENT

BACKGROUND PAPER

Introduction: The foreclosure crisis currently gripping California had many causes, and has, understandably, generated considerable state and federal action intended to prevent anything similar from happening again. One of the causes of the current crisis, which has generated a great deal of congressional, legislative, and regulatory action, is mortgage loan origination (i.e., the act of taking a mortgage loan application from a borrower and offering or negotiating the terms of a mortgage with that borrower). The logic behind action in this area is based on the premise that every individual who originates a mortgage loan should meet a minimum set of qualifications, should be trained in responsible mortgage loan origination practices, and should be accountable for their actions toward borrowers. Such standards were not in place during the irrationally exuberant 2004 through 2007 time period, and might have helped stem the tide of failed mortgage loans if they had been.

To be clear, mortgage loan origination is only one part of a much larger set of causes addressed by legislators and regulators since the nation's mortgage market imploded. Other key components of the crisis that have resulted in state and federal action include mortgage loan underwriting, real property valuation practices, mortgage loan securitization practices, and mortgage loan servicing practices, among many others. However, mortgage loan origination is one of the few causes that helped contribute to the mortgage crisis, which remains regulated primarily at the state level. It is because mortgage loan origination is regulated primarily by states that a considerable amount of California's recent regulatory focus has centered on the licensing and regulation of mortgage loan originators.

On Wednesday, March 7, 2012, the California Senate Banking and Financial Institutions Committee and the California Senate Budget and Fiscal Review Subcommittee Number 4 on State Administration and General Government will review the status of California's implementation of a comprehensive mortgage loan originator licensing system enacted in 2009. Both committees will ask the two departments that have been responsible for implementing our state's mortgage loan originator licensing laws to review their actions to date. How many licenses have been issued? How many disciplinary actions have been brought? What new information has been collected from licensees? What implementation challenges have been encountered? What staffing issues have arisen?

By jointly reviewing these topics, both the budget subcommittee and the policy committee with jurisdiction over the mortgage loan activities of these departments can work together to ensure that the California public receives the protections intended by the Legislature, when it enacted California's mortgage loan originator licensing scheme.

Background: On July 30, 2008, President George W. Bush signed the Housing and Economic Recovery Act of 2008, whose provisions included the Secure and Fair Enforcement for Mortgage Licensing Act (the SAFE Act). The SAFE Act gave each of the 50 states a choice – either a state could enact a law requiring individual mortgage loan originators doing business in that state to obtain SAFE Act mortgage loan originator licenses through a nationwide organization called the Nationwide Mortgage Licensing System and Registry (NMLSR); or, the state could fail to act. Any state which failed to act by July 30, 2009, or which acted to comply with the SAFE Act in a manner deemed unacceptable by the United States Department of Housing and Urban Development (HUD), risked intervention by HUD. The SAFE Act authorized HUD to establish and maintain a SAFE Act-compliant mortgage loan originator licensing scheme in any state that voluntarily failed to do so, an act that would, if undertaken by HUD, shift regulatory jurisdiction over the mortgage loan originators licensed in that state from the state to HUD. California opted to enact SAFE Act-compliant legislation, in order to retain its authority to regulate mortgage loan originators operating in California. That implementing legislation was contained in SB 36 (Calderon), Chapter 160, Statutes of 2009.

What Does the Federal SAFE Act Require? The SAFE Act defines the term "mortgage loan originator" as one who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or gain. Administrative and/or clerical employees are not included within the definition. Generally speaking, this term includes both mortgage brokers and loan officers.

The SAFE Act creates a distinction between mortgage loan originators who are employed by depository institutions or subsidiaries of depository institutions, and all other mortgage loan originators. Under the SAFE Act, mortgage loan originators who are *not* employed by a depository institution or a subsidiary of a depository institution must be *both licensed* by their state *and registered* through NMLSR[1]. License applicants must undergo background checks, submit to credit checks, complete pre-licensing education courses approved by NMLSR, pass national and state-specific pre-licensing examinations developed by NMLSR, meet specified personal character requirements specified in the SAFE Act, and pay specified licensing and license processing fees through NMLSR. Once licensed, mortgage loan originators must complete annual continuing education courses approved by NMLSR. Mortgage loan originators must also submit quarterly mortgage loan origination activity reports and annual reports of financial condition to NMLSR (see subsequent section for more detail regarding these reports).

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[11][1] The NMLSR is a web-based application run by the State Regulatory Registry LLC (SRR), a wholly owned subsidiary of the Conference of State Bank Supervisors. According to the SRR's most recent annual report (http://www.csbs.org/mortgage/Documents/2010%20SRR%20Annual%20Report.pdf), the NMLSR enables state-licensed mortgage lenders, brokers and loan originators to apply for, amend, update or renew licenses online using a single set of uniform applications, and allows federally regulated depository institutions and subsidiaries to register mortgage loan originators, as required by federal banking agencies. For all intents and purposes, the NMLSR is the clearinghouse through which all SAFE Act regulatory filings must be made, and through which all SAFE Act regulatory fees must be paid. States may *not* process SAFE Act applications through their own state-specific systems.

UPDATE ON SAFE ACT IMPLEMENTATION IN CALIFORNIA
JOINT INFORMATIONAL HEARING OF THE SENATE BANKING AND FINANCIAL INSTITUTIONS COMMITTEE AND THE SENATE BUDGET AND FISCAL REVIEW SUBCOMMITTEE NO. 4 ON STATE ADMINISTRATION AND GENERAL GOVERNMENT

BACKGROUND PAPER

In California, two departments – the Department of Real Estate (DRE) and the Department of Corporations (DOC) – have jurisdiction over laws that authorize mortgage loan origination activity which requires licensing pursuant to the SAFE Act.

The SAFE Act treats mortgage loan originators who are employed by depository institutions very differently than it treats mortgage loan originators who are employed by non-depositories. In lieu of licensing, the SAFE Act requires mortgage loan originators who are employed by depository institutions or their subsidiaries to *register* on NMLSR, using rules established by the Federal Financial Institutions Examination Council (FFIEC). Registrants must undergo background checks, but are not required to submit to credit checks, nor comply with the education and testing requirements that apply to mortgage loan originators who are required to be licensed under the Act. Because the SAFE Act does not require registrants to register with state licensing entities, California's Department of Financial Institutions (DFI) does not process registration applications submitted by employees of state-licensed depository institutions. Those activities are coordinated entirely by the NMLSR.

How Does California's SAFE Act Law (SB 36) Work?

<u>Real Estate Law Practices and Procedures:</u> Under the provisions of California law, real estate licensees who wish to act as mortgage loan originators must obtain a license endorsement from DRE. Thus, if one wishes to originate mortgages pursuant to the Real Estate Law, one must first obtain a real estate license. Only with that real estate license may an individual apply for a license endorsement to act as a mortgage loan originator. The license endorsement is only available to real estate licensees who comply with the background check and education requirements of the SAFE Act, and who meet the SAFE Act's personal character requirements. Consistent with the SAFE Act, SB 36 requires mortgage loan originators to renew their license endorsements annually.

DRE offers real estate licenses to both individuals and corporations. In order to process SAFE Act mortgage loan originator license applications through the NMLSR, DRE has had to establish three different categories of mortgage loan originators – 1) individual, 2) real estate broker -- sole proprietor company, and 3) real estate corporation company.

Technically, the SAFE Act requires individual (rather than corporate) licensing. Thus, real estate corporation companies do not technically obtain SAFE Act licenses. However, real estate corporations (both sole proprietors and corporation companies) are required to identify themselves as such on the NMLSR. They are also required to ensure that all of their real estate licensee employees who engage in mortgage loan origination activities obtain mortgage loan originator license endorsements. It is illegal for a real estate licensee to originate a residential mortgage without first obtaining a mortgage loan originator license endorsement.

The license fees and NMLSR processing fees that must be paid by each of the different types of real estate licensees are different.

- Individual mortgage loan originators (whether real estate salespersons or real estate brokers) must pay $300 to obtain a mortgage loan originator license endorsement, plus a $30 NMLSR processing fee. Both of these fees are also assessed annually, upon license endorsement renewal. These fees are in addition to the costs for education, testing, credit reporting, and fingerprinting, which are also required of mortgage loan originator applicants and licensees.

- In addition to the fees described above, any real estate broker who is a sole proprietor must pay a $100 NMLS processing fee to register their company on the NMSLR. Thus, an individual real estate broker who originates residential mortgage loans and who is a sole proprietor must pay $430 annually ($300 plus $30 for their individual mortgage loan originator license endorsement, plus $100 to register their sole proprietorship on the NMSLR).

- Real estate corporation companies pay a different amount than sole proprietorships. Each real estate corporation company that originates residential mortgage loans must have a designated officer who holds a mortgage loan originator license endorsement ($300 plus $30) and must pay $300 to register their company on the NMLSR, plus a $100 NMLS processing fee. Thus, a real estate corporation company that originates residential mortgage loans must pay at least $700 annually ($300 plus $30 for the license endorsement for the designated officer, plus $400 to register their corporation on the NMLSR).

Mortgage loan originator license endorsements expire on December 31st of each year, and must be renewed, effective January 1st of the following year.

<u>California Finance Lenders Law (CFLL) and California Residential Mortgage Lending Act (CRMLA) Practices and Procedures:</u> Unlike the Real Estate Law, which licenses both individuals and corporations, the CFLL and CRMLA offered lending licenses only to qualified companies (not individuals) prior to enactment of SB 36. Because the SAFE Act requires that individuals hold mortgage loan originator licenses, SB 36 amended the CFLL and CRMLA to authorize the issuance of mortgage loan originator licenses to individual employees of companies holding CFLL and CRMLA licenses.

Under California law, every employee of a licensed finance lender (CFL) or licensed residential mortgage lender (RML), who engages in mortgage loan origination activities, is required to obtain a mortgage loan originator license. That license is only available to employees who comply with the background check, education, and testing requirements of the SAFE Act, submit to a credit check, meet the SAFE Act's personal character requirements, and pay the appropriate license and processing fees (though, in practice, many CFLs and RMLs pay the license and processing fees on behalf of their employees). Under California law, a mortgage loan originator license is separate and apart from a CFLL or CRMLA license. Every licensed CFL and RML must ensure that their mortgage loan originator employees hold SAFE Act-compliant mortgage loan originator licenses. It is a violation of law for a CFL or an RML to make a mortgage loan that was originated by an individual who does not hold a mortgage loan originator license.

SAFE Act license fees imposed on mortgage loan originators licensed through DOC are similar to those imposed on mortgage loan originators licensed through DRE. Individual mortgage loan originators must pay $300 to obtain (or renew) a mortgage loan originator license, plus a $30 annual processing fee. These fees are in addition to the costs incurred to pay for required education, testing, credit reporting, and fingerprinting. Each CFL and RML company must pay $100 annually to register through the NMLSR, plus $20 annually to register each branch office location.

Pursuant to the SAFE Act, mortgage loan originator licenses expire on December 31st of each year, and must be renewed, effective January 1st of the following year.

<u>Banking Law and Credit Union Law:</u> SB 36 did not amend California's Banking or Credit Union Laws. Instead, California's DFI has directed its bank and credit union licensees to follow the SAFE Act regulations issued by the FFIEC. DFI examines its licensees for compliance with those regulations during its periodic regulatory examinations.

SAFE Act Reporting Requirements: The SAFE Act requires licensed mortgage loan originators to submit two different types of periodic reports through the NMLSR – a quarterly "call" report, which provides a snapshot of the volume and nature of residential mortgage loan origination activity conducted during each calendar quarter by each firm that employs licensed mortgage loan originators, and an annual "report of financial condition," which provides information about the financial condition of those firms. These reports are required to be filed at the company level, unless a mortgage loan originator licensee is a sole proprietor.

So, for example, if XYZ Mortgage Company is licensed to do business in California under either the Real Estate Law, CFLL, or CRMLA, that company would aggregate the mortgage loan origination activity of its California-licensed mortgage loan originators on a quarterly basis, and report those data through NMLSR in its quarterly call reports. Individual call reports would not need to be submitted by each of the individual mortgage loan originators employed by XYZ. On an annual basis, within 90 days following the end of its fiscal year, XYZ Company would have to submit a separate Report of Financial Condition through the NMLSR, containing information about its company finances.

It is important to note that neither of these SAFE Act-required reports can be customized by individual states. For that reason, if California wishes to obtain information from its mortgage loan originator licensees, which is different from, or in addition to the information which is required of these individuals pursuant to the SAFE Act, California must require the submission of separate reports containing this information. SB 36 contained an individual reporting requirement of this type, to provide DRE with certain information about its mortgage loan originators, which the Department had previously lacked, and which was not required by the SAFE Act. These additional reports, called "business activity reports" by DRE, are intended to provide DRE with information it can use to focus its limited examination resources on licensees most in need of regulatory review. The information requested in these reports is focused on those activities, which pose the greatest potential risk of harm to the public.

SB 36 did not require CFLs or RMLs to submit additional, separate reports, because the CFLL and the CRMLA already require submission of annual reports by these licensees.

Funding Background

Funding for the SAFE Act: Recognizing that the SAFE Act introduced new workload requirements for DRE, the Legislature approved $2.8 million and 27 positions in the 2010-11 budget for the implementation of SB 36. The Legislature also approved 8 positions and $1.285 million to address new workload requirements stemming from the SAFE Act at DOC.

There were no additional increases to either department's budget approved in the 2011-12 budget. However, DRE did submit a request that was considered and denied without prejudice during a budget subcommittee hearing, it is important to note that the state's fiscal situation played a role in determining the need of each department.

Proposed 2012-13 Budget: DOC is funded from special funds and reimbursements, with the largest amount of support provided by the State Corporations Fund. The 2012-13 budget proposes expenditures of $45.3 million and would support 314.7 positions. The lender-fiduciary division of DOC is responsible for the licensing and regular examination of mortgage bankers and lenders which are activities that require oversight pursuant to the SAFE Act. The proposed 2012-13 budget includes 154.3 positions for the lender-fiduciary division of DOC.

Much like DOC, DRE is funded through special funds. The 2012-13 budget proposes expenditures of $47.1 million to support 348.7 positions in the department. Support for the implementation of the SAFE Act is integrated into several divisions within DRE, including licensing and education, enforcement, audits and recovery and administration.

Vacant Positions: As of January 23, 2012 there were 33 vacancies at DOC. The Department was subject to the statewide hiring freeze from August 31, 2010 thru September 28, 2011. The tables below represent historical data reflecting the authorized positions within DOC and DRE and vacant positions within each program.

There are no new proposals for either department included in the 2012-13 budget proposal.

The Department of Corporations

Authorized Positions	2007-08	2008-09	2009-10	2010-11	2011-12
Program 10: Investment	160.5	166.8	167.8	167.9	161.0
Program 20: Lender-Fiduciary	151.9	153.2	154.2	164.1	159.0
Program 50.01: Administration	58.0	58.0	60.0	66.0	66.0
Program 50.02: Distributed Admin.	-58.0	-58.0	-60.0	-66.0	-66.0
Total Authorized Positions	312.4	320.0	322.0	332.0	320.0
Vacant Positions					
Program 10: Investment	16.0	12.0	15.0	19.0	21.0
Program 20: Lender-Fiduciary	32.0	11.0	10.0	23.0	22.0
Program 50.01: Administration	6.0	5.0	7.0	14.0	12.0
Program 50.02: Distributed Admin.	-6.0	-5.0	-7.0	-14.0	-12.0
Total Vacant Positions	48.0	23.0	25.0	42.0	43.0

The Department of Real Estate

*includes 12 vacancies that are subject to workforce cap plan reduction proposed in 2012-13 budget

Authorized Positions	2007-08	2008-09	2009-10	2010-11	2011-12
Program 10: Licensing and Education	59.5	58.5	57.5	72.5	72.5
Program 20: Enforcement, Audits and Recovery	176.5	177.5	179.5	202.5	202.5
Program 30: Subdivisions	57	56	51	38	38
Program 40.10: Administration	49	52	53	55	55
TOTAL AUTHORIZED POSITIONS	342	344	341	368	368
Vacant Positions					
Program 10: Licensing and Education	2	6.5	5	2	1
Program 20: Enforcement, Audits and Recovery	5	15	12	3	12.5
Program 30: Subdivisions	2	8	5	0	1
Program 40.10: Administration	8	7	1	6	2
TOTAL VACANT POSITIONS	17	36.5	23	11	16.5*

Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Doug La Malfa
Senator Noreen Evans

Thursday, March 8, 2012
10:30 a.m. or upon adjournment of session
Room 112

Consultant: Brian Annis

State and Local Finance / Business Development

Issues Suggested for Vote Only:

State Treasurer's Office and Related Financing Boards

Department Overview: The Governor's Budget includes stable funding for State Treasurer and the 12 related Boards, Committees, and Authorities. Only three budget change proposals were submitted for these entities and none include General Fund costs. No concerns have been raised with these proposals, and they are recommended for approval as "vote-only issues."

Budget Change Requests: The Governor's Budget includes the following three budget augmentation requests:

1. The California Tax Credit Allocation Committee (CTCAC) requests two permanent new positions, and $247,000 from special funds, to perform Internal Revenue Service (IRS) code compliance monitoring workload. The CTCAC administers both federal and state low-income housing tax credit programs that require ongoing monitoring of the housing facilities and the low-income qualifications of the residents.
2. The California Tax Credit Allocation Committee also requests $473,000 from special funds to contract for asset management services for 63 low-income housing projects funded by the American Recovery and Reinvestment Act (ARRA). This is a new workload specifically related to the ARRA requirements.
3. The California School Finance Authority requests no new funding, but the establishment of one position to be funded within existing resources. The position would be formalized in lieu of using temporary help authority. This is a technical BCP to adhere to State personnel rules and regulations in a unique circumstance.

Staff Comment: No concerns have been raised with these budget requests.

Staff Recommendations: Approve the Treasurer's budget requests.

Vote:

Issues Suggested for Discussion / Vote:

0520 Secretary for Business, Transportation and Housing

Department Overview: The Secretary of the Business, Transportation and Housing Agency (BT&H Agency) is a member of the Governor's Cabinet and oversees 12 departments, including the following large departments:

- Alcoholic Beverage Control
- Corporations
- Housing and Community Development
- Transportation (Caltrans)
- Financial Institutions
- Real Estate
- California Highway Patrol
- Motor Vehicles

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

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

Budget Overview: The Governor proposes total expenditures of $15.6 million ($2.5 million General Fund) and 62.0 positions for the Office of the Secretary – which is similar to the current-year budget after one-time adjustments for a federal grant to the Small Business Loan Guarantee Program. When all departments in the Agency are included, total proposed expenditures for 2012-13 are $11.3 billion including: General Fund ($558 million); special funds ($8.0 billion); and bond funds ($2.7 billion); but excluding reimbursements from local government which add another $1.5 billion to the Caltrans budget.

The Administration also submitted a Budget Change Proposal that describes its budget adjustments related to last year's "Workforce Cap" position reduction – the Legislature had approved statewide savings for the Workforce Cap, but last year's action did not include position detail. The Agency eliminated a Loan Officer Specialist position working for the Infrastructure Bank, and an Office Technician position. The Agency believes the elimination of these two positions will not affect the ability of the Agency to perform its duties. The Agency also eliminated an exempt Undersecretary for International Trade; however, the Governor has included that role in his proposal to fully staff the Governor's Office of Business and Economic Development (GO Biz), which is discussed later in this agenda. The overall Workforce Cap savings are $143,000 in 2011-12 and $268,000 in 2012-13 and ongoing (special funds and reimbursements, no General Fund).

(See budget issue on next page)

Issue 1 – Major Reorganization of the Agency

Governor's Budget Request. The Governor's January Budget Summary proposes major reorganization of State government – in the case of the BT&H Agency, the Agency would cease to exist and current functions would be shifted or recreated in three separate organizations. The transportation functions would move to a newly-created Transportation Agency; the housing and business regulatory functions would be merged with certain business regulatory and consumer protection functions currently in the State and Consumer Services Agency to create a new Business and Consumer Affairs Agency; finally, the economic development functions would move to the Governor's Office of Business and Economic Development (GO Biz). In addition to these shifts, several existing departments would be merged together or merged with departments currently in other agencies. A chart on the following page details the proposed reorganization.

Detail and Process. Detail on the reorganization proposal is still pending from the Administration in terms of statutory language and implementation dates. However the Administration released information on March 2 that suggested the reorganization associated with the BT&H Agency would be submitted to the Little Hoover Commission for review and then submitted to the Legislature as a package to become effective unless rejected by the Legislature. Depending on when the proposals are submitted to Little Hoover, the timeline for legislative action may be pushed beyond enactment of the 2012 Budget in mid-June. The Administration suggests that even if the reorganization is approved, no budget action would be needed until the 2013-14 budget.

Rationale for Reorganization: Generally, the rationale for government reorganization is either, or a combination of, efficiency and effectiveness:

- **Efficiency.** Some reorganizations result in the elimination of duplicative functions or result in other efficiencies that produce either budget savings or cost avoidance.
- **Effectiveness.** Some reorganizations do not result in either cost savings or position savings, but instead allow the State to be more effective and focused in providing services to the public.

The Administration does not score any budget savings for reorganizations related to the BT&H Agency for 2012-13. The Administration provided a chart that indicates no savings for 2012-13 but savings "to-be-determined" for 2013-14 and thereafter. While some out-year savings may be outlined later by the Administration, it appears the primary goal of this reorganization is to achieve more effectiveness in the provision of state services by consolidating like functions and allows Agency Secretaries to focus on better defined goals such as transportation, or business regulation and consumer protection.

BT&H Agency Proposed Reorganization

Current BT&H Agency	Proposed Agencies
	Proposed Transportation Agency
Transportation-Related	
* California Transportation Commission	California Transportation Commission
CA Dept of Transportation (Caltrans)	CA Dept of Transportation (Caltrans)
* High-Speed Rail Authority	High-Speed Rail Authority
Board of Pilot Commissioners	Board of Pilot Commissioners
California Highway Patrol (CHP)	California Highway Patrol (CHP)
Dept of Motor Vehicles (DMV)	Dept of Motor Vehicles (DMV)
Office of Traffic Safety (OTS)	(OTS merged into DMV)
	Proposed Business& Consumer Affairs Agency
Housing-Related	
Housing and Community Dev. (HCD)	Housing and Community Development
CA Housing Finance Agency (CalHFA)	(CalHFA merged into HCD)
Business-Related	
Alcoholic Beverage Control (ABC)	Alcoholic Beverage Control (ABC)
ABC Appeals Board	ABC Appeals Board
Dept of Financial Institutions (DFI)	Department of Business Oversight
Corporations	(merged DFI and Corporations)
Real Estate Appraisers	Department of Consumer Affairs (DCA)
Real Estate	(Real Estate merged into DCA)
	Some other Departments currently in the State and Consumer Svcs Agency
	Governor's Office of Business and Econ Dev (GO Biz)
Economic Dev. Offices within BT&H	
Infrastructure Bank	Infrastructure Bank
Film Commission	Film Commission
Tourism Commission	Tourism Commission
Small Business Loan Program	Small Business Loan Program
California Welcome Center Program	California Welcome Center Program

* Functionally within BT&H, but statutorily independent.

Hearing Questions: The Administration is still working on details, but since the reorganization plan was included in the January Governor's Budget Summary, the Administration should be able to respond to the opportunities and goals they see related to the proposal. The Subcommittee may want to hear from the Administration on the following questions:

1. *What are some of the deficiencies with the current BT&H Agency that the Administration believes can be addressed with the reorganization?*

2. *What level of out-year saving are anticipated with the proposal and is the rationale for the proposal cost savings or performance?*

3. *Since the Administration indicates it will submit these reorganization proposals to the Little Hoover Commission, does the Administration anticipate the need for reorganization-related adjustments to the 2012 Budget Act, or would conforming budget action not be needed until the 2013 Budget Act?*

Staff Comment: The proposed budget for the Office of the Secretary for the BT&H Agency does not reflect any budget adjustments for reorganization, and the Governor's reorganization may not take effect until July 1, 2013. Since no concerns have been raised with the baseline BT&H budget, the Subcommittee may wish to consider approving the BT&H budget as proposed.

Staff Recommendation: Approve the baseline BT&H Agency budget (excludes any action on reorganization).

Vote:

0509 Governor's Office of Business and Economic Development (GO Biz)

Department Overview : The Governor's Office of Business and Economic Development (GO Biz) is a new entity in State government. It was first established by Executive Order S-05-10 in April 2010, and established in statute effective January 1, 2012, via enactment of AB 29 (Statutes of 2011, J. Perez). The original organization was formed by borrowing positions and programs from other departments and agencies. With AB 29, and enactment of the 2012-13 budget, the entity will for the first time receive a specific stand-alone budget act appropriation. The Office is intended to be a high-profile point-of-contact for businesses and the economic development community, and an advocate for California as a place to grow businesses and jobs.

Budget Overvie w: The Governor proposes total expenditures of $4.1 million General Fund and 28 positions for GO Biz, effective with the 2012-13 budget. Prior to the 2012-13 proposal, the organization borrowed positions from other departments, so the staffing and costs have not been transparent in the budget. With AB 29 and this budget request, the Administration is indicating that the current baseline staffing has been 22.3 positions and $3.3 million ($418,000 General Fund). For 2012-13, funding would increase by $761,000 and 5.7 positions. Additionally, while many of the borrowed positions were from special fund departments, the Administration indicates as a permanent stand-alone entity, it would be inappropriate to use special funds and that all funding should be General Fund – which results in a net new General Fund expenditure of $3.6 million (but a net special fund reduction of $3.3 million).

Reorganization Plan: As indicated in the Business, Transportation, and Housing Agency (BT&H) section of this agenda, The Governor's reorganization plan would further augment the staff and functions of GO Biz by incorporating existing business promotion offices within the BT&H Agencies. Specifically, total funding of $12.2 million ($2.5 million General Fund) and 40 positions would move from the BT&H Agency to Go Biz. The offices are: the Film Commission, the Infrastructure and Economic Development Bank, the Small Business Loan Guarantee Program, the Tourism Commission, and the Welcome Center Program. The Administration now indicates this reorganization plan will be submitted to the Little Hoover Commission prior to Legislative Action – so no reorganization budget change is proposed for GO Biz at this time, and not expected until the 2013-14 budget.

(See budget issue on next page)

Issue 1 – Establishment of the Stand-alone GO Biz Budget (BCP #1)

Governor's Budget Request: The Governor's January Budget proposes a budget appropriation of $4.1 million General Fund and 28 positions for the first year of stand-alone budgeting of GO Biz. The expense is partially offset by reducing the budgets of various departments that had in the past loaned funding and positions for GO Biz - $2.9 million special funds and $418,000 General Fund and 23.3 positions are eliminated from these departments' budgets.

Prior Support for GO Biz: In a February 2010 report, the Little Hoover Commission concluded that the State should reestablish a more prominent role of leadership in the area of business development to fill the void created by the 2003 elimination of the Technology, Trade, and Commerce Agency. Governor Schwarzenegger soon thereafter shifted existing State staff to create such an entity by executive order. The Legislature approved the statutory framework for this organization with large bipartisan majorities by passing AB 29 in 2011.

Structure of GO Biz: The Administration budgets GO Biz in three components:

- **CalBIS:** $1.7 million and 11.4 positions would be for the California Business Investment Services Program (CalBIS), which would serve employers, corporate executives, business owners, and site location consultants who are considering California for business investment and expansion.
- **Office of Small Business Advocate:** $459,000 and 2.8 positions would be for the Office of Small Business Advocate, which would serve small employers with advocacy and technical assistance.
- **GO Biz:** $1.9 million and 12.4 positions for the remaining functions of communications and policy, international trade and export promotion, and administration.

Most GO Biz staff would be located in Sacramento, but the organizational plan calls for two employees in the San Francisco Bay Area, two employees in Los Angeles, and one employee in the Inland Empire.

Appropriate Staffing and Funding for GO Biz: Given prior support for the GO Biz concept, review of the budget request may focus more on the size of the office and staffing level, instead of the value of having such an office. When AB 29 was adopted, the bill analysis anticipated a budget in the range of $2.3 million, but $4.1 million is requested by the Governor. Additionally, the budget request sets position funding at the highest step for each pay range instead of the more common mid-point level. The Administration indicated that it would reexamine the funding for positions in the budget request, and should be able to explain their position at the hearing.

Hearing Questions: The Subcommittee may want to hear from the Administration on the following questions:

1. *Why does the requested funding and the number of positions exceed the levels present when the organization was operating under the executive order, and why does funding exceed the level discussed when AB 29 was adopted?*

2. *Why is position funding set at the maximum pay level, instead of the more-common mid-point level?*

Staff Comment: At the time this agenda was finalized, the Administration was re-evaluating its budget request to see if the position cost is overstated. To the extent that issue is not satisfactorily resolved, this item should be held open and brought back at a later hearing.

Staff Recommendation: Hold open - unless the Subcommittee is satisfied with the cost justification provided by the Administration at the hearing.

Vote:

9210 Local Government Financing

Department Overview: The 9210 budget item includes several programs that make State subventions to local governments. The payments include $2.1 billion General Fund for constitutionally-required repayment of 2009-10 “Prop 1A” borrowing from local governments; a small subvention related to former Redevelopment Agencies (RDAs) to help retire a portion of outstanding debt that was backed by the personal property tax – about $500,000, and a new subvention of $4.4 million General Fund proposed this year for Mono and Amador counties.

Budget Overview: The proposed budget for the 9210 item is $2.1 billion General Fund. Year-over-year comparisons show a major increase in expenditures as Prop 1A borrowing was $91 million in 2011-12 and will be $2.1 billion in 2012-13. Prop 1A debt will fully be repaid in 2012-13, so there is no ongoing cost. Additionally, some public safety grants were included in this item in prior years, but that funding was shifted with the 2011 Public Safety Realignment legislation and is now funded with the new local revenues instead of State grants.

(See budget issue on next page)

Issue 1 – Reimbursements to Amador and Mono Counties

Governor's Request: The Governor proposes a new General Fund subvention of $4.4 million to backfill Mono and Amador counties due to unique circumstances that reduced property tax directed to those county governments and cities within those counties in 2010-11. The revenue loss is understood to also have occurred in 2011-12 and will continue into 2012-13 and likely beyond, but the Administration indicates it is undetermined at this time whether its proposal is one-time or ongoing.

Background / Detail: Legislation enacted early in the Schwarzenegger Administration shifted local property tax from schools to cities and counties to accommodate two State fiscal initiatives. Schools were then backfilled with State funds. Overall, the fiscal changes resulted in a large net revenue gain for cities and counties as the replacement revenue streams have grown faster than the relinquished revenue streams. However, for Mono and Amador counties, unique circumstances reportedly reversed this outcome in 2010-11 and it is possible this outcome could occur for a few additional counties in the future.

- **Financing Economic Recovery Bonds (ERBs):** In the 2004 primary election, voters approved Proposition 58, which allowed the State to sell ERBs to pay its accumulated budget deficit. The local sales tax for cities and counties was reduced by one-quarter cent and the State sales tax was increased by one-quarter cent to create a dedicated funding source to repay the ERBs. Property tax was redirected from schools to cities and counties, and the State backfilled schools via the Proposition 98 funding guarantee. This financing mechanism is sometimes called the "triple flip," and was anticipated to hold local governments harmless. When the ERBs are repaid in 2016-17 (or earlier), the local sales tax rate is restored.
- **Backfilling for the Vehicle License Fee (VLF) Tax Cut**: Also in 2004, the Legislature enacted the "VLF Swap" to provide a more reliable funding mechanism to backfill cities and counties for the local revenue cut by the State when the VLF tax on motor vehicles was reduced from 2.0 percent of a vehicle's value to 0.65 percent of a vehicle's value. Here again, the state redirected property tax from schools to cities and counties and backfilled schools with State funds.
- **Problem for Mono and Amador**: The funding mechanism stopped fully working for Mono and Amador counties reportedly in 2010-11 due to all the schools in those counties becoming "basic aid" schools. Basic aid schools receive sufficient local property tax to fully fund the per-student amounts required by the Proposition 98 guarantee and therefore the State's funding is minimal. Due to this "basic aid" situation, current law would not backfill schools for any property tax shifted to cities and counties and county auditors have reportedly reduced or discontinued the "AB 8" shift of property tax from schools to those cities and counties. The estimated loss for the two counties in 2010-11 is $4.4 million. Conversely, in a non-"Test 1" Proposition 98 year, the State would realize a savings from not having to backfill schools – but

2012-13 appears to be a Test 1 year.

Issues to Consider: The financing shifts and educational financing provisions are complex, and perhaps not entirely relevant to making a determination on this budget request. The Subcommittee may instead want to focus on some broader ideas and issues:

- **Revenue growth uncertainty:** The funding shifts did include uncertainty and risk, as the relative growth of various revenue streams over many years was unknown. On a statewide basis, data suggests most counties – perhaps as many as 56 of 58 counties - have received a net benefit from the shifts. Since 2010-11, reportedly Mono and Amador have not seen net benefits. Individual county estimates of benefits or costs are not currently available, but the two counties have estimated the isolated effect of the property tax shift at $4.4 million.
- **No backfill guaranteed in the orig inal legislation, but the Mono and Amador outcome w as not anticipated:** The enacting legislation did not include provisions for the State to backfill locals with new subventions if the baseline funding mechanism proved to be insufficient to maintain city and county funds. At the time of the legislation, stakeholders were likely aware of the risk of variable levels of growth for different revenue streams, but may not have anticipated this outcome of all schools within the county becoming "basic aid." Since this outcome may not have been foreseen by the State or local governments at the time of bill enactment, does the State have a responsibility to backfill for this revenue loss?
- **Budget challenges in most cities and counties:** Since many cities and counties are continuing to experience budget shortfalls, should the Legislature consider the fiscal condition of the two counties relative to other counties as a factor in the determination. For example, has the decline in revenue for these counties since 2007-08 exceeded the statewide average?
- **Timing of the subvention:** If the Legislature determines a subvention is appropriate, should the Legislature appropriate for revenue loss through 2012-13 (maybe funding at a level of $13.2 million), or conversely decide to fund, but defer reimbursement to later in the fiscal year.

Staff Comment: The Department of Finance and the Legislative Analyst's Office will both be available at the hearing to respond to questions, and staff understands that representatives for Mono and Amador counties will also be present.

Staff Recommendation: Hold open for action later in the budget process as more data may be available on this issue, and the amount of General Fund revenues for 2012-13 is known with greater certainty.

8880 Financial Information System for California (FI$Cal)

Department Overview: The Financial Information System for California (FI$Cal), is an Enterprise Resource Planning (ERP) information technology (IT) project intended to replace, consolidate, and upgrade multiple legacy financial systems with a single system that would encompass the areas of: budgeting; accounting; procurement; cash management; and financial management. The development of FI$Cal resides with four "Partner Agencies," the Department of Finance, the State Treasurer's Office, the State Controller's Office, and the Department of General Services. The FI$Cal system has been in development for several years, but is now at a critical juncture because the Administration selected a contractor or "systems integrator" on March 1, 2012, to implement the system. To move forward with the contract and expenditures, legislative approval is required. Included in this budget item is funding for the contract staff and State staff that manage the project, and funding for the selected systems integrator, which is Accenture. Accenture would implement this ERP IT system using Oracle's PeopleSoft software.

Budget Overview: For 2012-13 expenditures, the Governor proposes $89.0 million ($53.5 million General Fund) for the FI$Cal project. The full multi-year cost from 2012-13 through 2017-18 would be $522 million, with $246 million of that General Fund. While the cost is large, it is significantly reduced from early costs estimates of $1.6 billion. The Administration has explored financing options such as bonding and vender financing to spread costs over a longer period, but recommends pay-as-you-go funding instead to reduce interest costs and delay. When costs already incurred are included, the Administration pegs the cost of the project at $616.7 million.

Current Statutor y Provisions for FI$Cal / JLBC Review : Current law (Government Code 15849.21, as added by AB 1621, Statutes of 2010) requires a report to the Legislature and 90-day review by the Joint Legislature Budget Committee (JLBC), after a contract is negotiated with the selected bidder, but prior to contract award. This report was submitted to JLBC on March 2, 2012. Later this spring, the Legislature will inform the Administration of its decision on this project: via the JBLC for the contract award, and via the Budget Committee for the funding request. Subcommittee staff will coordinate with JLCB staff during the concurrent reviews of the proposed contract and proposed budget.

(See budget issue on next page)

Issue 1 – FI$Cal Budget Request (BCP #1 & Finance Letter #1)

Governor's Budget Request: As indicated, for 2012-13 expenditures, the Governor proposes $89.0 million ($53.5 million General Fund) for the FI$Cal project. The full multi-year cost from 2012-13 through 2017-18 would be $522 million, with $246 million of that General Fund. When prior expenses are included, the Administration scores the total project cost at $616.8 million – this cost breaks down $295.7 million for project staff (both state and contract staff), $213.1 million for the Accenture contract, and $19.0 for state data center services. Upon completion, ongoing annual operations and maintenance costs would be $32.5 million. No funding is included for "program staff" which would be staff at various departments working to implement the system – departments would instead have to absorb this cost and redirect existing staff. In Finance Letter #1, the Administration requests budget approval for full multi-year cost of this project.

Rationale for the Project: The current State financial systems are old and inefficient – they require more staff time to complete the same work, they have a limited ability to provide real-time fiscal information, and they lack tools necessary to effectively manage procurement and implement fiscal performance reporting. Departments maintain many incompatible systems and collection of statewide data involves redundant data entry, which delays and adds costs to calculating statewide numbers.

The Administration hired an external consultant to quantify the inefficiencies in the current State systems that would be resolved with an ERP solution. The consultant estimated that upon full implementation of FI$Cal, the State would see annual savings of $415 million as follows:

- **Process cost savings ($173.2 million):** This would be savings from reduced labor costs achieved through attrition as existing tasks are streamlined and could be achieved with fewer staff resources.
- **Technology cost savings ($28.0 million):** This would be savings related to operation and maintenance of existing IT systems that could be retired if FI$Cal were implemented.
- **Procurement effectiveness savings ($213.4 million):** This would be savings that would come from better procurement management and consolidated purchasing.
- **Risk redu ction / system failure costs (not quantified):** This would be savings from retiring legacy fiscal systems that are at risk of failure due to insufficient state staff or vendors available to maintain obsolete systems.
- **Business performance improvement (not quantified):** This would be savings from using the FI$Cal system as a decision tool to better manage and prioritize limited state dollars, including performance budgeting.

Baseline and Alternatives for Implementing FI$Cal: The Administration proposes a **"phased rollout of functionality "** whereby all FI$Cal components (budgeting, accounting, purchasing, etc.) are implemented at the same time, but rolled out department by department over 5 years. The Administration believes this approach would result in a cheaper, quicker, and less-disruptive implementation than the following other approaches:

- **Function Phasing** – implement subcomponents individually statewide one at a time – for example, implement budgeting statewide and after that is complete, implement procurement statewide.
- **Department Phasing** – implement FI$Cal for a distinct group of departments and fully complete implementation and evaluation before moving on to a second group of departments.
- **Managed Service Models** – implement FI$Cal with a revised IT ownership structure whereby the State does not own either the infrastructure or the software. Instead the State would purchase software as a service and pay to access the functionality over a network.

The Administration additionally notes a change in the implementation model would result in the need for a new procurement which, by itself, would delay the project and increase costs.

Baseline and Alternatives for Funding FI$Cal: The proposed financing for FI$Cal is **pay-as-you-go** using General Fund, special funds, and federal funds, in proportion to each department's funding and cost share of the project. The Administration requests trailer bill language to specify FI$Cal is a central service department in order to recover the federal funding share, but also indicates this recovery of federal funds cannot occur until the project is completed. The below table is the project's proposed multi-year funding approach:

Baseline FI$Cal Cost by Fund
(dollars in millions)

Year	General Fund	Special Funds	Federal Funds	Total
2012-13	$53.5	$35.5	$0.0	$89.0
2013-14	50.8	33.8	0.0	84.6
2014-15	61.2	40.7	0.0	101.9
2015-16	78.1	51.9	0.0	130.0
2016-17	50.6	33.6	0.0	84.2
2017-18	19.5	13.0	0.0	32.5
Recovered Federal Funds	-67.8	0.0	67.8	0.0
Totals	**$246.0**	**$208.4**	**$67.8**	**$522.2**

The Administration considered and rejected two alternative financing approaches – vendor financing and bond financing. The common problems with these approaches, according to the Administration, are that only about half of the overall cost would be eligible for financing and interest charges would increase multi-year costs by about $70 million.

- **Vendor Financing:** With this approach, the State would pay the vendor share of costs over a longer period and incur interest costs. The Administration indicates if this approach were to be used, federal reimbursement for a portion of project costs would not be possible, and the General Fund and State special funds would incur the federal cost share of $67.8 million.
- **Bond Financing:** With this approach, the State would borrow itself to fund the project and incur interest costs. A State bond sale may take time to implement and could delay the project.

Staff Alternative Pay-as-you-go Financing: Given the difficult budget year, but the expectation that budget tightness will lessen in the out-years, the Legislature may want to consider a pay-as-you-go funding approach where special fund payments are accelerated and General Fund payments are decelerated. The table below shows how this might work – in 2012-13 there would be no General Fund expenditures and special funds would cover the $89 million cost. In 2013-14, the funding split would be unchanged from the baseline plan, with the General Fund share at $50.8 million. In 2014-15 through completion in 2017-18, the General Fund would pay a greater share and the special funds a lesser share to make up for the 2012-13 year. Overall expenditures by year would be unchanged.

Staff-alternative FI$Cal Cost by Fund
(dollars in millions)

Year	General Fund	Special Funds	Federal Funds	Total
2012-13	$0.0	$89.0	$0.0	$89.0
2013-14	50.80	33.80	0.00	84.60
2014-15	76.84	25.06	0.00	101.90
2015-16	98.05	31.95	0.00	130.00
2016-17	63.52	20.68	0.00	84.20
2017-18	24.49	8.01	0.00	32.50
Recovered Federal Funds	-67.80	0.00	67.80	0.00
Totals	**$246.0**	**$208.4**	**$67.8**	**$522.2**

Additional Reviews of FI$Cal Are Still Pending: At the time this agenda was finalized, the Legislative Report had only been available for 72 hours and the Finance Letter had only been available for 24 hours. So Committee staff and the Legislative Analyst's Office (LAO) are still in the first stages of review. Statute also directs the

Bureau of State Audits (BSA) to review and report on the status of the FI$Cal projects at least annually. It is likely both the LAO and BSA will be able to provide the Committee more detailed reviews and recommendations at future hearings – both will also be available at this hearing to answer questions. Even though the information from the Administration is recent and has not been comprehensively reviewed, staff recommended inclusion of this issue at this early hearing due to the importance of the issue and high cost of the project.

Hearing Questions: The Subcommittee may want to hear from the Administration on the following questions:

1. *During this difficult budget time, when many important programs are being severely cut, why does the Administration believe it is critical to move forward with FI$Cal?*

2. *The Administration indicates the project will produce out-year annual savings of $415 million starting in 2018-19, which would quickly compensate for the cost of the project – would these savings be realized in the budget via expenditure reductions, or would departments retain these savings in their budgets to grow their programs or to offset new workload pressures?*

3. *The 2012-13 General Fund cost of FI$Cal is $53.4 million – in this difficult budget environment can special funds front some of this initial cost with the appropriate General Fund contribution recovered over time?*

Staff Comments: The Legislature has supported development of the FI$Cal project - providing for expenditures of $94.5 million ($17.7 million General Fund) through June 30, 2012. Despite the sunk costs already incurred for the project, the Legislature will have to weigh the value of the FI$Cal project relative to other spending priorities. If the Legislature agrees the project is of high criticality, it will then have to select a funding approach that conforms to budget constraints of 2012-13.

Staff Recommendation: Hold open for further consideration at a future hearing after the Legislative Analyst and the State Auditor are able to complete a full review of the revised project plan and costs.

Debt Service General Obligation Bonds and Commercial Paper (9600)

Department Overview: Debt service payments are continuously appropriated, and therefore not appropriated in the annual budget bill. This item in the Governor's Budget displays the estimated debt service costs for each General Obligation bond (GO bond). Some bond costs are offset by special funds or federal funds – primarily by the transportation debt service fund. Other bonds are "self-liquidating," or have their own dedicated revenue (i.e., the Economic Recovery Bonds [ERBs] receive a quarter-cent of the sales tax) – the self-liquidating bonds are not included in this item.

Budget Overview: The January Governor's Budget includes $4.6 billion in General Fund costs for GO bond debt service and related costs, or a total of $6.1 billion when the cost of Economic Recovery Bonds is included. In addition to this amount, $717 million in debt costs are funded from special funds (i.e., $703 million from transportation special funds is used to pay transportation-related bond debt). Finally, federal bond subsidies, through the Build America Bonds (BABs) program, provide $352 million in 2012-13.

Governor's Budget for GO Bond Debt
(Dollars in millions)

	2010-11 Actual Cost	2011-12 Estimated Cost	2012-13 Estimated Cost
General Fund cost	$4,747	$4,649	$4,612
Other funds cost	732	679	717
Federal subsidy (Build America Bond Program)	298	351	352
TOTAL Item 9600	**$5,777**	**$5,679**	**$5,681**
Economic Recovery Bonds (ERBs, not included above because indirect GF cost)	$1,263	$1,341	$1,465

According to the Administration, the State has $81.0 billion in outstanding GO bond debt (including self-liquidating bonds like the Economic Recovery Bonds). Another $35.3 billion in bonds are authorized, but unissued. In most instances, bonds are sold at different lengths of maturity such that repayment is spread over about 30 years.

General Obligation Bonds Authorized But Not Issued
(Dollars in millions)

Bond Program	Unissued Amount
Prop 1B of 2006: Transportation	$11,080
Prop 1A of 2008: High Speed Rail	9,448
Prop 55 of 2004 & Prop 1D of 2006: Education Facilities	3,362
Prop 84 of 2006: Safe Drinking Water	2,957
Prop 71 of 2004: Stem Cell Research	1,873
Prop 1E of 2006: Disaster Prep and Flood Prevention	1,819
Prop 46 of 2002 & Prop 1C of 2006: Housing	1,392
All other	3,372
TOTAL $35,303	

Budget and Bonds: Paying GO bond debt is a significant General Fund expense of about $6.1 billion; however, the use of bonds to accelerate capital projects is a commonly-used practice of government entities. To the extent bond costs do not exceed a government's long-term ability to fund other commitments, they allow the public to enjoy the benefits of infrastructure investment more quickly. Voters approved over $40 billion in new bonds on the 2006 ballot, just prior to the national recession. The bonds have allowed the state to invest in infrastructure while the need for economic stimulus is most acute, while borrowing costs are low, and while construction procurement is favorable. Despite the benefits of bonds, they come with the cost of many years of debt service. A $1 billion bond generates annual bond debt costs of about $65 million over a 30-year period. That bond cost crowds out alternative expenditures over the life of the bond. The Legislature can prioritize or limit bond funding through the budget process as overall expenditures are prioritized.

Management of Bonds: As the State's cash situation deteriorated with the most recent recession, the Administration changed the methodology for managing bond cash. Prior to the recession, reserve cash funded project costs in advance of bond sales, and then bond sales replenished cash reserves. When reserve cash declined, the state had to instead sell bonds in advance of expenditures. Due to project expenditures happening slower than anticipated at the time of bond sales, large bond cash balances have developed – about $9.7 billion as of December 2011. Last year, the Administration implemented a plan to utilize commercial paper to aid cashflow, and reduce the need to carry large bond cash balances. Progress has been made to reduce bond cash, but balances are still higher than desired.

Issue #1 – Bond Cash Plan for 2012-13 (Governor's January Budget)

Governor's Proposal: The Administration proposes both a spring and fall bond sale for 2012. A total of $2.4 billion in bonds would be sold this spring, and an additional $2.9 billion would be sold in the fall. The net new General Fund cost related to these bond sales is $118 million in the 2012-13 budget, with an additional $71 million in bond costs funded from transportation special funds. With cash on hand and 2012 bond sales, a total of $15.0 billion would be available to fund bond projects in January 2012 through June 2013.

Detail: The table below displays bond cash on hand (from prior bond sales) as of December 2011, as well as the new cash that would come from bond sales in 2012, for the major GO bonds. The December 2011 bond cash balance of $9.7 billion represents progress in reducing the balance which was as high as $13.3 billion in December 2010. However, the Administration's goal was to reduce bond cash to $3 billion by June 2012, and it does not appear that goal will be met. Reducing cash balances will reduce short-term General Fund costs.

General Obligation Cash Proceeds
(Dollars in millions)

Bond Program	Cash as of Dec 2011	Planned 2012 bond sales	Total cash through June 2013
Prop 1B of 2006: Transportation	$2,241	$2,375	$4,616
Prop 55 of 2004 & Prop 1D of 2006: Education Facilities	1,501	1,835	3,336
Prop 1E of 2006: Disaster Prep and Flood Prevention	1,445	211	1,656
Prop 84 of 2006: Safe Drinking Water	1,291	36	1,327
Prop 46 of 2002 & Prop 1C of 2006: Housing	654	282	936
Prop 71 of 2004: Stem Cell Research	187	338	525
Prop 1A of 2008: High-Speed Rail	216	61	277
All others	2,166	122	2,288
TOTAL $9,701		**$5,260**	**$14,961**

Hearing Questions: The Administration should be prepared to discuss their overall plan for GO bonds in 2012-13. Individual bonds will be discussed in more detail by subject matter in this subcommittee and other subcommittees as hearings progress this spring. The Subcommittee may want to hear from the Administration on the following questions:

1. *Is bond cash sufficient to fund all bond projects appropriated by the Legislature, or are some projects on hold due to insufficient bond cash, or other reasons?*

2. *Are cash expenditure projections for bond projects being met? If not, can planned 2012 bond sales be adjusted to reduce the $118 million General Fund cost in 2012-13?*

3. *Going forward, does the Administration support appropriations for unissued bonds, or does the Administration want to curtail any bond programs to preserve General Fund resources?*

Staff Comment: While funding for bond debt service is continuously appropriated, a global discussion on GO bonds may be useful here to understand the Administration's priorities and to help inform future discussion on individual bonds and expenditure plans.

Staff Recommendation: Take no action, this is an informational issue. Direct staff to bring the issue back a future time if the Administration substantially revises their bond plan with the May Revision budget.

9620 Cash Management and Budgetary Loans

Department Overview: This budget item appropriates funds to pay interest costs on General Fund borrowing used to overcome cash flow imbalances during the fiscal year. Because receipts and disbursements occur unevenly throughout the fiscal year, the General Fund borrows in most years, even though each budget is balanced when enacted and funds are repaid within the fiscal year. Interest is paid on both internal borrowing (such as cashflow loans from special funds) and for external borrowing (such as Revenue Anticipation Notes [RANs]). This item additionally pays interest costs for budgetary borrowing by the General Fund from special funds. Budgetary borrowing is across fiscal years and is scored as a budget solution, whereas cashflow borrowing is not counted as a budget solution (only a cash solution).

Budget Overvie w: The January Governor's Budget includes $178.4 million for interest costs on cashflow borrowing and $39 million for interest costs on budgetary borrowing – all General Fund. Of the cashflow amount, $78.4 million is for internal borrowing and $100 million is for external borrowing. Overall, expenditures in this item are up year-over-year – a total of $217.4 million is proposed for 2012-13, versus revised expenditures of $154.4 million in 2011-12. The year-over-year difference is primarily explained by the Administration being conservative and budgeting sufficient funds to cover the uncertainty in interest rates and other factors.

Staff Comment: The budgeted amount for interest costs appears reasonable given the assumptions of the Administration. The assumption that needs review is that related to the repayment of budgetary loans (principal repayment of $486 million in 2012-13) and the associated $39 million in interest. This issue is the discussion issue on the following page.

(see discussion issue on next page)

Issue 1 – Special Fund Loan Repayment Plan (January Governor's Budget)

Governor's Proposal: As indicated in the introduction to this section, the Governor requests $39 million General Fund to pay interest on outstanding special-fund loans – this is budgeted in item 9620. Interest is only repaid when the loan principal is repaid. The amount of principal repaid is $486 million. The amount of total special fund loans outstanding as of December 31, 2010, is $3.1 billion, according to the Department of Finance.

Detail: The table on the following page reflects the Administration's planned special-fund loan repayments for the remainder of 2011-12 and for 2012-13. As indicated on the table, the total General Fund cost to repay these loans through June 2013 is $843 million (technically, a $779 million reduction in General Fund revenue to account for the principal repayment and a $64 million General Fund expenditure for interest – over the two fiscal years). The January Governor's Budget scores savings of $631 million from deferring repayment of other loans to 2013-14 and beyond, but the repayment of the $843 million is retained in the proposed budget.

Hearing Questions: The Administration should be prepared to discuss their overall plan for special fund loan repayment for the remainder of 2011-12 and for 2012-13. The Subcommittee may want to hear from the Administration on the following questions:

1. *How did the Administration determine which loans should be repaid and which should be deferred? When a decision was made to repay a certain special fund, how was the repayment amount determined?*

2. *Given significant wall-of-debt progress in other areas of the budget, why does the Administration propose to repay special funds loans in 2011-12 and 2012-13 beyond the level that appears necessary?*

Staff Comment: Generally, decisions about special fund loans will be made in the budget Subcommittees by subject-matter area, although the 9620 Budget Item should be made to conform. A high-level staff review of the proposed loan repayments and fund condition statement suggests some of loans proposed for repayment could be deferred for additional budget savings in 2012-13 if necessary. The Budget Committee may want to hold final determination on loan repayments until the May Revision when final revenue forecasts are known.

Staff Recommendations: Take no action, this is an informational issue.

Governor's Budget Plan for Loan Repayment in 2011-12 and 2012-13 ($ in thousands)				
Dept	**Fund Name**	**Fund**	**Total Cost to GF**	**Repayment Date**
2011-12 Scheduled Repayments				
DCA	State Dentistry Fund	0741	$2,119	06/30/2012
DCA	Occupational Therapy Fund	3017	$720	06/30/2012
DGS	State Motor Vehicle Insurance Account	0026	$15,053	06/30/2012
HCD	Rental Housing Construction Fund	0938	$573	06/30/2012
DOT	State Highway Account, State Transportation Fund	0042	$219,566	06/01/2012
DOT	Bicycle Transportation Account, State Transportation Fund	0045	$6,587	06/01/2012
DOT	Motor Vehicle Fuel Account	0061	$8,783	06/01/2012
DOT	Environmental Enhancement and Mitigation Program Fund	0183	$4,830	06/01/2012
DOT	Historic Property Maintenance Fund	0365	$3,293	06/01/2012
DOT	Pedestrian Safety Account, State Transportation Fund	2500	$1,883	06/01/2012
CEC	Renewable Resources Trust Fund	0382	$25,211	06/30/2012
DRRR	CA Beverage Container Recycle Fund	0133	$29,100	05/31/2012
SWRCB	Water Rights Fund	3058	$932	06/30/2012
SUBTOTAL FOR REMAINDER OF 2011-12			**$318,650**	
2012-13 Scheduled Repayments				
Technology Agency	State Emergency Telephone Number Acct	0022	$7,030	09/30/2012
Technology Agency	State Emergency Telephone Number Acct	0022	$7,036	12/31/2012
Technology Agency	State Emergency Telephone Number Acct	0022	$7,043	03/31/2013
Technology Agency	State Emergency Telephone Number Acct	0022	$7,049	06/30/2013
DCA	Behavioral Science Examiners Fund	0773	$2,544	06/30/2013
DGS	Public School Planning, Design, and Construction Review Revolving Fund	0328	$11,273	06/30/2013
HCD	Joe Serna, Jr. Farmworker Housing Grant Fund	0927	$1,650	07/01/2012
HCD	Joe Serna, Jr. Farmworker Housing Grant Fund	0927	$1,201	07/01/2012
HCD	Rental Housing Construction Fund	0938	$581	06/30/2013
DOT	State Highway Account, State Transportation Fund	0042	$140,589	06/30/2013
Conservation	Collins-Dugan California Conservation Corps Reimbursement Account	0318	$2,005	07/01/2012
CEC	Renewable Resources Trust Fund	0382	$23,147	06/30/2013
CEC	Renewable Resources Trust Fund	0382	$12,288	06/30/2013
CEC	Renewable Resources Trust Fund	0382	$35,891	07/01/2012
CEC	Alternative and Renewable Fuel and Vehicle Technology Fund	3117	$8,592	06/30/2013
DRRR	CA Beverage Container Recycle Fund	0133	$81,984	06/30/2013
DRRR	CA Beverage Container Recycle Fund	0133	$103,481	06/30/2013
PUC	California Teleconnect Fund Administrative Committee Fund	0493	$71,071	06/30/2013
SUBTOTAL FOR 2012-13			**$524,455**	
GRAND TOTAL FOR REMAINDER OF 2011-12 AND FOR 2012-13			**$843,105**	

Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Doug La Malfa
Senator Noreen Evans

Thursday, March 8, 2012
10:30 a.m. or upon adjournment of session
Room 112

Consultant: Brian Annis

Hearing Outcomes

State and Local Finance / Business Development

Issues Suggested for Vote Only:

State Treasurer's Office and Related Financing Boards

Department Overview: The Governor's Budget includes stable funding for State Treasurer and the 12 related Boards, Committees, and Authorities. Only three budget change proposals were submitted for these entities and none include General Fund costs. No concerns have been raised with these proposals, and they are recommended for approval as "vote-only issues."

Budget Change Requests: The Governor's Budget includes the following three budget augmentation requests:

1. The California Tax Credit Allocation Committee (CTCAC) requests two permanent new positions, and $247,000 from special funds, to perform Internal Revenue Service (IRS) code compliance monitoring workload. The CTCAC administers both federal and state low-income housing tax credit programs that require ongoing monitoring of the housing facilities and the low-income qualifications of the residents.
2. The California Tax Credit Allocation Committee also requests $473,000 from special funds to contract for asset management services for 63 low-income housing projects funded by the American Recovery and Reinvestment Act (ARRA). This is a new workload specifically related to the ARRA requirements.
3. The California School Finance Authority requests no new funding, but the establishment of one position to be funded within existing resources. The position would be formalized in lieu of using temporary help authority. This is a technical BCP to adhere to State personnel rules and regulations in a unique circumstance.

Staff Comment: No concerns have been raised with these budget requests.

Staff Recommendations: Approve the Treasurer's budget requests.

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

Issues Suggested for Discussion / Vote:

0520 Secretary for Business, Transportation and Housing

Department Overview: The Secretary of the Business, Transportation and Housing Agency (BT&H Agency) is a member of the Governor's Cabinet and oversees 12 departments, including the following large departments:

- Alcoholic Beverage Control
- Corporations
- Housing and Community Development
- Transportation (Caltrans)
- Financial Institutions
- Real Estate
- California Highway Patrol
- Motor Vehicles

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

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

Budget Overview: The Governor proposes total expenditures of $15.6 million ($2.5 million General Fund) and 62.0 positions for the Office of the Secretary – which is similar to the current-year budget after one-time adjustments for a federal grant to the Small Business Loan Guarantee Program. When all departments in the Agency are included, total proposed expenditures for 2012-13 are $11.3 billion including: General Fund ($558 million); special funds ($8.0 billion); and bond funds ($2.7 billion); but excluding reimbursements from local government which add another $1.5 billion to the Caltrans budget.

The Administration also submitted a Budget Change Proposal that describes its budget adjustments related to last year's "Workforce Cap" position reduction – the Legislature had approved statewide savings for the Workforce Cap, but last year's action did not include position detail. The Agency eliminated a Loan Officer Specialist position working for the Infrastructure Bank, and an Office Technician position. The Agency believes the elimination of these two positions will not affect the ability of the Agency to perform its duties. The Agency also eliminated an exempt Undersecretary for International Trade; however, the Governor has included that role in his proposal to fully staff the Governor's Office of Business and Economic Development (GO Biz), which is discussed later in this agenda. The overall Workforce Cap savings are $143,000 in 2011-12 and $268,000 in 2012-13 and ongoing (special funds and reimbursements, no General Fund).

(See budget issue on next page)

Issue 1 – Major Reorganization of the Agency

Governor's Budget Request. The Governor's January Budget Summary proposes major reorganization of State government – in the case of the BT&H Agency, the Agency would cease to exist and current functions would be shifted or recreated in three separate organizations. The transportation functions would move to a newly-created Transportation Agency; the housing and business regulatory functions would be merged with certain business regulatory and consumer protection functions currently in the State and Consumer Services Agency to create a new Business and Consumer Affairs Agency; finally, the economic development functions would move to the Governor's Office of Business and Economic Development (GO Biz). In addition to these shifts, several existing departments would be merged together or merged with departments currently in other agencies. A chart on the following page details the proposed reorganization.

Detail and Process. Detail on the reorganization proposal is still pending from the Administration in terms of statutory language and implementation dates. However the Administration released information on March 2 that suggested the reorganization associated with the BT&H Agency would be submitted to the Little Hoover Commission for review and then submitted to the Legislature as a package to become effective unless rejected by the Legislature. Depending on when the proposals are submitted to Little Hoover, the timeline for legislative action may be pushed beyond enactment of the 2012 Budget in mid-June. The Administration suggests that even if the reorganization is approved, no budget action would be needed until the 2013-14 budget.

Rationale for Reorganization: Generally, the rationale for government reorganization is either, or a combination of, efficiency and effectiveness:

- **Efficiency.** Some reorganizations result in the elimination of duplicative functions or result in other efficiencies that produce either budget savings or cost avoidance.
- **Effectiveness.** Some reorganizations do not result in either cost savings or position savings, but instead allow the State to be more effective and focused in providing services to the public.

The Administration does not score any budget savings for reorganizations related to the BT&H Agency for 2012-13. The Administration provided a chart that indicates no savings for 2012-13 but savings "to-be-determined" for 2013-14 and thereafter. While some out-year savings may be outlined later by the Administration, it appears the primary goal of this reorganization is to achieve more effectiveness in the provision of state services by consolidating like functions and allows Agency Secretaries to focus on better defined goals such as transportation, or business regulation and consumer protection.

BT&H Agency Proposed Reorganization

Current BT&H Agency		Proposed Transportation Agency
Transportation-Related		
* California Transportation Commission	→	California Transportation Commission
CA Dept of Transportation (Caltrans)	→	CA Dept of Transportation (Caltrans)
* High-Speed Rail Authority	→	High-Speed Rail Authority
Board of Pilot Commissioners	→	Board of Pilot Commissioners
California Highway Patrol (CHP)	→	California Highway Patrol (CHP)
Dept of Motor Vehicles (DMV)	→	Dept of Motor Vehicles (DMV)
Office of Traffic Safety (OTS)	↗	(OTS merged into DMV)
		Proposed Business& Consumer Affairs Agency
Housing-Related		
Housing and Community Dev. (HCD)	→	Housing and Community Development
CA Housing Finance Agency (CalHFA)	↗	(CalHFA merged into HCD)
Business-Related		
Alcoholic Beverage Control (ABC)	→	Alcoholic Beverage Control (ABC)
ABC Appeals Board	→	ABC Appeals Board
Dept of Financial Institutions (DFI)	→	Department of Business Oversight
Corporations	↗	(merged DFI and Corporations)
Real Estate Appraisers	→	Department of Consumer Affairs (DCA)
Real Estate	↗	(Real Estate merged into DCA)
		Some other Departments currently in the State and Consumer Svcs Agency
		Governor's Office of Business and Econ Dev (GO Biz)
Economic Dev. Offices within BT&H		
Infrastructure Bank	→	Infrastructure Bank
Film Commission	→	Film Commission
Tourism Commission	→	Tourism Commission
Small Business Loan Program	→	Small Business Loan Program
California Welcome Center Program	→	California Welcome Center Program

* Functionally within BT&H, but statutorily independent.

Hearing Questions: The Administration is still working on details, but since the reorganization plan was included in the January Governor's Budget Summary, the Administration should be able to respond to the opportunities and goals they see related to the proposal. The Subcommittee may want to hear from the Administration on the following questions:

1. *What are some of the deficiencies with the current BT&H Agency that the Administration believes can be addressed with the reorganization?*

2. *What level of out-year saving are anticipated with the proposal and is the rationale for the proposal cost savings or performance?*

3. *Since the Administration indicates it will submit these reorganization proposals to the Little Hoover Commission, does the Administration anticipate the need for reorganization-related adjustments to the 2012 Budget Act, or would conforming budget action not be needed until the 2013 Budget Act?*

Staff Comment: The proposed budget for the Office of the Secretary for the BT&H Agency does not reflect any budget adjustments for reorganization, and the Governor's reorganization may not take effect until July 1, 2013. Since no concerns have been raised with the baseline BT&H budget, the Subcommittee may wish to consider approving the BT&H budget as proposed.

Staff Recommendation: Approve the baseline BT&H Agency budget (excludes any action on reorganization).

Action: Approved the BT&H Agency budget on a 3 – 0 vote.

0509 Governor's Office of Business and Economic Development (GO Biz)

Department Overview : The Governor's Office of Business and Economic Development (GO Biz) is a new entity in State government. It was first established by Executive Order S-05-10 in April 2010, and established in statute effective January 1, 2012, via enactment of AB 29 (Statutes of 2011, J. Perez). The original organization was formed by borrowing positions and programs from other departments and agencies. With AB 29, and enactment of the 2012-13 budget, the entity will for the first time receive a specific stand-alone budget act appropriation. The Office is intended to be a high-profile point-of-contact for businesses and the economic development community, and an advocate for California as a place to grow businesses and jobs.

Budget Overvie w: The Governor proposes total expenditures of $4.1 million General Fund and 28 positions for GO Biz, effective with the 2012-13 budget. Prior to the 2012-13 proposal, the organization borrowed positions from other departments, so the staffing and costs have not been transparent in the budget. With AB 29 and this budget request, the Administration is indicating that the current baseline staffing has been 22.3 positions and $3.3 million ($418,000 General Fund). For 2012-13, funding would increase by $761,000 and 5.7 positions. Additionally, while many of the borrowed positions were from special fund departments, the Administration indicates as a permanent stand-alone entity, it would be inappropriate to use special funds and that all funding should be General Fund – which results in a net new General Fund expenditure of $3.6 million (but a net special fund reduction of $3.3 million).

Reorganization Plan: As indicated in the Business, Transportation, and Housing Agency (BT&H) section of this agenda, The Governor's reorganization plan would further augment the staff and functions of GO Biz by incorporating existing business promotion offices within the BT&H Agencies. Specifically, total funding of $12.2 million ($2.5 million General Fund) and 40 positions would move from the BT&H Agency to Go Biz. The offices are: the Film Commission, the Infrastructure and Economic Development Bank, the Small Business Loan Guarantee Program, the Tourism Commission, and the Welcome Center Program. The Administration now indicates this reorganization plan will be submitted to the Little Hoover Commission prior to Legislative Action – so no reorganization budget change is proposed for GO Biz at this time, and not expected until the 2013-14 budget.

(See budget issue on next page)

Issue 1 – Establishment of the Stand-alone GO Biz Budget (BCP #1)

Governor's Budget Request: The Governor's January Budget proposes a budget appropriation of $4.1 million General Fund and 28 positions for the first year of stand-alone budgeting of GO Biz. The expense is partially offset by reducing the budgets of various departments that had in the past loaned funding and positions for GO Biz - $2.9 million special funds and $418,000 General Fund and 23.3 positions are eliminated from these departments' budgets.

Prior Support for GO Biz: In a February 2010 report, the Little Hoover Commission concluded that the State should reestablish a more prominent role of leadership in the area of business development to fill the void created by the 2003 elimination of the Technology, Trade, and Commerce Agency. Governor Schwarzenegger soon thereafter shifted existing State staff to create such an entity by executive order. The Legislature approved the statutory framework for this organization with large bipartisan majorities by passing AB 29 in 2011.

Structure of GO Biz: The Administration budgets GO Biz in three components:

- **CalBIS:** $1.7 million and 11.4 positions would be for the California Business Investment Services Program (CalBIS), which would serve employers, corporate executives, business owners, and site location consultants who are considering California for business investment and expansion.
- **Office of Small Business Advocate:** $459,000 and 2.8 positions would be for the Office of Small Business Advocate, which would serve small employers with advocacy and technical assistance.
- **GO Biz:** $1.9 million and 12.4 positions for the remaining functions of communications and policy, international trade and export promotion, and administration.

Most GO Biz staff would be located in Sacramento, but the organizational plan calls for two employees in the San Francisco Bay Area, two employees in Los Angeles, and one employee in the Inland Empire.

Appropriate Staffing and Funding for GO Biz: Given prior support for the GO Biz concept, review of the budget request may focus more on the size of the office and staffing level, instead of the value of having such an office. When AB 29 was adopted, the bill analysis anticipated a budget in the range of $2.3 million, but $4.1 million is requested by the Governor. Additionally, the budget request sets position funding at the highest step for each pay range instead of the more common mid-point level. The Administration indicated that it would reexamine the funding for positions in the budget request, and should be able to explain their position at the hearing.

Hearing Questions: The Subcommittee may want to hear from the Administration on the following questions:

1. *Why does the requested funding and the number of positions exceed the levels present when the organization was operating under the executive order, and why does funding exceed the level discussed when AB 29 was adopted?*

2. *Why is position funding set at the maximum pay level, instead of the more-common mid-point level?*

Staff Comment: At the time this agenda was finalized, the Administration was re-evaluating its budget request to see if the position cost is overstated. To the extent that issue is not satisfactorily resolved, this item should be held open and brought back at a later hearing.

Staff Recommendation: Hold open - unless the Subcommittee is satisfied with the cost justification provided by the Administration at the hearing.

Action: Held open the GO Biz budget at the request of the Administration so the funding level can be reexamined.

9210 Local Government Financing

Department Overview: The 9210 budget item includes several programs that make State subventions to local governments. The payments include $2.1 billion General Fund for constitutionally-required repayment of 2009-10 "Prop 1A" borrowing from local governments; a small subvention related to former Redevelopment Agencies (RDAs) to help retire a portion of outstanding debt that was backed by the personal property tax – about $500,000, and a new subvention of $4.4 million General Fund proposed this year for Mono and Amador counties.

Budget Overview: The proposed budget for the 9210 item is $2.1 billion General Fund. Year-over-year comparisons show a major increase in expenditures as Prop 1A borrowing was $91 million in 2011-12 and will be $2.1 billion in 2012-13. Prop 1A debt will fully be repaid in 2012-13, so there is no ongoing cost. Additionally, some public safety grants were included in this item in prior years, but that funding was shifted with the 2011 Public Safety Realignment legislation and is now funded with the new local revenues instead of State grants.

(See budget issue on next page)

Issue 1 – Reimbursements to Amador and Mono Counties

Governor's Request: The Governor proposes a new General Fund subvention of $4.4 million to backfill Mono and Amador counties due to unique circumstances that reduced property tax directed to those county governments and cities within those counties in 2010-11. The revenue loss is understood to also have occurred in 2011-12 and will continue into 2012-13 and likely beyond, but the Administration indicates it is undetermined at this time whether its proposal is one-time or ongoing.

Background / Detail: Legislation enacted early in the Schwarzenegger Administration shifted local property tax from schools to cities and counties to accommodate two State fiscal initiatives. Schools were then backfilled with State funds. Overall, the fiscal changes resulted in a large net revenue gain for cities and counties as the replacement revenue streams have grown faster than the relinquished revenue streams. However, for Mono and Amador counties, unique circumstances reportedly reversed this outcome in 2010-11 and it is possible this outcome could occur for a few additional counties in the future.

- **Financing Economic Recovery Bonds (ERBs):** In the 2004 primary election, voters approved Proposition 58, which allowed the State to sell ERBs to pay its accumulated budget deficit. The local sales tax for cities and counties was reduced by one-quarter cent and the State sales tax was increased by one-quarter cent to create a dedicated funding source to repay the ERBs. Property tax was redirected from schools to cities and counties, and the State backfilled schools via the Proposition 98 funding guarantee. This financing mechanism is sometimes called the "triple flip," and was anticipated to hold local governments harmless. When the ERBs are repaid in 2016-17 (or earlier), the local sales tax rate is restored.
- **Backfilling for the Vehicle License Fee (VLF) Tax Cut**: Also in 2004, the Legislature enacted the "VLF Swap" to provide a more reliable funding mechanism to backfill cities and counties for the local revenue cut by the State when the VLF tax on motor vehicles was reduced from 2.0 percent of a vehicle's value to 0.65 percent of a vehicle's value. Here again, the state redirected property tax from schools to cities and counties and backfilled schools with State funds.
- **Problem for Mono and Amador**: The funding mechanism stopped fully working for Mono and Amador counties reportedly in 2010-11 due to all the schools in those counties becoming "basic aid" schools. Basic aid schools receive sufficient local property tax to fully fund the per-student amounts required by the Proposition 98 guarantee and therefore the State's funding is minimal. Due to this "basic aid" situation, current law would not backfill schools for any property tax shifted to cities and counties and county auditors have reportedly reduced or discontinued the "AB 8" shift of property tax from schools to those cities and counties. The estimated loss for the two counties in 2010-11 is $4.4 million. Conversely, in a non-"Test 1" Proposition 98 year, the State would realize a savings from not having to backfill schools – but

2012-13 appears to be a Test 1 year.

Issues to Consider: The financing shifts and educational financing provisions are complex, and perhaps not entirely relevant to making a determination on this budget request. The Subcommittee may instead want to focus on some broader ideas and issues:

- **Revenue growth uncertainty:** The funding shifts did include uncertainty and risk, as the relative growth of various revenue streams over many years was unknown. On a statewide basis, data suggests most counties – perhaps as many as 56 of 58 counties - have received a net benefit from the shifts. Since 2010-11, reportedly Mono and Amador have not seen net benefits. Individual county estimates of benefits or costs are not currently available, but the two counties have estimated the isolated effect of the property tax shift at $4.4 million.
- **No backfill guaranteed in the orig inal legislation, but the Mono and Amador outcome w as not anticipated:** The enacting legislation did not include provisions for the State to backfill locals with new subventions if the baseline funding mechanism proved to be insufficient to maintain city and county funds. At the time of the legislation, stakeholders were likely aware of the risk of variable levels of growth for different revenue streams, but may not have anticipated this outcome of all schools within the county becoming "basic aid." Since this outcome may not have been foreseen by the State or local governments at the time of bill enactment, does the State have a responsibility to backfill for this revenue loss?
- **Budget challenges in most cities and counties:** Since many cities and counties are continuing to experience budget shortfalls, should the Legislature consider the fiscal condition of the two counties relative to other counties as a factor in the determination. For example, has the decline in revenue for these counties since 2007-08 exceeded the statewide average?
- **Timing of the subvention:** If the Legislature determines a subvention is appropriate, should the Legislature appropriate for revenue loss through 2012-13 (maybe funding at a level of $13.2 million), or conversely decide to fund, but defer reimbursement to later in the fiscal year.

Staff Comment: The Department of Finance and the Legislative Analyst's Office will both be available at the hearing to respond to questions, and staff understands that representatives for Mono and Amador counties will also be present.

Staff Recommendation: Hold open for action later in the budget process as more data may be available on this issue, and the amount of General Fund revenues for 2012-13 is known with greater certainty.

Action: Issue held open.

8880 Financial Information System for California (FI$Cal)

Department Overview: The Financial Information System for California (FI$Cal), is an Enterprise Resource Planning (ERP) information technology (IT) project intended to replace, consolidate, and upgrade multiple legacy financial systems with a single system that would encompass the areas of: budgeting; accounting; procurement; cash management; and financial management. The development of FI$Cal resides with four "Partner Agencies," the Department of Finance, the State Treasurer's Office, the State Controller's Office, and the Department of General Services. The FI$Cal system has been in development for several years, but is now at a critical juncture because the Administration selected a contractor or "systems integrator" on March 1, 2012, to implement the system. To move forward with the contract and expenditures, legislative approval is required. Included in this budget item is funding for the contract staff and State staff that manage the project, and funding for the selected systems integrator, which is Accenture. Accenture would implement this ERP IT system using Oracle's PeopleSoft software.

Budget Overview: For 2012-13 expenditures, the Governor proposes $89.0 million ($53.5 million General Fund) for the FI$Cal project. The full multi-year cost from 2012-13 through 2017-18 would be $522 million, with $246 million of that General Fund. While the cost is large, it is significantly reduced from early costs estimates of $1.6 billion. The Administration has explored financing options such as bonding and vender financing to spread costs over a longer period, but recommends pay-as-you-go funding instead to reduce interest costs and delay. When costs already incurred are included, the Administration pegs the cost of the project at $616.7 million.

Current Statutory Provisions for FI$Cal / JLBC Review: Current law (Government Code 15849.21, as added by AB 1621, Statutes of 2010) requires a report to the Legislature and 90-day review by the Joint Legislature Budget Committee (JLBC), after a contract is negotiated with the selected bidder, but prior to contract award. This report was submitted to JLBC on March 2, 2012. Later this spring, the Legislature will inform the Administration of its decision on this project: via the JBLC for the contract award, and via the Budget Committee for the funding request. Subcommittee staff will coordinate with JLCB staff during the concurrent reviews of the proposed contract and proposed budget.

(See budget issue on next page)

Issue 1 – FI$Cal Budget Request (BCP #1 & Finance Letter #1)

Governor's Budget Request: As indicated, for 2012-13 expenditures, the Governor proposes $89.0 million ($53.5 million General Fund) for the FI$Cal project. The full multi-year cost from 2012-13 through 2017-18 would be $522 million, with $246 million of that General Fund. When prior expenses are included, the Administration scores the total project cost at $616.8 million – this cost breaks down $295.7 million for project staff (both state and contract staff), $213.1 million for the Accenture contract, and $19.0 for state data center services. Upon completion, ongoing annual operations and maintenance costs would be $32.5 million. No funding is included for "program staff" which would be staff at various departments working to implement the system – departments would instead have to absorb this cost and redirect existing staff. In Finance Letter #1, the Administration requests budget approval for full multi-year cost of this project.

Rationale for the Project: The current State financial systems are old and inefficient – they require more staff time to complete the same work, they have a limited ability to provide real-time fiscal information, and they lack tools necessary to effectively manage procurement and implement fiscal performance reporting. Departments maintain many incompatible systems and collection of statewide data involves redundant data entry, which delays and adds costs to calculating statewide numbers.

The Administration hired an external consultant to quantify the inefficiencies in the current State systems that would be resolved with an ERP solution. The consultant estimated that upon full implementation of FI$Cal, the State would see annual savings of $415 million as follows:

- **Process cost savings ($173.2 million):** This would be savings from reduced labor costs achieved through attrition as existing tasks are streamlined and could be achieved with fewer staff resources.
- **Technology cost savings ($28.0 million):** This would be savings related to operation and maintenance of existing IT systems that could be retired if FI$Cal were implemented.
- **Procurement effectiveness savings ($213.4 million):** This would be savings that would come from better procurement management and consolidated purchasing.
- **Risk reduction / system failure costs (not quantified):** This would be savings from retiring legacy fiscal systems that are at risk of failure due to insufficient state staff or vendors available to maintain obsolete systems.
- **Business performance improvement (not quantified):** This would be savings from using the FI$Cal system as a decision tool to better manage and prioritize limited state dollars, including performance budgeting.

Baseline and Alternatives for Implementing FI$Cal: The Administration proposes a **"phased rollout of functionality "** whereby all FI$Cal components (budgeting, accounting, purchasing, etc.) are implemented at the same time, but rolled out department by department over 5 years. The Administration believes this approach would result in a cheaper, quicker, and less-disruptive implementation than the following other approaches:

- **Function Phasing** – implement subcomponents individually statewide one at a time – for example, implement budgeting statewide and after that is complete, implement procurement statewide.
- **Department Phasing** – implement FI$Cal for a distinct group of departments and fully complete implementation and evaluation before moving on to a second group of departments.
- **Managed Service Models** – implement FI$Cal with a revised IT ownership structure whereby the State does not own either the infrastructure or the software. Instead the State would purchase software as a service and pay to access the functionality over a network.

The Administration additionally notes a change in the implementation model would result in the need for a new procurement which, by itself, would delay the project and increase costs.

Baseline and Alternatives for Funding FI$Cal: The proposed financing for FI$Cal is **pay-as-you-go** using General Fund, special funds, and federal funds, in proportion to each department's funding and cost share of the project. The Administration requests trailer bill language to specify FI$Cal is a central service department in order to recover the federal funding share, but also indicates this recovery of federal funds cannot occur until the project is completed. The below table is the project's proposed multi-year funding approach:

Baseline FI$Cal Cost by Fund
(dollars in millions)

Year	General Fund	Special Funds	Federal Funds	Total
2012-13	$53.5	$35.5	$0.0	$89.0
2013-14	50.8	33.8	0.0	84.6
2014-15	61.2	40.7	0.0	101.9
2015-16	78.1	51.9	0.0	130.0
2016-17	50.6	33.6	0.0	84.2
2017-18	19.5	13.0	0.0	32.5
Recovered Federal Funds	-67.8	0.0	67.8	0.0
Totals	**$246.0**	**$208.4**	**$67.8**	**$522.2**

The Administration considered and rejected two alternative financing approaches – vendor financing and bond financing. The common problems with these approaches, according to the Administration, are that only about half of the overall cost would be eligible for financing and interest charges would increase multi-year costs by about $70 million.

- **Vendor Financing:** With this approach, the State would pay the vendor share of costs over a longer period and incur interest costs. The Administration indicates if this approach were to be used, federal reimbursement for a portion of project costs would not be possible, and the General Fund and State special funds would incur the federal cost share of $67.8 million.
- **Bond Financing:** With this approach, the State would borrow itself to fund the project and incur interest costs. A State bond sale may take time to implement and could delay the project.

Staff Alternative Pay-as-you-go Financing: Given the difficult budget year, but the expectation that budget tightness will lessen in the out-years, the Legislature may want to consider a pay-as-you-go funding approach where special fund payments are accelerated and General Fund payments are decelerated. The table below shows how this might work – in 2012-13 there would be no General Fund expenditures and special funds would cover the $89 million cost. In 2013-14, the funding split would be unchanged from the baseline plan, with the General Fund share at $50.8 million. In 2014-15 through completion in 2017-18, the General Fund would pay a greater share and the special funds a lesser share to make up for the 2012-13 year. Overall expenditures by year would be unchanged.

Staff-alternative FI$Cal Cost by Fund
(dollars in millions)

Year	General Fund	Special Funds	Federal Funds	Total
2012-13	$0.0	$89.0	$0.0	$89.0
2013-14	50.80	33.80	0.00	84.60
2014-15	76.84	25.06	0.00	101.90
2015-16	98.05	31.95	0.00	130.00
2016-17	63.52	20.68	0.00	84.20
2017-18	24.49	8.01	0.00	32.50
Recovered Federal Funds	-67.80	0.00	67.80	0.00
Totals	**$246.0**	**$208.4**	**$67.8**	**$522.2**

Additional Reviews of FI$Cal Are Still Pending: At the time this agenda was finalized, the Legislative Report had only been available for 72 hours and the Finance Letter had only been available for 24 hours. So Committee staff and the Legislative Analyst's Office (LAO) are still in the first stages of review. Statute also directs the

Bureau of State Audits (BSA) to review and report on the status of the FI$Cal projects at least annually. It is likely both the LAO and BSA will be able to provide the Committee more detailed reviews and recommendations at future hearings – both will also be available at this hearing to answer questions. Even though the information from the Administration is recent and has not been comprehensively reviewed, staff recommended inclusion of this issue at this early hearing due to the importance of the issue and high cost of the project.

Hearing Questions: The Subcommittee may want to hear from the Administration on the following questions:

1. *During this difficult budget time, when many important programs are being severely cut, why does the Administration believe it is critical to move forward with FI$Cal?*

2. *The Administration indicates the project will produce out-year annual savings of $415 million starting in 2018-19, which would quickly compensate for the cost of the project – would these savings be realized in the budget via expenditure reductions, or would departments retain these savings in their budgets to grow their programs or to offset new workload pressures?*

3. *The 2012-13 General Fund cost of FI$Cal is $53.4 million – in this difficult budget environment can special funds front some of this initial cost with the appropriate General Fund contribution recovered over time?*

Staff Comments: The Legislature has supported development of the FI$Cal project - providing for expenditures of $94.5 million ($17.7 million General Fund) through June 30, 2012. Despite the sunk costs already incurred for the project, the Legislature will have to weigh the value of the FI$Cal project relative to other spending priorities. If the Legislature agrees the project is of high criticality, it will then have to select a funding approach that conforms to budget constraints of 2012-13.

Staff Recommendation: Hold open for further consideration at a future hearing after the Legislative Analyst and the State Auditor are able to complete a full review of the revised project plan and costs.

Action: Issue held open.

Debt Service General Obligation Bonds and Commercial Paper (9600)

Department Overview: Debt service payments are continuously appropriated, and therefore not appropriated in the annual budget bill. This item in the Governor's Budget displays the estimated debt service costs for each General Obligation bond (GO bond). Some bond costs are offset by special funds or federal funds – primarily by the transportation debt service fund. Other bonds are "self-liquidating," or have their own dedicated revenue (i.e., the Economic Recovery Bonds [ERBs] receive a quarter-cent of the sales tax) – the self-liquidating bonds are not included in this item.

Budget Overview: The January Governor's Budget includes $4.6 billion in General Fund costs for GO bond debt service and related costs, or a total of $6.1 billion when the cost of Economic Recovery Bonds is included. In addition to this amount, $717 million in debt costs are funded from special funds (i.e., $703 million from transportation special funds is used to pay transportation-related bond debt). Finally, federal bond subsidies, through the Build America Bonds (BABs) program, provide $352 million in 2012-13.

Governor's Budget for GO Bond Debt
(Dollars in millions)

	2010-11 Actual Cost	2011-12 Estimated Cost	2012-13 Estimated Cost
General Fund cost	$4,747	$4,649	$4,612
Other funds cost	732	679	717
Federal subsidy (Build America Bond Program)	298	351	352
TOTAL Item 9600	**$5,777**	**$5,679**	**$5,681**
Economic Recovery Bonds (ERBs, not included above because indirect GF cost)	$1,263	$1,341	$1,465

According to the Administration, the State has $81.0 billion in outstanding GO bond debt (including self-liquidating bonds like the Economic Recovery Bonds). Another $35.3 billion in bonds are authorized, but unissued. In most instances, bonds are sold at different lengths of maturity such that repayment is spread over about 30 years.

General Obligation Bonds Authorized But Not Issued
(Dollars in millions)

Bond Program	Unissued Amount
Prop 1B of 2006: Transportation	$11,080
Prop 1A of 2008: High Speed Rail	9,448
Prop 55 of 2004 & Prop 1D of 2006: Education Facilities	3,362
Prop 84 of 2006: Safe Drinking Water	2,957
Prop 71 of 2004: Stem Cell Research	1,873
Prop 1E of 2006: Disaster Prep and Flood Prevention	1,819
Prop 46 of 2002 & Prop 1C of 2006: Housing	1,392
All other	3,372
TOTAL $35,303	

Budget and Bonds: Paying GO bond debt is a significant General Fund expense of about $6.1 billion; however, the use of bonds to accelerate capital projects is a commonly-used practice of government entities. To the extent bond costs do not exceed a government's long-term ability to fund other commitments, they allow the public to enjoy the benefits of infrastructure investment more quickly. Voters approved over $40 billion in new bonds on the 2006 ballot, just prior to the national recession. The bonds have allowed the state to invest in infrastructure while the need for economic stimulus is most acute, while borrowing costs are low, and while construction procurement is favorable. Despite the benefits of bonds, they come with the cost of many years of debt service. A $1 billion bond generates annual bond debt costs of about $65 million over a 30-year period. That bond cost crowds out alternative expenditures over the life of the bond. The Legislature can prioritize or limit bond funding through the budget process as overall expenditures are prioritized.

Management of Bonds: As the State's cash situation deteriorated with the most recent recession, the Administration changed the methodology for managing bond cash. Prior to the recession, reserve cash funded project costs in advance of bond sales, and then bond sales replenished cash reserves. When reserve cash declined, the state had to instead sell bonds in advance of expenditures. Due to project expenditures happening slower than anticipated at the time of bond sales, large bond cash balances have developed – about $9.7 billion as of December 2011. Last year, the Administration implemented a plan to utilize commercial paper to aid cashflow, and reduce the need to carry large bond cash balances. Progress has been made to reduce bond cash, but balances are still higher than desired.

Issue #1 – Bond Cash Plan for 2012-13 (Governor's January Budget)

Governor's Proposal: The Administration proposes both a spring and fall bond sale for 2012. A total of $2.4 billion in bonds would be sold this spring, and an additional $2.9 billion would be sold in the fall. The net new General Fund cost related to these bond sales is $118 million in the 2012-13 budget, with an additional $71 million in bond costs funded from transportation special funds. With cash on hand and 2012 bond sales, a total of $15.0 billion would be available to fund bond projects in January 2012 through June 2013.

Detail: The table below displays bond cash on hand (from prior bond sales) as of December 2011, as well as the new cash that would come from bond sales in 2012, for the major GO bonds. The December 2011 bond cash balance of $9.7 billion represents progress in reducing the balance which was as high as $13.3 billion in December 2010. However, the Administration's goal was to reduce bond cash to $3 billion by June 2012, and it does not appear that goal will be met. Reducing cash balances will reduce short-term General Fund costs.

General Obligation Cash Proceeds
(Dollars in millions)

Bond Program	Cash as of Dec 2011	Planned 2012 bond sales	Total cash through June 2013
Prop 1B of 2006: Transportation	$2,241	$2,375	$4,616
Prop 55 of 2004 & Prop 1D of 2006: Education Facilities	1,501	1,835	3,336
Prop 1E of 2006: Disaster Prep and Flood Prevention	1,445	211	1,656
Prop 84 of 2006: Safe Drinking Water	1,291	36	1,327
Prop 46 of 2002 & Prop 1C of 2006: Housing	654	282	936
Prop 71 of 2004: Stem Cell Research	187	338	525
Prop 1A of 2008: High-Speed Rail	216	61	277
All others	2,166	122	2,288
TOTAL $9,701		**$5,260**	**$14,961**

Hearing Questions: The Administration should be prepared to discuss their overall plan for GO bonds in 2012-13. Individual bonds will be discussed in more detail by subject matter in this subcommittee and other subcommittees as hearings progress this spring. The Subcommittee may want to hear from the Administration on the following questions:

1. *Is bond cash sufficient to fund all bond projects appropriated by the Legislature, or are some projects on hold due to insufficient bond cash, or other reasons?*

2. *Are cash expenditure projections for bond projects being met? If not, can planned 2012 bond sales be adjusted to reduce the $118 million General Fund cost in 2012-13?*

3. *Going forward, does the Administration support appropriations for unissued bonds, or does the Administration want to curtail any bond programs to preserve General Fund resources?*

Staff Comment: While funding for bond debt service is continuously appropriated, a global discussion on GO bonds may be useful here to understand the Administration's priorities and to help inform future discussion on individual bonds and expenditure plans.

Staff Recommendation: Take no action, this is an informational issue. Direct staff to bring the issue back a future time if the Administration substantially revises their bond plan with the May Revision budget.

Action: Informational issue – no action taken.

9620 Cash Management and Budgetary Loans

Department Overview: This budget item appropriates funds to pay interest costs on General Fund borrowing used to overcome cash flow imbalances during the fiscal year. Because receipts and disbursements occur unevenly throughout the fiscal year, the General Fund borrows in most years, even though each budget is balanced when enacted and funds are repaid within the fiscal year. Interest is paid on both internal borrowing (such as cashflow loans from special funds) and for external borrowing (such as Revenue Anticipation Notes [RANs]). This item additionally pays interest costs for budgetary borrowing by the General Fund from special funds. Budgetary borrowing is across fiscal years and is scored as a budget solution, whereas cashflow borrowing is not counted as a budget solution (only a cash solution).

Budget Overvie w: The January Governor's Budget includes $178.4 million for interest costs on cashflow borrowing and $39 million for interest costs on budgetary borrowing – all General Fund. Of the cashflow amount, $78.4 million is for internal borrowing and $100 million is for external borrowing. Overall, expenditures in this item are up year-over-year – a total of $217.4 million is proposed for 2012-13, versus revised expenditures of $154.4 million in 2011-12. The year-over-year difference is primarily explained by the Administration being conservative and budgeting sufficient funds to cover the uncertainty in interest rates and other factors.

Staff Comment: The budgeted amount for interest costs appears reasonable given the assumptions of the Administration. The assumption that needs review is that related to the repayment of budgetary loans (principal repayment of $486 million in 2012-13) and the associated $39 million in interest. This issue is the discussion issue on the following page.

(see discussion issue on next page)

Issue 1 – Special Fund Loan Repayment Plan (January Governor's Budget)

Governor's Proposal: As indicated in the introduction to this section, the Governor requests $39 million General Fund to pay interest on outstanding special-fund loans – this is budgeted in item 9620. Interest is only repaid when the loan principal is repaid. The amount of principal repaid is $486 million. The amount of total special fund loans outstanding as of June 30, 2012, is $3.1 billion (under the Governor's plan).

Detail: The table on the following page reflects the Administration's planned special-fund loan repayments for the remainder of 2011-12 and for 2012-13. As indicated on the table, the total General Fund cost to repay these loans through June 2013 is $843 million (technically, a $779 million reduction in General Fund revenue to account for the principal repayment and a $64 million General Fund expenditure for interest – over the two fiscal years). The January Governor's Budget scores savings of $631 million from deferring repayment of other loans to 2013-14 and beyond, but the repayment of the $843 million is retained in the proposed budget.

Hearing Questions: The Administration should be prepared to discuss their overall plan for special fund loan repayment for the remainder of 2011-12 and for 2012-13. The Subcommittee may want to hear from the Administration on the following questions:

1. *How did the Administration determine which loans should be repaid and which should be deferred? When a decision was made to repay a certain special fund, how was the repayment amount determined?*

2. *Given significant wall-of-debt progress in other areas of the budget, why does the Administration propose to repay special funds loans in 2011-12 and 2012-13 beyond the level that appears necessary?*

Staff Comment: Generally, decisions about special fund loans will be made in the budget Subcommittees by subject-matter area, although the 9620 Budget Item should be made to conform. A high-level staff review of the proposed loan repayments and fund condition statement suggests some of loans proposed for repayment could be deferred for additional budget savings in 2012-13 if necessary. The Budget Committee may want to hold final determination on loan repayments until the May Revision when final revenue forecasts are known.

Staff Recommendations: Take no action, this is an informational issue.

Action: Took no action (if special fund loan repayments are adjusted by this or another subcommittee, this item could be adjusted at a later time to conform interest payments to those actions).

Governor's Budget Plan for Loan Repayment in 2011-12 and 2012-13
($ in thousands)

Dept	Fund Name	Fund	Total Cost to GF	Repayment Date
2011-12 Scheduled Repayments				
DCA	State Dentistry Fund	0741	$2,119	06/30/2012
DCA	Occupational Therapy Fund	3017	$720	06/30/2012
DGS	State Motor Vehicle Insurance Account	0026	$15,053	06/30/2012
HCD	Rental Housing Construction Fund	0938	$573	06/30/2012
DOT	State Highway Account, State Transportation Fund	0042	$219,566	06/01/2012
DOT	Bicycle Transportation Account, State Transportation Fund	0045	$6,587	06/01/2012
DOT	Motor Vehicle Fuel Account	0061	$8,783	06/01/2012
DOT	Environmental Enhancement and Mitigation Program Fund	0183	$4,830	06/01/2012
DOT	Historic Property Maintenance Fund	0365	$3,293	06/01/2012
DOT	Pedestrian Safety Account, State Transportation Fund	2500	$1,883	06/01/2012
CEC	Renewable Resources Trust Fund	0382	$25,211	06/30/2012
DRRR	CA Beverage Container Recycle Fund	0133	$29,100	05/31/2012
SWRCB	Water Rights Fund	3058	$932	06/30/2012
SUBTOTAL FOR REMAINDER OF 2011-12			**$318,650**	
2012-13 Scheduled Repayments				
Technology Agency	State Emergency Telephone Number Acct	0022	$7,030	09/30/2012
Technology Agency	State Emergency Telephone Number Acct	0022	$7,036	12/31/2012
Technology Agency	State Emergency Telephone Number Acct	0022	$7,043	03/31/2013
Technology Agency	State Emergency Telephone Number Acct	0022	$7,049	06/30/2013
DCA	Behavioral Science Examiners Fund	0773	$2,544	06/30/2013
DGS	Public School Planning, Design, and Construction Review Revolving Fund	0328	$11,273	06/30/2013
HCD	Joe Serna, Jr. Farmworker Housing Grant Fund	0927	$1,650	07/01/2012
HCD	Joe Serna, Jr. Farmworker Housing Grant Fund	0927	$1,201	07/01/2012
HCD	Rental Housing Construction Fund	0938	$581	06/30/2013
DOT	State Highway Account, State Transportation Fund	0042	$140,589	06/30/2013
Conservation	Collins-Dugan California Conservation Corps Reimbursement Account	0318	$2,005	07/01/2012
CEC	Renewable Resources Trust Fund	0382	$23,147	06/30/2013
CEC	Renewable Resources Trust Fund	0382	$12,288	06/30/2013
CEC	Renewable Resources Trust Fund	0382	$35,891	07/01/2012
CEC	Alternative and Renewable Fuel and Vehicle Technology Fund	3117	$8,592	06/30/2013
DRRR	CA Beverage Container Recycle Fund	0133	$81,984	06/30/2013
DRRR	CA Beverage Container Recycle Fund	0133	$103,481	06/30/2013
PUC	California Teleconnect Fund Administrative Committee Fund	0493	$71,071	06/30/2013
SUBTOTAL FOR 2012-13			**$524,455**	
GRAND TOTAL FOR REMAINDER OF 2011-12 AND FOR 2012-13			**$843,105**	

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Noreen Evans
Senator Doug La Malfa

Thursday, March 15, 2012
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Brady Van Engelen

Item Number and Title

8940	California Military Department
8955	California Department of Veterans Affairs
0690	California Emergency Management Agency

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

AGENDA – VOTE ONLY ITEMS

(Please see summary chart on Page 3)

AGENDA – DISCUSSION / VOTE ITEMS

Issues Proposed for Vote Only:

	Issue	2012-13 Amount	Fund Source	Staff Recommendation
	California Military Department (8940)			
1	144th California Air National Guard Firefighters	$0 (position authority only)	Federal Funds	APPROVE
2	Departmental Reduction in Reimbursement Authority	$25,000	Special Funds	APPROVE
	Department of Veterans Affairs (8955)			
3	Yountville Veterans Home cemetery renovation	$2.41 million	Federal Funds	APPROVE
4	Sharing Agreements to Civil Service Positions	$0 (position authority only)	General Fund	APPROVE
	California Emergency Management Agency (0690)			
5	Federal Justice Grant Stimulus	$300,000	Federal Funds	APPROVE
6	Re-appropriation of Bonds	$5.7 million	Prop 1B	APPROVE

Vote:

Issues Proposed for Vote Only – Issue Descriptions

California Military Department

For overview and budget information regarding this department, please see page 6 of this agenda.

Issue 1 – 144th California Air National Guard Firefighters

Governor's Budget Request: The Governor's 2012-13 budget requests the authority for three new positions in order to hire firefighters at the 144th fighter wing in Fresno. The National Guard Bureau will absorb the cost of all three positions.

Background: The 144th California Air National Guard Fire Protection responds to a variety of emergencies to include: response to in flight emergencies to Department of Defense assets, civilian aircraft, structural fire response and medical response. The California Air National Guard Fire Department is 100 percent federally funded.

Issue 2 – Decrease Departmental Reimbursement Authority

Governor's Budget Request: The Governor's 2012-13 budget requests that the California Military Department reduce its reimbursement authority by $11.217 million. The reduction in reimbursement authority stems from grants that are no longer being funded and a reduction in reimbursements to the Military Support to Civil Authority and Youth Programs.

Background: The reduction in reimbursement authority stems from grants that are no longer being funded and a reduction in reimbursements to the Military Support to Civil Authority and Youth Programs. This proposal would allow the California Military Department to realign their budget to more accurately reflect spending authority with actual expenditures.

California Department of Veterans Affairs

For overview and budget information regarding this department, please see page 11 of this agenda.

Issue 3 – Yountville Veterans Home: Veterans Cemetery Renovation Reappropration

Governor's Budget Request: The Governor's 2012-13 budget requests a re-appropriation of $2.411 million of Federal Trust Fund Authority approved in the 2011 budget act for the construction phase of the Veterans Home of California – Yountville cemetery renovation project.

Background: The Veterans Memorial Grove Cemetery located on the grounds of the Veterans Home California – Yountville covers approximately 10.2 acres. The cemetery is reserved for veterans that reside at any of the veterans homes throughout the state. Over the past couple of decades the condition of the cemetery has deteriorated and is in need of repair in order to meet National Cemetery Administration standards.

$436,000 of General Obligation bonds were approved for both the preliminary plans and working drawing phases of the renovation project. $223,000 of the initial amount was transferred to the Architectural Revolving Fund on December 27, 2010 to initiate preliminary plans. The remainder was transferred during the 2011-12 Budget Year in order to support the working drawing phase of the project. The development of preliminary plans took longer than anticipated which necessitates the request for the Federal Trust Fund Authority to be approved in the 2012-13 budget act.

Issue 4 – Sharing Agreements to Civil Service Positions

Governor's Budget Request. The Governor's 2012-13 budget requests greater position authority for the California Department of Veterans Affairs. The California Department of Veterans Affairs (CDVA), Veteran Homes of California, Greater Los Angeles and Ventura County (GLAVC) is requesting position authority to convert the funding and positions of shared agreements for positions supporting the Greater Los Angeles and Ventura County homes from the U.S. Department of Veterans Affairs. CDVA is requesting position authority for a total of 22.0 PY by fiscal year 2015 with zero impact to the General Fund.

Background. The Veteran Homes of California (VHC), Greater Los Angeles and Ventura County (GLAVC), is comprised of veteran homes in West Los Angeles, Lancaster, and Ventura. The VHC GLAVC and the U.S. Department of Veterans Affairs entered into a sharing agreement that included pharmaceutical, medical services, and medical supply support. In November 2010 the U.S. Department of Veterans Affairs began cancelling the sharing agreements, citing the lack of a cohesive budget timeline as the reason for the cancellation. The funds that had been encumbered for the sharing agreements will be utilized for the civil service positions and will not impact the General Fund.

California Emergency Management Agency

For overview and budget information regarding this department, please see page 14 of this agenda.

Issue 1 – Federal Justice Grant Stimulus

Governor's Budget Request: The California Emergency Management Agency is requesting that $300,000 in Federal Trust Fund Authority for state operations in order to administer $135 million in Federal Justice Assistance Grant (JAG) Stimulus funding awarded to California.

Background: California received $135.7 million in JAG Stimulus funding, which was directed to Cal EMA, as part of the Federal Stimulus package for law enforcement assistance. These funds have a four year performance period which extends into 2013. For the final year of the Federal JAG Stimulus funding, FY 2012-13, Cal EMA is requesting $300,000 in Federal Trust Fund Authority to continue to cover the state operations related to the management of the Federal

JAG stimulus funds in order to support the 3.0 temporary positions to administer the $135 million in Federal JAG Stimulus funding and to properly close out the Federal JAG stimulus grant award in 2013. The 3.0 temporary positions will be funded by interest earned on original stimulus funding from the federal government.

Issue 2 – Reappropriation of Bonds

Governor's Budget Request: The California Emergency Management Agency has requested an extension for the liquidation period for the Transit, System Safety, Security and Disaster Response Account, Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006. The Budget Bill Language associated with this request would extend the period to liquidate encumbrances to June 30, 2013.

Background: The California Emergency Management Agency is requesting a reappropriation of $5.7 million dollars. Without this extension of the period of liquidation, the projects could not be reimbursed after June 30, 2012, and there will be no bond proceeds available until after that date. Currently, agencies awaiting funding for projects that will be affected are located throughout the state. The remaining projects are related but not limited to: Operations & Security Center, Incident Planning, Enhancing Passenger Safety and Security Systems, Bus Stop Improvements, Video Surveillance, Corporation Yard Access Enhancements, Multi-Frequency Emergency Radios, Mobile Emergency Electrical Generators, Security Lighting and Fencing, On-Board Bus Surveillance Systems, CalTrain Right-of-way Fencing, Cameras on Trains & Closed-Circuit Security Cameras.

8950 CALIFORNIA MILITARY DEPARTMENT

Department Overview: The California Military Department 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 is to provide military service supporting this state and the nation. The three missions of the California National Guard are to provide: 1) mission ready forces to the federal government as directed by the President; 2) emergency public safety to civilian authorities as directed by the Governor; and, 3) support to the community as approved by proper authority. The California Military Department is organized in accordance with federal Departments of the Army and the Air Force staffing procedures.

Budget Overview: The Governor's Budget proposes $130.8 million ($43.6 million General Fund) and 797.7 personnel years. This reflects a decrease of $9.6 million and 12.5 positions as compared to the 2011-12 budget.

Fund Source	**2010-11**	**2011-12**	**2012-13 (proposed)**
General Fund	$43,938	$42,991	$43,618
Federal Trust Fund	$69,133	$76,758	$77,788
Reimbursements	$8,550	$19,613	$8,396
Mental Health Services Fund	$366	$540	$549
Other Funds	$103	$421	$422
Total Expenditures	$122,090	$140,323	$130,773
Personnel Years	743.4	785.2	797.7

The Military Department also receives Other Federal Funds. These funds are not allocated by the state or deposited in the State Treasury and are not included in program or statewide totals. All of the Other Federal Funds are received from the Federal Government for the support of the federal component of the California National Guard.

Federal Funds – California Military Department

2010-11		**2011-12**	**2012-13**
Expenditures	$911,643	$770,484	$786,665
Personnel Years	4,109.9	4,109.9	4,109.9

Issues Proposed for Discussion / Vote

Issue 1 – STARBASE Program Expansion

Governor's Budget Request: The Governor requests 10.0 new positions to support the establishment of three new Science and Technology Academies Reinforcing Basic Aviation and Science Exploration (STARBASE) program facilities. Funding is being provided by the Department of Defense to begin program operations in 2012-13 and the program will continue to be funded with federal dollars.

Background: The Governor's 2012-13 Budget request includes 10.0 new positions for the establishment of three new STARBASE academies located at Joint Forces Training Base in Los Alamitos, the Fresno Air National Guard Base and the Defense Language Institute in Monterey. There is no federal requirement for state matching funds and the program will continue to be fully federally funded.

California's existing STARBASE program is located in Sacramento, California and serves more than 3,000 students annually from the nine surrounding school districts. The program targets minority and/or low socio-economic students and utilizes instruction platforms that conform with federal Department of Defense standards. STARBASE participants are provided with hands-on learning opportunities and mathematics plays an integral role in the program.

If the state were to choose to deny the BCP, the California Military Department will forfeit the $1.0 million in federal funding that has been set aside to add three new STARBASE programs in California.

Hearing Questions: The Subcommittee may want to hear from the California Military Department on the following questions:

1. *Has the Military Department determined if these positions could be filled by State Civil Service employees? Are there any benefits to these positions being filled by members of the State Active Duty?*

2. *Are there any benefits to either the student or the military department to these positions being filled by members of the State Active Duty? .*

Staff Comment. According to the Military Department, instructors in the STARBASE program will be members of the State Activity Duty. Due to cost considerations, it may be more economical for the California Military Department to fill these 10.0 positions with a member of the State Civil Service. Staff would like to see analysis that determines if there are any additional cost burdens assumed by the state if these positions are filled by State Active Duty personnel rather than State Civil Service.

Staff Recommendation: Staff recommends this issue be left open until the California Military Department provide the Budget Committee with a cost benefit analysis of utilizing State Civil Service personnel vs. State Active Duty.

Vote:

Issue 2 – State Active Duty Compensation

Governor's Budget Request. The Governor's 2012-13 budget requests a $1.147 million ($495,000 GF) augmentation to support state active duty personnel cost increases that stem from increases approved by Congress.

Background. Currently there are 568.5 State Active Duty positions within the California Military Department. Members of the State Active Duty support a variety of Military Department activities including: support for youth and community outreach programs, administrative support for The Adjutant General, and facility support operations throughout the state. In accordance with Sections 320 and 321 of the Military and Veterans Code, pay for State Active Duty employees is based upon federal military pay scales that are determined by Congress. Compensation is based on each military member's pay grade, duty location, and years of military service.

Hearing Questions: The Subcommittee may want to hear from the California Military Department on the following questions:

1. *What is the Department's current vacancy rate?*
2. *Could you please describe in more detail the process of converting each position? On average, how long does the conversion process take?*
3. *Has the Military Department been prohibited from converting any positions due to its lacking a State Civil Service classification? If so, could you provide us with more detail on those positions?*

Staff Com ment. MG Baldwin, the current Adjutant General, has directed his staff to review each State Active Duty position and determine if it is possible to convert the position to a less costly State Civil Service position as it becomes vacant. This review process has led to the conversion of 11 positions to State Civil Service. State Civil Service positions are not subject to housing allowances like State Active Duty positions and have proven to be more cost effective to the state.

Positions Slotted to Convert to SCS

SAD Position	Base Pay+BAH=Salary	SCS Classification	Salary Range
Position Control NCO (E7)	$6687	AGPA	$4400 - $5348
Chief HRO (W4), SP,	$9268	SSM II	$6173 - $6727
Fiscal NCO (E7), Sunburst	$7203	Associate Budget Analyst	$4400 - $5350
Security Forces Admin NCO	$5317	Executive Secretary	$3020 - $3672
Youth Programs Admin NCO	$5317	Executive Secretary	$3020 - $3672
Real Property Tech	$5317	Associate Budget Analyst	$4400 - $5348
Federal Government Liaison	$8493	CEA I	$6173 - $7838

The table provides data that shows progress towards converting positions to State Civil Service is being made. Undoubtedly, this will be a lengthy process where cost savings each year may seem minimal, but over time the savings achieved through conversion will have provide tangible savings to the state's overall budget.

Staff Recommendation: Approve as budgeted

Vote:

8955 CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

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

Budget Overview: The Governor's budget proposes $362.3 million ($250.3 million GF) and 2,250.4 positions for the department. If implemented as proposed, General Fund support for the CDVA would increase from $217.1 million in 2011-12 to an anticipated $250.3 million in the budget year.

Summary of Expenditures (in thousands)

Program	2011-12	2012-13
Farm and Home Loans to Veterans	$124,402	$103,938
Veterans Claims and Rights	$9,826	$11,978
Care of Sick and Disabled Veterans	$212,599	$245,959
Other funds	$473	$428
Total	**$347,300**	**$362,303**

Issues Proposed for Discussion / Vote:

Issue 1 – Veterans Homes of California (VHCs)

Governor's Budget Request: The Governor's budget proposes an increase of $33.6 million in 2012-13 for all of the VHCs, including an augmentation of $32.2 million for full-year and one-time adjustments to phase-in staffing and residents in the existing and new VHCs in Greater Los Angeles Ventura County (GLAVC) and provide VHC Redding and VHC Fresno with staff to properly maintain the facility until each facility can be adequately staffed to admit residents.

The January Governor's Budget proposes to continue to ramp-up admissions at the VHCs in West Los Angeles, Lancaster, and Ventura. The Governor also proposes to provide continued resources and staffing related to the construction and activation of two new VHCs in Redding and Fresno. Construction at the Redding facility is scheduled to be completed by March 30 and construction at the Fresno facility is scheduled to be finished by April 20.

Background: The CDVA provides residential and medical care services to honorably discharged California veterans who served on active duty and are over the age of 62 or disabled. The VHCs are long-term residential care facilities that provide California's qualified aged or disabled veterans with rehabilitative, residential, medical, and support services in a home-like environment. Once an eligible veteran selects a VHC as his or her long-term care option, and is approved for admission, the veteran becomes a fee paying resident of the VHC. Home residents are veterans of military service ranging from World War II, Korea, Vietnam, Gulf War I, Operation Enduring Freedom, and Operation Iraqi Freedom. Spouses of veterans may also be eligible for VHC membership. The VHCs provide a long-term continuum of care, from domiciliary care at one end of the spectrum, which is similar to independent living accommodations, to skilled nursing care at the other end of the spectrum, which provides continuous skilled nursing or rehabilitation services.

Veterans Homes of California

	Yountville	Barstow	Chula Vista	West Los Angeles	Lancaster	Ventura
Licensed Beds*	1,203	344	400	84	60	60
Domiciliary Care	Yes	Yes	Yes	No	No	No
Residential Care Facility for the Elderly	Yes	No**	Yes	Yes	Yes	Yes
Intermediate Care Facility	Yes	Yes	No	No	No	No
Skilled Nursing Care	Yes	Yes	Yes	Yes	No	No
Memory Care	Yes	Yes	Yes	Yes	No	No

**Includes suspended beds.*
***Barstow is not currently licensed or budgeted for the Residential Care Facility for the Elderly level of care.*

Construction at the VHC-Redding and VHC-Fresno facilities is scheduled for completion in early spring of 2012. The Governor's 2012-13 budget reflected minimal staff at each facility for basic upkeep and maintenance and did not include staff that would support admissions at VHC Redding or VHC Fresno. When opened, both of these homes will provide the following levels of care: Residential Care Facility for the Elderly and Skilled Nursing Care, including Memory Care services within each level of care.

Hearing Questions: The subcommittee may wish to ask the Administration the following questions.

1. *Does the continued delay of opening both the Redding and Fresno facilities put the state at risk of losing any federal funding?*

2. *Will each of the positions requested in the 2012-13 budget for Redding and Fresno be located on site? Does the number requested reflect staff located at CDVA HQ in Sacramento?*

Staff Comment. Staff agrees with the need to provide adequate staffing to ensure that the facilities are compliant while ramp up at each of the facilities occurs.

Staff Recommendation: Approve CDVA's budget for Veterans Homes (Program 30).

Vote:

Issue 2 – Veterans Claims and Rights

Governor's Budget Request: The Governor's 2012-13 budget requests that $11.9 million dollars and 40.9 Personnel Years be directed towards the department's Veterans Services Division. The Veterans Services Division provides service and assistance to California's veterans, dependents, and survivors. This request reflects an approximately $2.1 million dollar increase over the Administration's 2011-12 budget request.

Background: According to the statistics provided by the USDVA, 15.06 percent of the state's veterans are receiving disability or compensation benefits from the federal government, which lies slightly below the national average of 15.72 percent. Increasing the rate of participation rates for benefits has long been a goal of the Veterans Services division of CDVA. While the state does provide some funding for County Veteran Service Officers (CVSOs) to conduct outreach ($2.6 million dollars annually for all 54 counties) CDVA has limited influence on the outreach operations designed to connect the state's veteran population with federal benefits that they might be eligible to receive. Local agencies, such as CVSOs, or veteran specific non-profits have provided these services to veterans. A hurdle that the Veterans Services division often faces is that a CVSO's presence might vary by county, and are largely controlled by their respective county's board of supervisors. Therefore, the goals established by the CVSOs might not align perfectly with the goals of the Veterans Services division.

There are additional efforts underway to improve the number of veterans in California who receive benefits: Based on direction implemented in the 2010 Budget Act, a Memorandum of Understanding between CDVA and the Department of Motor Vehicles (DMV) was signed that allows veterans to identify themselves when they apply for a driver's license. This information would then be passed on to CDVA, which will lead outreach efforts and ensure that veterans are aware of their available benefits.

Staff Comment: Staff encourages the continued outreach efforts of CDVA. Staff encourages CDVA to continue to collaborate with other state entities to improve statewide outreach to ensure that each veteran in the state is aware of their benefits from the U.S. Department of Veterans Affairs.

Staff Recommendation: Approve CDVA's budget for Veterans Claims.

2400 CALIFORNIA EMERGENCY MANAGEMENT AGENCY

Department Overview : The principal objective of the California Emergency Management Agency (Cal EMA) is to reduce vulnerability to hazards and crimes through emergency management and criminal justice to ensure a safe and resilient California. The Cal EMA coordinates emergency activities to save lives and reduce property loss during disasters and to expedite recovery from the effects of disasters. On a day-to-day basis, the Cal EMA provides leadership, assistance, and support to state and local agencies in planning and preparing for the most effective use of federal, state, local, and private sector resources in emergencies. This emergency planning is based upon a system of mutual aid whereby a jurisdiction relies first on its own resources, and then requests assistance from its neighbors. The Cal EMA's plans and programs are coordinated with those of the federal government, other states, and state and local agencies within California.

During an emergency, the Cal EMA 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 Cal EMA is responsible for the development and coordination of a comprehensive state strategy related to all hazards that includes prevention, preparedness, and response and recovery.

Budget Overview: The January Governor's Budget provides Cal EMA with 545.2 positions and $1.3 billion ($113.1 million General Fund).This reflects a decrease of $85 million ($2.5 million General Fund) and 26.1 positions compared to the 2011-12 budget.

Issues Proposed for Discussion / Vote:

Issue 1 – California Specialized Training Institute

Governor's Budget Re quest: The administration's 2012-13 budget proposal includes a plan to close the CSTI training center by January 1, 2013. CSTI would retain responsibility for development of a curriculum, certifying local agencies, and providing some emergency management training on-location, but many responsibilities for training would shift to locally governed training centers operated by Joint Powers Authorities (JPA). The CSTI staff would be reduced by 20 positions over two years, and federal funds would be diverted to the JPAs. In total, the proposal would reduce the CalEMA budget by $2.0 million in 2012-13 and $4.2 million in 2013-14. Of these amounts, $187,000 in 2012-13 and $377,000 in 2013-14 are from the General Fund.

Background: The CSTI coordinates CalEMA's emergency management training programs. More specifically, CSTI provides training to state, local, federal, private sector, and foreign partners. The curriculum at the facility includes the state's standardized emergency management system, hazardous material response, and contingency planning amongst a variety of other disaster mitigation related activities.

Approximately 30 percent of its training is provided by state instructors on-site at the CSTI training center in San Luis Obispo, often utilizing the center's specialty facilities and equipment (including prop tanker railcars, big-rig trucks, a firing range, and a mock courtroom). Most of the courses (about 70 percent) are taught by instructors who travel to trainees' local areas. According to the administration, funding for CSTI comes from a combination of federal grant funds ($2.1 million), reimbursements from local authorities ($3.8 million), and the state General Fund ($1 million) and supports 26 authorized positions. Local authorities are currently responsible for the costs associated with their employees traveling to the San Luis Obispo center to receive training, including overtime, subsistence, and backfilling necessary positions while trainees are away.

Hearing Questions: The subcommittee may wish to ask the following questions of the Administration.

1. *Have you determined if any costs will be absorbed by other local or state entities related to this move?*
2. *Are there any environmental concerns that would need to be addressed prior to relocating/dismantling the facility? If there are, who would be expected to pay for the environmental cleanup?*

Staff Comment. While reducing the cost burden to local governments does make this proposal worthy of consideration, there are concerns that the cost of dismantling the facility in San Luis Obispo will exceed any savings that are expected to come from the relocation of CSTI. There is limited information related to the cost of dismantling the facility.

Staff Recommendation: Staff recommends that this item be left open until additional analysis can be provided.

Vote:

Issue 2 – Reorganization of the California Emergency Management Agency

Governor's Budget Request: The Governor's 2012-13 budget proposal includes a plan to eliminate Cal EMA and absorb the functions of Cal EMA into the Governor's office. The Administration has suggested that they would be utilizing the Governor's Reorganization Plan (GRP).

Background: Existing law authorizes the Governor to examine periodically the organization of all agencies and to determine what changes are necessary for the provision of government services, including the reduction of the number of agencies through consolidation or abolishment of agencies or functions that may not be necessary for the efficient operation of the state government.

Cal EMA's existence in 2009 stems from AB 38 (Nava) which consolidated the functions of the Governor's Office of Emergency Services and the Governor's Office of Homeland Security into a single agency that would be responsible for the response to major disasters in support of local agencies throughout the state. While details are limited, it would appear that all functions and staff at Cal EMA would be absorbed by the Governor's office. The Governor's office would then assume the role of emergency coordination with local agencies and disaster response throughout the state.

The administration is projecting minimal savings from the elimination and absorption of Cal EMA into the Governor's office, but there is potential for the state to respond more effectively to any disaster by consolidating authority for response directly into the Governor's office.

We expect more details to unfold as the GRP process moves forward, and have presented this item as an opportunity to hear from the agency, administration and the LAO on any additional details that they might have.

Hearing Questions: The subcommittee may wish to ask the following questions of the Administration.

1. *Could you elaborate on some of the deficiencies of the current structure?*

2. *Since the Administration indicates it will submit these reorganization proposals to the Little Hoover Commission, does the Administration anticipate the need for reorganization-related adjustments to the 2012 Budget Act, or would conforming budget action not be needed until the 2013 Budget Act?*

Staff Comment. We expect more details to unfold as the GRP process moves forward, and have presented this item as an opportunity to hear from the agency, Administration, and the LAO on any additional details that they might have.

Staff Recommendation: This is an informational item.

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Noreen Evans
Senator Doug La Malfa

Thursday, March 22, 2012
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Brady Van Engelen

<u>Item Number and Title</u>

2150	California Department of Financial Institutions
2180	California Department of Corporations
1760	California Department of General Services

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

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

AGENDA – VOTE ONLY ITEMS

(Please see summary chart on Page 2)

AGENDA – DISCUSSION / VOTE ITEMS

Issues Proposed for Vote Only:

	Issue	2012-13 Amount	Fund Source	Staff Recommendation
	Department of General Services (1760)			
1	Board of State and Community Corrections: Budgeting and Accounting Contract Services	$250,000	Service Revolving Fund	APPROVE

Vote:

Issues Proposed for Vote Only – Issue Descriptions

California Department of General Services

Issue 1 – Board of State and Community Corrections: Budgeting and Accounting Contract Services

Governor's Budget Request: The Governor's 2012-13 budget is requesting augmentation to fill three permanent staff positions totaling $250,000 to perform budgeting and accounting functions to a new state agency client, the Board of State and Community Corrections.

Background: As part of the Governor's public safety realignment of 2011, AB 109 was enacted for lower-level offenders to be sentenced, treated, housed and supervised at the local level. Additionally, SB 92, which eliminated the Corrections Standards Authority with California Department of Corrections and Rehabilitation (CDCR) and reorganized the Corrections Standards Authority to an independent Board of State and Community Corrections was passed. With the passage of SB 92, Corrections Standards Authority is to become a separate entity independent from Department of Corrections and Rehabilitation and reconstituted as an independent Board of State and Community Corrections commencing on July 1, 2012.

The Board of State and Community Corrections believes that it would be more efficient to contract its budgeting and accounting functions post reorganization to the Department of General Services (DGS), Contracted Fiscal Services. As a result, the Board of State and Community Corrections has requested DGS' Contracted Fiscal Services serve as the budgeting and accounting entity for the Board of State and Community Corrections. Currently, DGS' Contracted Fiscal Services does not have ample staff to perform the budgeting and accounting functions for the Board of State and Community Corrections in addition to its current responsibilities and has requested that three additional staff be provided on a full cost recovery basis. The Board of State and Community Corrections is requesting funding for various external contractual work including budgeting and accounting services in their 2012-13 Budget Change Proposal.

2150 CALIFORNIA DEPARTMENT OF FINANCIAL INSTITUTIONS

Department Overview : 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 issues of payment instruments, including companies licensed to sell money orders and/or travelers checks or licensed to engage in the business of transmitting money abroad, and business and industrial development corporations. Programs are supported by assessments of the various industries, license and application fees, and charges for various other services.

Budget Overview: The Governor's Budget provides DFI with 263.1 positions and $35.4 million (no General Fund). This is an increase of $900,000 and no increase in positions. The Department of Financial Institutions is largely funded by assessments on financial institutions.

Expenditures 2010-11		2011-12	2012-13
Banks	$20.8	$22.5	$22.9
Money Transmitters	$2.9	$3.1	$3.3
Credit Unions	$6.5	$7.3	$7.4
Other Programs	$1.2	$1.5	$1.5
Total Expenditures	**$31.6**	**$34.5**	**$35.2**
Personnel Years	**269.2**	**263.1**	**263.1**

The Governor's Budget includes a proposal to combine the Department of Financial Institutions with the Department of Corporations. This new entity would be referred to as the Department of Business Oversight. At this point, other than it would likely be considered as part of the Governor's Reorganization Plan, there are limited details available.

Issues Proposed for Discussion / Vote

Issue 1 – Conversion of Bank Examiner Positions

Governor's Budget Request: The Governor requests the conversion of 5.0 limited term positions to permanent status. The limited term positions are currently funded at the Senior Financial Institutions Examiner level and this Budget Change Proposal will retain that funding and position authority permanently.

Background: The Banking Program within the Department of Financial Institutions is responsible for the supervision and regulation of banks, industrial banks, foreign banks, savings associations, trust companies, business and industrial development corporations and bank holding companies. The mission of the program is to protect the public and ensure the safety and soundness of licensees through an extensive supervision process that includes on-site examinations, off-site monitoring, the enforcement of laws and regulations, and a licensing application screening process.

In 2010, the Legislature approved five limited term positions within the Department's Banking Program that were requested in a Spring Finance Letter. The limited term positions were originally approved under the assumption that financial conditions would improve and the number of troubled financial institutions would decrease over time. According to the Department of Financial Institutions, the number of problem licensees has in fact increased and the workload for examiners has also increased. The increased workload means that examiners are now conducting additional on-site examinations, taking enforcement action when necessary, and providing additional off-site monitoring of licensee's.

According to the Department of Financial Institutions, the Banking Program is allocated 105 examiner positions. However, due to the hiring freeze, the Program is operating with 90 examiners. Their workload projections reflect a need for 110 examiners in order to properly carry out its stated mission.

Hearing Questions: The Subcommittee may want to hear from the Department of Financial Institutions on the following issues:

1. *Did the Department explore the option of waivers or any other method to retain staff other than requesting these positions be converted to permanent staff?*

Staff Comment: According to the Department of Financial Institutions, the Banking Program is allocated 105 examiner positions. However, due to the hiring freeze, the Program is operating with 90 examiners. Their workload projections reflect a need for 110 examiners in order to properly carry out its stated mission. The Department of Financial Institutions indicates that per State Personnel Board regulations the individuals in those positions cannot be extended on another limited-term basis. The personnel currently in the requested positions have been trained by the Department of Financial Institutions and it is in the consumer's best interest that they remain at the department.

Staff Recommendation: Approve as Budgeted and Supplemental Reporting Language (SRL)

Vote:

Issue 2 – Conversion of Credit Union Examiner Positions

Governor's Budget Request: The Governor's 2012-13 Budget requests the conversion of 3.0 limited term positions to permanent status. The limited term positions are currently funded at the Senior Financial Institutions Examiner level and this Budget Change Proposal will retain that funding and position authority permanently. This request will reflect a cost of $326,000 in the budget year and $326,000 in budget year plus one.

Background: The Credit Unions Program within the Department of Financial Institutions is responsible for the continued oversight of its credit union licensees and is required by statute to examine each of its credit union licensees at least once every two years. Three limited term positions were approved as part of a Spring Finance Letter in 2010.

Similar to the bank examiner positions, conditions in the industry have not improved enough to mitigate extra workload conditions for credit union examiners. The department expects this will result in actual workload increases in some areas and has increased workload requirements related to enforcement actions. According to metrics utilized by the Department to determine the overall health of a State chartered credit union, the number of licensees operating in a satisfactory condition in 2010 was slightly over fifty percent. Particularly, full safety and soundness examinations are expected to increase in 2012 and 2013 and follow-up examinations are expected to increase in 2012 and in 2013 as well.

Hearing Questions: The Subcommittee may want to hear from the Department of Financial Institutions on the following issues:

1. *Did the Department explore the option of waivers or any other method to retain staff other than requesting these positions be converted to permanent staff?*

Staff Comment. Normally, staff would recommend that a continuation of limited term status for the requested positions, unfortunately, The Department of Financial Institutions indicates that per State Personnel Board regulations the individuals in those positions cannot be extended on another limited-term basis. The personnel currently in the requested positions have been trained by the Department of Financial Institutions and it is in the consumer's best interest that they remain at the department. In light of the constant fluctuations to the industry, it may be in the Subcommittee's best interest to ask for a review of examiner positions at the Department of Financial Institutions in two years.

Staff Recommendation: Approve as Budgeted and SRL.

Vote:

2180 CALIFORNIA DEPARTMENT OF CORPORATIONS

Department Overview: The Department of Corporations, under the direction of the California Corporations Commissioner, provides consumer and investor protections by regulating the conduct of a variety of businesses, including securities brokers and dealers, investment advisers and financial planners, and certain fiduciaries and lenders. The Department also oversees the offer and sale of securities, franchises, and off-exchange commodities.

The mission of the Department of Corporations is to ensure an orderly and transparent marketplace for investors, borrowers, and industry through licensure and oversight. Promote financial literacy and educate the public about the risks and rewards in investing and borrowing. Foster a professional and innovative working environment. Protect the public from fraud and abuse through enforcing California's financial services laws.

The Governor’s 2012-13 Budget proposes a total of $45.3 million and 314.7 Personnel Years for the Department of Corporations. The department is funded from special funds and reimbursements, with the largest amount of support provided by the State Corporations Fund.

As mentioned earlier, the Governor’s Budget proposes to combine the Department of Corporations with the Department of Financial Institutions to create new entity currently referred to as the Department of Business Oversight and would fall under the Business and Consumer Services Agency. Both entities currently regulate and provide oversight to business entities within the financial industry so there is merit to the Governor’s proposal, but there is still a limited amount of details on this proposal.

Expenditures 2010-11		**2011-12**	**2012-13**
Investment Program	$16.1	$24.0	$23.2
Lender-Fiduciary Program	$16.1	$22.8	$22.1
Total Expenditures	**$32.1**	**$46.8**	**$45.3**
Personnel Years	**275.4**	**313.8**	**314.7**

Issues Proposed for Discussion / Vote:

Issue 1 – Information Technology Quality Network Project (DOCQNET)

Governor’s Budget Request: The 2012-13 Budget requests the reappropriation of 7.0 limited term positions and $6.1 million over two years in order to complete the Department’s replacement of many of its Information Technology platforms.

Background: In January 2007, the California Bureau of State Audits found that the Department failed to meet many of its regulatory requirements and mandatory time frames and demonstrated a lack of timeliness in resolving complaints from the public. The audit went into greater detail describing many of the manual processes required to track regulatory progress, billing information, and complaints. The audit concluded with a recommendation that the Department should “consider assessing the need for new automated data systems or determining whether its current systems are capable of collecting the necessary information”.

Many applications were built in-house using tailor-made software or by small consulting firms. The systems were developed in a variety of languages and on different platforms. The existing project is one of several designed to unify, standardize, and combine data. Subsequently, the Department conducted a Feasibility Study Report (FSR) that found there was a lack of integration amongst the various Information Technology platforms at the Department.

The approved FSR indicated a completion date for this project by June 2012. However, hiring freezes, work furloughs, and unexpected leaves of absence have stalled the project and it is unlikely that it will meet the projected completion date. The Department currently projects that the contract will be executed by April 2012 and the project will be complete by June 2014.

Hearing Questions: The Subcommittee may want to hear from the Department of Corporations on the following issues:

1. *Did the Department have a workaround solution for unexpected hardware/software failures?*

2. *Has the Department considered the impact that the proposed merger will have on the implementation of the Information Technology Network Platform? Will there be any compatibility concerns that need to be addressed?*

Staff Comment: Committee staff does not have any issues with extending the timeline for the already approved Information Technology Quality Network Project.

Staff Recommendation: Approve as budgeted.

Vote:

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Noreen Evans
Senator Doug La Malfa

Thursday, March 22, 2012
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Brady Van Engelen

Hearing Outcomes

Item Number and Title

2150	California Department of Financial Institutions
2180	California Department of Corporations
1760	California Department of General Services

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

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AGENDA – VOTE ONLY ITEMS

(Please see summary chart on Page 2)

AGENDA – DISCUSSION / VOTE ITEMS

Issues Proposed for Vote Only:

	Issue	2012-13 Amount	Fund Source	Staff Recommendation
	Department of General Services (1760)			
1	Board of State and Community Corrections: Budgeting and Accounting Contract Services	$250,000	Service Revolving Fund	APPROVE

Vote Only item approved 3-0

Issues Proposed for Discussion / Vote

Issue 1 – Conversion of Bank Examiner Positions

Item approved 3-0

Issue 2 – Conversion of Credit Union Examiner Positions

Item approved 3-0

2180 CALIFORNIA DEPARTMENT OF CORPORATIONS

Issue 1 – Information Technology Quality Network Project (DOCQNET)

Item approved 3-0

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Noreen Evans
Senator Doug La Malfa

Thursday, April 19, 2012
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Brady Van Engelen

Item Number and Title

1110/11	California Department of Consumer Affairs
8620	Department of Alcohol and Beverage Control

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

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AGENDA – VOTE ONLY ITEMS

(Please see summary chart on Page 2)

AGENDA – DISCUSSION / VOTE ITEMS

Issues Proposed for Vote Only:

	Issue	2012-13 Amount	Fund Source	Staff Recommendation
	Department of Consumer Affairs(1110)			
1	Board of Professional Engineers, Land Surveyors and Geologists	$219,000	Special Fund	APPROVE
2	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund	$460,000	Special Fund	APPROVE

Vote:

Issues Proposed for Vote Only – Issue Descriptions

California Department of Consumer Affairs

Issue 1 – Board of Professional Engineers, Land Surveyors, and Geologists

Governor's Budget Request: The Governor's 2012-13 budget is requesting the redirection of $219,000 in Fiscal Year 2012-13 and ongoing from existing operating expense funds to establish 1.0 Licensing position and support the fingerprint requirements identified in SB 543 (Chapter 448, Statutes of 2011).

Background: This request will redirect the California state structural engineering exam resources and provide the funding necessary to address new workload requirements associated with reviewing fingerprint information and any subsequent enforcement workload related to applicant appeals and hearings that result when an applicant has any type of criminal history.

The Board currently licenses approximately 130,000 practitioners within professional engineering, land surveying and geology. Additionally, the Board processes 21,000 applications from respective professions annually. The vast majority of applicants are safe, competent individuals who have no criminal or disciplinary background. SB 543 will now require applicants for licensure to submit fingerprints for the purpose of conducting a state criminal history record check through the Department of Justice (DOJ). However, the Board has not required fingerprinting of their applicants prior to the passage of this legislation. As a result, the Board receives thousands of applications annually that will require the applicants fingerprints.

Issue 2 – Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund

April 1 Finance Letter Request: Removal of authority to transfer the remaining balance from the Hearing Aid Dispensers Account of the Speech Language Pathology and Audiology Fund to the Speech Language Pathology and Audiology and Hearing Aid Dispensers Fund on June 30, 2013.

Background: This transfer has already occurred in accordance with Government Code Sections 16304.8-16304.9. Therefore, the original request submitted in the Governor's 2012-13 Budget under item number 1110-011-0208, which provided for the transfer is no longer necessary.

1110/11 CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS

Department Overview: The Department of Consumer Affair's (DCA) Boards and Bureaus provide exams and licensing, enforcement, compliant mediation, education for consumers, and information on privacy concerns. DCA Boards and Bureaus establish minimal competency standards for more than 240 professions involving 2.5 million professionals. There are currently 23 boards, a commission, three committees, and seven bureaus under the broad authority of the Department of Consumer Affairs.

Budget Overview: The Department's Boards are budgeted under organizational code 1110, and the total proposed budget for the Boards is $276.36 million (no General Fund) and 1,495.3 Personnel Years for Fiscal Year 2012-13.

The Bureaus are budgeted under organizational code 1111, and the total proposed budget is $223.46 million (no General Fund) and 1,373.3 Personnel Years for Fiscal Year 2012-13.

The Business and Consumer Services Agency: The Governor's Budget includes a proposal to incorporate all professional licensing functions within the Department of Consumer Affairs (DCA), which provides administrative and executive services for boards and commissions regulating licensed professionals. The proposed changes would be made through the Governor's proposed government reorganization plan (GRP).

Issues Proposed for Discussion / Vote

Issue 1 – BreEZe System

Governor's Budget Request: The Governor's budget includes a request for $8.37 million dollars in additional funding for continued support of the Department of Consumer Affairs, Consumer and Client Services Division's automated licensing and enforcement system.

Background: The Department of Consumer Affairs is the umbrella agency for 37 business and professional licensing entitites (collectively referred to as boards and bureaus) that regulate over 2.7 million businesses and professionals in over 250 license categories.

The BreEZe project began with the approval of the Feasibility Study Report on November 30, 2009. In Fiscal Year 2010-11, the Department of Consumer Affairs gained approval of a Budget Change Proposal to redirect funding from the existing iLicensing Project, plus augment budgets for the BreEZe project to support the procurement and implementation of an integrated licensing and enforcement system, in support of the Department of Consumer Affair's Consumer Protection Enforcement Inititiative. Additionally, in Fiscal Year 11-12 the department gained approval to appropriate $1.2 million on a one-time basis, to the BreEZe project. BreEZe is designed to bring all of the Department of Consumer Affairs' Boards and Bureaus into an integrated licensing and enforcement system.

More specifically, the BreEZe project includes the purchase and implementation of a commercially integrated enterprise enforcement case management and licensing system that can be fitted specifically for DCA's needs. DCA is funded entirely by business and professional licensing fees and receives no General Fund appropriations.

BreEZe Costs	Budget Year 2012-13
DCA Boards	$5,115
DCA Bureaus	$1,175
Structural Pest Control Board	$5
Board of Chiropractic Medicine	$79
Total	**$6,374**

Credit Card Convenience Fees: This Budget Change Proposal also includes a request for additional funding for all boards and bureaus to fund credit card processing fees on behalf of users of credit card payments through the BreEZe system. The BreEZe system will interface with a third-party payment processor which will provide DCA with the ability to accept electronic payments, while meeting compliance with Payment Card Industry Security Standards, via the third-party payment processor. The department is requesting $1.99 million dollars to support credit card processing fees on behalf of users of credit card payments through the BreEZe system. The $1.99 million dollars for processing fees is included in the overall cost of the request.

Credit Card Convenience Fee	Budget Year 2012-13
DCA Boards	$1,881
DCA Bureaus	$84
Structural Pest Control Board	$0
Board of Chiropractic Medicine	$29
Total	**$1,994**

Budget Bill Language: The Department of Consumer Affairs has submitted Budget Bill language that would allow the agency to make minor schedule changes to alter the vendor payment schedule:

> *1110-401 and 1111-401--Notwithstanding any other provision of law, upon the request of the Department of Consumer Affairs, the Department of Finance may make technical revisions to the amount available for expenditure to pay BreEZe project costs based on the BreEZe deployment schedule for each Board and Bureau. The revision may increase or decrease any individual Budget Act item for the Department of Consumer Affairs, but the total net revisions shall be consistent with project costs as approved by the California Technology Agency in the most recent BreEZe Special Project Report. This provision shall apply to all Budget Act items for the Department of Consumer Affairs that have an appropriation for BreEZe.*

Hearing Questions: The Subcommittee may want to hear from the Department of Consumer

Affairs on the following issues:

1. *A previous Budget Act requires a $500,000 reduction in DCA's budget related to this project in 2014-15 – is DCA on track to make that reduction?*

2. *Is the proposed $2 million ongoing request to handle credit card processing fees similar to how other state agencies handle credit card processing?*

Staff Comment: Staff does not have any issue with the requested funds to implement BreEZe. However, there are concerns with the Budget Bill Language that will need to be addressed prior to being adopted. Staff agrees with LAO's recommendation to incorporate language that allows the legislature to maintain an appropriate level of oversight over the fund. Modifying the proposed Budget Bill language to ensure that the Legislature is notified in advance of any adjustments would address staff concerns.

Staff Recommendation: Approve as budgeted, with modifications to Budget Bill Language.

> *1110-401 and 1111-401--Notwithstanding any other provision of law, upon the request of the Department of Consumer Affairs, the Department of Finance may make technical revisions to the amount available for expenditure to pay BreEZe project costs based on the BreEZe deployment schedule for each Board and Bureau. Any augmentations or technical revisions may be made no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee, or no sooner than whatever lesser time the chairperson of the joint committee may in each instance determine. The revision may increase or decrease any individual Budget Act item for the Department of Consumer Affairs, but the total net revisions shall be consistent with project costs as approved by the California Technology Agency in the most recent BreEZe Special Project Report. This provision shall apply to all Budget Act items for the Department of Consumer Affairs that have an appropriation for BreEZe.*

Vote:

Issue 2 – Medical Board of California – Operation Safe Medicine

Governor's Budget Request: The Governor's 2012-13 Budget requests 6.0 positions in Fiscal Year 2012-13 and ongoing, to be funded by internal redirection, to permanently establish the Operation Safe Medicine Unit which expired June 30, 2011, at the end of a two-year limited term basis.

Background: On July 1, 2000 the Medical Board of California (MBC) was authorized 4.0 Investigator positions that established the original Operation Safe Medicine Unit. The unit's primary purpose was to investigate complaints of unlicensed activity received from healthcare consumers. These investigators also worked with other regulatory and law enforcement agencies to identify and locate unlicensed facilities. According to the Medical Board total costs associated with Operation Safe Medicine are $513,000 dollars.

On July 1, 2009 the Legislature approved the re-establishment of Operation Safe Medicine on a two-year limited term basis consisting of 1.0 Supervising Investigator, 4.0 Senior Investigators, and 1.0 Office Technician.

The Medical Board of California has continued Operation Safe Medicine activities by establishing positions in the blanket and absorbing the cost of the 6.0 Operation Safe Medicine positions since June 30, 2011 when those two-year limited-term positions expired. The Medical Board of California is seeking position authority to permanently establish the Operation Safe Medicine Unit. The 6.0 positions would be housed in the Medical Board's San Dimas Field office.

According to the Medical Board's most recent Fund Condition the Board is projecting to have approximately $14.4 million dollars in reserves for Fiscal Year 2012-13. This would represent nearly 26 percent of the Board's $55.2 million dollars in expenditures for Fiscal Year 2012-13.

Hearing Questions: The Subcommittee may want to hear from the Medical Board of California on the following issues:

1. *Much of the investigative work associated with Operation Safe Medicine seems to involve underground economic issues, is the Medical Board currently coordinating with any other state entities that are involved with combating underground economic activity?*

2. *Does the Medical Board currently have a plan in place to address complaints throughout the state? If not, what happens to complaints that the investigative unit is unable to reach due to its location in Southern California?*

Staff Comment. Staff does not have any issue with this request. However, it is important to note that the investigative team supporting Operation Safe Medicine is housed in Southern California, which limits their ability to address any complaints generated in Northern California. Staff recognizes that Operation Safe Medicine provides a direct benefit to consumers within the state, and would like the Medical Board of California to provide more detail on how Operation Safe Medicine's investigative unit will address concerns that are generated in Northern California.

Staff Recommendation: Approve as Budgeted.

Vote:

Issue 3 – Bureau of Automotive Repair/Enhanced Modernization Fleet Program

Governor's Budget Request: The Governor's budget includes a request for 12.0 two year limited term positions and an associated special fund augmentation of $720,000 to continue administration of the two emissions reduction programs authorized by AB 118 (Nunez, Chapter 750, Statutes of 2007). The Bureau of Automotive Repair proposes to allocate these positions to administer the off-cycle vehicle retirement program that will retire over 25,000 qualified vehicles, and the vehicle and transportation voucher program administered by the California Air Resources Board (ARB) designed to assist low-income consumers.

April 1 Finance Letter: The Bureau of Automotive Repair requests a technical adjustment to reduce the Enhanced Fleet Modernization Program (EFMP) by $35.6 million in Fiscal Year 2012-13 and ongoing, and formally request an augmentation of $35.6 in Fiscal Year 2012-13 and 2013-14 only. The requested appropriation is currently built into the Fiscal Year 2012-13 Governor's Budget as an ongoing appropriation.

Background: A key part of California's air quality emissions reduction strategy is to implement incentive based air quality programs to encourage the early retirement and replacement of older vehicles with newer, cleaner ones. Older vehicles account for approximately 25 percent of the miles driven but contribute up to 75 percent of the emissions released. Reducing emissions from the older vehicles is a critical part of California's State Implementation Plan (SIP), which outlines the state's clean air strategy. The SIP is used by the federal government to determine the amount of federal transportation funds California will receive.

The Consumer Assistance Program (CAP) was originally started in 1997 and contains two parts: vehicle retirement and vehicle repair. Under the vehicle repair program, qualified low-income consumers can receive financial assistance up to $500 dollars to repair a vehicle that is unable to pass biennial Smog Check inspection when it exceeds specified emission standards. To receive the repair assistance, eligible consumers must pay the initial $20 dollars in repairs.

AB 118 (Nunez, Chapter 750, Statutes of 2007) established the Enhanced Fleet Modernization Program (EFMP), which required the Air Resources Board (ARB), in consultation with the Bureau of Automotive Repair (BAR) to establish guidelines for administering a vehicle retirement program. As part of this legislation, BAR pursued a Budget Change Proposal to implement the Enhanced Fleet Modernization Program and received three year limited-term funding and position authority. The budget was further augmented on a limited term basis on the passage of AB 787 (Hill, Chapter 231, Statutes of 2010), which increased the vehicle retirement incentive for low-income consumers. This brought the total limited term funding to $41.255 million dollars with 18.8 positions in Fiscal Year 2011-12. Funding for this program was approved on a limited term basis.

The original Budget Change Proposal requested only $720,000 and position authority for 12.0 positions in Fiscal Year 2012-13 and 2013-14 to administer the Enhanced Fleet Modernization Program. The original request only included the administrative funding EFMP, as the Vehicle Retirement and Voucher Schedules were originally built into the Governor's 2012-13 budget as an ongoing appropriation. However, it was not the intent of the original request for this funding to be an ongoing appropriation. The Bureau of Automotive Repair has submitted an April 1, Finance Letter that requests that the $35.6 million dollar request be identified as limited term for Fiscal Years 2012-13 and 2013-14. This request will result in net zero change to the Enhanced Fleet Modernization Program's funding levels.

Staff Comment: Staff does not have any issues with this request.

Staff Recommendation: Approve January Proposal as modified by April Finance Letter.

2100 CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Department Overview: The Department of Alcoholic Beverage Control is vested with the exclusive power to license and regulate persons and businesses engaged in the manufacture, importation, distribution and sale of alcoholic beverages in the State of California. The Department's mission is to administer the provisions of the Alcoholic Beverage Control Act in a manner that fosters and protects the health, safety, welfare, and economic well-being of the people of California.

The Governor's Budget proposes total spending of $56.2 million (No General Fund) for the Department of Alcoholic Beverage Control in 2012-13. Proposed staffing totals 427.9 personnel years (PYs), the same number as the current year.

Expenditures 2010-11		2011-12	2012-13
Administration of the Alcohol Beverage Control Act	$48.13	$54.36	$56.15
Total Expenditures	**$48.13**	**$54.36**	**$56.15**
Personnel Years	**400.1**	**427.9**	**427.9**

Issues Proposed for Discussion / Vote:

Issue 1 – Radio System Upgrade

Governor's Budget Request: The 2012-13 Budget requests to upgrade its radio communication equipment through the purchase, programming and installation of modern, industry-standard vehicle mounted and hand-held radios. Total cost for the Alcoholic Beverage Control Radio System Upgrade will be approximately $1.91 million dollars.

Background: The Department of Alcoholic Beverage Control has position authority for 215 sworn peace officers, whose primary function is the policing of activities in and around the 82,000 businesses in the state that are licensed to sell alcohol. ABC officers often work in task-force settings with multiple state and local law enforcement agencies, and also can be dispatched to any type of law enforcement activity if necessary.

ABC's current analog radio equipment allows it to communicate with the California Highway Patrol, but not other law enforcement agencies that have digital systems. ABC states that it typically has 150 contacts per day with the CHP, which has served as the department's dispatch operator since 1996.

In an effort to meet new federal standards, CHP is developing the California Highway Patrol Enhanced Radio System, which is expected to be implemented in 2012. ABC states that its system will not be compatible with CHP's new system, and once that system is operational, ABC will no longer be able to communicate with the CHP. ABC's current system is out of compliance with federal standards

To allow it to continue to use CHP as its dispatch operator, meet federal standards, and improve communications with other law enforcement agencies, ABC is seeking funding to purchase 215 hand-held radios and 215 vehicle-mounted radios to equip all officers and vehicles. ABC has worked with the Department of General Services to select a vendor for the equipment.

ABC proposes to use funds from the Alcohol Beverage Control Fund for this purchase. The fund is projected to have a balance of $27.3 million in the current year, and therefore can cover this expense.

LAO Recommendation: Citing continuing high vacancy rates for ABC peace officers, the Legislative Analyst's Office recommends that the Legislature reduce the Governor's proposal by $122,000 and allow the purchase of only 190 hand-held and 190 vehicle-mounted radio units. The LAO notes that as of June 30, 2011, ABC had 55 peace officer vacancies, and therefore purchasing radio units for all authorized positions is unnecessary.

ABC states that vacancy rates rose in Fiscal Year 2007-08, and three hiring freezes imposed during the last four years have hindered the department's ability to address the high vacancy rates. In 2011, ABC was granted approval by the Department of Finance to fill all vacancies. Since then, ABC has hired 21 new peace officers and has 14 other candidates that may be offered positions after background checks are completed. The department reports that it currently has 24 peace officer vacancies.

Staff Recommendation: Based on ABC's commitment that it is seeking to fill its vacancies, reducing the number of radios purchased might in effect cap the department's ability to fill all of its authorized positions. In addition, the department reports that it is getting a 26 percent discount on radio units purchased due to the size of the order. That discount might not apply in future purchases, should it fill all vacancies and need to purchase more radios but in a smaller amount.

Because the funds are available, the department is seeking to fill all of its peace officer positions, and the bulk purchase allows for a discount, purchasing the entire amount of radios needed appears justified. Approve as budgeted.

Vote:

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Noreen Evans
Senator Doug La Malfa

Thursday, April 19, 2012
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Brady Van Engelen

Hearing Outcomes

Item Number and Title

1110/11	California Department of Consumer Affairs
8620	Department of Alcohol and Beverage Control

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

AGENDA – VOTE ONLY ITEMS

AGENDA – DISCUSSION / VOTE ITEMS

Issues Proposed for Vote Only:

	Issue	2012-13 Amount	Fund Source	Staff Recommendation
	Department of Consumer Affairs(1110)			
1	Board of Professional Engineers, Land Surveyors and Geologists	$219,000	Special Fund	APPROVE
2	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund	$460,000	Special Fund	APPROVE

Vote:

Vote Only item approved 3-0

1110/11 CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS

Issue 1 – BreEZe System

Approved 3-0

Issue 2 – Medical Board of California – Operation Safe Medicine

Approved 3-0

Issue 3 – Bureau of Automotive Repair/Enhanced Modernization Fleet Program

Approved January Proposal as modified by April Finance Letter 2-1

2100 CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Issue 1 – Radio System Upgrade

Approved 3-0

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Noreen Evans
Senator Doug La Malfa

Thursday, April 26, 2012
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Brady Van Engelen

Item Number and Title

0845	Department of Insurance
8620	Fair Political Practices Commission
0502	California Technology Agency
0840	State Controller's Office
0890	Secretary of State

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

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

AGENDA – VOTE ONLY ITEMS

(Please see summary chart on Page 3)

AGENDA – DISCUSSION / VOTE ITEMS

Issues Proposed for Vote Only:

	Issue	2012-13 Amount	Fund Source	Staff Recommendation
	Department of Insurance (0845)			
1	Paperless Workflow	$302,000 in 2012-13 and $202,000 ongoing	Insurance Fund	APPROVE
	Secretary of State (0890)			
1	SB 201 Flexible Purpose Corporation	$64,000	Business Fees Fund	APPROVE
2	SB 636 – Personal Information – Safe at Home	$42,000	General Fund	APPROVE
	California Technology Agency (0502)			
1	Prior Year Adjustments	$8.79 million reduction in 2011-12 and $12.47 million in 2012-13	Technology Services Revolving Fund	APPROVE

Issues Proposed for Vote Only – Issue Descriptions

California Department of Insurance

Issue 1 – Paperless Workflow System Project Post-Implementation

Department and Budget Overvie w. The California Department of Insurance (CDI) regulates the California insurance market and enforces the California Insurance Code, including conducting examinations and investigations of insurance companies and producers and responding to consumer inquiries. CDI reviews and approves insurance rates to enforce the statutory requirement that rates are not excessive or unfair. CDI also administers the conservation and liquidation of insolvent and delinquent insurance companies and fights insurance fraud in conjunction with local and state law enforcement agencies. The January Budget provides CDI with 1,269.5 authorized positions and $225.3 million (Insurance Fund, federal funds, and reimbursements).

Governor's Budget Request. The Governor requests increased expenditure authority of $302,000 million (Insurance Fund) in 2012-13, and $202,000 ongoing, and the conversion of two limited-term positions to permanent status, to provide ongoing maintenance of the Paperless Workflow System Project (PWSP), which is intended to replace the current paper process with an electronic-based system. Of the 2012-13 resources, $100,000 is designated to fund one-time post-implementation consulting services.

2011-12 Budget. Approved increased expenditure authority of $2.6 million (Insurance Fund) to complete the final year of implementation of the PWSP.

Staff Com ment. This request converts two limited-term positions that have supported the development of the PWSP into permanent positions, at a cost of $202,000 annually. CDI has calculated workloads related to the development and operation of the PWSP and asserts the two positions are needed to ensure the maximum benefits of the PWSP are fulfilled. CDI also seeks $100,000 in 2012-13 to continue payments to vendors who will assist in the final implementation of the PWSP and operations in its first year. All monies are derived from the Insurance Fund, which is anticipated to end 2012-13 with a $24.6 million balance.

Staff Recommendation: Approve the request.

California Secretary of State

Issue 1 – SB 201 Flexible Purpose Corporations

Governor's Budget Request: The Governor's Budget includes $64,000 from the Business Fees Fund and authority for .5 positions to implement SB 201 (DeSaulnier), Chapter 740, Statutes of 2011. The legislation created a new type of corporation called "Flexible Purpose

Corporations," and the new position will review new filings for legal compliance and handle other legal issues related to this new entity.

Staff Comment: SB 201 created a new type of corporation that can include as part of its purpose charitable or public purpose activities that benefit the corporation's employees, suppliers, customers, and creditors; the community and society; and/or the environment. This request would allow for the creation of incorporation documents for this new type of corporation and for legal review of filings associated with flexible benefit corporations. SOS anticipates 150 hours of Staff Counsel time and is seeking .5 PY authority for a Staff Counsel position, as well as $13,000 in operational and equipment expenses to develop new documents.

The request is in line with the analysis of the legislation by the Assembly Appropriations Committee, which suggested implementation would cost about $50,000 annually in personnel costs and $10,000 to create new filing forms and instructions and update the SOS website.

Issue 2: SB 636 Personal Information: Internet Disclosure Prohibition – Safe at Home Program

Governor's Budget Request: The Governor's Budget proposes .5 new positions and $42,000, General Fund, to implement SB 636 (Corbett), Chapter 200, Statutes of 2011. The legislation prohibits Internet search companies from providing confidential address information of Safe at Home participants to third parties to incite or aid in the commission of violence or threat of violence. The new Program Technician II position will implement the legislation by:

- Providing expert technical customer assistance on the procedures for notifying Internet search providers to withdraw the personal information from their websites; and,
- Coordinating with the Office of Privacy Protection and local and state law enforcement agencies on steps to identify and prosecute search providers who are out of compliance.

Staff Comment: First created in 1998, the Safe at Home program allows victims of domestic violence, sexual assault and stalking, as well as reproductive health care employees, to keep their addresses and other personal information confidential. The program has served more than 3,600 families. SB 636 creates a new crime, and allows the state to quickly stop and prosecute individuals and associations that post "hit" websites that post information about reproductive health care professionals.

According to the Secretary of State, the new position will be an important communications lynch pin between the SOS, the Office of Privacy Protection, and Safe at Home participants. The request is in line with the analysis of the legislation by the Assembly Appropriations Committee, which suggested implementation would cost less than $50,000.

This proposal could be altered in the future should the Legislature adopt the Governor's proposal to eliminate the Office of Privacy Protection. If that office is eliminated, it is possible that workload associated with implementing this legislation could increase for the Secretary of State.

Staff Recommendation: Approve as Budgeted.

California Technology Agency

Issue 1 – Prior Year's Project Adjustments

Governor's Budget Re quest: The Governor's 2012-13 Budget includes a request to adjust the California Technology Agency's expenditure authority to align previously approved budget actions with the ongoing costs of related projects. The adjustments requested a net reduction of $8.79 million dollars (Technology Services Revolving Fund) in Fiscal Year 2011-12 and $12.47 million (Technology Services Revolving Fund) in Fiscal Year 2012-13.

Background: This request reflects a technical adjustment to the Office of Technology's budget. The adjustments are made for a number of reasons ranging from one-time reductions, project cost reductions due to favorable contract negotiations, or project completions. The purpose of these adjustments is to align the ongoing Office of Technology budget with actual expenditures for these projects in order to maintain a connection between the spending authority level of the Office of Technology and the actual expenditures required to support the needs of its customers.

Staff Comment: Staff does not have any issues with this request.

Staff Recommendation: Approve as Budgeted.

8620 FAIR POLITICIAL PRACTICES COMMISSION

Department Overview : The Fair Political Practices Commission (FPPC) has primary responsibility for the impartial administration, implementation, and enforcement of the Political Reform Act of 1974, as amended by the voters and Legislature. The overriding purpose of the Act is to restore confidence in governmental processes. The major objectives of the Commission are to:

- Provide education about the Act and its requirements to the public and the regulated community including public officials, candidates, and lobbyists, and assist with compliance.
- Ensure that election campaign contribution and expenditure data is fully and accurately disclosed so that the voters may be fully informed.
- Enforce the provisions of the Act and regulations fairly and with due process.
- Regulate the activities of lobbyists and disclose their finances to prevent any improper influencing of public officials.
- Provide for the disclosure of assets and income of public officials, which may affect their official actions, to avoid any conflicts of interest, or appearances of impropriety.
- Provide adequate mechanisms to public officials and to private citizens to ensure vigorous enforcement of the Act.

Budget Overview: The Governor's Budget proposes total spending of $8.79 million ($8.79 million General Fund) for the Fair Political Practices Commission in 2012-13. Proposed staffing totals 81.4 personnel years (PYs), an increase of 3 PYs compared with the current year.

Fund Source	2010-11 2011-12 2012-13		
General Fund	$7.31	$8.30	$8.79
Expenditures	$7.31	$8.30	$8.79
Personnel Years	74.9	78.4	81.4

Issues Proposed for Discussion / Vote

Issue 1 – Durkee Case Additional Workload Impact

Governor's Budget Request: The Governor's budget includes a request for $767,000 in the 2012-13 fiscal year and $384,000 in the 2013-14 Fiscal Year to fund 6.0 limited-term positions through January 1, 2014. This request reflects an unanticipated workload stemming from the Kindee Durkee embezzlement case. Durkee, a high-profile political campaign treasurer, plead guilty on March 30, 2012, to numerous counts of mail fraud that amounted to more than $7 million dollars in campaign funds.

Background: The FPPC anticipates audits will grow from 35 per year to 53 per year, and workload for the Legal Division will grow by 10 percent or more. Based on this increased workload, the FPPC is seeking to add 6 positions for Fiscal Year 2012-13 and half of Fiscal Year 2013-14. If this Budget Change Proposal is granted, the position authority would expire on January 1, 2014. The six new positions are:

- Political Reform Consultant II, who would work in the Technical Assistance Division and help provide advice and training;
- Program Specialist II, who would work in the Enforcement Division;
- Two Senior Special Investigator positions, who would work in the Enforcement Division;
- One Staff Counsel IV position, who would work in the Legal Division, and;
- .5 PY for an Information Officer II position and .5 PY for an Associate Information Systems Analyst position.

Staff Comment: It is worth noting that in addition to this request, the Joint Legislative Budget Committee approved the Fair Political Practices Commission request of $426,000 in the current year to address deficiencies stemming from the Durkee case. The FPPC states that the additional funding will allow them to perform more audits, conduct more investigations and respond to a greater number of advice calls.

The FPPC notes it currently does not have a written instructional manual for Political Action Committees, or campaign accountants, and may need to create these manuals. The FPPC also is contemplating creating new regulations regarding bookkeeping and whether contribution limits should be eased if campaign funds are embezzled or otherwise misused.

Staff Recommendation: Approve as Budgeted.

Vote:

0502 CALIFORNIA TECHNOLOGY AGENCY

Department Overview: The California Technology Agency establishes and enforces statewide information technology strategic plans, policies, standards, and enterprise architecture, and oversees information technology projects and public safety emergency communications systems for all state departments.

In August 2010, the California State Legislature passed AB 2408 (Chapter 404, Statutes of 2010) to reestablish the Office of the State Chief Information Officer (OCIO) as the California Technology Agency and to rename the State Chief Information Officer as the Secretary of the California Technology Agency. While Senate Bill 90 (Chapter 183, Statutes of 2007) had already made the OCIO a cabinet level-agency with statutory authority over strategic vision and planning, enterprise architecture, IT policy, and project approval and oversight for the state in 2007; AB 2408 codified into law significant functions, duties, and responsibilities of the office that had been assigned to the Office of the Chief Information Officer. In addition to consolidating statewide IT functions under one cabinet-level agency, the legislation passed in 2010 was also responsible for coordinating the activities of agency and department CIOs and promoting the efficient and effective use of IT in state operations.

The Office of Technology Services (OTech), within the California Technology Agency, provides the Information Technology processing platforms for over 500 customers, including the Executive Branch and public entitites. OTech is accountable to its customers for providing secure services that are responsive to their needs and represent best value to the state. The OTech is a fee-for-service organization and operates as a 100 percent reimbursable department. OTech's Service Level Agreements with its customers include a 99.9 percent service availability goal for IT services. The OTech must continue to provide sufficient processing capacity to deliver their performance and service agreed to in the Service Level Agreements.

The Governor's 2012-13 Budget proposes $504.71 million dollars ($4.16 million General Fund) and 1,266.5 Personnel Years. The Governor's 2012-13 Budget request reflects an increase of $29.3 million dollars ($595,000 General Fund increase) and an increase of 4.7 Personnel Years that were approved in the Fiscal Year 2011-12 Governor's Budget.

Government Operations Agency: The Governor's 2012-13 Budget includes a proposal to create the Government Operations Agency. Major components of administering state operations, such as procurement, information technology, and human resources, are currently dispersed throughout government. The Technology Agency would be housed under the Governor's proposed Government Operations Agency as a department and would retain state-wide authority to centralize and unify the State's information-technology projects. In the Governor's letter to the Little Hoover Commission, he notes that aligning the proposed department of technology with CalHR will ensure that the state will be able to better address the need to recruit and retain qualified information-technology professionals. It is worth noting that the Legislature has made multiple changes during the past decade to information technology oversight, in an effort to improve procurement and implementation of increasingly complex projects.

2012-13 California Technology Agency Budget Overview

Funding 2010-11		**2011-12**	**2012-13**
General Fund	$3.23	$3.56	$4.15
State Emergency Telephone Number Account	$120.02	$124.93	$113.01
Federal Trust Fund	$502	$1.93	$1.93
Reimbursements	$4.20	$3.18	$3.18
Technology Services Revolving Fund	$307.63	$338.41	$379.30
Central Service Cost Recovery Fund	$3.20	$3.67	$3.14
Total Expenditures	$438.78	$475.67	$504.71
Personnel Years	1,149.7	1,261.6	1,266.6

Rate Reduction: The Governor's 2012-13 Budget reflects a $13 million dollar revenue reduction that will result from a planned rate reduction from data center services. On April 4, 2012, the Technology Services Board approved a rate reduction that is expected to save state entities $21.5 million in the current year budget and $13 million dollars in Fiscal Year 2012-13.

Issues Proposed for Discussion / Vote

Issue 1 – Midrange Server Capacity

Governor's Budget Request: The Governor's 2012-13 Budget requests increased expenditure authority of $15.288 million in spending authority (Technology Services Revolving Fund). The request stems from the Office of Technology Services need for additional hardware, operating system software, applications software, Statewide E-mail, and Database software to ensure adequate midrange service capacity to meet the needs of customer driven workloads. This request also includes resources to meet the disaster recovery requirements of customers.

Background: Increased demand on services by customer departments at a variety of state entities. This increased demand, largely stemming from increased population and use of services, results in the growth of customer applications and the need for additional server capacity. Examples of customer departments with increased midrange capacity due to growth are:

- **Department of Motor Vehicles (DMV)** – appointment system, vehicle registration, and vehicle internet renewal.

- **California Department of Public Health (CDPH)** – Woman Infant Children (WIC) integrated statewide information system and Medi-Cal/Point C of C Sal (POS) are supported by OTech. In California, 82 WIC agencies provide services locally to over 1.5 million women, infants, and children annually at over 600 sites throughout the state. Caseload for 2010 has increased over 2.5 percent from 2009.

- **Employment Development Division** – Unemployment Insurance (UI) and Disability Insurance (DI) are supported by the OTech. Federal extension of benefits has required that additional claims are processed.

- **State Controller's Offi ce (SCO)** – State's fiscal system, state employee's retirement payments, the state employee's Employment History System, payroll system, lottery payments, California Automated Travel Expense Reimbursement System, and Medi-Cal disbursement checks are supported by OTech.

OTech continues to experience a substantial increase in the midrange computing workload, database instances, Disaster Recovery, and web services.

Staff Comment: Staff has no concerns with this request.

Staff Recommendation: Approve as Budgeted.

Vote:

Issue 2 – Mainframe CPU Processing Capacity

Governor's Budget Request: The Governor's 2012-13 Budget includes a proposal to increase expenditure authority of $6.34 million (Technology Services Revolving Fund) in Fiscal Year 2012-13 to allow the Office of Technology Services to purchase 1,927 millions of instructions per second (MIPS) of mainframe processing capacity to meet projected customer needs.

Background: In 2009-10, the Office of Technology Services relocated its raised floor computing operations and infrastructure from the Cannery Campus and South Annex building to the State Compensation Insurance Fund (SCIF) Vacaville building to provide ongoing lease cost savings, identified in the 2009-10 Data Center Relocation Budget Change Proposal. As a result of this relocation, the Office of Technology Services has two major mainframe data centers: Gold Camp and Vacaville.

After completing all installation upgrades in 2011-12, the Office of Technology Services mainframe environment will have a capacity of 13,764 millions of instructions per second. According to the Office of Technology's assumption of a fourteen percent growth rate which is achieved by analyzing historical growth rates of the six CPUs, each of which have unique growth patterns. Of the Office of Technology Services current total of 500 customers, approximately 250 are mainframe processing customers. New state anti-fraud initiatives, federal reporting requirements, and natural population increases have driven the customers' caseload growth.

Staff Comment: Staff does not have any issues with this request.

Staff Recommendation: Approve as Budgeted

Issue 3 – Enterprise Data Storage

Governor's Budget Request: The Governor's 2012-13 Budget includes a request to increase the spending authority of the Technology Agency by $5.53 million dollars (Technology Services Revolving Fund) in Fiscal Year 2012-13 for hardware, software, and connectivity components to ensure adequate data storage support to meet the needs from customer driven workloads, approved Information Technology (IT) projects, and Disaster Recovery.

Background: While providing for the increasing needs of current customers, the Office of Technology must provide resources for approved Information Technology projects supported by the Office of Technology. In order to achieve both normal growth and approved IT projects, the Office of Technology must increase the number and density of virtual servers in preparation of departments growing or migrating over to the Office of Technology. Virtual servers require large amounts of data storage to support their efficient and effective use of IT resources and data processing. Increased IT density allows the Office of Technology to support the migration of Information Technology workload from other agencies. In addition, the Office of Technology must provide for customers with Disaster Recovery data storage requirements that are currently located at the Office of Technology or relating them to the Office of Technology.

Staff Comment: Staff does not have any issues with this request.

Staff Recommendation: Approve as Budgeted.

Issue 4 – Network Capacity

Governor's Budget Request: The Governor's 2012-13 Budget includes a request to increase the spending authority of the Technology Agency by $5.09 million (Technology Services Revolving Fund) in Fiscal Year 2012-13 to expand and maintain ongoing costs for Network projects. These Projects are necessary to ensure that the Office of Technology Services data centers can provide the level of services that current, and the anticipated new customers expect when they migrate to data centers.

Background: AB 2408 (Chapter 404, Statutes of 2010) defined target goals and timeframes for Information Technology consolidation. The target goals included: reduction of energy consumption, reduction in data center square footage, and to close any existing data centers or server rooms that house non-network equipment by June 2013. The Office of Technology's data storage capacity was impacted by this due to the migration of some departments to the data centers. The Office of Technology has had to not only meet normal growth patterns but also account for growth due to an unknown number of customers. The Office of Technology has initiated multiple projects in preparation to secure additional data storage which require the network telecommunications infrastructure to ensure the network can accommodate the increased demands. The Office of Technology currently manages two data centers located in Vacaville and Rancho Cordova, California.

This request includes several projects that the Office of Technology Services must address. Some of the projects are accumulated workload due to changes required by moving from the legacy California State Government Network to the new vendor managed California Government Enterprise Network. Additionally, this request would address the need to ensure data transmission is not delayed for Southern California customers and provides an additional path for data transmission should a major disruption occur at one of the Northern California data centers.

Staff Comment: Staff does not have any issues with this request.

Staff Recommendation: Approve as Budgeted.

Issue 5 – Data Center Maintenance and Operations

Governor's Budget Request: The Governor's 2012-13 Budget includes a request to increase the spending authority of the Technology Agency by $1.89 million (Technology Services Revolving Fund) in Fiscal Year 2012-13 to replace cooling and power equipment that has reached the end of its useful life, are safety hazards, and are damaged.

Background: This Budget Change Proposal will allow the Office of Technology to continue supporting customer applications at the Gold Camp Data Center. The Office of Technology's Data Center hosts and supports other state agencies' Information Technology equipment. The Gold Camp Data Center is over twelve years old and several cooling and power components need to be replaced to continue supporting customer server, mainframe, storage, and network equipment. At the time the Gold Camp Data Center was constructed, its primary function for computing services was mainframe-centric and the existing cooling and power was sufficient. Since then, technology has evolved towards a server environment with high density computing equipment that requires more cooling and power.

Staff Comment: Staff does not have any issues with this request.

Staff Recommendation: Approve as Budgeted.

Issue 6 – Software Support for EDD Identity Management

Governor's Budget Request: The Governor's 2012-13 Budget includes a proposal to increase expenditure authority in Fiscal Year 2011-12 for $989,000 and in Fiscal Year 2012-13 for $2.51 million (Technology Services Revolving Fund) to provide new software support as requested by the Employment Development Department (EDD) for their Information Technology modernization projects. Specifically, this request includes support for 6.0 positions for six months and a total of $989,000 in Fiscal Year 2011-12. This Budget Change Proposal requests

6.0 ongoing positions in Fiscal Year 2012-13 and a total of $2,508 million to support both the positions and the requested software support.

Background: As part of the effort to modernize and expand electronic services to its customers, the Employment Development Department has implemented a series of projects which utilizes new software products. Some of the Employment Development Department programs and services include: (1) Job Service, (2) Employment and Training Programs, (3) Disability Insurance, (4) Unemployment Insurance, (5) Payroll Tax and Labor Market Information. The Office of Technology Services provides the common technical needs for the Executive Branch agencies and the public entities and is accountable to the customer for providing secure services that are responsive to their needs and represent best value to the state. According to the Technology Agency's Office of Technology Services the current Employment Development Department resources are limited and do not provide the resources necessary to support the new software components. Current contracted services provide a very limited amount of support for the software.

Staff Comment: Staff does not have any issues with this request.

Staff Recommendation: Approve as Budgeted.

Issue 7 – Elimination of the Technology Service Board

Background: The Governor's 2012-13 Budget includes a request via trailer bill language to eliminate the Technology Service Board. The Board is responsible for the oversight and approval of the Office of Technology Services budget and rates. The Board was originally created as part of the Governor's Reorganization Plan that was approved in 2005. The Board is currently composed of eleven Agency Secretaries, the Department of Finance, and the Controller.

Staff Comment: The Technology Service Board provides a forum for various state entities to provide feedback and insight into the development of future Information Technology policy. Therefore, if the Administration requests that the Board no longer exists it should be their prerogative.

Staff Recommendation: Staff does not have any issues with this request.

Staff Recommendation: Approve elimination of the Technology Services Board.

Issue 8 – Elimination of the Electronic Funds Transfer Task Force

Background: The Governor's 2012-13 Budget includes a request via trailer bill language to eliminate the Electronic Funds Transfer Task Force. The Task Force is responsible for devising a plan on the development and implementation of a new payment dispersal system using electronic funds transfer technology. The Task Force is comprised of representatives from the Board of Equalization, the State Treasurer, and the State Controller's office. AB1585 (Chapter 7, Statutes of 2010) defined the report as obsolete and removed it from the list of reports to be maintained by Legislative Counsel.

Staff Comment: Staff does not have any issues with this request.

Staff Recommendation: Approve elimination of the Electronic Funds Task Force.

Issue 9 – Elimination of the 9-1-1 Advisory Board

Background: The Governor's 2012-13 Budget includes a request via trailer bill language to eliminate the 9-1-1 Advisory Board. The State 9-1-1 Advisory Board is responsible for providing the Telecommunications Office with the proper policies, practices and procedures for the California 9-1-1 Emergency Communications Office. The Governor's 2012-13 Budget has stated that the policies and procedures considered by the Board will be performed by the State's administrative process.

Staff Recommendation: Staff does not have any issues with this request.

Staff Recommendation: Approve elimination of the 9-1-1 Advisory Board

0840 STATE CONTROLLERS OFFICE

Department Overview: The State Controller is the Chief Fiscal Officer of California. The State Controller's Office (SCO) is a separately established constitutional office. The Controller chairs or serves on 81 state boards and commissions, and is charged with duties ranging from participating in the oversight of the administration of the nation's two largest public pension funds, to protecting the coastline, and helping to build hospitals. The Controller provides fiscal control for, and independent oversight of, more than $100 billion in receipts and disbursements of public funds. In addition, the Controller offers fiscal guidance to local governments, and performs audit functions to uncover fraud and abuse of taxpayer dollars. The SCO's primary objectives are to:

- Account for and control disbursement of state funds.
- Determine legality and accuracy of claims against the State.
- Issue warrants in payment of the State's bills.
- Administer the Uniform State Payroll System.
- Audit and process personnel and payroll transactions for state civil service, exempt employees, and state university and college system employees.
- Audit state and local government programs.
- Inform the public of the State's financial condition.
- Administer the Unclaimed Property Law.
- Inform the public of financial transactions of city, county, and district governments.

The SCO is funded through the General Fund as well as over 300 special funds and accounts and reimbursements. The Governor's Budget requests $245.8 million ($88.6 million General

Fund) and 1,544 personnel years to support the SCO. This represents a substantial increase from the current year, due largely to the 21st Century Project described below. In addition, several other initiatives and workload increases are budgeted for 2012-13.

2012-13 State Controller's Budget

Funding 2010-11		**2011-12**	**2012-13**
General Fund	$71.92	$75.42	$88.63
Unclaimed Property Fund	$26.81	$27.91	$33.33
Central Service Cost Recovery Fund	$20.10	$20.52	$20.40
Other Special Funds and Accounts	$45.0	$40.0	$44.8
Reimbursements	$53.1	$59.3	$58.4
Total Expenditures	$216.90	$223.15	$245.78
Personnel Years	1,276.9	1,451.3	1,544.5

Issue 1 – 21st Century Project

Governor's Budget Request: The Governor's 2012-13 Budget includes a request for 181.0 one-year limited-term positions and $81.36 million ($46.87 million General Fund, $1.0 million reimbursements authority, and $33.49 million in Special Funds) to fund additional 21st Century Project costs in 2012-13. The 21st Century Project will result in an integrated human resource management system that will replace the existing payroll, employment history, position management, and leave accounting systems. Of the 181 positions requested in this Budget Change Proposal 111 are a continuation of positions approved in a 2011-12 Budget Change Proposal. An additional 70 positions will address new project workload

Background: The State Controller's Office pays approximately 249,000 employees, including state civil service, California State University and Judicial Council Employees, judges and elected officials. The 21st Century Project (Project) will replace the existing statewide human resource management systems in order to improve management processes and fulfill payroll and reporting obligations accurately and on time. The Project, with approval from the Legislature was started in 2004.

The additional 70 positions will address new project workload as described in greater detail below: 16.0 positions in project management, 41.0 positions in business operations, 49.0

positions in technical operations, 50.0 positions in organizational change management, 10.0 positions in business transition, and 15.0 positions in other administrative functions.

- Project Management – The Project Management Office is composed of teams with the objective of implementation. The office's day-to-day activities include administrative support with budgets, funding and contracts, and ensuring reporting and compliance requirements are met. A quality assurance team performs its duties using methodologies designed to measure the accuracy and success of the project implementation. Advisors with expertise in large-scale Information Technology are accessible for guidance when needed.

- Business Operations - The Business Operations team monitors Project functional deadlines, milestones, work products, and deliverables. Staff manages and performs day-to-day operations for time, payroll, benefits, and configuration functions. The team also performs gap analysis and leads business processes reengineering activities including interface coordination and control agency reporting.

- Technology Operations – The Technology Operations team support's technology design, development, and the implementation of the MyCalPAYS system. Technical staff is also responsible for leading Data Conversion, Reporting, Development, Infrastructure, and Security activities.

- Organizational Change Management – The Organizational Change Management team is responsible for the execution and planning of deployment, training, workforce transition, internal and external communications, mobilization and alignment, and stakeholder management.

Staff Comment: There clearly is a need to transition from a transaction based system to an enterprise database system that better supports the business needs of the state. Unfortunately, the state's solution, the 21st Century Project, has been subject to a series of setbacks that have prolonged implementation. Upon termination with the original vendor (BearingPoint), the State Controller's Office has awarded a new contract to SAP that was approved in February 2010. This project is currently subject to approximately a twelve month delay from the approved Special Project Report 4.

In 2005, the Legislature approved the project with an estimated total cost of $130 million. Currently, total project costs, as noted in SPR 5, total $370 million dollars. The table below represents the ongoing costs associated with the 21st Century Project. According to the chart below, 2012-13 will be the high-water mark, with yearly costs totaling $81.4 million ($46.9 millionGeneral Fund).

21st Century Project Costs

Year	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	Total
Project Costs	1.4	4.9	11.6	35.8	19.1	19.6	31.4	65.6	64.0	81.4	33.2	5.1	370.2
General Fund	0.0	0.0	0.0	18.1	9.9	11.8	16.2	30.3	34.5	46.9	6.5	0.0	174.2

Staff Recommendation: The State Controller's Office has noted that it is likely that additional revisions will be made to the request for support of the 21st Century Project. Staff recommends holding this item open until those revisions are presented to the respective Budget committees for review.

Vote:

Issue 2 – Increased Accounting and Reporting Workload

Governor's Budget Request: The Governor's 2012-13 Budget includes a request for 2.1 positions and $200,000 in General Fund for a two-year limited-term through 2013-14, to enable the State Controller's Office Division of Accounting and Reporting (DAR) to effectively continue state-wide cash management and 1.1 positions and $107,000 in reimbursement authority for 2012-13 and ongoing to perform County Cost Plan Reviews and to address increased workload related to federally mandated County Cost Allocation Plans.

Background: The State Controller's Office has an extensive audit program that the state relies on to monitor and evaluate the financial performance of various state programs.

- **Cash Management** – The 2012-13 Budget includes a request for 2.1 positions and $200,000 for the continuation of two existing two-year, limited-term positions for an additional two years. The state's ongoing fiscal issues have increased workload requirements for daily cash management activities and the cash management team's activities have become increasingly important as the state's cash margins have narrowed. The State Controllers Office projects that workload requirements will increase from 9,342 hours to 14,510 hours in the current year. The expectation is that this level of increased workload will continue over the next few years.

- **County Co st Claims** – The State Controller's Office has authority for reviewing, negotiating, and approving countywide cost allocation plans for the Department of Health and Human Services. The activities include establishing principles for determining costs for federal awards, developing information for supplemental cost plan instructions, and reviewing procedures for direct billing of central services. The program is funded by reimbursements from the Department of Social Services (DSS) per an interagency agreement and consists of 5 positions. The increased workload reflected in this Budget Change Proposal addresses a need to conduct more timely desk and field reviews and approvals of procedures and methodologies for direct billing, pursuant to federal requirements. DSS has requested that the Controller's Office increase its reviews in order to comply with the federally-funded county cost allocation plans.

Staff Comment: Staff does not have any concerns with this request.

Staff Recommendation: Approve as Budgeted

Issue 3 – Unclaimed Property Insurance Workload

Governor's Budget Request: The Governor's 2012-13 Budget includes a request for $1.30 million from the Unclaimed Property Fund and 13.7 positions in 2012-13, and $1.12 million from the Unclaimed Property Fund and 11.6 positions in 2013-14 to address workloads resulting from holders (businesses) failing to meet requirements necessary to properly provide the rightful owners the opportunity to be reunited with their property.

Background: Under current law, the State Controller's Office is responsible for safeguarding unclaimed property until it is returned to the lawful owner. In most cases, after three years, the property is transferred to the state. There are a variety of ways throughout the process for property owners to be notified of property being held. For example, property owners may receive mailed notifications, that website information exists, and that the state has established a toll free number. Recently, there have legislative and administrative changes that have increased workload in the areas of financial accountability and corporate actions, and the collection of securities. According to the State Controller's Office, the goal of this program is to expedite the return of the property to owners by increasing the ability of the State Controller's Office to preserve the integrity of the ownership trail.

Insurance Companies – Recently, the State Controller's Office has been conducting audits on life insurance companies to determine the industry's compliance with the state unclaimed property laws. According to the State Controller's Office, they have discovered that insurance companies often fail to pay death beneficiaries on their life insurance policy. Instead, companies draw-down the policies' cash reserves in order to continue collecting premium payments from the deceased policy holder. Once the cash reserves are depleted, the companies cancel the policy. Owners of such benefits are often not notified and the State Controller's Office has not been notified either. Since notice has not been given and the State Controller's Office does not have the property on file, the property is seldom conveyed to the lawful owner.

Holder Remit Reports – Holders of property have, on occasion, submitted unclaimed property to the State Controller's Office without a Holder Remit Report that details information about the individual owners and the total amount of property. In the most recent three-year period, approximately 1,582 remittances and $116 million have been made without the required report. Without such a report, the State Controller's Office is unable to take effective and necessary steps to locate the owner. The reporting requirements have been further clarified by the Legislature last year.

Staff Comment: Staff does not have any concerns with this request.

Staff Recommendation: Approve as Budgeted.

Issue 4 – Fraudulent Claims Detection and Prevention Program

Governor's Budget Request: The Governor's 2012-13 Budget includes a request for 17.9 permanent positions and $2.28 million in 2012-13 and ongoing from the Unclaimed Property Fund to establish a unit within the Unclaimed Property Program designed to detect and prevent fraudulent unclaimed property from being paid.

Background: Under current law, the State Controller's Office is responsible for safeguarding unclaimed property until it is returned to the lawful owner. The Unclaimed Property Division (UPD) of the State Controller's Office reunites owners with their lost or abandoned property when the owner files a paper claim following a search for property on the State Controller's website or after calling the Unclaimed Property Division call center to request a claim form. A claim may be filed by either the owner or the heir of the owner as reported by the holder.

Staff Comment: According to the State Controller's Office there has been an inconsistent pattern of fraudulent claims filed over the past four years; ranging from 2 in 2007-08 to 1,017 in 2010-11. Given the wide variation in claims filed and amounts awarded over each year it may be more feasible to develop a scaled-down pilot that will allow the State Controller's Office to develop a more thorough approach.

Staff Recommendation: Hold Open – Recommend the State Controller's Office revise request to a scaled down pilot plan version that could be authorized on a limited-term basis.

Issue 5 – Integrated Data Management System Cost Increase

Governor's Budget Request: The Governor's 2012-13 Budget includes a request for $988,000 ($224,000 General Fund, $475,000 reimbursements and $281,000 Special Funds) for 2011-12 and $1.14 million ($262,000 General Fund, $522,000 reimbursements and $326,000 Special Funds) in 2012-13 to fund increased Office of Technology Data Center costs to support Computer Associate Integrated Data Management System (IDMS)Technology services. The request for 2011-12 resource allocation was received through the Section 28.50 process in December 2011.

Background: The State Controller's Office has requested the additional support to maintain an existing information system for three departments (State Controller's Office, California Highway Patrol, and California State Teachers Retirement System) while these departments complete their own information technology improvements. The Office of Technology will no longer offer IDMS as a shared service as of March 31, 2012. The service will be offered as a dedicated service to the three agencies continuing to use this system. As part of the State Controller's Office ongoing technology improvements, the IDMS capabilities will be transitioned in the future.

Staff Comment: Staff does not have any concerns with this request.

Staff Recommendation: Approve as Budgeted.

Issue 6 – Increased Audit Workload

Governor's Budget Request: The Governor's 2012-13 Budget includes a request for $2.09 million ($1.42 permanent and $673,000 one-year limited-term) in reimbursement authority to support 12.6 existing positions and 7.4 new positions (1.1 permanent positions and 6.3 one-year limited term) beginning in 2012-13.

April 1 Finance Letter: In addition to the original positions requested to support the audit workload, the State Controller's Office has requested an additional $1.75 million ($856,000 one-year limited-term and $899,000 five year limited-term) in reimbursement authority to support 8.0 existing positions and 7.4 new positions (8.0 one-year limited-term and 7.4 five year limited term) beginning in 2012-13. Included within this request was the request for support of 8.0

positions and $856,000 in reimbursements in 2012-13 to perform federally-mandated audits of the Disproportionate Share Hospital program, administered by the Department of Health Care Services.

Background: Both proposals would either maintain or, in some cases, increase the presence of auditing the following programs.

- **Women, Infants and Children (WIC)** – Vendors participating in the program administered by the California Department of Public Health (CPDH). The January Budget request was for 12.6 positions with $1.3 million in reimbursements in order for CPDH (which contracts with the State Controller's Office) to maintain the increased auditing requirements of the US Department of Agriculture (USDA) which runs the WIC program. The April 1 Finance Letter requested an additional $899,000 and 7.4 positions for five years for federally mandated audits of the WIC program to ensure that the state is in compliance with the requirement that five percent of the vendors be audited annually. The April 1 Finance letter also included a request for $23,000 in one time costs for minor equipment (laptops, mobile printers).

- **California Department of Public Health (CDPH)** – CDPH financial statements, single audits of the Safe Drinking Water Revolving Fund, and the CDPH's federally funded Public Water System Supervision grant. This request is to continue the funding for 1.1 positions and $92,000 in reimbursements to continue to permanently maintain this position. The auditing presence will continue to be required in order for the state to receive the federal grant funding of $75 million annually for the program.

- **Disproportionate Share Hospital Program** – Federally ran program established to assist hospitals that serve a large number of Medicad (Medi-Cal) and low-income patients. Through the DSH Program, the State pays a qualifying hospital a DSH payment that is an addition to the standard Medicaid payment. The State then submits a reimbursement claim to the federal government.

- **California Department of Transportation (Caltrans)** – It is anticipated that there will be additional ARRA construction costs incurred through 2012-13, which would require an auditing presence in order to comply with federal standards. This request is for the continuance of 6.3 positions and $673,000 in reimbursement authority to perform audits of the projects funded through ARRA.

Staff Comment: Staff does not have any concerns with this request.

Staff Recommendation: Approve request included in Governor's 2012-13 Budget, approve request submitted on April 1.

Issue 7 – Redevelopment Dissolution Related Workload

Governor's Budget Request: The Governor's 2012-13 Budget includes a request through the Section 28.00 process to address increased workload responsibilities of the State Controller's Office associated with the dissolution of the redevelopment agencies across the state. The request was for a $646,000 increase in reimbursement authority and 25 audit, 1 accounting and

1 legal positions. The State Controller's Office indicates that it will be required through the end of the 2012-13 budget year.

April 1 Finance Letter: The State Controller's Office requests 27.0 permanent positions and $3.01 million in reimbursement authority ($640,000 for 2011-12 through Section 28.00 request and $3.01 million for 2012-13 and ongoing) to address workload from ABX1 26 (Statutes of 2011-12) as modified by the California Supreme Court decision. The workload includes a one-time review of transfers of assets to identify and return any improper transfers from RDAs and ongoing work to provide County Auditor/Controller actions regarding RDAs, and ensuring the timely receipt, review and follow up on new and ongoing documents. Additionally, there were reporting requirements associated with this request and the Department of Finance would be granted the authority to reduce future positions and funding to reflect workload conditions.

Background: As a result of the legislation adopted last year and the subsequent decision by the State Supreme Court, RDAs were dissolved as of February 1, 2012. Between the time, the Governor proposed elimination of RDAs as part of his 2011-12 Governor's Budget, and dissolution, RDAs engaged in activities including the transfer of assets that need to be reviewed. The State Controller's Office is responsible for determining the validity of such transactions and preserving public assets. The State Controller's Office will be responsible for numerous activities related to the dissolution process including disposal of assets and establishing accounts for payments due on RDAs debts.

Staff Comment: Staff recognizes the need to provide the requested positions to the State Controller's Office to ensure that the legislative intent of RDA dissolution is adequately addressed. The purpose of the legislation was to redirect property taxes to local governments in a manner that best suits their needs. There are a substantial amount of assets at stake and the original request for temporary positions is reasonable. However, staff does not think that there is a need to authorize these positions on a permanent basis. It is reasonable to believe that the dissolution of RDAs will be revisited on several occasions over the next couple of years and assessments on needs will be made at that point.

Staff Recommendation: Approve original Section 28.00 request. Approve April 1 Finance Letter requested positions on a 3-year limited-term and provide Department of Finance with authority to adjust positions/reduce positions in third year.

0890 CALIFORNIA SECRETARY OF STATE

The Secretary of State (SOS), a statewide elected official, is the chief election officer of the State and is responsible for the administration and enforcement of election laws. The SOS is also responsible for the administration and enforcement of laws pertaining to filing documents associated with corporations, limited partnerships, and the perfection of security agreements. In addition, the office is responsible for commissioning notaries public, enforcing the notary laws, and in conjunction with being the home of the State Archives, preserving documents and records having historical significance. The SOS is the filing officer for lobbying and campaign registration and disclosure documents filed under the Political Reform Act. The SOS also operates the Safe At Home program, maintains the Domestic Partners and Advanced Health Care Directives Registries, and is home to the California Museum for History, Women and the Arts.

The Governor's Budget proposes total spending of $101.9 million ($31.6 million General Fund) for the SOS in 2012-13. Proposed staffing totals 451 personnel years (PYs), an increase of 2.8 PYs compared with the current year. The large decrease in proposed expenditures is due to a decrease in Federal Trust Fund monies, which largely reflects counties' use of federal voting improvement funds and the VoteCal Project funding schedule. Counties' use of this money fluctuates annually.

2012-13 California Secretary of State Budget

Funding 2010-11		**2011-12**	**2012-13**
General Fund	$70.06	$30.99	$31.56
Secretary of State's Business Fees Fund	$36.88	$38.65	$40.23
Federal Trust Fund	$4.78	$82.31	$18.85
Reimbursements	$24.20	$9.52	$9.62
Victims of Corporate Fraud Compensation Fund	$0.03	$2.49	$1.59
Total Expenditures	$135.97	$163.97	$101.86
Personnel Years	462.3	448.2	451.0

Issue 1 – California Business Connect Project

Governor's Budget Request: The Governor's 2012-13 Budget proposes authorization of $2.4 million in Reimbursement authority to continue the California Business Connect project, which will automate the filing and retrieval of business documents and create a centralized database for all business records. The project, expected to be completed in June 2016, will allow for improved services to new and existing businesses.

Background: The Secretary of State is the filing officer for the state, responsible for filing commerce and trade documents such as business formations, state and federal tax lien notices, and keeping records of key persons or entities operating corporations and limited liability companies. The office receives more than one million business filings annually, and current systems rely on antiquated and paper databases, such as index cards, to process and maintain records. Many business services must be done in-person or by mail. These processes lead to very slow service, preventing new businesses from opening their doors and creating jobs. Processing times for the office have been as high as 117 days, preventing new companies from beginning operations and creating uncertainty for existing companies. (Issue 2 is SOS' short-term proposal for addressing slow turn-around times.)

California Business Connect will automate these processes to allow for faster, more reliable services to businesses. Once completed, the project will allow for real-time filing or business records, allow government agencies to access information about businesses in a timely manner, and allow for more secure and timely processing of payments.

Activities in 2012-13 include developing the Request-for-Proposal to select a vendor and to continue contracting for other services, including a Procurement Support Consultant (RFP Writer) and Project Manager.

Staff Comment: The project is expected to cost $23.8 million to complete, with annual ongoing maintenance and support costs of $1.8 million. SOS believes that once the project is complete, it will provide a net benefit to the state of $5.8 million annually by allowing the office to eliminate 48 positions and creating a faster process to collect business fees, and potentially provide a greater source of revenue to the General Fund.

The project will be funded through a portion of a $5 disclosure fee that is paid at the time domestic stock and foreign corporations file their annual Statements of Information, and expedited fees paid by businesses to ensure a quicker turnaround time. The use of this money is in compliance with California Corporations Code sections 1502 and 2117, which requires that one-half of disclosure fees must be utilized to enhance program services, including the development of an online database to provide public access to all information contained in the Statement of Information filing.

SOS states that it will not need to increase filing fees or seek General Fund monies to pay for this project. SOS will request expenditure authority each year.

Staff Recommendation: Approve as Budgeted.

Issue 2 – DGS Rate Increase

Governor's Budget Request: The Governor's Budget includes an increase of $1.1 million ($817,000 General Fund) in Fiscal Year 2012-13 and ongoing to pay for increased printing costs related to the Voter Information Guide and other documents published by the SOS. SOS notes that the Department of General Services' Office of State Printing has instituted a 20 percent increase in printing costs, necessitating this augmentation.

Background: In every statewide election, SOS prepares voter information pamphlets in ten languages that are mailed to voters' homes and available throughout the state. In addition, SOS must print documents such as Voter Registration Cards, brochures for the Safe at Home program, and handbooks for notaries. The General Fund pays for election-related publications; the Business Fees Fund pays for business-related publications.

SOS receives an annual appropriation for printing costs of $2.6 million. This appropriation is based in part on an 80-page Voter Information Guide (VIG) for each statewide election. While the June 2012 primary election should be within that range, SOS is predicting a larger VIG – far in excess of 80 pages - for the November 2012 election.

On August 24, 2011, DGS' Office of State Printing (OSP) issued a memorandum stating it was increasing printing rates by 20 percent. DGS states that an analysis of its internal costs showed that revenues were not supporting its costs, prompting the increase.

SOS is the second-largest customer for OSP, behind only the Franchise Tax Board. Based on this rate increase, SOS is requesting an ongoing augmentation of $558,000 for the VIG and $518,000 for other printing jobs.

Staff Comment: This request would require $817,000 from the General Fund and $259,000 from the Business Fees Fund.

Staff Recommendation: Approve as Budgeted.

Issue 3: Supporting Business in California

Governor's Budget Request: The Governor's Budget proposes a two-year limited-term augmentation of $1.1 million from the Business Fees Fund to keep existing but unfunded positions filled, hire more temporary help, and allow for paid overtime, to process business filings in a more timely manner. This is SOS' short-term solution to addressing slow turnaround times for processing business documents.

Background: The Secretary of State (SOS) receives more than one million business filings annually, and current systems rely on antiquated and paper databases, such as index cards, to process and maintain records. Many business services must be done in-person or by mail, and processing documents is a labor-heavy endeavor for the office. Until the end of Fiscal Year 2008-09, SOS used overtime and temporary help to process the workload. Due to budget cuts, SOS closed three of four regional offices (the Los Angeles office remains open) and eliminated overtime and temporary help.

This led to a significant backlog of documents, which prevents businesses from opening and slows a revenue source for the state's General Fund. Turnaround times for many documents soared to as much as 115 days. The table below illustrates the backlog related to business formations; just one of the documents the SOS is responsible for processing.

To address the backlogs, SOS was allowed in Fiscal Year 2010-11 and 2011-12 to use an additional $500,000 from the Business Fees Fund for overtime and temporary help, and the state Assembly contributed $1.2 million in 2011-12 from its internal savings to address the backlogs. This funding helped SOS reduce its turnaround time on many documents to 71 days.

This funding request would allow SOS to continue paying overtime and using temporary help. SOS states that its goal will be to reduce turnaround times on documents received by mail to 15 days.

Staff Comment: SOS plans to split the funding requested, spending $550,000 on filling vacant positions more quickly, and $599,000 on overtime and temporary help. This funding request will not require raising fees on businesses.

Addressing the backlog in processing business documents will help businesses open their doors or make other changes more quickly, benefiting the state's economy. In addition, faster turnaround times will help generate revenue more quickly for the General Fund.

Staff Recommendation: Approve as Budgeted.

Issue 4: Help America Vote Act spending Plan

Governor's Budget Request: The Governor's 2012-13 Budget includes $4.4 million in spending authority from the Federal Trust Fund to continue implementing the Help America Vote Act of 2002 (HAVA). The funds will be used to continue voter accessibility programs, voter education, voting system testing and approval, and post-election auditing.

Staff Comment: On October 29, 2002, President Bush signed into law the Help America Vote Act of 2002. This legislation requires states and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to federal elections. To date, California has received $433.9 million in federal HAVA funds, including interest earned.

HAVA has, so far, allowed the state and counties to replace punch-card voting systems and improve voter outreach, poll worker training, county security measures, and voter access for persons with disabilities. Activities in 2012-13 include voting system testing and approval, voter education programs and post-election auditing. Grants to counties account for $1.7 million of the funding. In addition, the Secretary of State is continuing work on the VoteCal project. Continuing to fund the HAVA program is critical to meeting federal mandates.

Staff Recommendation: Approve as Budgeted.

Issue 5: Help America Vote Act - VoteCal

Governor's Budget Request: The Governor's budget requests $14.4 million in expenditure authority from the Federal Trust Fund to continue work on the VoteCal system, an information technology project that will create a statewide database of voter registration information. The project is in line with the Help America Vote Act of 2002 (HAVA), which requires states to have a single system for storing and managing lists of registered voters.

Background: Section 303 of HAVA mandates that each state implement a uniform, centralized, interactive, computerized voter registration database that is administered at the state level. The state-managed system also must provide an interface for counties that are charged with conducting elections to allow counties to access and update registration data.

Currently, counties maintain voter registration data autonomously with their own Election Management Systems. Data from these systems is uploaded to the state at varying intervals into a state database called CalVoter 1. This system has been approved by the federal government on a temporary basis until VoteCal is fully implemented.

The VoteCal project will create a new, interactive database and update county systems to allow interconnectivity. VoteCal also will allow connections to various databases in order to confirm voter identity (such as the Department of Motor Vehicles, and the Social Security Administration), and to vital records and criminal justice records in order to validate information on deaths and felony convictions.

The current estimated cost for VoteCal is $53.5 million. To date, SOS has spent $10.7 million and is authorized to spend $11.6 million in the current fiscal year. SOS currently estimates the project will be completed by May 2015. The project is completely funded by the federal government. Operating costs – which SOS estimates will be $4 million annually and will eventually be assumed by the state.

Proposed activities in FY 2012-13 include the procurement process and vendor selection, which is currently planned for January 2013. Of the $14.4 million requested, $1.3 million is for personal services and $13.1 million is for operating expenses related to consultant support services and other costs, such as software customization.

Staff Comment: The VoteCal project has experienced several setbacks during the past three years, and the current completion date is more than two years later than originally expected. SOS originally contracted with a vendor in 2009 to implement the voter registration database, but that contract was terminated in May 2010 after the vendor failed to provide a required performance bond. A new Request for Proposal was released in June 2011, but various factors have played a part in delaying the procurement and awarding of the contract from October 2012 until January 2013.

Staff Recommendation: Approve as Budgeted.

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Noreen Evans
Senator Doug La Malfa

Thursday, April 26, 2012
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Brady Van Engelen

OUTCOMES

Item Number and Title

0845	Department of Insurance
8620	Fair Political Practices Commission
0502	California Technology Agency
0840	State Controller's Office
0890	Secretary of State

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

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

AGENDA – VOTE ONLY ITEMS

(Please see summary chart on Page 3)

AGENDA – DISCUSSION / VOTE ITEMS

Issues Proposed for Vote Only:

	Issue	2012-13 Amount	Fund Source	Staff Recommendation
	Department of Insurance (0845)			
1	Paperless Workflow	$302,000 in 2012-13 and $202,000 ongoing	Insurance Fund	APPROVE
	Secretary of State (0890)			
1	SB 201 Flexible Purpose Corporation	$64,000	Business Fees Fund	APPROVE
2	SB 636 – Personal Information – Safe at Home	$42,000	General Fund	APPROVE
	California Technology Agency (0502)			
1	Prior Year Adjustments	$8.79 million reduction in 2011-12 and $12.47 million in 2012-13	Technology Services Revolving Fund	APPROVE

ITEMS APPROVED 3-0 SRL INCLUDED ON ITEM 1 OF SECRETARY OF STATE REQUIRING SOS TO REPORT BACK TO THE LEGISLATURE ON HOW MANY ENTITIES HAVE FILED AS FLEXIBLE PURPOSE BY JUNE 30, 2013.

8620 FAIR POLITICIAL PRACTICES COMMISSION

Issues Proposed for Discussion / Vote

Issue 1 – Durkee Case Additional Workload Impact

Staff Recommendation: Approve as Budgeted.

Vote: Approved 3-0

0502 CALIFORNIA TECHNOLOGY AGENCY

Issue 1 – Midrange Server Capacity

Staff Recommendation: Approve as Budgeted.

Vote: Approved 3-0

Issue 2 – Mainframe CPU Processing Capacity

Staff Recommendation: Approve as Budgeted

Vote: Approved 3-0

Issue 3 – Enterprise Data Storage

Staff Recommendation: Approve as Budgeted.

Vote: Approved 3-0

Issue 4 – Network Capacity

Staff Recommendation: Approve as Budgeted.

Vote: Approved 3-0

Issue 5 – Data Center Maintenance and Operations

Vote: Approved 3-0

Staff Recommendation: Approve as Budgeted.

Issue 6 – Software Support for EDD Identity Management

Staff Recommendation: Approve as Budgeted.

Vote: Approved 3-0

Issue 7 – Elimination of the Technology Service Board

Staff Recommendation: Staff does not have any issues with this request.

Vote: Approved 3-0

Issue 8 – Elimination of the Electronic Funds Transfer Task Force

Staff Recommendation: Approve elimination of the Electronic Funds Task Force.

Vote: Approved 3-0

Issue 9 – Elimination of the 9-1-1 Advisory Board

Item held open

0840 STATE CONTROLLERS OFFICE

Issue 1 – 21st Century Project

Item held open

Issue 2 – Increased Accounting and Reporting Workload

Staff Recommendation: Approve as Budgeted

Vote: Approved 3-0

Issue 3 – Unclaimed Property Insurance Workload

Staff Recommendation: Approve as Budgeted.

Vote: Approved 2-0 (Sen. LaMalfa did not vote)

Issue 4 – Fraudulent Claims Detection and Prevention Program

Staff Recommendation: Hold Open – Recommend the State Controller's Office revise request to a scaled down pilot plan version that could be authorized on a limited-term basis.

ITEM HELD OPEN

Issue 5 – Integrated Data Management System Cost Increase

Staff Recommendation: Approve as Budgeted.

ITEM HELD OPEN

Issue 6 – Increased Audit Workload

Staff Recommendation: Approve request included in Governor's 2012-13 Budget, approve request submitted on April 1.

ITEM HELD OPEN

Issue 7 – Redevelopment Dissolution Related Workload

Staff Recommendation: Approve original Section 28.00 request. Approve April 1 Finance Letter requested positions on a 3-year limited-term and provide Department of Finance with authority to adjust positions/reduce positions in third year.

Vote: Staff recommendation approved 2-1 (Sen. Evans voting no)

0890 CALIFORNIA SECRETARY OF STATE

Issue 1 – California Business Connect Project

Staff Recommendation: Approve as Budgeted.

Vote: Approved 3-0

Issue 2 – DGS Rate Increase

Staff Recommendation: Approve as Budgeted.

Vote: Approved 2-1 (Sen. LaMalfa voting no)

Issue 3: Supporting Business in California

Staff Recommendation: Approve as Budgeted.

Vote: Approved 3-0

Issue 4: Help America Vote Act spending Plan

Staff Recommendation: Approve as Budgeted.

Vote: Approved 3-0

Issue 5: Help America Vote Act - VoteCal

Staff Recommendation: Approve as Budgeted.

Vote: Approved 2-1 (Sen LaMalfa voting no)

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Doug La Malfa
Senator Noreen Evans

Thursday, May 3, 2012
9:30 a.m. or upon adjournment
of Budget and Fiscal Review Committee
Room 112

Consultant: Keely Martin Bosler

Item Department **Page**

State Administration and General Government

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Vote Only Calendar

1730 Franchise Tax Board (FTB)

1. Top 500 Tax Debtor List

Background. Chapter 455, Statutes of 2011 (AB 1424, Perea) expanded the current list of the top 250 tax debtors to include the top 500 tax debtors and update the list twice a year. This legislation also required the following new activities: (1) suspension of occupational, professional, and driver's licenses held by debtors, except as specified; (2) prohibit state agencies from entering into a contract for goods and services with a tax debtor on the top 500 list; and (3) allows FTB to offset tax refunds for delinquent tax debts owed to the IRS and other states, but only upon reciprocal agreements in which the other state's tax refunds are offset for delinquent tax debts owed to the FTB.

Governor's Budget. The Governor's budget includes **$755,000 General Fund** to support seven 3-year limited-term positions in the budget year to implement AB 1424 (Perea). The FTB estimates that the provisions of this legislation and these budget resources will result in **$43 million** in additional tax compliance revenues in the current and budget years combined. The FTB indicates that it has not requested budgetary resources associated with implementing the provisions that allow for the offset of tax refunds issued by other states since additional agreements need to be entered into before this provision is operative.

Staff Comments. Staff notes that the cost estimate in this proposal is in line with the estimate in the Senate Appropriations committee analysis when this bill was passed by the Senate last year.

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

2. Voluntary Contribution Funding Codes – Budget Bill Clean-Up

Background. Current law allows taxpayers to contribute amounts in excess of their tax liability to various voluntary contribution funds listed on the state tax return by checking a box on their California income tax form. These funds must reach the minimum level of $250,000 in their second taxable year. If they do not meet the $250,000 minimum, the law authorizing these fund designations is repealed.

Finance Letter. The Finance Letter includes amendments to the budget bill to add four new funds. The four additions reflect legislation enacted in 2011 to establish these funds as follows:

- Child Victims of Human Trafficking Fund
- Municipal Shelter Spay-Neuter Fund
- ALS/Lou Gehrig's Disease Research Fund

Staff Comments. Staff finds that two of the three funds (Municipal Shelter Spay-Neuter Fund and ALS/Lou Gehrig's Disease Research Fund) had failed to reach the $250,000 threshold for contributions and were proposed to be eliminated, but additional legislation continued these funds.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget bill amendments related to the voluntary contribution funding codes.

0860 Board of Equalization (BOE)

1. Natural Gas Public Purpose Programs Collections

Background. The BOE has administered and collected the surcharge on natural gas that is referred to as the Natural Gas Public Purpose Programs surcharge since 2001. The natural gas surcharge program was established by Chapter 932, Statutes of 2000 (AB 1002, Wright). The BOE was provided with $400,000 to cover the workload associated with collecting this surcharge, but was not provided with additional positions until 2009-10. In 2009-10, two limited-term positions were approved to improve compliance with the natural gas surcharge in a three-year pilot. These positions identified unregistered utilities and consumers and audited program registrants. The results were approximately $14 million in additional revenues collected annually.

Governor's Budget. The Governor's budget proposes to make the two limited-term positions permanent to continue tax compliance efforts related to collecting the natural gas surcharge. The ongoing cost of these positions is **$227,000** from the natural gas surcharge fund. The BOE expects return processing to continue to grow significantly over the next few years. The board also expects to continue adding new registrants each year and performing approximately five audits each year.

Staff Comments. No issues have been raised with this proposal.

Staff Recommendation. Staff recommends approving this budget proposal.

1730 Franchise Tax Board

Background. The Franchise Tax Board (FTB) is one of the state's two major tax collection agencies. The FTB's primary responsibility is to administer corporation tax programs and California's personal income tax (PIT). In addition, FTB administers several non-tax-related programs, including the collection of child support payments and other court-ordered payments. The FTB is governed by a three-member board, consisting of the Director of Finance, the Chair of the Board of Equalization (BOE), and the State Controller. An executive officer, appointed by the board, administers the daily operations and functions of FTB.

The *2012-13 Governor's Budget* proposes **$680 million** in support of FTB's operations, of which **$650 million is General Fund**. The remaining budget consists mainly of other special funds related to FTB's court fee collection and Department of Motor Vehicles collection programs. The proposed level of support represents a net increase of about $75.5 million General Fund related to the implementation of the Enterprise Data to Revenue (EDR) information technology project to modernize and make more effective the FTB's tax collection system.

The number of personnel-years (PYs) for FTB is budgeted to increase from 5,331 to 5,427 mainly due to implementation activities related to the EDR information technology project.

Tax Gap Reduction Measures

Summary. The FTB has recently updated its tax gap estimate based on the Internal Revenue Service (IRS) study for the 2006 tax year. The tax gap is an estimate of the outstanding tax liability that is owed to the state, but is not collected. This estimate is derived from an IRS study after making some California-specific adjustments. The new measure estimates that the total tax gap is about **$10 billion**, which is about $3.5 billion more than previous estimates. The growth has largely mirrored the growth in overall tax liabilities.

The FTB has numerous initiatives to reduce this tax gap using an enterprise approach. An enterprise approach means that staffs from all different divisions at FTB are involved in reducing the tax gap, including filing, audit, legal, and collections divisions. The FTB reported to the Legislature on its audit and compliance activities in December 2011. This report detailed the costs and revenues associated with FTB's audit and compliance activities, including actual data from 2010-11, estimated data for 2011-12, and proposed data for 2012-13. The activities and revenues generated are summarized in the following categories:

- **Collection Program.** The collection program involves collections of accounts receivables owed the State. The program had 960 personnel years in 2010-11 and generated **$2.3 billion** in revenue for the state at a cost of $135 million. This resulted in a 17:1 cost benefit ratio.
- **Audit Program.** The audit program includes four operating units as follows: (1) national business audit bureau; (2) individual and special audit bureau; (3) pass-through entity bureau; and (4) audit policy, protest and administration bureau. Each of these bureaus specializes in specific types of audits. This program had 979 personnel years in 2010-11 and generated **$2 billion** in revenue for the state at a cost of $153 million. This resulted in a 13:1 cost benefit ratio.
- **Filing Compliance Program.** The filing compliance program includes the following units: (1) filing enforcement; (2) non-wage withholding; and (3) fraud and tax gap. The filing enforcement unit contacts individuals and business entities that have a requirement to file a California tax return, but have not filed. The non-wage withholding programs ensure compliance with withholding on sellers of California real estate, nonresident entertainers, nonresident independent contracts, nonresident partners and beneficiaries, and others. The fraud and tax gap unit uses selection methods to conduct studies to detect fraud and discover taxpayers filing false claims, underreport their taxes, or do not file tax returns. This filing enforcement unit had 71 personnel years in 2010-11 and generated **$683 million** in revenue for the state at a cost of $23 million. This resulted in a 29:1 cost benefit ratio for the filing enforcement unit. The non-wage withholding unit had 64 personnel years in 2010-11 and generated **$682 million** in revenue for the state at a cost of $13 million. This resulted in a 53:1 cost benefit ratio for the non-wage withholding unit. The fraud and tax gap unit had 76 positions in 2010-11 and generated **$46 million** in revenue for the state at a cost of $5.5 million. This resulted in an 8:1 cost benefit ratio for the fraud and tax gap unit.
- **Tax Return Validation.** The tax return validation activities resolve routine math errors, complex taxpayer errors, incomplete tax returns, keying errors, and validate e-file returns and payments. This program had 462 positions in 2010-11 and generated **$1.4 billion** in

revenue for the state at a cost of $51 million. This resulted in a 28:1 cost benefit ratio for this program.

In summary, the FTB's tax enforcement efforts improved tax collection efforts by **$7 billion** in 2010-11. These efforts are estimated to bring in additional revenues in the current and budget year. Some of the programs have significant benefits, relative to costs, including a 53:1 cost benefit ratio for the non-wage withholding unit of the filing compliance program. Given the very large return on investment it seems like additional enforcement investments in this area could continue to bring additional revenues owed to the state that are not being properly reported.

Workforce Cap Impacts. The FTB participated in the government-wide workforce cap initiated under then-Governor Schwarzenegger's 2010 Executive Order to achieve 5 percent salary savings. The FTB reports that it eliminated 155 vacant positions and reduced expenditures by $8.8 million ($8.6 million General Fund). An additional $2.5 million in operating expenses and equipment was also eliminated from FTB's budget associated with the reduction in positions. The FTB indicates that revenue generating positions were exempt from this workforce cap.

Questions:

- **FTB:** A significant number of the positions eliminated were in the accounts receivable division and the filing division. Can you explain what these positions were focused on if they were not dedicated to enhancing tax collection for the state?
- **DOF:** How do you determine – for exemption purposes – what positions are "revenue generating" at FTB and what positions are not?

1. Enterprise Data to Revenue Project

Background. The Franchise Tax Board's (FTB's) tax filing system has not been substantially updated in the last 25 years. In order to modernize the FTB's filing system, the board initiated the Enterprise Data to Revenue (EDR) Project in 2009-10. This project will introduce a new Personal Income Tax (PIT) and Business Entity return processing system including expanded imaging, data capture, and return validation. Annually, the FTB processes approximately 15 million PIT returns and one million Business Entity returns. Overall, this project will enable FTB to correct erroneous returns in a more timely manner. It will also be more effective at providing data to identify noncompliance patterns and help identify fraudulent activity. This data system will also allow FTB to better prioritize its workload based on highest cost recovery. The FTB indicates that the new system will also expand self-help tools for taxpayers and tax practitioners to improve the filing and payment activities.

The FTB is using an alternate type of procurement for the EDR project that invites bidders to propose a comprehensive solution to address the overall goals outlined by the EDR project, instead of dictating the solution to the bidders. In this type of procurement, the State enters into a contract with a Primary Solution Provider (PSP) and the State works collaboratively with the provider to find a solution that meets the goals of the State. The FTB chose a PSP in November 2010.

The FTB is also using a benefits based procurement model to acquire the EDR Project and get the best value and business driven solution. This model is based on acquiring solutions to strategic business problems and only compensating the contractor when these solutions deliver new tax revenues and after certain State costs are recouped. Revenue benefits are then shared with the contractor up to a fixed contract amount. Furthermore, the contract is constructed so that the State does not incur upfront expenses to compensate the contractor.

When fully implemented, the FTB estimates that the EDR project will bring in over $1 billion in ongoing revenue annually. This will help to address the tax gap through increased collection of tax revenues that are due to the State but currently unpaid or uncollected for various reasons. The EDR project will also provide taxpayers with more self-service and self-help tools to ease burdens related to filing a return. Overall, the one-time costs of the PSP contract are estimated to be $398.9 million over the life of the 66-month (5.5 year) contract. However, this project is also projected to generate $4.7 billion in revenue over the life of the project and result in ongoing tax compliance benefits of $1 billion annually. The FTB indicates that revenue generated from the EDR project will exceed annual project costs over the life of the project. Over the life of the project the EDR is expected to generate a 7:1 benefit to cost ratio.

Governor's Budget. The Governor's budget includes **$96.5 million General Fund** and authorization for 56 permanent positions, 102 temporary help positions and 7 limited-term positions in the budget year to continue implementation of EDR. The position authority requested includes 45 permanent positions and 7 limited-term positions that will be supported with approximately $3.9 million that was requested in 2011-12. No additional positions were approved for EDR in 2011-12 and FTB redirected existing vacant positions to support this proposal in the short term. The EDR project is anticipated to generate additional tax collections of **$187.7 million General Fund** in the budget year.

Specifically, the funding requested in the budget year supports the following expenditures:

- **PSP Contract**. The FTB estimates that **$91.1 million** will be allocated to the contractor in the budget year. No payments are made to the contractor if the State does not receive increased revenue as projected.
- **Information Technology Positions.** The FTB is requesting 7 permanent and 7 limited-term information technology positions to support the development of the new return processing system, new data warehouse, creation of a taxpayer folder, new interfaces between EDR and existing legacy systems, and implementation of the EDR early wins. These positions are supported from the funding authorized in the 2011-12 budget request.
- **Compliance Positions.** The FTB is requesting 39 permanent compliance positions to handle the increase in account adjustments, collection opportunities, filing enforcement notices, and other taxpayer contracts. These positions are requested for the department's filing division and accounts receivable division and are supported by the 2011-12 budget request.
- **Temporary Help.** The FTB is also requesting the equivalent of 102 temporary help positions to address data entry required with EDR efforts to digitize various documents. These key data operators are necessary when the system cannot read data that needs to be migrated in to the new EDR system.

- **Other Positions.** The FTB is also requesting 11 additional positions in the budget year. Eight of the positions are additional compliance positions and three of the positions are administrative positions needed to support the additional positions being added to support the EDR project.

Staff Comments. Overall, staff finds that the EDR project has been thoroughly planned and the FTB has done significant work to ready the organization for the implementation of the new system, including a complete documentation of their business processes. However, the proposed solution by the PSP has a considerably different cost and revenue structure than originally estimated. It will be critical that the state continue to monitor how the estimated cost and revenue structure of this project tracks with actual revenues and expenditures. Furthermore, the calculation of the revenues attributable to the EDR project is essential to evaluating the relative value of the PSP contract.

Questions:

- **FTB:** What is the current status of tax compliance activities related to the EDR project in the current fiscal year? What are the main activities contributing to the improved tax collections in the current fiscal year?
- **FTB:** What new compliance activities are projected to result in increased tax compliance in the budget year?

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

2. Accounts Receivable Management Program

Background. Accounts receivable are recognized tax liabilities owed the state by individuals and business entities that have not been collected. Accounts receivable balances for personal income tax filers have steadily grown over the past five years. Accounts receivable balances for business entities peaked in 2010 and have declined slightly in more recent years. In 2010, 111 two-year limited-term positions were approved to address the rising accounts receivable inventory balance. These positions were approved on a limited-term basis with the thought that part of the inventory growth could be attributed to underlying economic conditions that were bound to change.

Also in 2010, 14 two-year limited-term positions were approved to pilot a program with the Department of Motor Vehicles (DMV) that involved investigations of circumstances where no tax return had been filed or payment made on an existing accounts receivable balance and the individual had purchased a luxury automobile in the last year. This program generated $15 million in revenue in 2010-11.

Governor's Budget. The Governor's budget proposes to make permanent the 111 positions authorized in 2010 to increase collection efforts on the outstanding accounts receivable balance.

The Governor's budget also proposes extending for an additional two years the 14 two-year limited-term positions related to the DMV luxury vehicle program.

These positions are supported by expenditure of **$8.5 million General Fund**. The FTB estimates that these staff resources will generate **$120 million** in additional collections in the budget year.

Staff Comments. Staff finds that the same general concerns exist today as they did two years ago regarding making these positions permanent. The accounts receivable inventory levels are likely in part due to the weak economic conditions that have impacted the state over the past several years. Therefore, it is unclear that this level of resources is justified as permanent augmentations to FTB's budget. Furthermore, the FTB is involved in several other efforts that should enhance collection efforts related to the accounts receivable inventory, including investments made in EDR, the Financial Institutions Records Match effort, and the Federal Treasury Offset Program.

Staff notes that the Assembly Budget Subcommittee #4 has already take action on this request, but have approved it with two-year limited-term positions instead of permanent positions.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget request, but continue all positions on a two-year limited-term basis.

Other Issues

1. Corporate Tax Collection—Informational Item

Background. The 2008-09, 2009-10, and 2010-11 budget packages all included corporate tax changes. Generally these tax changes were a mix of short-term suspensions that provided temporary budget relief and permanent reductions that were made effective prospectively. These changes are outlined in further detail below.

Temporary Loss of Tax Benefit - $900 million per year for four years ($3.6 billion total)

- **Temporary Limit on Tax Credits.** The 2008-09 budget package temporarily limited to 50 percent the amount of business tax credits that could be used to reduce tax liability in the 2008 and 2009 tax years. This provided $1.3 billion in temporary revenue to the state. However, corporations were able to continue to carry these credits on their balance sheets.
- **Temporary Suspension of Net Operating Losses.** The 2008-09 budget package suspended net operating loss (NOL) deductions for the 2008 and 2009 tax years, except for taxpayers with net business income of less than $500,000 in either year. The 2010-11 budget package suspended NOLs for an additional two years, except for taxpayers with net business income of less than $300,000 in either year. Collectively these actions provided $2.3 billion over the four year period. However, corporations were able to continue to carry and accumulate these losses on their balance sheets.

Permanent Tax Cuts - $1.3 billion in permanent cuts ongoing starting in 2011.

- **Permanent Change Unitary Group Credit Sharing.** The 2008-09 budget package authorized corporations that accumulate business tax credits to assign all or a portion of any unused credit to an affiliated corporation that is a member of the same combined reporting group. With respect to credits earned in tax years beginning before July 1, 2008, the assignee corporation would have to have been a member of the group from at least June 30, 2008, through the year of assignment. For credits earned subsequently, the assignee corporation must be a member of the group in the year that the credit is earned through the year in which the assignment occurs. This tax policy change will result in a loss of General Fund revenues of approximately $315 million annually starting in the 2010-11 budget year.

- **Extend NOL Carry Forward Period and Allow for Carrybacks.** The 2008-09 budget package further expanded the NOL carry forward period from 10 years to 20 years for losses incurred after January 1, 2008. Furthermore, the budget package, amended in 2010, authorized NOL carry backs for losses incurred in 2013 or later tax years. The carry back provision will phase in, with 50 percent of any 2013 NOLs available for carry back, 75 percent of any 2014 NOLs, and full carry back for NOLs in subsequent years.

- **Elective Single Sales Factor.** The 2009-10 budget package created a permanent ***elective*** single sales factor for apportionment of business income across states. In contrast, prior law averaged a business's proportion of sales, property, and payroll in California (with the sales factor double-weighted) to apportion the California share of multi-state business income. Under this new tax policy, corporations can elect to allocate net income for California tax purposes under the old formula or 100 percent to sales. Businesses that proportionally have fewer sales in California relative to property and payroll will see their taxable income in California fall. This change went into effect in the 2011 tax year. The annual losses projected from this policy change are in excess of $1 billion.

- **Cost of Performance.** The 2009-10 budget package replaced the "cost of performance" rule for corporate taxpayers with a market based rule when the elective single sales factor was enacted. Under the cost of performance rule sales of intangibles and services are assigned to California for tax purposes only if the greater cost of performance of the income producing activity occurs in California relative to other states. The market based rule would have required the sales of intangible goods and services to be used to apportion corporate income to California. The 2010-11 budget package repealed the market based rule returning the state to the old cost of performance rules for sourcing intangibles. The annual losses projected from returning to the cost of performance rule are approximately $100 million annually.

Governor's Budget. The Governor's budget does not include any modifications to tax policy that are part of the overall budget solution. However, the Governor's budget indicates that he will continue to pursue changing current law to make the multi-state corporate income apportionment method mandatory instead of elective and reforming the tax incentives that benefit enterprise zones. However, the Governor has indicated that he will pursue these policy changes separate from the budget as part of a larger job creation effort proposed through policy legislation. These policy changes require a two-thirds vote for enactment.

Elective Single Sales Factor Disadvantages California Based Companies. Allowing corporations to elect the formula they apportion income for tax purposes gives a comparative advantage to out-of-state corporations that have high sales, but low property and payroll invested in California. By allowing the corporation to elect the formula it uses to calculate tax owed, the corporation can then choose the calculation that is most advantageous to their situation. Furthermore, changing to mandatory single sales factor will bring California more in line with other states. Of the 23 states that have adopted single sales factor, only three allow an election. The FTB estimates that the increased tax liability under mandatory single sales factor will generally come from out-of-state businesses that will have higher tax liabilities.

Cost of Performance Rule Advantages Out of State Companies. The “Cost of Performance” rule specifically advantages corporations headquartered outside of California. Moving to a market-based rule reduces the ability of taxpayers to manipulate their sales factor and makes the treatment of intangibles consistent with tangible goods.

Carryback Provision Duplicative. While the carryback policy does conform to federal policy, there are unique circumstances in California that make this policy problematic. Specifically, the Proposition 98 guarantee that funds K-14 education depends on year-over-year growth in General Fund revenues. However, the premise of carrybacks is that corporations can go back and amend prior tax returns to lower tax liabilities and even trigger tax returns. However, the state has no ability to change the Proposition 98 guarantee retroactively to adjust for the amendments to revenues. Secondly, the carry forward policy allowed by current law essentially gets at the same policy goal, which is to average a corporation’s tax liability over a period of time in order to encourage investments that may take multiple years to recover.

Revenue Collections Below Estimates, but Corporate Profits Up. The latest reports on the collection of corporation tax indicate that the state will collect at least $400 million less than the estimates in the Governor’s January budget estimate. This is troubling given the relative growing strength of corporate profits generally. It is likely that some of the estimates related to the permanent tax cuts outlined above are also resulting in larger revenue losses than anticipated. The LAO has reported that it will likely be many years before the full effects of the permanent tax cuts are understood as there is a considerable delay in the reporting of final corporate tax data.

Questions.

- **LAO:** Do you think the lower than expected corporate tax collections are due to the corporate tax cuts enacted over the past three years?
- **LAO:** When will we have better information on the actual cost of the tax cuts enacted over the last several years?

2. Consistent Enforcement by Tax Agencies

Background. Under California law, FTB is responsible for reviewing and evaluating income tax returns of individuals and businesses. FTB has the authority to revise taxpayers' returns and adjust for underpayments as well as assess penalties. Actions can be based on an audit or other means of determination. Once FTB determines that a revision to the tax return is required, it issues a Notice of Proposed Assessment (NPA) to the taxpayer. The taxpayer can file a Protest Letter of this determination with FTB, and supply supporting documentation at this time. If requested by the taxpayer, a protest hearing is held regarding the issue and FTB will then issue a Notice of Action (NOA). In general, taxpayers may file an appeal with BOE after FTB has taken an action to deny a taxpayer's:

- Protest of a proposed deficiency assessment.
- Claim of refund or credit or loss carryover.
- Request for abatement of interest on a deficiency
- Request for the allowance of interest on any claim for refund.

If the taxpayer disagrees with an FTB action, an appeal can be made to the BOE within 30 days of the date of the issuance of the NOA. BOE is a separate government agency that handles all personal and corporate income tax appeals, and is an elected body consisting of four members from districts across the state, plus the State Controller. When the taxpayer files an appeal, the taxpayer and FTB are given an opportunity to provide additional supporting information and file briefs regarding their positions. The taxpayer may also request a hearing. Following BOE's consideration of the law and facts in the appeal, it issues a decision in writing and allows for a request from either party a rehearing within 30 days of the decision. A rehearing is an opportunity for BOE to hear the appeal for a second time if there were mistakes of law or errors made in the original appeal or if new evidence has been discovered. If no rehearing request is made, BOE's decision becomes final in 30 days.

If the taxpayer does not agree with BOE's decision, upon payment of the tax, the taxpayer can file an action against FTB in California Superior Court within 90 days. On the other hand, BOE's decision is final and binding on FTB, so it may not file action against the taxpayer in California Superior Court. After the California Superior Court makes a decision, either the taxpayer or FTB may file an appeal of the decision to the California Court of Appeal, and in some cases, to the California Supreme Court, and, ultimately, the United States Supreme Court.

Staff Comments. Staff finds that current law places FTB in an adverse position compared to the taxpayer. While the taxpayer can appeal an adverse decision of BOE, the FTB has no option to appeal. The two parties in any tax dispute are treated differently with respect to the ability to appeal. In order to allow both the taxpayer and the FTB the same appeal rights, bills have suggested allowing the FTB to file a lawsuit, as a *trial de novo* ('trying a new matter'), in superior court if the FTB disagrees with a BOE action related to a deficiency assessment, a claim for refund, or a disallowance of interest, as specified. This way FTB and the taxpayer would be similarly situated.

Furthermore, staff notes that the BOE does not always publish decisions; there is no statutory or constitutional requirement that they do so. Therefore, there is limited precedent setting guidance to follow, which leaves taxpayers and administrative tax agencies alike at a loss with respect to needed guidance in complex issues. Appeal rights by both sides would tend to create additional opportunities for precedent-setting in the judicial branch along with case guidance.

Generally other states with comparable tax systems to California have equivalent appeals rights for either party. For example, Florida, Illinois, Massachusetts, Michigan, Minnesota, and New

York all have equivalent appeals rights for both the state revenue agency and the taxpayer, although some variation in the exact process does exist among the different states.

Staff notes that the fiscal impact of a process change as suggested above is difficult to assess because it depends on the number and type of cases that are appealed. However, a review of the number of appeals in California and results of court appeals in comparable states suggests that the fiscal impact of equivalent treatment could be in the tens of millions of dollars annually.

Many tax professionals and academics have voiced concerns with the fairness of the California tax system. For example, as indicated in its report, the Commission on the 21st Century Economy recommended the establishment of an independent dispute forum with both sides able to appeal to superior court.

Staff Recommendation. Staff recommends that the Subcommittee adopt placeholder trailer bill language to provide FTB with the ability to file a lawsuit in superior court after an adverse BOE determination.

0860 State Board of Equalization

Background. The Board of Equalization (BOE) is one of California's two major tax collection and administration agencies. In terms of its responsibilities, BOE: (1) collects state and local sales and use taxes (SUT) and a variety of business and excise taxes and fees, including those levied on gasoline, diesel fuel, cigarettes, and hazardous waste; (2) is responsible for allocating certain tax proceeds to local jurisdictions; (3) oversees the administration of the property tax by county assessors; and (4) assesses certain utilities and railroad property. The board is also the final administrative appellate body for personal income and corporation taxes, which the Franchise Tax Board (FTB) administers. The BOE is governed by a constitutionally established board—consisting of four members elected by geographic district and the State Controller.

Governor's Budget. The *2012-13 Governor's Budget* proposes **$518 million** in support of BOE operations, of which **$292 million is General Fund**. The remaining budget consists mainly of reimbursements from local governments and support from various special funds. The proposed level of support represents a net increase of $13 million General Fund mainly from various budget proposals to improve tax collection efforts and a rent increase related to the BOE headquarters building. The efforts to improve tax collection are projected to collect additional General Fund revenues that are owed, but not currently being collected.

The number of personnel-years (PYs) for BOE is budgeted to increase slightly from 4,486 to 4,586.

Tax Gap Reduction Measures

Background. The BOE estimates that the total tax gap for sales and use tax is about **$2.1 billion**. The tax gap is defined as the total tax receipts due to the state less the tax receipts collected by BOE.

The BOE has undertaken several efforts over the last several years to reduce this gap. However, the BOE specifically encourages voluntary tax law compliance and tends to focus its efforts on education and providing assistance to the taxpayer. A December 2011 report from the Board reported on its audit and collection activities related to sales and use tax collection. These efforts are organized as follows:

- **Audit Program.** The audit program ensures businesses report neither more or less tax than required by law and educates taxpayers on proper application of sales and use tax. This program resulted in **$439 million** in additional revenues to the state in 2010-11 and a benefit to cost ratio of 5.2:1.
- **Consumer Use Tax Program.** The consumer use tax program works closely with state and federal agencies in administering the use tax due on non-dealer sales of vehicles, vessels, aircraft and mobile homes. This program resulted in **$62 million** in additional revenues to the state in 2010-11 and a benefit to cost ratio of 10.2:1.
- **Collection Program.** The collection program is oriented towards collecting outstanding tax owed to the state. In 2010-11 this program collected more than **$661 million** in delinquent taxes owed to the state. This program has a benefit to cost ratio of 20.2:1.
- **Return Analysis Unit.** The return analysis unit investigates discrepancies in returns selected for review. Returns are selected for review on BOE's Integrated Revenue Information System. This unit's activity resulted in **$31 million** in additional revenues collected with a benefit to cost ratio of 9.2:1.
- **Compliance Enforcement.** Compliance enforcement focuses efforts on identifying non-filers and under-reporters. These efforts include a program that does desk reviews of U.S. Customs data and agriculture inspection stations data for California destined purchases that owe use tax. The BOE has also implemented a Statewide Compliance and Outreach Program that involves canvassing areas to identify and register businesses that do not have sellers' permits. A Qualified Purchasers Program reviews taxpayers that receive at least $100,000 in gross receipts from business operations but are not otherwise required to register with BOE. In 2010-11, these various compliance efforts resulted in **$135 million** in tax collections that were previously owed, but not collected. These programs collectively have a 5.4:1 benefit to cost ratio.

The BOE's efforts summarized below resulted in the collection of **$1.3 billion** in tax revenues that would otherwise not be collected. However, considerable confusion continues to exist about payment of the use tax. Existing law requires that the use tax is owed by a California taxpayer making taxable purchases even when the seller (online retailer or other out-of-state company) do not collect the tax and submit it to the BOE on the taxpayers behalf. There continue to be billions of purchases made by California taxpayers where no use tax is remitted to the state.

Questions:

- **BOE.** There was recently a unanimous vote by the board to remove Qualified Purchasers from the program that had no use tax to report for three consecutive years. Was there administrative savings related to this board action? If so, how were these savings "reinvested"?
- **BOE.** There has been a suggestion made to staff that there is not a positive benefit cost ratio related to requiring Qualified Purchasers with gross receipts of less than $500,000 from registering, reporting, and remitting the use tax on out-of-state purchases. Can you please provide information on the performance of this tax compliance effort?

2. Tax Gap II

Background. In 2008-09 the BOE received $21 million ($14 million General Fund) to support a budget request referred to as "tax gap". This budget request supported several efforts, including audit improvements, compliance improvements and expanded bankruptcy and out-of-state collection. These efforts resulted in increased collections of $40 million in the first year of implementation. The collection efforts of this initial investment increased to **$84 million** in 2010-11 and an overall benefit to cost ratio of 3.9:1.

Governor's Budget. The Governor's budget includes a part II effort that builds on the tax gap efforts initiated in 2008-09. This new effort would expand the board's audit program and staff resources available to address bankruptcies, and would also initiate a use tax educational outreach campaign. This proposal includes **$4.4 million ($2.9 million General Fund)** to support 18 new positions and is expected to enhance tax collection efforts to the state by **$15 million** in the budget year. The individual components of the proposal are detailed below:

- **Use Tax Educational Outreach Campaign.** This element includes **$3.1 million ($2.1 million General Fund)** and 5.5 positions. Approximately $2.6 million is for one-time expenditures related to a statewide media campaign and professional public relations contract to improve voluntary compliance with the state's Use Tax law. The positions will enhance BOE's current education and outreach efforts, including: (1) establishing a Use Tax Advisory Group; (2) address compliance by both business and tax practitioners and clarify confusion about sales and use tax responsibility; and (3) act as a liaison between external affairs and the tax policy division with respect to technical aspects of the application of use tax and the implementation and administration of use tax programs. The board expects to collect an additional $10 million in taxes annually due to these efforts. The estimate is mainly due to increased Use Tax payments being made on income tax returns. The board estimates that this effort will have a 3.1:1 benefit to cost ratio in the budget year, but that this ratio will increase in out years to 16.6:1.
- **Audit Program.** This request includes **$919,000 ($633,000 General Fund)** and 9.5 positions to augment the existing audit program. The BOE proposes to focus these efforts on desk audits. This proposal is expected to increase tax collections by approximately **$3.4 million** annually for a benefit to cost ratio of 4.2:1.
- **Bankruptcy Collections.** This request includes **$330,000 ($240,000 General Fund)** and 2 positions to augment the existing bankruptcy collection program. These staff resources will enable the state to effectively manage tax recovery from bankrupt debtors. This

proposal is expected to increase tax compliance by approximately **$1.9 million** annually for a benefit to cost ratio of 6.4:1.

Staff Comments. Staff finds the board has had mixed results in conveying a consistent message to taxpayers regarding payment of the Use Tax. For example, last year after the Legislature enacted a new law that was intended to make it more convenient for the taxpayer to pay the use tax owed to the State, some board members sent out press releases from the BOE and authored editorials in major newspapers and blogs opposing this law change. These sort of efforts by Board members further confuse the general public about how they should go about complying with the state's Use Tax law. Given recent efforts to discourage the use of compliance tools by the Board it is unclear how effective this public relations campaign would be, because likely there would be no emphasis on tools the taxpayer currently has to comply with the law.

Furthermore, while there does seem to be general confusion about Use Tax enforcement, the materials provided the committee does not make a convincing case in support for the ultimate success of the media campaign contract. There are no specifics on who the target audience will be or what the overall goals and outcomes would be of a campaign. Furthermore, staff finds that the tax collection data related to the media campaign are highly speculative and there is significant risk that taxpayer behavior would not be changed by a media campaign.

Staff finds that there are other tax enforcement strategies that are likely to be more effective at improving compliance with state tax laws than a media campaign.

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

- Reject media campaign contract.
- Approve 5.5 positions related to internal education and outreach effort – but make two-year limited-term and require reporting by January 10, 2014 on efforts undertaken by these positions and performance metrics, including benefit cost ratio of this investment.
- Approve request to augment the audit program.
- Approve request to augment the bankruptcy collections program.

3. Use Tax Nexus

Background. Chapter 7x, Statutes of 2011 (AB 28X, Budget) was enacted last year to enable the state to collect use tax on purchases made by California customers from Internet companies that do not claim nexus in California and do not collect use tax on taxable goods sold to California customers. Current law already required that the use tax was owed by California customers regardless of where the product was purchased. This legislation made the following changes to nexus:

- **Long-Arm Nexus.** Revises the state definition of "retailer engaged in business in the state" to be as expansive as permitted under federal law.
- **Affiliate Nexus.** Establishes that contracts out-of-state retailers have with affiliates in California establish nexus for the purposes of collecting use tax.
- **Corporate Nexus.** Requires that any corporation that is part of a "commonly controlled group" of companies that filed corporate income tax as a unitary group of companies, that

has one or more of those companies based in California, is sufficient to establish nexus for the purposes of collecting use tax.

Later in the 2011 session, subsequent legislation (Chapter 313, Statutes of 2011 [AB 155, Calderon]) was enacted to delay the implementation of AB 28x until September 15, 2012, unless Congress authorized states to collect taxes on sales of goods and services to in-state purchasers without regard to the location of the seller. The Director of the Department of Finance must certify to the Legislature whether a federal law has been enacted by July 1, 2012. Amendments in AB 155 also increased the small business exception for affiliate marketing from total sales of $500,000 or more, to those with $1 million or more in total sales.

Governor's Budget. The Governor's budget includes **$3.2 million ($2.1 million General Fund)** to fund 28.3 positions to support the implementation of the use tax nexus changes implemented last year. The BOE is expecting upwards of 2,000 new use tax accounts to be registered under the new nexus laws and the majority of the positions are requested in the external affairs division to support communications with taxpayers, retailers, and tax practitioners as the new laws are implemented. The BOE is using a questionnaire to retailers to solicit information needed to determine if they need to register with the BOE due to changes in the nexus rules.

The Governor's budget assumes that Congress will not enact comprehensive legislation related to the collection of taxes on sales of goods and services to in-state purchasers without regard to the location of the seller. The contents of AB 28x will then be implemented and these policy changes are expected to generate **$50 million** in tax collections.

Staff Comments. Staff finds that the BOE's budget proposal does not specifically address all efforts to enforce corporate nexus and ensure compliance with long-arm nexus. The majority of the budget proposal addresses efforts related to affiliate nexus.

The BOE has indicated that it will hire two auditors in 2014-15 to address the new workload associated with the nexus law changes. The BOE has indicated that this law change could result in 2,000 new registrants. Two auditors for this new workload seems like it would provide only a very cursory review to selected returns filed.

The BOE has reported that the FTB has not provided a complete list of companies that are part of a "commonly controlled group" because of complexities in how the schedules are compiled. Staff finds that FTB is currently implementing a new corporate tax cut that allows credit sharing among companies filing taxes as part of a unitary group so it is unclear why an arrangement cannot be made between FTB and BOE to share data that will enable BOE to fully implement law changes included in AB 155.

Question.

- **DOF:** What is the basis of this revenue estimate? Prior estimates have been as much as $200 million, why is this lower estimate now assumed?
- **BOE:** What is the current status of the federal legislation?

- **BOE:** What strategies will be employed to find retailers that have nexus beyond a self-reporting questionnaire? Will the 12 positions in external affairs employ other strategies for ensuring compliance with the new law?
- **BOE:** Has the board explored experiences from other states in implementing affiliate nexus? What are strategies and best practices in other states that have already implemented this law change?
- **BOE:** What is the current status of getting information on commonly controlled groups from FTB?

Staff Recommendation. Staff recommends that the Subcommittee hold this item open pending additional information on how the BOE will enforce all of the new laws related to nexus.

4. Use Tax – Mandatory Reporting and Remittance

Background. One tax gap strategy first implemented in 2003 was the addition of a Use Tax line on income tax return forms. This line allows businesses and individuals to self-report use tax owed on out-of-state purchases. This policy was first enacted in Chapter 718, Statutes of 2003 (SB 1009, Alpert). Last year the Legislature enacted Chapter 14, Statutes of 2011 (SB 86, Budget) that included the implementation of a “look-up” table that would provide a safe harbor for taxpayers who had not kept track of purchases subject to the Use Tax. The look-up table provides an estimated amount of use tax owed based on a taxpayer’s filing and income characteristics.

Governor’s Budget. The Governor’s budget does not propose any changes to this policy.

Staff Comments. Staff finds that the look-up table has been implemented with mixed success. Currently, there is no requirement that taxpayers that are not required to file a sales and use tax return with the BOE to report qualified use tax on the income tax form to FTB. Furthermore, because there is no mandatory reporting requirement paid tax preparers or certified public accountants are not required to even make an inquiry with their client as to whether or not that client has a use tax liability.

Staff finds that improving compliance on the FTB tax form would be a relatively inexpensive way to improve tax compliance. If a mandatory reporting requirement was in place, the tax preparer community would provide additional attention to this item and ensure compliance on behalf of their clients.

Staff Recommendation. Staff recommends that the Subcommittee adopt placeholder trailer bill language that accomplishes the following:

- Require every person who is not otherwise required to file a sales and use tax return with the BOE to report qualified use tax on the income tax return filed with the FTB.

5. Expansion of Financial Institutions Records Match

Background. Last year Chapter 14, Statutes of 2011 (SB 86, Budget) was enacted so that FTB could implement the Financial Institutions Records Match (FIRM) system to help reduce the tax gap. The FIRM is an information technology project that would require financial institutions doing business in California to match FTB information on delinquent tax and non-tax debtors against their customer records on a quarterly basis. The FIRM is patterned after the FTB's Financial Institution Data Match system, which is a project implemented as a result of federal legislation to identify the assets of delinquent child support debtors.

The FTB can use the new data collection to aid in the collection of debts under the authority of the existing "Order to Withhold" statutes. The proposal would not impact existing law that provides for constitutional due process protections and appeal rights available in either the audit or collection processes. In addition, the legislation required FTB to reimburse a financial institution for its actual costs incurred to implement FIRM, up to $2,500 for startup costs and no more than $250 per calendar quarter thereafter.

Governor's Budget. The Governor's budget proposes to build upon the FIRM program implemented by the FTB and expand FIRM to collection efforts at the Employment Development Department (EDD) and the BOE beginning in 2013. This proposal is expected to result in **$15 million General Fund** in additional tax collections for the current and budget years.

Staff Comments. Staff finds that the FIRM tax collection tool will enable BOE to also collect on sales and use tax debts that are owed the state. Furthermore, the other tax collection agencies can build on the FTB's experience and relationships with financial institutions and minimize the need to establish separate and independent efforts that aid in collection of taxes owed.

Staff notes that the BOE did not prepare nor submit a budget change proposal on pursuing FIRM as a tool for collecting sales and use tax owed the state. However, additional information from the Board indicates that it would cost $523,000 to initiate this effort, including establishing a programmer analyst that would be responsible for preparing and transferring taxpayer data to FTB and ensuring security of the data.

Staff finds that the tax gap continues to be a burden on taxpayers that comply with all the state's tax laws. Staff finds that expanding the FIRM system to BOE would help to reduce the tax gap by using a proven methodology.

Question.

- **BOE:** Why did you not submit a budget change to support this activity?
- **DOF:** If this trailer bill is enacted, do you support a budget augmentation for the board to support this new activity?

Staff Recommendation. Staff recommends that the Subcommittee adopt the Governor's budget proposal and trailer bill language to expand the use of FIRM to BOE collections of sales and use tax owed.

Other Issues

1. Headquarters Building

Background. The BOE Headquarters Building has a long and expensive history of problems. Construction was completed in 1993. The building has been fraught with construction defects causing water leakage, mold, and falling glass. The building has also experienced major system failures, including plumbing and the elevators. A major project was completed in 2006 to help remedy the problems. However, other problems continue and numerous employee complaints and lawsuits have ensued. The BOE estimates that this loss in productivity has resulted in annual revenue loss of approximately $22 million.

Furthermore, the BOE Headquarters building does not adequately meet BOE's space needs. Presently, the BOE staff is spread out over five different locations and the BOE has significantly more positions than capacity at the main headquarters building.

Governor's Budget. The State started the process of purchasing the building from CalPERS several years ago. The State Treasurer's Office finally closed on the bond sale which is financing the loan to purchase the BOE building in November 2011. The rental rates on the BOE headquarters building must increase to cover the additional financing costs related to the bond sale. The Governor has proposed to fully fund the increased rental costs of **$6.2 million ($3.1 million General Fund)** in the budget year. The financing costs associated with this building will significantly increase the annual rent costs from nearly $11 million to over $17 million annually.

Staff Comments. As mentioned above, the number of Sacramento BOE employees far exceeds the capacity at the headquarters building. The BOE had initiated a study with the Department of General Services (DGS) to study the possibility of relocating and consolidating BOE headquarters and annexes somewhere in the Sacramento region. The BOE has indicated that $500,000 was set aside for this study, but only $80,000 was expended. The BOE would like to see this study completed so that they may work on a path to eventually relocate to a building that can accommodate all headquarter divisions in one campus. The BOE has suggested supplemental report language to require DGS to complete the relocation and consolidation analysis, which would include an examination of potential future uses for the current BOE headquarters building.

Question:

- **DOF:** Why was the study never completed by DGS even though funds were allocated to complete the study?

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

- Approve the rent increase.
- Request more information from the Department of General Services on the status of the relocation and consolidation study for BOE.

2. Dell Computer Settlement

Background. The BOE has been named as the cross defendant in the class action case of *Diane Mohan v. Dell*. This case is currently pending in San Francisco County Superior Court. The case involves the collection of use tax by Dell Computers on the extended warranty service contracts during the years 2000 to 2008. The extended warranty service contract is an intangible and the court found that the use tax was collected erroneously. The class action attorneys have estimated as many as 10 million transactions over this time period. The BOE's experience is that about 20 percent actually completed refund claims and submitted them for payment, but this could still mean hundreds of thousands of claims that need to be processed.

The BOE has indicated that it does not have the staff to process these additional transactions. However, to date no final determinations or orders have been issued by the court about who will pay for these transactions.

Governor's Budget. The Governor's budget includes a "placeholder" request of **$3.2 million** ($2.1 million General Fund) in the budget year to support 14.5 positions to address the additional workload associated with processing the Dell refunds. The majority of these positions are proposed as limited-term, but the request does include two permanent positions. The positions are proposed to be allocated as follows:

- 2 tax auditors for 2-year limited-term to audit large and medium sized refund claims.
- 1 business tax specialist for 2-year limited-term to audit largest and most complex claims.
- 1 business tax specialist for 1-year limited-term to coordinate, initiate, and review refund processing.
- 3 tax technician IIIs for 2-year limited-term to search for better addresses for returned warrants and respond to inquiries by class action administrator.
- 3.5 tax technician IIIs for 1-year limited-term to validate name/address changes and process correspondence related to claim exceptions.
- 1 supervising tax auditor II for 2-year limited-term to manage the overall refund project.
- 1 associate accounting analyst permanently established to review refunds and reconcile claims filed and claims paid.
- 1 associate administration analyst permanently established to maintain claim databases.
- 1 tax technician II for 2-year limited-term to manage 30,000 additional calls in the call center expected from the class action lawsuit.

Staff Comments. The BOE has indicated that there is a signed settlement agreement in the Dell Computers case. The BOE has indicated that notices will be mailed to Dell customers by July 16, 2012 and that customers will have until mid-September 2012 to opt out of the class action lawsuit. The customers will be able to file claims through January 16, 2013. The BOE estimates that the majority of the claims will be paid in 2012-13.

It is unclear why some of these positions are needed for two years, since the settlement calls for deadlines in the budget year. Furthermore, it is unclear why any permanent positions should be approved for this workload, which is short-term.

Questions:

- **BOE:** Given that the settlement agreement was signed after the budget proposal was developed, are there any amendments to the budget proposal? If all claims must be submitted in the budget year – why are some positions needed for two years?
- **BOE:** Why are there two permanent positions requested for this temporary workload?

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open pending a revised proposal that more accurately reflects the actual settlement agreement timeline.

3. State Responsibility Area Fire Prevention Fee Collection

Background. Last year, Chapter 8x, Statutes of 2011 (AB 29x, Budget) was enacted to implement a fire prevention fee on owners of habitable structures in state responsibility areas (SRAs). This legislation requires a fee of $150 per structure to support the fire prevention activities of the California Department of Forestry and Fire Protection. The BOE is assigned the responsibility of collecting the fee. The fee is expected to generate $50 million in the current fiscal year and $85 million in the budget year.

Governor's Budget. The Governor's budget includes **$6.4 million** in reimbursements and 57 positions in the budget year to administer this program.

Staff Comments. Staff finds that the legislation enacted last year requires the California Department of Forestry and Fire Protection to submit to BOE a list of names and addresses of those that are required to pay the fee. Therefore, it is unclear why BOE requires the number of permanent staff being requested. It is expected that there would be startup costs associated with implementing a new fee collection program like the SRA fee. However, the BOE's proposal does not reflect much of a decline in ongoing resources needed to support this program.

Staff notes that the Assembly Budget Subcommittee #4 has already taken action on this item and approved the staffing package on a two-year limited-term basis and also approved reporting language to get more information on actual experience related to collecting the SRA fee.

Question:

- **BOE:** Why does ongoing program administration cost the same as the initial startup costs?

Staff Recommendation. Staff recommends that the Subcommittee hold this item open.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Doug La Malfa
Senator Noreen Evans

OUTCOMES

Thursday, May 3, 2012
9:30 a.m. or upon adjournment
of Budget and Fiscal Review Committee
Room 112

Consultant: Keely Martin Bosler

Item Department **Page**

State Administration and General Government

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

Vote Only Calendar

1730 Franchise Tax Board (FTB)

1. Top 500 Tax Debtor List

Action. Approved this budget proposal.

Vote. 2-1 (LaMalfa)

2. Voluntary Contribution Funding Codes – Budget Bill Clean-Up

Action. Approved the budget bill amendments related to the voluntary contribution funding codes.

Vote. 3-0

0860 Board of Equalization (BOE)

1. Natural Gas Public Purpose Programs Collections

Action. Approved this budget proposal.

Vote. 3-0

1730 Franchise Tax Board

Tax Gap Reduction Measures

1. Enterprise Data to Revenue Project

Action. Approved this budget request.

Vote. 3-0

2. Accounts Receivable Management Program

Action. Approved the budget request, but continue all positions on a two-year limited-term basis.

Vote. 3-0

Other Issues

1. Corporate Tax Collection—Informational Item

Action. No action – informational item.

2. Consistent Enforcement by Tax Agencies

Action. Item removed from the agenda. No action taken. Issue not heard.

0860 State Board of Equalization

Tax Gap Reduction Measures

Action. No action on the Qualified Purchasers Program issue, but Board to get committee additional information on the relative cost/benefit of those reporting with less than $500,000 in gross receipts.

2. Tax Gap II

Action.

- Rejected media campaign contract. **Vote.** 3-0
- Approved 5.5 positions related to internal education and outreach effort – but make two-year limited-term and require reporting by January 10, 2014 on efforts undertaken by these positions and performance metrics, including benefit cost ratio of this investment. **Vote.** 2-1 (LaMalfa)
- Approved request to augment the audit program. **Vote.** 3-0
- Approved request to augment the bankruptcy collections program. **Vote.** 3-0

3. Use Tax Nexus

Action. Approved the budget proposal.

Vote. 2-1 (LaMalfa)

4. Use Tax – Mandatory Reporting and Remittance

Action. Approved placeholder trailer bill language to require every person who is not otherwise required to file a sales and use tax return with the BOE to report qualified use tax ***or is not required to file an income tax form, as specified*** to report use tax on the income tax return filed with the FTB.

Vote. 2-1 (LaMalfa)

5. Expansion of Financial Institutions Records Match

Action. Approved the Governor’s budget proposal ($523,000 and one position for BOE) and trailer bill language to expand the use of FIRM to BOE collections of sales and use tax owed.

Vote. 3-0

Other Issues

1. Headquarters Building

Action.

- Approved the rent increase.
- Committee will request more information from the Department of General Services on the status of the relocation and consolidation study for BOE.

Vote. 3-0

2. Dell Computer Settlement

Governor's Budget. The Governor's budget includes a "placeholder" request of **$3.2 million** ($2.1 million General Fund) in the budget year to support 14.5 positions to address the additional workload associated with processing the Dell refunds. The majority of these positions are proposed as limited-term, but the request does include two permanent positions. The positions are proposed to be allocated as follows:

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- 3 tax technician IIIs for 2-year limited-term to search for better addresses for returned warrants and respond to inquiries by class action administrator.
- 3.5 tax technician IIIs for 1-year limited-term to validate name/address changes and process correspondence related to claim exceptions.
- 1 supervising tax auditor II for 2-year limited-term to manage the overall refund project.
- 1 associate accounting analyst permanently established to review refunds and reconcile claims filed and claims paid.
- 1 associate administration analyst permanently established to maintain claim databases.
- 1 tax technician II for 2-year limited-term to manage 30,000 additional calls in the call center expected from the class action lawsuit.

Action. Held issue open – for further refinement.

3. State Responsibility Area Fire Prevention Fee Collection

Governor's Budget. The Governor's budget includes **$6.4 million** in reimbursements and 57 positions in the budget year to administer this program.

Action. Held open – for further refinement.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Noreen Evans
Senator Doug La Malfa

Thursday, May 10, 2012
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Brady Van Engelen

Item Number and Title

1700	Department of Fair Employment and Housing
1705	Fair Employment and Housing Commission
2240	Department of Housing and Community Development
8840	California Commission on Uniform State Laws
0510	Office of Privacy Protection

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

AGENDA – VOTE ONLY ITEMS

(Please see summary chart on Page 2)

AGENDA – DISCUSSION / VOTE ITEMS

Vote Only Items

	Issue	2012-13 Amount	Fund Source	Staff Recommendation
	Department of Housing and Community Development (2240)			
1	Community Development Block Grant Funding Program	Reduction in Budget Authority		APPROVE
2	Transfer of Housing Assistance Program	Reduction in Budget Authority		APPROVE

2240 CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNIT Y DEVELOPMENT

Issue 1 – Community Development Block Grant Program Funding

Governor's Budget Request: An April Finance Letter requests eliminating expenditure authority of $594,000 (federal funds) in State Operations and $31.9 million (all federal funds) in local assistance to reflect federal reductions to the Community Development Block Grant (CDBG) program.

Background: The reductions are requested to eliminate excess budget authority that has accumulated due to federal budget reductions. In the CDBG program, the amount of federal dollars that can be used for administrative costs is a percentage of the total cost, so when the grant is reduced, so are the dollars available to administer the program. This request aligns the budget with the federal resources actually available for the program.

Staff Recommendation: Approve the April Finance Letter

Issue 2 – Transfer of Housing Assistance Program

Governor's Budget Request: An April Finance Letter requests abolishing four positions associated with the Housing Assistance Program (HAP) and reducing HAP expenditure authority in the following three ways:

- $1.1 million in federal funds for State Operations
- $312,000 in General Fund for State Operations
- $5.5 million in federal funds for Local Assistance

Background: Due to reductions in both federal funds and General Fund support for the Housing Assistance Program the Department of Housing and Community Development (HCD) is transferring the HAP to local housing authorities. HCD has concluded that reduced funding has limited its ability to properly administer the program and found local housing authorities interested in continuing the program and providing services to Californians in need of Section 8 assistance for housing expenses.

This proposal would transfer the administration of 935 housing vouchers to the Stanislaus County Housing Authority, the Butte County Housing Authority, the Shasta County Housing Authority, and the Regional Housing Authority of Sutter and Nevada Counties. This transfer has been approved by the U.S. Department of Housing and Urban Development.

Staff Recommendation: Approve April Finance Letter.

Issues Proposed for Discussion / Vote

8840 CALIFORNIA COMMISSION ON UNIFORM STATE LAWS

Commission on Uniform State Law s: The California Commission on Uniform State Laws presents to the Legislature uniform laws recommended by the National Conference of Commissioners on Uniform State Laws and then promotes passage of these uniform acts.

The Commission consists of one Senator, one Assembly Member, six gubernatorial appointees, the Legislative Counsel, and life members based on service as a member of the Commission.

Issue 1 – Consolidation of California Commission on Uniform State Laws within the Legislative Counsel Bureau

Governor's Budget Request: The Governor's Budget proposes consolidating the Commission on Uniform State Laws within the Legislative Counsel Bureau. This consolidation would result in a savings of $148,000 General Fund.

Background: The California Commission on Uniform State Laws currently is staffed by the Legislative Counsel Bureau and works with the National Conference of Commissioners on Uniform State Laws to ensure that laws, particularly related to intrastate business, are uniform across the country.

Prior to the 2010 Budget, Act the Commission was supported by General Fund contributions. Since then, the commission has been funded through reimbursements provided by the Legislative Counsel Bureau.

Staff Comment: The original submission included the consolidation of the California Law Revision Commission in addition to consolidating the Commission on Uniform State Laws within the Legislative Counsel Bureau. However, there were some legitimate concerns raised regarding the consolidation of the California Law Revision Commission within the Legislative Counsel Bureau. Doing so would conflict with current statute, which states that "Neither the Legislative Counsel or any employee of the bureau shall oppose or urge legislation." Consolidating the Law Revision Commission within the Legislative Counsel Bureau would have been in conflict with one of their primary responsibilities, which is to review state law and determine if there are areas within statute that can be more restructured to allow for a better understanding by the general public. The proposed consolidation of the California Law Revision has since been removed and the only consolidation included in the trailer bill language is the consolidation of the Uniform Commission on State Laws within the Legislative Counsel Bureau. Staff does not have any concern with the newly-proposed trailer bill language.

Staff Recommendation: Adopt trailer bill language to consolidate the California Commission on Uniform State Laws within the Legislative Counsel Bureau.

1700 & 1705 DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING AND THE FAIR EMPLOYMENT AND HOUSING COMMISSION

Department of Fair Employment and Housing: The Department of Fair Employment and Housing (DFEH) 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. The Department's jurisdiction extends to individuals, private or public entities, housing providers, and business establishments within the state.

The Governor's Budget proposes total spending of $21.6 million ($16 million General Fund) for the department in 2012-13, this would reflect a minor increase over spending in the current year. The proposed staffing totals 184 personnel years (PYs), a slight increase over the current year.

Department of Fair Employment and Housing 2012-13 Budget Overview

Fund Source	2010-11	2011-12	2012-13
General Fund	$14.38	$15.57	$15.98
Federal Trust Fund	$5.03	$5.43	$5.58
Total Expenditures	$19.41	$21.01	$21.57
Positions	178.1	183.3	184.0

(***dollars in millions***)

The Fair Employment and Housing Commission (FEHC): The Fair Employment and Housing Commission is a quasi-judicial body responsible for the promotion and enforcement of the state's civil rights laws concerning discrimination in employment, housing, and 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 proposes total spending of $580,000 ($496,000 General Fund) for the Commission in 2012-13, this reflects a significant decrease to current year spending. The proposed staffing totals 2.5 personnel years (PYs), which is also a significant staffing decrease (50 percent).

The Fair Employment and Housing Commission Budget Overview

Fund Source	2010-11	2011-12	2012-13
General Fund	$0.79	$0.98	$0.49
Reimbursements	$0.04	$.17	$0.08
Total Expenditures	$0.83	$1.14	$0.58
Positions	5.0	5.0	2.5

(***dollars in millions***)

Issue 1 – Consolidation of Fair Employ ment and Housing Commission w ithin the Department of Fair Employment and Housing

Governor's Budget Request: The Governor, through trailer bill language, proposes eliminating the Fair Employment and Housing Commission and transferring the Commission's adjudicatory and regulatory functions to the Department of Fair Employment and Housing. This would create a net savings of $391,000 to the General Fund in 2012-13.

The proposed trailer bill would eliminate the Commission on January 1, 2013, and shift its duties to the Department of Fair Employment and Housing. The proposal would shift .7 positions from the Commission to the Department in 2012-13, with that number growing to 1.5 positions in 2013-14, reflecting the consolidation for six months in 2012-13 and for the full year in 2013-14. The net impact would be General Fund savings of $391,000 in 2012-13, and $784,000 in 2013-14, and a reduction of 1.8 positions in 2012-13 and 3.5 positions in 2013-14.

Background: Currently, California has two state entities that can be utilized to minimize discrimination in housing and in the workplace.

The Department of Fair Empl oyment a nd Housin g receives complaints regarding discrimination and issues "right to sue" letters to complainants who wish to take their case to state Superior Court or investigates the complaint itself. After investigation, the Department can dismiss cases or acts as a conciliator, mediator or prosecutor and prosecutes cases before the Fair Employment and Housing Commission or in Superior Court. The Department received approximately 18,000 complaints during 2011.

The proposed trailer bill language would place the Commission's adjudication function within the Department, and the absorbed 1.5 positions would be Administrative Law Judges (ALJs) who would handle adjudicatory hearings. The proposed transfer of functions would require that the adjudication of employment and housing discrimination cases be handled by a *new* and distinct division within the Department of Fair Employment and Housing. This new entity would be called the Hearing and Mediation Division. The Department contends that an analogous system currently exists at the Division of Labor Standards Enforcement, where both adjudicatory and regulatory functions are carried out by one state agency.

According to the Department of Fair Employment and Housing, the department, after adding the 1.5 ALJ positions, would be able to absorb the added workload to conduct hearings and promulgate new regulations under the Fair Employment and Housing Act. DFEH notes that the number of accusations filed with the FEHC represent half of one percent of the complaints filed with the Department. Also, the additional Commission hearings that would be transferred to the Department represent less than one percent of the total Mediation Division workload at the Department.

The Fair Emplo yment and Housi ng Commission is a quasi-judicial administrative agency which enforces California civil rights laws regarding discrimination in employment, housing, and public accommodations; pregnancy disability leave; family and medical leave; and hate violence. The Commission engages in five primary activities: administrative adjudication;

mediations; regulations; legislation; and public information and training. The Commission, which consists of seven members, are appointed by the Governor and with the advice and consent of the Senate.

Staff Com ment: Various studies have shown that the Commission currently makes very few decisions, and, even fewer precedent setting decisions. The Administration has rightfully raised the question on the efficacy of a Commission that performs functions that could be absorbed by another equally qualified state entity.

However, as noted in the Assembly Budget Subcommittee No. 4 hearing, there are legitimate concerns with housing both the adjudicatory and the prosecutorial functions within the same department. The addition of safeguards, such as “firewalling” the Hearing and Mediation Divisions might not suffice in the future if there is a conflict of interest stemming from divided loyalties. Future administrations may take advantage of the proposed construct to their benefit.

While the caseload for the Commission has undeniably decreased, this proposal would remove the original intent of establishing the Commission; having an independent body determine the fate of complaints as an impartial decision maker.

Additionally, the dissolution of the Commission, and its Commissioners, would provide the Senate with less opportunity to conduct much needed oversight through the confirmation process. Staff would like to explore options that ensure the Senate still plays a role in the confirmation process, while also achieving General Fund savings.

Staff Recommendation: Hold Item Open

2240 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Department Overview : The mission of the Department of Housing and Community Development (HCD) is to preserve and expand safe and affordable housing opportunities and promote strong communities for all Californians. The HCD: (1) administers housing finance, economic development and community development programs; (2) develops housing policy and advocates for an adequate housing supply; and (3) develops building codes and regulates manufactured homes and mobile-home parks. The HCD also provides technical and financial assistance to local agencies to support housing development.

Budget Ov erview: The Governor proposes $275.3 million ($7.3 million GF) and 542.1 positions for the department – a decrease of $351.4 million. The precipitous decrease in funding is largely reflected in the agency expending nearly all of the proceeds of the Housing and Emergency Shelter Trust Fund Act of 2006 (Proposition 1C).

Fund Source	2010-11	2011-12	2012-13
General Fund	$8.48	$7.35	$7.37
Federal Trust Fund	$198.34	$189.45	$189.92
Other Funds	$269.62	$429.96	$78.06
Total Expenditures	$476.45	$626.77	$275.35
Personnel Years	522.7	543.5	542.1

(*dollars in millions*)

Issues Proposed for Discussion / Vote

Issue 1 – Housing Element Review

Background: State law requires each city and county to adopt a general plan containing at least seven mandatory elements including housing. Unlike the other general plan elements, the housing element is subject to detailed statutory requirements and mandatory review by a State agency, the California Department of Housing and Community Development. Housing elements have been mandatory portions of local general plans since 1969. This reflects the statutory recognition that housing is a matter of statewide importance and cooperation between government and the private sector is critical to attainment of the State's housing goals.

In 2007, the Legislature enacted SB 375 (Steinberg), Chapter 728, Statues of 2007, which sought to help the state achieve greenhouse gas emission goals outlined in AB 32 (Nunez), Chapter 488, Statutes of 2006, by reducing vehicle emissions. SB 375 requires regional greenhouse gas reduction targets, requires regional agencies to prepare land use plans for the regions that will help achieve the greenhouse gas reduction targets (known as a Sustainable Communities Strategy), and provides incentives for high-density, transit-oriented housing projects.

SB 375 changes the state Housing Element law in important ways – and, for the first time, links regional planning efforts for transportation and housing. Under the bill, all transportation and housing planning processes are put on the same eight-year schedule – that is, the housing plans must be updated once every eight years, which will now align with two 4-year Regional Transportation Plan planning cycles. The single largest sector of greenhouse gas emitters are cars and light trucks. While greenhouse gas emissions can be reduced by creating more fuel efficient vehicles, it is also a necessity to reduce the number of miles traveled to achieve the state’s standards. Specifically, SB 375 integrated and aligned planning for housing, land use, transportation, and greenhouse gas emissions.

This change in timing will have a dramatic impact on HCD. Instead of receiving housing elements on a staggered schedule, SB 375's changes require that 85 percent of the state's 539 cities and counties will be submitting housing elements in calendar years 2013 and 2014. According to HCD, most jurisdictions submit a draft nine months prior to their due date. HCD spends, on average, 120 hours of staff time per element review. Further compounding time requirements spent on each jurisdictional review is the fact that most local governments submit at least four drafts prior to final submission of an element review.

Staff Comment: Currently, there are two personnel years dedicated to element review. Staff estimates have shown that this is far below the number of resources required to properly evaluate the impending element reviews that will be required in the next couple of years. Staff fears that delays in the review process will inhibit much needed development from occurring at a time of economic fragility.

HCD has noted that they are in the process of forming a focus group comprised of key stakeholders and departmental staff to address the upcoming workload requirements. HCD has also noted that there are ways of streamlining the review process to ensure a timely response from the department. While there certainly are efficiencies to the review process that can be made, those efficiencies should not come at the expense of the Legislature's previous efforts to meet the needs of the public.

It is unlikely that efficiencies alone will achieve the needed response time to support local development. Therefore, staff recommends providing HCD with additional staff to support their element review efforts. Staff recommends augmenting the department's budget by $575,000 with disencumbered Prop 1C and 46 bond funds. While this does not represent a long term funding solution, it does provide the department with immediate support to address the pending workload increase that is expected in the next couple of months.

Staff Recommendation: Approve Budget Bill Language increasing Item 2240-001-0648 by $575,000, payable from the following accounts;

- Infill 2240-101-6069 (Prop 1C) $445,000
- Begin (Prop 46) 2240-101-6038 $35,000
- Begin (Prop 1C) 2240-102-6038 $95,000

Identified funding is to provide the department with five additional positions to support the element review process.

Vote:

0510 OFFICE OF PRIVACY PROTECTION

Office of Privacy Protection: The Office of Privacy Protection provides information and assistance to consumers on identity theft and other privacy issues and recommends policies and practices that protect individual privacy rights to business and government. The 2011-12 budget for the office includes $224,000 General Fund and $174,000 Special Fund and 3.3 positions.

Issue 1 – Proposed Elimination of the Office of Privacy Protection

The Governor's Budget proposes to eliminate the Office of Privacy Protection for a savings of $246,000 General Fund and $190,000 Special Fund. The Administration states that many other state, federal, and business resources exist that promote and protect the privacy rights of consumers.

Background: The Office of Privacy Protection is established in statute to "protect the privacy of individuals' personal information in a manner consistent with the California Constitution by identifying consumer problems in the privacy area and facilitating the development of fair information practices…". The Office of Privacy Protection's mission is to be a resource and advocate on privacy issues. In addition to providing information and education for consumers, the Office of Privacy Protection also makes privacy practice recommendations to businesses and other organizations. The Office of Privacy Protection's primary activities are:

- Providing information and assistance to individuals on identity theft and other privacy concerns;
- Educating consumers, businesses, and other organizations on privacy rights and other practices;
- Coordination with law enforcement on identity theft, data breach, and other topics; and
- Providing recommendations to organization of privacy policies and practices that promote and protect the interests of California consumers.

The Administration first proposed eliminating this office in the 2011 May Revision. The subcommittee rejected that proposal.

Staff Comment: The Office of Privacy Protection performs a unique set of tasks in assisting consumers in understanding and addressing identity theft. Furthermore, the Office of Privacy Protection has been an integral component in assisting the Legislature in understanding the challenges facing consumers and law enforcement.

Staff Recommendation: Reject proposed trailer bill language and restore the Office of Privacy Protections funding.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Noreen Evans
Senator Doug La Malfa

Outcomes Thursday, May 10, 2012
9:30 a.m. or Upon Adjournment of Session
Room 112

Consultant: Brady Van Engelen

<u>Item Number and Title</u>

1700	Department of Fair Employment and Housing
1705	Fair Employment and Housing Commission
2240	Department of Housing and Community Development
8840	California Commission on Uniform State Laws
0510	Office of Privacy Protection

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

AGENDA – VOTE ONLY ITEMS

(Please see summary chart on Page 2)

(Please see summary chart on Page 2)

AGENDA – DISCUSSION / VOTE ITEMS

Vote Only Items

	Issue	2012-13 Amount	Fund Source	Staff Recommendation
	Department of Housing and Community Development (2240)			
1	Community Development Block Grant Funding Program	Reduction in Budget Authority		APPROVE
2	Transfer of Housing Assistance Program	Reduction in Budget Authority		APPROVE

Vote: Approved 3-0

8840 CALIFORNIA COMMISSION ON UNIFORM STATE LAWS

Issue 1 – Consolidation of California Commission on Uniform State Laws within the Legislative Counsel Bureau

Governor's Budget Request: The Governor's Budget proposes consolidating the Commission on Uniform State Laws within the Legislative Counsel Bureau. This consolidation would result in a savings of $148,000 General Fund.

Vote: Approved 3-0

1700 & 1705 DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING AND THE FAIR EMPLOYMENT AND HOUSING COMMISSION

Issue 1 – Consolidation of Fair Employ ment and Housing Commission w ithin the Department of Fair Employment and Housing

Governor's Budget Request: The Governor, through trailer bill language, proposes eliminating the Fair Employment and Housing Commission and transferring the Commission's adjudicatory and regulatory functions to the Department of Fair Employment and Housing. This would create a net savings of $391,000 to the General Fund in 2012-13.

The proposed trailer bill would eliminate the Commission on January 1, 2013, and shift its duties to the Department of Fair Employment and Housing. The proposal would shift .7 positions from the Commission to the Department in 2012-13, with that number growing to 1.5 positions in 2013-14, reflecting the consolidation for six months in 2012-13 and for the full year in 2013-14. The net impact would be General Fund savings of $391,000 in 2012-13, and $784,000 in 2013-14, and a reduction of 1.8 positions in 2012-13 and 3.5 positions in 2013-14.

Vote: Item held open

2240 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Issue 1 – Housing Element Review

Staff Recommendation: Approve Budget Bill Language increasing Item 2240-001-0648 by $575,000, payable from the following accounts;

- Infill 2240-101-6069 (Prop 1C) $445,000
- Begin (Prop 46) 2240-101-6038 $35,000
- Begin (Prop 1C) 2240-102-6038 $95,000

Identified funding is to provide the department with five additional positions to support the element review process.

Vote: Staff Recommendation Approved 2-1 Sen. LaMalfa voting no

0510 OFFICE OF PRIVACY PROTECTION

Issue 1 – Proposed Elimination of the Office of Privacy Protection

The Governor's Budget proposes to eliminate the Office of Privacy Protection for a savings of $246,000 General Fund and $190,000 Special Fund. The Administration states that many other state, federal, and business resources exist that promote and protect the privacy rights of consumers.

Staff Recommendation: Reject proposed trailer bill language and restore the Office of Privacy Protections funding.

Vote: Staff Recommendation Approved 2-1 Sen. LaMalfa Voting no

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Noreen Evans
Senator Doug La Malfa

Monday, May 21, 2012
10 a.m.
Room 112
Consultant: Brady Van Engelen

AGENDA: PART 1

<u>Item Number and Title</u>

0690	California Emergency Management Agency
1760	Department of General Services
8840	California Commission on Uniform State Laws
8940	California Military Department
8955	California Department of Veterans Affairs
C.S. 4.30	Lease-Revenue Payment Adjustments

(See Table of Contents on page 1 for a More Specific Listing of Issues)

AGENDA – VOTE ONLY ITEMS

(Please see summary chart on Page 2)

AGENDA – DISCUSSION / VOTE ITEMS

	Issue	2012-13 Amount	Fund Source	Staff Recommendation
	California Emergency Management Agency (0690)			
1	Proposition 1B Transit and Waterborne Grants	Trailer Bill Language		APPROVE
	Department of General Services (1760)			
1	Extend Liquidation Period on Construction Funds	Extension of Liquidation Period		APPROVE
2	Reduce Excess Authority for the Natural Gas Services Program	$75.0 million dollar reduction in spending authority		APPROVE
	California Department of Veterans Affairs (8955)			
1	Enterprise Wide Veterans Home Information System Re-appropriation	Extension of Liquidation Period		APPROVE
2	Retherm Meal Delivery System - Yountville	Extension to re-appropriate funds for one year		APPROVE
3	Yountville Member Services Building Renovation	Re appropriation of 350,000	Federal Trust Fund	APPROVE
4	Central Coast Veterans Cemetery	Re appropriation of $1.074 million	California Central Coast State Veterans Cemetery at Ford Ord Operations Fund	APPROVE
	California Commission on Uniform State Laws (8840)			
1	Net – zero technical adjustment	Conforming technical adjustment		APPROVE
	California Military Department (8950)			
1	Starbase Program	10.0 positions	Federal Trust Fund	APPROVE
2	Employment Assistance for California National Guard Veterans	$350,000 in reimbursement authority for 2012-13	Result of $500,000 in multi-year funds awarded by Assembly	APPROVE
3	Sunburst Youth Challenge	$1.2 million	Federal Trust Fund/Grants	APPROVE
	Lease Revenue Payment Adjustments (C.S. 4.30)			

Issues Proposed for Vote Only – Issue Descriptions

8840 CALIFORNIA EMERGENCY MANAGEMENT AGENCY

Issue 1 – Proposition 1B Transit and Waterborne Grants

Governor's Budget Request: The Governor's May Revise included a request that trailer bill language be added in order to increase accountability in the dispensation of Proposition 1B funds dedicated to security improvements.

Background: Proposition 1B, approved by voters in November 2006, allowed the state to sell $20 billion in general obligation bonds to fund transportation projects to relieve congestion, facilitate goods movement, improve air quality, and enhance the safety and security of the state's transportation system. The proposed trailer language will ensure greater accountability of Proposition 1B expenditures associated with security improvements.

Staff Recommendation: Approve May Revise request.

1760 DEPARTMENT OF GENERAL SERVICES

Issue 1 – Extend Liquidation Period on Construction Funds

Governor's Budget Request: An April Finance Letter seeks to give DGS additional time to complete minor work on three construction projects.

Background: The following describes the three projects and the funding sought:

- $250,000 to complete the LEED certification process for the Caltrans Marysville Office Building Replacement. Funds for this project were first provided from the Public Buildings Construction Code in the Fiscal Year 2003-04, then re-appropriated in Fiscal Year 2005-06, for a new Caltrans District 3 headquarters building in Marysville. DGS states that although construction close-out is nearly complete, LEED certification cannot be finalized by the June 30, 2012 deadline for the liquidation of expenditures. The building is seeking a LEED Silver rating from the United States Green Building Council. DGS is requesting an extension of the availability of $250,000 until June 30, 2013.

- $1,583 for minor construction work related to the Central Plant Renovation in Sacramento. Funds for the project were first provided from the Public Buildings Construction Fund in Fiscal Year 2003-04, then re-appropriated in 2005-06 and 2007-08, to renovate, modernize and expand the Central Plant to meet the current and planned heating and cooling needs of Sacramento-area state office buildings. While the project is nearly complete, DGS states that three minor issues remain that will not be finished by the June 30, 2012 deadline for the liquidation of expenditures. DGS is requesting an extension of the availability of $1,583 until June 30, 2013.

- $4,000 to correct minor deficiencies related to renovation work on Office Building 8 and 9, 714 P St., Sacramento. Funds for the project were first provided from the Public Buildings Construction Fund in Fiscal Year 2002-03, then re-appropriated in 2005-06. Approval to extend the liquidation period through June 30, 2012 was provided in 2010-11. The building renovation was completed in September 2011, but deficiencies in the foundation drain pumping system and the domestic water pumping system have been discovered, and repairs will not be complete by the June 30, 2012 liquidation date. DGS is requesting an extension of the availability of $4,000 until June 30, 2013.

Staff Recommendation: Approve April Finance Letter.

Issue 2 – Reduce Excess Authority for the Natural Gas Services Program

Governor's Budget Request: The Governor's May Revise includes a request to reduce the Natural Gas Services (NGS) Program by $75.0 million in order to re-align the NGS program budget closer to the current operating level.

Background: The Natural Gas Program, which is within the Energy Contract Services division of the Department of General Services, was originally developed to purchase natural gas needed to operate state and other public facilities at a more economical price. The program was started when changing state and federal regulations gave rise to the option for large gas uses, such as the state, to purchase gas directly from the supplier versus purchasing from the local gas utility companies (e.g., Pacific Gas & Electric, Southern California Gas). The program serves as the state interface between public agencies and the gas suppliers, ensuring that the state and other public sector facilities get the best rate available based on economies of scale and in-depth knowledge of the opportunities available from the natural gas market.

Staff Comment: In Fiscal Year 2008-09 an augmentation of $75.0 million was authorized for the purchase of natural gas. Currently, natural gas prices are substantially lower than the previous four fiscal years, allowing for a reduction of $75.0 million leaving a total budget of $287.98 million.

Staff Recommendation: Approve May Revise request.

8955 CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

Issue 1 – Extension of the Liquidation Pe riod for the Enterprise Wid e Veterans Homes Information System

Governor's Budget Request: An April Finance Letter requests re-appropriation of $2.6 million in expenditure authority to complete an information technology project that will track and manage medical, financial, and demographic information for residents of the department's Veterans Homes. The Legislature previously appropriated $6.5 million General Fund for the project, but due to procurement delays, the department expects to have expended $3.7 million by the end of Fiscal Year 2011-12, when the expenditure authority expires. The department is requesting a re-appropriation of $2.6 million for Fiscal Year 2012-13 to finish the project. The project will end up costing $200,000 less than anticipated.

Background: The Enterprise-wide Veterans Homes Information System (Ew-VHIS) will provide the Veterans Homes with a system-wide healthcare and financial information system that should help the department improve its ability to collect revenue through improved billing systems. The project was first approved by the Legislature in the 2010 Budget Act, with expenditure authority expiring on June 30, 2012.

Staff Comment: The project experienced procurement delays due in part to a decision to discontinue the acute level of care at the Yountville Home, which changed the scope of the project. After a lengthy procurement process, a contract was signed on January 3, 2011. The new system includes a clinical and financial system, an inventory system, materials management, a pharmacy management system, a dietary system, and a procurement system. This system is compatible with the state's current budgeting system and will be capable of interfacing with the FI$CAL system. The selected vendor has similar products in use in more than 200 nursing home facilities and in veterans homes in six other states.

The new system will be implemented in all Veterans Homes, including the Fresno and Redding facilities. Originally expected to cost $6.5 million, the department now expects the system to cost $6.3 million, or $200,000 under budget.

Staff Recommendation: Approve April Finance Letter.

Issue 2 – Retherm Meal Delivery System - Yountville

Governor's Budget Re quest: An April Finance Letter requests re-appropriation of $900,643 General Fund to complete a project aimed at replacing an obsolete food heating system at the Veterans Home of California, Yountville. The 2009 Budget Act appropriated the funding for this project but requires all money to be expended by June 30, 2012. Due to delays in procurement, the department is seeking a one-year extension to re-appropriate the unspent funding.

Background: The Yountville home currently uses a system to heat food that has become obsolete. A new industry-standard system allows food to be heated on one side of a tray and should improve food quality at reduced maintenance costs.

Staff Comment: The procurement process has been delayed, in part because it was decided the project should go through the information technology procurement process, which is different from other procurement processes. CalVet is now in the bidding process but is unsure it will complete the project before the end of the fiscal year, thus prompting this request to extend the expenditure authority into Fiscal Year 2012-13.

Staff Recommendation: Approve April Finance Letter.

Issue 3 – Yountville Member Services Building Renovation

Governor's Budget Request: The Governor's May Revise includes a request to reappropriate $350,000 in Federal Trust Fund for the purchase of equipment for the Veterans Home of California – Yountville Member Services Building Renovation project.

Background: The renovation project was agreed to as part of the Budget Act of 2006. Construction on the Member Services Building is complete and the building is partially occupied; however, the ability to finalize the procurement of major pieces of equipment for certain operations remains outstanding. The lengthy state procurement process has required that additional time be needed to ensure that the procurement of the equipment necessary for the building's operation is complete.

The purpose of the project is to correct Critical Infrastructure Deficiencies at the Veterans Home by renovating and recapitalizing the Recreation Building to improve its functionality, correct material deficiencies, comply with ADA requirements, and Fire/Life/Safety code changes, that have accumulated since the building was constructed in 1954. In addition to electrical, data cabling, and plumbing renovations, the project will resolve mandated handicap accessibility issues. The project will also provide for installation of a new heating, ventilating, and cooling system (HVAC), the installation of fire alarm and fire suppression systems, room restructuring based on member/activity needs, and a building management control system.

Staff Recommendation: Adopt May Revise request.

Issue 4 – Central Coast Veterans Cemetery

Governor's Budget Request: The Governor's May Revise includes a request to reappropriate $1.074 million from the California Central Coast State Veterans Cemetery at Fort Ord Operations Fund for the preliminary plans phase of the Construction of the California Central Coast Veterans Cemetery.

Background: The Cemetery will be constructed at the former Fort Ord Army base and will serve the need of veterans in six counties: Alameda, Monterey, San Mateo, Santa Cruz, San Benito, and Santa Clara for a final resting place that honors and respects their service. The United States Department of Veterans Affairs (USDVA), through its National Cemetery Administration State Cemetery Grants program will provide 100% of the funds for construction of the Cemetery. Funds for completion of design of the project will be paid by the Fort Ord Operations Fund.

Staff Comment: Legislation enacted in 2006 (AB 3553) authorized the facility along with the creation of the Endowment Fund to fund the ongoing operation of the Cemetery. The County of Monterey and City of Seaside have designated a land parcel to be sold to fully fund the Endowment Fund and are currently in negotiations with developers for the sale of the parcel. The pre-application for federal assistance to construct has been submitted, approved, and meets current consideration for 100 percent grant funding through the U.S. Department of Veterans Affairs National Cemetery Administration, State Cemetery Grant program.

Staff Recommendation: Adopt May Revise request.

8840 CALIFORNIA COMMISSION ON UNIFORM STATE LAWS

Commission on Uniform State Laws: The California Commission on Uniform State Laws presents to the Legislature uniform laws recommended by the National Conference of Commissioners on Uniform State Laws and then promotes passage of these uniform acts.

The Commission consists of one Senator, one Assembly Member, six gubernatorial appointees, the Legislative Counsel, and life members based on service as a member of the Commission.

Issue 1 – Consolidation of California Commission on Uniform State Laws within the Legislative Counsel Bureau

Governor's Budget Request: The Governor's May Revise includes a request to conform to trailer bill language implementing the action to consolidate the California Commission on Uniform State Laws into the Legislative Counsel Bureau.

Background: Senate Budget Subcommittee No. 4 took previous action, upon request of the Governor, to consolidate the California Commission on Uniform State Laws within the Legislative Counsel Bureau. This technical change would require that Control Section 13.00 be revised to reflect the consolidation. Additionally, the specific budget item related to the California Commission on Uniform State Laws, Item 8840-001-0001, be eliminated.

Staff Recommendation: Adopt May Revise Request.

8940 CALIFORNIA MILITARY DEPARTMENT

Issue 1 – Starbase Program

Governor's Budget Request: The Governor's January Budget requested 10.0 new positions to support the establishment of three new Science and Technology Academies Reinforcing Basic Aviation and Science Exploration (STARBASE) program facilities. Funding is being provided by the Department of Defense to begin program operations in 2012-13 and the program will continue to be funded with federal dollars.

Background: The Governor's 2012-13 Budget request includes 10.0 new positions for the establishment of three new STARBASE academies located at Joint Forces Training Base in Los Alamitos, the Fresno Air National Guard Base and the Defense Language Institute in Monterey. There is no federal requirement for state matching funds and the program will continue to be fully federally funded.

California's existing STARBASE program is located in Sacramento, California and serves more than 3,000 students annually from the nine surrounding school districts. The program targets minority and/or low socio-economic students and utilizes instruction platforms that conform with federal Department of Defense standards. STARBASE participants are provided with hands-on learning opportunities and mathematics plays an integral role in the program.

Staff Recommendation: Approve Budget Request.

Issue 2 – Employment Assistance for California National Guard Veterans

Governor's Budget Request: An April Finance Letter requested an additional $350,000 dollars in reimbursement authority for Fiscal Year 2012-13 in order to accept funds provided by the Assembly to fund an employment assistance program designed to assist returning service members.

Background: In February 2012, The California State Assembly provided the CMD with a $500,000, multiyear, grant to help establish the new National Guard employment pilot program called "Work for Warriors." The program is intended to match up the skills of unemployed and underemployed National Guard members with the hiring needs of employers. The goal of the program is to reduce unemployment and underemployment among California National Guard members by 25 percent within a year and below five percent in the long-run.

Several employers have committed to supporting the Work for Warriors program including the California Chamber of Commerce, Comcast, Granite Construction, Dollar General, Lawrence Berkeley National Laboratory, JP Morgan Chase, Solar City, and the California Conservation Corps.

California is home to the largest and most frequently deployed National Guard force in the country, deploying more than 37,000 times to countries worldwide since September 11, 2001. In many cases, these deployments have resulted in unstable employment and underemployment for serving veterans. It is estimated that the unemployment rate among traditional Guardsmen in California is roughly twenty percent, with an additional fourteen percent of the force only working part-time.

Staff Recommendation: Approve request and adopt budget bill language requiring the Department to provide data on program outcomes.

Issue 3 – Sunburst Youth Challenge Program

Governor's Budget Request: An April Finance Letter request for $900,000 in ongoing Federal Trust Fund authority, $300,000 in reimbursement authority and ten permanent positions to support an expansion of the Youth Challenge Program.

Background: The existing Youth Challenge program at Joint Forces Training Base, Los Alamitos, is funded to serve 170 students per class. However, the academy receives more than 800 applications annually and must turn away more than fifty percent of the eligible candidates due to the lack of available funding. The youth that are turned away from the program have no other viable alternatives to preventing the continuing degradation of their lives.

This expansion is expected to result in $1.2 million in new ongoing costs. The proposal addresses 2012-13 costs with an ongoing $900,000 federal fund increase and a one-time $300,000 grant from the Clark Foundation (a private entity). For 2013-14 and ongoing, the CMD has indicated an ability to absorb the $300,000 cost.

Staff Comment: This proposal does not present a future cost burden to the state. However, after exhausting the $300,000 dollar grant from the Clark Foundation, the Military Department will have to absorb the additional costs required to run the Sunburst Youth Academy.

Staff Recommendation: Approve April Finance Letter.

CONTROL SECTION 4.30 - LEASE REVENUE PAYMENT ADJUSTMENTS

Governor's Budget Request: The Governor's May Revise includes a request to make technical corrections to the amounts budgeted for lease-revenue debt service payments in fiscal years 2011-12 and 2012-13.

Background: The requested change reflects a decrease of $18.43 million ($4.45 million in General Fund for 2012-13, $13.59 million in General Fund and $391,000 in other funds for 2011-12). The decrease to the budgeted debt service amounts are a result of a bond refunding to take advantage of lower interest rates and the identification of surplus funds to offset debt service payments.

Staff Recommendation: Approve May Revise.

Issues Proposed for Discussion / Vote

8840 CALIFORNIA EMERGENCY MANAGEMENT AGENCY

Department Overview : The principal objective of the California Emergency Management Agency (CalEMA) is to reduce vulnerability to hazards and crimes through emergency management and criminal justice to ensure a safe and resilient California. The Cal EMA coordinates emergency activities to save lives and reduce property loss during disasters and to expedite recovery from the effects of disasters. On a day-to-day basis, the Cal EMA provides leadership, assistance, and support to state and local agencies in planning and preparing for the most effective use of federal, state, local, and private sector resources in emergencies. This emergency planning is based upon a system of mutual aid whereby a jurisdiction relies first on its own resources, and then requests assistance from its neighbors. The Cal EMA's plans and programs are coordinated with those of the federal government, other states, and state and local agencies within California.

During an emergency, the Cal EMA 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 Cal EMA is responsible for the development and coordination of a comprehensive state strategy related to all hazards that includes prevention, preparedness, and response and recovery.

Issue 1 – Restore California Specialized Training Institute

Governor's Budget Request: In January, the Governor’s Budget included a proposal to eliminate the California Specialized Training Institute (CSTI). Subsequently, the Governor’s May Revise included a request to withdraw the January request to eliminate the California Specialized Training Institute and restore the CSTI and reduce the General Fund contribution towards the agency by $225,000.

Background: The CSTI coordinates CalEMA’s emergency management training programs. More specifically, CSTI provides training to state, local, federal, private sector, and foreign partners. The curriculum at the facility includes the state’s standardized emergency management system, hazardous material response, and contingency planning amongst a variety of other disaster mitigation related activities.

Approximately 30 percent of its training is provided by state instructors on-site at the CSTI training center in San Luis Obispo, often utilizing the center’s specialty facilities and equipment (including prop tanker railcars, big-rig trucks, a firing range, and a mock courtroom). Most of the courses (about 70 percent) are taught by instructors who travel to trainees’ local areas. According to the administration, funding for CSTI comes from a combination of federal grant funds ($2.1 million), reimbursements from local authorities ($3.8 million), and the state General Fund ($1 million) and supports 26 authorized positions. Local authorities are currently responsible for the costs associated with their employees traveling to the San Luis Obispo center to receive training, including overtime, subsistence, and backfilling necessary positions while trainees are away.

The request to withdraw the January Budget Change Proposal is accompanied by a reduction of $225,000 in General Fund contributions towards the agency. It is the administration's belief that the reduction can be absorbed via operational efficiencies as its functions transition to the Governor's office.

Staff Comment: Minimal savings were expected to be achieved from the proposed relocation, and it was uncertain if the projected savings had accounted for the full cost of relocation that included environmental cleanup.

Staff Recommendation: Approve May Revise request to withdraw January Budget Change Proposal to relocate the California Specialized Training Institute and reduce item 0690-001-0001 by $225,000 as proposed in the May Revise Letter.

Issue 2 – Victim Identification and Notification Everyday Network

Governor's Budget Request: The Governor's May Revise included a request of $1.8 million dollars from the Victim-Witness Assistance Fund to continue the Victim Identification Notification Everyday Network to bridge funding for two years until the California Department of Corrections and Rehabilitation and California State Sherriff's Association identify a long-term funding solution.

Background: The Victim Identification and Notification Everyday Network affords crime victims and other concerned citizens the opportunity to call a toll-free number or log onto a secure web-portal to receive real-time information regarding the custody status of offenders held in jail or prison. In 2010, the California State Sherriff's Association received $1.5 million dollars in ARRA funds to implement the VINE program from May 1, 2010 through March 31, 2012.

Staff Recommendation: Approve May Revise Request.

1760 DEPARTMENT OF GENERAL SERVICES

Department of General Services: The Department of General Services (DGS) is responsible for the management, review control and support of state agencies as assigned by the Governor and specified by statute. The department consists of 6 divisions, 23 operational offices, 4,000 employees and a budget of over a half of a billion dollars. Its diverse functions include e-commerce and telecommunication; acquisition, development, leasing, disposal and management of state properties; architectural approval of local schools and other state buildings; printing services provided by the second largest government printing plant in the U.S.; procurement of supplies needed by other state agencies; and maintenance of the vast fleet of state vehicles.

Issue 1 – Program Reductions

Governor's Budget Re quest: The Governor's May Revise includes a request to schedule a portion of the unallocated reductions that were identified in the Governor's Budget for the Department of General Services. The request has identified a total of $33.39 million and 45.5 positions that can be reduced in the 2012-13 budget.

Background: As noted above, the Governor's January Budget had identified $59.08 million in reductions that would be made to the Department of General Services in order to achieve greater savings and reduce the overall cost of the budget. The reductions remained unallocated until the submission of the May Revise, where the Department of General Services provided a partial solution of the reduction. The Department of General Services has identified $33.39 million dollars in reductions that can be made in the 2012-13 budget. The reductions include the following:

- $15.4 million and 7 positions from the Office of State Publishing. Utilization of increased technology and automation will allow the Office of State Publishing to offset some of the reductions.

- $6.7 million and 28.5 positions in various Real Estate Services Division programs by reprioritizing workload, reducing travel by increasing use of videoconference capabilities, and other operational measures will be utilized to offset these reductions.

- $6.3 million and 3.0 positions in various Building Regulations programs. Reductions will be achieved by greater use of operational efficiencies and reductions in consulting and contracting costs.

- $5 million and 7.0 positions within the administrative support will be achieved by streamlining processes, and enhancing operational efficiencies.

Staff Com ment: The Department of General Services has noted that they plan to achieve the balance of the reduction, which is $25.68 million through future efficiencies.

Staff Recommendation: Approve May Revise request.

Issue 2 – Statewide Consolidation of Underutilized Office Space

Governor's Budget Request: The Governor's May Revise proposal included a request to amend budget bill language in order to expand the use of the Service Revolving Fund, Tenant Improvement Reserve Account.

Background: This request is to amend current budget bill language in order to better utilize office space owned by the state. The provisional language related to this request (Item 1760-001-0666) is amended as follows:

"The Director of Finance is authorized to increase this item for purposes of funding ~~tenant improvement projects to facilitate~~ the backfill of vacant space*, <u>necessary restack studies, and other required building improvements</u>* within Department of General Services (DGS) office buildings *<u>related to the Governor's Office Space Utilization Initiative.</u>* This provision shall only be used to augment expenditure authority for DGS office buildings where a $0.03 tenant improvement surcharge for DGS Individual Rate Buildings or a $0.02 tenant improvement surcharge for DGS Building Rental Account Buildings has been approved by the Director of Finance and is included in the monthly rental rate. Director of Finance approval is contingent upon justification for the proposed tenant improvement projects to be provided by the DGS including an analysis of cost impacts and how the tenant improvements will improve the state's utilization of the facility. Any augmentation made in accordance with this provision shall not result in an increase in any rate charged to other departments for services without the prior written consent of the Director of Finance. Any augmentation made pursuant to this provision may be authorized not sooner than 30 days after notification in writing to the chairpersons of the fiscal committees of each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee."

Staff Comment: Approximately 90,000 square feet of contiguous space is currently vacant and unassigned out of a total of 16 million square feet of office space in more than 50 state-owned office buildings statewide. However, most of this available space is located in 11 buildings. Additionally, approximately 40,500 square feet of contiguous space is currently available for backfill by another state tenant, out of a total of 15.6 million square feet of leased office space in privately owned buildings throughout the state.

Staff Recommendation: Approve May Revise request.

Issue 3 – Office of Administrative Hearings

Governor's Budget Request: Included in the Governor's May Revise is a request to increase the reimbursement authority of the Office of Administrative Hearings by $961,000.

Background: AB 366 (Chapter 654, Statutes of 2011) revised the procedures governing the involuntary administration of antipsychotic medication to state hospital patients. The Office of Administrative Hearings has reached an Interagency Agreement with the Department of Mental Health to facilitate the hearing process for the involuntary medication of individuals incompetent to stand trial.

Currently, the Office of Administrative Hearings lacks the requisite expenditure authority to handle the estimated 1,000 administrative hearings per year that this new law will generate. The provisions of law impacting the Office of Administrative Hearing in AB 366 will take effect on July 1, 2012.

The Office of Administrative Hearings has determined that it will require a Staff Counsel III; an Associate Governmental Program Analyst, and 2 Senior Legal Typists. Additionally, the Office of Administrative Hearings will require an increase to its OE & E expenditure authority to support these positions and to permit the Office of Administrative Hearing to enter into personal service contracts for Pro Tem Administrative Law Judges and counsel for patients.

As the law was enacted, if the defendant originally consented to antipsychotic medication but subsequently withdraws his or her consent, or if involuntary antipsychotic medication was not ordered and the treating psychiatrist determines the medication has become medically necessary and appropriate, the treating physician will certify whether the defendant lacks capacity to consent, an assessment of the current mental status of the defendant and the opinion of the treating psychiatrist that involuntary antipsychotic medication has become medically necessary and appropriate. Within 72 hours of the certification, the law requires a medication review hearing before an Administrative Law Judge (ALJ) to be conducted at the facility where the defendant is receiving treatment. The defendant is entitled to representation by an attorney or patient's rights advocate. If the ALJ determines the defendant meets specific criteria, the antipsychotic medication may be administered to the defendant for 21 days. Any medication beyond 21 days requires a court order.

Staff Recommendation: Approve May Revise request.

Issue 4 – Capital Area Development Authority Property Disposition

Governor's Budget Re quest: The Governor's May Revise included a request that trailer bill language be added to dispose of seven state-owned, Capital Area Development Authority-managed properties with no state programmatic use.

Background: The accompanying trailer bill language specifies seven parcels of state-owned land located within the Capital Area Development Authority that could be dispensed with. The Capital Area Development Authority managed properties are located at:

- 1510 14th Street (.14 acres)
- 1530 N Street and 1412 16th Street (.22 acres)
- 1416 17th Street and 1631 O Street (.15 acres)
- 1609 O Street (.59 acres)
- 1612 14th Street (.07 acres)
- 1616,1622,1626 14th Street and 1325 and 1331 Q Street (.30 acres)

Proceeds of any moneys received from the disposition of any of the parcels listed above would be deposited in either the General Fund or the Deficit Recovery Bond Fund as determined by the Department of Finance.

Staff Recommendation: Approve May Revise request.

8955 CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

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

Issue 1 – County Veteran Service Officers

Background: County Veterans Service Officers (CVSOs), which exist in 54 of the state's 58 counties, are often the main point of contact for California veterans seeking various forms of government assistance. CVSOs assist veterans in completing applications for federal benefits, such as disability and compensation benefits. CVSO's are created and controlled by county boards of supervisors and often receive a majority of their funding from counties, although the California Department of Veterans Affairs (CalVet) has traditionally contributed $2.6 million in state General Fund annually for CVSO's work with veterans seeking various benefits. The Governor's January Budget again proposes a $2.6 million subvention to CVSOs for Fiscal Year 2012-13.

Per Military and Veterans Code 972.1, CalVet has the authority to determine how to distribute the subvention funds to the counties. Most of the funding is distributed based on workloads submitted annually by CVSOs. The current formula allows CVSOs to receive payment for conducting about 50 activities – called workload units - for veterans. All of the activities have equal value in the funding formula, regardless of how long the activity takes or how much in federal benefits the veteran receives based on the CVSO's work. For example, college fee waivers require minimal work by CVSOs, but the state's subvention formula pays the same dollar amount for that work as it does for filing for federal compensation and pension benefits, which is extremely time-consuming.

A key CVSO activity is helping veterans apply for federal disability compensation and pension benefits. These benefits are monthly payments to veterans, and CalVet has made it a top goal to improve the number of California veterans who receive these benefits. This is a goal for an obvious reason: more federal dollars flowing into the state is a clear boost to veterans and the state's economy. One estimate by the U.S. Department of Veterans Administration suggests California veterans may be foregoing as much as $1 billion in benefits they are entitled to receive. Current data show that 15 percent of California veterans receive federal compensation and pension benefits, averaging $1,929 per month per veteran. While the percentage of California veterans receiving these benefits has improved in recent years, the state still lags behind other states with large veteran populations.

CVSOs also play a critical role in alerting veterans to their right to federally-funded health care. Through 2008 budget legislation, the state California Department of Health Care Services (DHCS) was directed to use a federal database, called the Public Assistance Reporting Information System, or PARIS, to identify veterans and their dependents who were enrolled in Medi-Cal and inform the veterans of their right to VA-funded health care. CVSOs were expected to conduct the outreach to veterans. DHCS was required to submit a report on the pilot project by November 2011, but the department has not completed the report.

Staff Com ment: Annual reporting on CVSO performance that is required by Military and Veterans Code 974 shows there is considerable variation among CVSOs in their success in helping veterans access federal benefits. For example, the county that appears to be securing the most federal dollars is Placer County, which has 32,690 veterans, or more than 10 times fewer veterans than Los Angeles County. Testimony indicated that the Placer County CVSO has been filing specific claims for veterans across the state, meaning the federal dollars were not going all to veterans in Placer County. CVSO representatives suggested the annual report on CVSO performance lacked details that would allow the public and Legislature to better understand CVSO activities.

This lack of detail makes it more difficult to compare CVSO performance and help CVSOs and CalVet learn strategies for improving CVSO performance across the state. The Subcommittee may wish to direct CalVet to reformulate its subvention funding formula for CVSOs, to provide a stronger incentive for CVSOs to assist veterans in filing for compensation and pension benefits and other benefits that bring the most federal dollars to the state. In addition, the Subcommittee may wish to amend the statute regarding the annual CVSO performance report to provide greater description as to the types of work activities the CVSO performed.

Staff Recommendation: Adopt placeholder Trailer Bill Language directing the Department of Veterans Affairs to alter the formula it uses to provide subvention funding to County Veterans Service Officers as an incentive to increasing filings for federal compensation and pension benefits and other activities that bring the most federal dollars to the state and amend Military and Veterans Code Section 974 to require the Department of Veterans Affairs to include in its annual report of the activities of County Veterans Services Officers data indicating the types of activities performed by each CVSO.

Issue 2 – Adjustment to Federal Per Diem for Veterans Homes

Governor's Budget Request: The Governor's May Revise includes a request to adjust General Fund expenditures for the Department of Veterans Affairs by $15,000 less than requested in the January Budget projections.

Background: The federal government pays a per diem rate for every resident located within the state's veterans homes. The adjustment is a result of a slight increase in the federal reimbursement rate and a decrease in the overall census of residents within the California Department of Veterans Affairs.

Staff Recommendation: Approve May Revise request.

Issue 3 – Skilled Nursing Facility Activation Slip

Governor's Budget Request: The Governor's May Revise includes a request to reduce the General Fund contribution in Budget Year 2012-13 as a result of the delay of opening the Skilled Nursing Facility at the Greater Los Angeles Ventura County (GLAVC) – West Los Angeles veterans home.

Background: Originally, the GLAVC-West Los Angeles veterans home had a sharing agreement with the U.S. Department of Veterans Affairs West Los Angeles campus to provide food services to the residents at the home, which is located in close proximity to the U.S. Department of Veterans Affairs West Los Angeles Medical Center. Due to continued budget delays at the state level, the U.S. Department of Veterans Affairs chose to cancel their food services sharing agreement with the home. Currently, GLAVC-West Los Angeles has a food service agreement with an outside vendor. However, operation of the Skilled Nursing Facility requires that the food services be certified by the Department of Public Health. The delay in opening the Skilled Nursing Facility results in a staff reduction of 42.0 personnel and a net reduction in $3.0 million General Fund contribution.

Staff Recommendation: Adopt May Revise request.

Issue 4 – Veterans Homes of California

Governor's Budget Request: The Governor's January budget proposed an increase of $33.6 million in 2012-13 for all of the VHCs. The May Revise reduced the General Fund contribution by $3.0 million dollars due to a schedule delay in the opening of the West Lost Angeles Veterans Home. The May Revise proposes a total General Fund Contribution of $30.35 million dollars.

Background: Construction at the VHC-Redding and VHC-Fresno facilities has been completed. The Governor's 2012-13 budget reflected minimal staff at each facility for basic upkeep and maintenance and did not include staff that would support admissions at VHC Redding or VHC Fresno. When opened, both of these homes will provide the following levels of care: Residential Care Facility for the Elderly and Skilled Nursing Care, including Memory Care services within each level of care.

Both facilities were scheduled to open during the current fiscal year, but the openings were delayed in the 2011 Budget Act to provide General Fund savings. The Governor's January Budget proposes delaying the openings for another year. Instead, the Governor's Budget requests "caretaker" staffs for both facilities, with 10 positions in Redding, for a cost of $1.4 million, and 11 positions in Fresno, for a cost of $1.9 million. CalVet estimates this plan would add General Fund costs of $4.8 million for the Redding home and $5.8 million for the Fresno home, for a total of $10.6 million. This opening plan would require hiring 44 PYs in Redding and 56 PYs in Fresno.

Staff Comment: This item has remained open since the March 15th Subcommittee No. 4 hearing on the California Department of Veterans Affairs budget, with the expectation that the Governor's May Revise would include a proposal to, at a minimum, partially open both the Redding and Fresno veterans homes. Unfortunately, the Governor's budget problem has increased substantially since January. The state's budget problem has risen to nearly $16 billion as opposed to the $9 billion projection assumed in January. Therefore, the Governor has had to revise funding for a number of programs that will have a negative impact on education, healthcare, housing, and social services. As noted in the March 15th hearing, the state, in accordance with the Memorandum of Understanding reached with the U.S. Department of Veterans Affairs, is obligated to open the homes when funds become available. The negative revision to nearly every state supported service is a reflection of the lack of availability to fund the homes. Staff recognizes the need to serve an underserved population in both the Central Valley and in Northern California and this issue will need to be addressed in the near future.

Staff Recommendation: Approve as Budgeted.

Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Doug La Malfa
Senator Noreen Evans

Monday, May 21, 2012
10 a.m.
Room 112

Consultant: Mark Ibele

Part 2
State and Local Finance / Business Development / Administration

Item Number and Title **Page**

Proposed Vote-Only Issues:

Proposed Discussion / Vote Issues:

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

9620 Cash Management and Budgetary Loans

Department Overview: This budget item appropriates funds to pay interest costs on General Fund borrowing used to overcome cash flow imbalances during the fiscal year. Because receipts and disbursements occur unevenly throughout the fiscal year, the General Fund borrows in most years, even though each budget is balanced when enacted and funds are repaid within the fiscal year.

Issue Suggested for Vote Only:

May Revision Proposal: The January Governor's Budget includes $39 million for interest costs on budgetary borrowing from the General Fund in 2012-13. The May Revision calls for a decrease in this budget item as a result of paying off fewer budgetary loan amounts. The decrease is $21 million for a total of $18 million. The costs for 2011-12 will also decline, from the January figure of $52 million to $35 million. The two-year savings will be $48 million.

Staff Comment: Staff has no concerns with this proposal.

Staff Recommendation: Approve May Revision loan repayment plan.

Vote:

0950 and 0971 State Treasurer's Office, Boards and Commissions

Department Overview: The Governor's Budget includes stable funding for the State Treasurer and 12 related Boards, Committees, and Authorities. Only three January budget change proposals were submitted for these entities and none include General Fund costs – the requests were approved by the Subcommittee at the March 8 hearing. The Governor submitted two new requests on April 1, and those requests are summarized below. No concerns have been raised with these proposals, and they are recommended for approval as vote only issues.

Issues Suggested for Vote Only:

April Finance Letter Requests: The Governor's Budget includes the following three budget augmentation requests:

1. **Credit Fees.** The Treasurer's Office (STO) requests budget trailer bill language to delete the sunset date for language that places a 3-percent cap on amounts appropriated for fees, costs, and other similar expenses incurred in connection with any credit enhancement or liquidity agreement on bonds payable from the State's General Fund. After the June 30, 2013 sunset, the cap will fall to 2 percent. The cap was temporarily raised to 3 percent in budget legislation adopted in 2009. The Treasurer indicates that market conditions necessitate retention of the 3-percent cap and that allowing this higher-cap ensures the best overall terms possible for State borrowing.

2. **Loan Repayment.** The California Alternative Energy and Advanced Transportation Authority (CAEATFA) requests budget bill language to allow a repayment deferral of a $2.4 million loan made to the CAEATFA's California Alternative Energy Authority fund from the Renewable Resource Trust Fund – the loan would be fully repaid by June 30, 2014, instead of the current due date of June 30, 2013. The loan supported the implementation of SB 71 (Statutes of 2010, Padilla), which established a sales tax exemption for equipment used to manufacture alternative or renewable energy products (such as solar panels, photovoltaic cells or wind turbines).

Staff Comment: At the time this agenda was finalized, no concerns had been raised with these budget requests.

Staff Recommendations: Approve the trailer bill request of the Treasurer and the budget request of CAETFA.

Vote:

8885 Commission on State Mandates

Department Overview: The Commission on State Mandates (COSM) is charged with the duties of examining claims and determining if local agencies and school districts are entitled to reimbursement for increased costs for carrying out activities mandated by the State. The Legislature created the seven-member commission in 1984 as a quasi-judicial body and instructed it to act deliberatively in resolving the complex legal questions associated with determinations of state mandated costs. COSM is made up of the Director of Finance, the State Controller, the State Treasurer, the Director of the Office of Planning and Research, a public member with experience in public finance, and two additional members of local public bodies appointed by the Governor and approved by the Senate.

Budget Overview: This budget item appropriates the funding for staff and operations costs of COSM. (The item also includes appropriations for non-education mandate payments to local governments addressed later in this agenda.) State operations and administrative costs are approximately $1.6 million and the number of personnel years would remain stable, compared to the current year, at 11.0. The budget for COSM as part of the January budget and a subsequent May Revision request are recommended for vote only.

Issues Suggested for Vote Only:

1. **January Budget Proposal.** The Governor's Budget includes a minor budget enhancement for COSM. COSM has requested an augmentation for the 2012-13 fiscal year for the funding of law library updates, other OE&E items, increases in rent, and the purchase of 11 computers. The request is for an increase of $52,000 in the baseline budget and $7,000 one-time for the computer purchase.

2. **May Revision Request.** As part of his May Revision, the Governor has requested the reappropriation of $79,000 to fund unanticipated costs of the commission. The costs are related to the accrued leave payout of a commission staff member who is retiring in 2012.

Staff Comment: At the time this agenda was finalized, no concerns had been raised with these budget requests.

Staff Recommendations: Approve the COSM budget requests.

Vote:

Issues Suggested for Discussion / Vote:

0954 ScholarShare Investment Board

Governor's Scholar ship Program: As part of the Governor's May Revision, the administration proposes trailer bill language (TBL) to revert $63.1 million to the General Fund of moneys previously set aside for the Governor's Scholarship Program. The funds for contracts are allocated to TIAA-CREF for management and disbursement of approximately $85 million in funds, most of which will eventually be reverted to the General Fund. The $85 million represents unused funds from scholarship grants provided to high school students for performance on standardized tests in 2000 through 2002. This proposal will result in $20 million remaining in the reserve to assure funding for participants. A 3 percent discount rate is paid by the state to TIAA-CREF to continue with account administration and to offset the early reversion of funds.

Detail on the Governor's Scholarship Program: The Governor's Scholarship Program was established in 2000 and included two components: a $1,000 scholarship to students who demonstrated high academic achievement on the Standardized Testing and Reporting (STAR) program in the 9th, 10th, or 11th grades; and a $2,500 scholarship to students who demonstrated high academic achievement specifically in math and science on the Advanced Placement (AP) test and other specified exams. Scholarships were awarded without regard to financial need. Due to budget difficulties, the program was repealed in 2003; however the State continued to honor program obligations for tests taken in 2000-2002. A total of about $313 million was provided from the General Fund for the creation of individual scholarship accounts for each recipient with the funds transferred outside the state treasury and managed by a private financial firm. Awardees can receive disbursements for qualified college expenses, and the funds are transferred directly to the college. Recipients have access to disbursement through age 30, after which time their funds revert to the state General Fund.

Issue 1 – Reversion to the General Fund of Excess Funds

Options for General Fund Relief: The majority of awarded funds have been disbursed for qualified college expenses, but about $85 million remains. Based on program activity, it appears that most awardees have either completed college, or entered the workforce without claiming a disbursement of their award. Under current law, the unused portion of the $85 million will revert to the General Fund over the next seven or eight years as recipients turn age 30. Alternatively, as proposed by the administration, statue could be amended to revert the funds sooner for General Fund relief.

Staff Comment: The option of early reversion of the funds is worthy of consideration given the General Fund shortfall for 2012-13. Maintaining a reasonable reserve as proposed under the policy should result in adequate coverage for existing participants.

Staff Recommendation: Approve trailer bill language to revert to the State General Fund $63.1 million Governor's Scholarship Program funds, allow for the payment of a management fee and maintain a prudent balance in the account.

Vote:

1730 Franchise Tax Board

Issue 1 – Measures to Enhance Tax Compliance

May Revi sion Prop osal: The Governor has proposed two policy changes that would result in increased compliance with the state's income tax law and enhance the ability of the tax agency to collect outstanding tax liabilities. The two proposals relate to the ability of earnings withholds where the tax liability has not been paid and the establishment of a penalty for the fraudulent filing of a claim for a tax refund. The issues are described more fully below:

1. **Earnings Withholding.** Under current law, the state is authorized to issue a withholding order for taxes to collect an outstanding state tax liability, including any penalties, accrued interest, and costs in accordance with state law and regulation. Currently, "state tax liability" is defined to mean an amount for which the state has a state tax lien created pursuant to specified provisions. The proposal from the administration would streamline and reduce the costs associated with the earnings withhold process. Under the proposal, the term "state tax liability" would be expanded to include any liability under the Personal Income Tax Law, Corporation Tax Law, or specified franchise and income tax provisions that is due and payable and that remains unpaid. The proposal would save the administrative cost associated with recording a lien. It would also allow the tax agency to collect tax liabilities that are over 10 years old. (Tax debts over 10 years old expire unless renewed by recording a lien.) The change is expected to result in additional General Fund revenues of $11 million in the current year and $27 million in 2012-13.

2. **Fraudulent Refund Claim.** Under existing law, the FTB imposes certain penalties in connection with tax avoidance and partially conforms to federal law in this respect. The administration proposes that state law be changed to additionally conform to federal law and impose a penalty for filing a fraudulent claim for refund. The corresponding federal treatment imposes a penalty if a claim for refund is made for an excessive amount unless there is a reasonable basis for the claim. The penalty is equal to 20 percent of the excessive amount. The new policy is intended to further restrict the potential use of refund requests when the reason for refund is not substantiated. The estimated revenue impact is $1 million in 2011-12 and $3 million in 2012-13.

Staff Comments: The trailer bill proposals from the administration are reasonable efforts to make inroads in the state's existing income tax gap of an estimated $10 billion, while maintaining taxpayer rights. While a tax lien would still be an option for the agency (if for example, wage withholding was not feasible) the proposal would streamline the ability to satisfy established tax liabilities and reduce time and costs. It would also avoid having to place a tax lien on a taxpayer's property. The additional penalty proposed represents conformity with the federal treatment in this area.

Staff Recommendation: Staff recommends approval of the trailer bill language with respect to earnings withholding and fraudulent claims for refund.

Vote:

0509 Governor's Office of Business and Economic Development (GO Biz)

Department Overview : The Governor's Office of Business and Economic Development (GO Biz) is a new entity in State government. It was first established by Executive Order S-05-10 in April 2010, and established in statute effective January 1, 2012, via enactment of AB 29 (Statutes of 2011, J. Perez). The original organization was formed by borrowing positions and programs from other departments and agencies. With AB 29, and enactment of the 2012-13 budget, the entity will for the first time receive a specific stand-alone budget act appropriation. The office is intended to be a high-profile point-of-contact for businesses and the economic development community, and an advocate for California as a place to grow businesses and jobs.

Budget Overvie w: The Governor proposes total expenditures of $4.1 million General Fund and 28 positions for GO Biz, effective with the 2012-13 budget. Prior to the 2012-13 proposal, the organization borrowed positions from other departments, so the staffing and costs have not been transparent in the budget. With AB 29 and this budget request, the Administration is indicating that the current baseline staffing has been 22.3 positions and $3.3 million ($418,000 General Fund). For 2012-13, funding would increase by $761,000 and 5.7 positions. Additionally, while many of the borrowed positions were from special fund departments, the Administration indicates as a permanent stand-alone entity, it would be inappropriate to use special funds and that all funding should be General Fund – which results in a net new General Fund expenditure of $3.6 million (but a net special fund reduction of $3.3 million).

Reorganization Plan: The Governor's reorganization plan would further augment the staff and functions of GO Biz by incorporating existing business promotion offices within the BT&H Agencies. Specifically, total funding of $12.2 million ($2.5 million General Fund) and 40 positions would move from the BT&H Agency to Go Biz. The offices are: the Film Commission, the Infrastructure and Economic Development Bank, the Small Business Loan Guarantee Program, the Tourism Commission, and the Welcome Center Program. The Administration now indicates this reorganization plan will be submitted to the Little Hoover Commission prior to Legislative Action – so no reorganization budget change is proposed for GO Biz at this time, and not expected until the 2013-14 budget.

Issue 1 – Establishment of the Stand-Alone GO Biz Budget

Governor's Budget Request: The Governor's January Budget proposes a budget appropriation of $4.1 million General Fund and 28 positions for the first year of stand-alone budgeting of GO Biz. The expense is partially offset by reducing the budgets of various departments that had in the past loaned funding and positions for GO Biz - $2.9 million special funds and $418,000 General Fund and 23.3 positions are eliminated from these departments' budgets.

Prior Support for GO Biz: In a February 2010 report, the Little Hoover Commission concluded that the State should reestablish a more prominent role of leadership in the area of business development to fill the void created by the 2003 elimination of the Technology, Trade, and Commerce Agency. Governor Schwarzenegger soon thereafter shifted existing State staff to create such an entity by executive order. The Legislature approved the statutory framework for this organization with large bipartisan majorities by passing AB 29 in 2011.

Structure of GO Biz: The Administration budgets GO Biz in three components:

- **CalBIS:** $1.7 million and 11.4 positions would be for the California Business Investment Services Program (CalBIS), which would serve employers, corporate executives, business owners, and site location consultants who are considering California for business investment and expansion.

- **Office of Small Business Advocate:** $459,000 and 2.8 positions would be for the Office of Small Business Advocate, which would serve small employers with advocacy and technical assistance.

- **GO Biz:** $1.9 million and 12.4 positions for the remaining functions of communications and policy, international trade and export promotion, and administration.

Most GO Biz staff would be located in Sacramento, but the organizational plan calls for two employees in the San Francisco Bay Area, two employees in Los Angeles, and one employee in the Inland Empire.

Appropriate Staffing and Funding for GO Biz: Given prior support for the GO Biz concept, review of the budget request may focus more on the size of the office and staffing level, instead of the value of having such an office. When AB 29 was adopted, the bill analysis anticipated a budget in the range of $2.3 million, but $4.1 million is requested by the Governor. Additionally, the budget request sets position funding at the highest step for each pay range instead of the more common mid-point level. The Administration indicated that it would reexamine the funding for positions in the budget request, and should be able to explain their position at the hearing.

Staff Comment: This issue was held open at the March 8 hearing at the request of the Department of Finance so the funding level could be reviewed for consistency with other funding requests. The Administration has since completed this review and indicates the funding level could be reduced by $299,000.

Staff Recommendation: Approve the budget request, but reduce the funding level by $299,000 to conform to a recalculation of costs performed in coordination with the Department of Finance and resulting in a final funding level would be $3.8 million.

Vote:

Redevelopment

Background: As a result of legislation adopted last year, (AB 26 X1) and subsequent decisions by the State Supreme Court, redevelopment agencies (RDAs) were dissolved as of February 1, 2012. Between when the Governor proposed the elimination of RDAs as part of his 2011-12 Governor's Budget, RDAs engaged in activities including the transfer of assets. Former RDAs maintained substantial resources and assets that may have been improperly conveyed to cities or other entities. In addition, some payments have been included in lists of “enforceable obligations,” and payable from property taxes, when they should not have been. The purpose of the RDA legislation was to redirect property taxes to local governments and convey assets in a manner to maximize the value for purposes of schools, counties, cities and special districts. The Administration has proposed trailer bill language that attempts to address the asset transfers that have occurred counter to law and allow corrections for unqualified enforceable obligations. In addition, the language clarifies some aspects of the original RDA legislation.

Property Taxes an d Assets: In his January budget, the Governor assumed that approximately $2.1 billion of additional property taxes (formerly tax increment flowing to RDAs) would be available for K-12 education. For the May Revision, the estimate of the amount over the two-year period has been lowered to about $1.8 billion. This is due to enforceable obligations paid for out of property taxes coming in higher than expected. In addition, in the May Revision, the Governor proposes to sweep existing unencumbered cash and cash equivalent assets from former RDAs held in the Capital Projects Fund, the Debt Service Fund, the Low-Mod Housing Fund, and other funds. This results in an additional $1.4 billion in 2012-13 (and an additional $600 million in 2013-14) for education. The Low-Mod Housing Funds constitute about a quarter of the total cash assets.

Issue 1 – Trailer Bill Language Governing Redevelopment Wind-Down

Proposed Language: The draft trailer bill proposes language that provides a framework for successor agencies to transfer cash assets not obligated or reserved for other purposes to cities, counties, special districts and local schools, consistent with the state Constitution. As part of this, the language addresses remedies for inappropriate transfers of assets and unqualified obligations paid from property taxes, clarifies parts of the original RDA legislation, and corrects inconsistencies and ambiguities.

- **Remedies for Inappropriate Actions.** For General Fund purposes, the most important aspects of the proposed language allows county auditor-controllers, Department of Finance and the State Controller to require the return of funds improperly spent or transferred to a public entity. If the funds are not returned in a timely fashion, they can be recovered through an offset of sales tax and use taxes or property taxes. In addition, the language allows payments on improperly claimed enforceable obligations to be recovered from future property tax allocations.

- **Clarifications of Law .** The proposed language also makes clarifications of certain aspects of current law and adds additional detail for purposes of clarity. Among the most important of these are: clarification regarding the issuance of refinancing bonds and the maintenance of reserves, definition of enforceable obligations to exclude vague plans or commitments, definition of housing assets that would be transferred to the entity that assumes housing activities, treatment of pass-through payments to local governments, constitution and actions of oversight boards, and assets identified for public use.

- **Corrections and Clean-Up.** The original RDA legislation was extremely complex and detailed. As a result, there were certain areas where additional language is required to rectify inconsistencies or inaccuracies. The most important of these areas relate to the provision of payment schedules for enforceable obligations, definition of administrative costs, definition of property taxes, actions of successor agencies, and the timing of certain deposits.

Staff Comments: The state has been informed by various local governments regarding inappropriate and unauthorized transfer of assets by successor agencies. In addition, the Controller, in its on-going audits of RDA funds and assets has also uncovered instances of asset transfers and the use of funds that are not allowed under the law. With respect to enforceable obligations, the Department of Finance has continued to reject claims that it has determined are not truly legal obligations that should be paid from property taxes. The trailer bill language would provide the tools to begin to address these situations. There may be additional issues that the subcommittee would like addressed in the proposed trailer bill, including outstanding local economic development policy issues. In addition, the subcommittee may request that Department of Finance provide key descriptions to the provisions in the trailer bill.

Staff Recommendation: Hold open for additional discussions.

Vote:

8885 Commission on State Mandates

Background: The Governor's Budget proposes the continued funding of property tax and public safety mandates, discussed in Issue 1 below. In addition, the Governor's Budget achieves substantial savings by the continued suspension (and in some cases, repeal) of various mandates that are not associated with law enforcement or property taxes as discussed in Issue 2 below. Of the $4.2 billion in expenditure reductions identified as budget balancing solutions, cost reductions related to mandates account for $828 million. This $828 million is comprised of the following:

- **Suspended Mandates.** 56 mandates are slated for suspension, resulting in a savings in the budget year of $375.7 million.

- **Expired Mandates.** 10 expired mandates will not be funded in the budget plan, resulting in a savings of $295.1 million.

- **Deferred Payment Mandates.** 2 mandates noted above are still in place but the payment has been deferred, resulting in a savings of $57.9 million.

- **Pre-2004 Mandates.** Payment for mandate costs incurred prior to 2004 is deferred resulting in a budget year savings of $99.5 million. These costs must eventually be paid by 2021.

Once a required activity or expanded activity imposed on local governments has been determined to be a mandate, the State still has some options regarding the actual funding of this mandate.

- **Fund the Mandate.** If the State chooses to fund the mandate, it is required to pay for all unpaid bills submitted since 2003 up through the most current year of cost approval.

- **Suspend the Mandate.** Suspension of a mandate through the budget process keeps the mandate on the books, but absolves the local government of responsibility of providing the service and relieves the State of paying the cost of the service during the suspension.

Proposition 1A, adopted by the voters in 2004, requires the Legislature to either fund mandates and appropriate funds for payment, or suspend or repeal the mandate. Two mandates were exempt from this requirement, allowing them to remain in place even without funding. These two mandates are Peace Officer Procedural Bill of Rights (POBAR) and Local Government Employee Relations mandate. These mandates have continued and reimbursable costs due local governments are continuing to accrue. Proposition 1A also requires the Legislature to pay all pre-2004 mandate claims over a period of time. The State owes local agencies in excess of $1 billion in unpaid mandate costs. A portion of these costs is scheduled to be paid by

2021, while other costs have no payment schedule in place.

In the recent decades, the Legislature has suspended numerous mandates as a form of budget relief. In the current year, some 60 mandates have been suspended. A large number of the suspensions occurred during the current period of budget difficulties, although some suspensions go back to 1990. Some have been suspended immediately after COSM reported their costs to the Legislature.

Issue 1 – Funded Mandates

Governor's Budget Request: The Governor's proposal includes the continued funding of certain mandates related to public safety and property taxes. The policy reason behind the decision to fund the public safety mandates is apparent given the focus of these requirements. For property tax-related mandates, the policy motivation for funding these is based on the statewide interest in property tax compliance, given the interrelationship of education funding from local property taxes and General Fund obligation to backfill education costs for purposes of the Prop 98 guarantee. In addition to the General Fund cost presented in the table below, the request includes an additional $2.5 million from special funds.

Proposed Funded Mandates

Mandate	2012-13 GF Cost ($000s)
Threats Against Peace Officers	26
Custody of Minors: Child Abduction and Recovery	12,999
Medi-Cal Beneficiary Death Notices	10
Sexually Violent Predators	20,963
Domestic Violence Treatment Services	1,944
Domestic Violence Arrest Policies	7,608
Unitary Countywide Tax Rates	267
Allocation of Property Tax Revenues	727
Rape Victim Counseling	349
Health Benefits for Survivors of Peace Officers and Firefighters	1,695
Crime Victims' Domestic Violence Incident Reports	167
Peace Officer Personnel Records: Unfounded Complaints & Discovery	657
Domestic Violence Arrests and Victims Assistance	1,374
Total Funded Costs	**48,786**

Staff Comment: At the time this agenda was finalized, no concerns had been raised with these budget requests. The mandates selected for funding continue the policy adopted in previous years by the Legislature.

Staff Recommendations: Approve the budget request for continued funding of selected local government mandates.

Vote:

Issue 2 – Suspended Mandates

Governor's Budget Request: The mandates slated for suspension under the Governor's proposal are listed in the table below. Many of these have been suspended for several years, usually as part of the budget process. In general, the suspension of many of the mandates has not been subject to a thorough policy review that would result in an evaluation of the costs and benefits of the mandate, but rather have been suspended solely for the purpose of budgetary savings. The policy decision to establish the mandate in the first place has not generally been a substantial component of the discussion.

In addition to the suspension, the Administration has proposed trailer bill language (TBL) that certain mandates be repealed. These are denoted by an asterisk in the list below. The budget year savings associated with suspension and repeal are identical. With suspension, the mandate remains in statute but is simply not funded. As a result, in order to determine whether a mandate is actually in effect, confirmation of both the statutory reference and the budget bill is required. With repeal, the statute requirement is repealed by Legislative action.

Suspended Mandates

Mandate	2012-13 GF Savings ($000s)
Adult Felony Restitution*	0
AIDS/Search Warrant*	1,596
Airport Land Use Commission/Plans*	1,595
Animal Adoption*	46,296
Conservatorship: Developmentally Disabled Adults*	349
Coroners' Costs	222
Crime Victims' Domestic Violence Incident Reports II*	1,959
Deaf Teletype Equipment*	0
Developmentally Disabled Attorneys' Services	1,198
DNA Database & Amendments to Postmortem Examinations: Unidentified Bodies	310
Domestic Violence Information*	0
Elder Abuse, Law Enforcement Training*	0
Extended Commitment, Youth Authority*	0
False Reports of Police Misconduct*	10
Filipino Employee Surveys*	0
Firearm Hearings for Discharged Inpatients*	157
Grand Jury Proceedings*	0
Handicapped Voter Access Information	0
Inmate AIDS Testing*	0
Judiciary Proceedings*	274
Law Enforcement Sexual Harassment Training*	0

Mandate	2012-13 GF Savings ($000s)
Local Coastal Plans*	0
Mandate Reimbursement Process	6,419
Mandate Reimbursement Process II (includes suspension of consolidation of the two)	0
Mentally Disordered Offenders: Treatment as a Condition of Parole	4,910
Mentally Disordered Offenders: Extended Commitments Proceedings	7,232
Mentally Disordered Sex Offenders: Recommitments	340
Mentally Retarded Defendants Representation*	36
Missing Persons Report*	0
Not Guilty by Reason of Insanity*	5,214
Open Meetings Act/Brown Act Reform	96,090
Pacific Beach Safety: Water Quality and Closures	344
Perinatal Services*	2,338
Personal Safety Alarm Devices*	0
Photographic Record of Evidence*	291
Pocket Masks*	0
Post-Conviction: DNA Court Proceedings	410
Postmortem Examinations: Unidentified Bodies and Human Remains	1,180
Prisoner Parental Rights*	0
Senior Citizens Property Tax Postponement	481
Sex Crime Confidentiality	0
Sex Offenders: Disclosure by Law Enforcement Officers	0
SIDS Autopsies*	0
SIDS Contacts by Local Health Officers*	0
SIDS Training for Firefighters*	0
Stolen Vehicle Notification*	1,117
Very High Fire Hazard Severity Zones	0
Victims' Statements-Minors*	0
Fifteen-Day Close of Voter Registration	0
Absentee Ballots	50,924
Permanent Absent Voters	2,686
Absentee Ballots-Tabulation by Precinct	68
Brendon Maguire Act	0
Voter Registration Procedures	2,452
In-Home Supportive Services II	449
Crime Statistics Reports for the DOJ and CSR for the DOJ Amended*	138,722
Total Suspended Savings	**375,669**

The 56 mandates proposed to be suspended for 2012-13 generally include the same mandates that were suspended last year. In addition, some mandates suspended during the current year have expired. The suspension of these mandates would result in budget savings of almost $376 million.

Actions in Other S ubcommittees: The Senate Budget Committee adopted a process to allow examination of mandates selected for repeal by its appropriate subcommittees. The following actions have been taken in those subcommittees:

- **Suspensions.** At its May 10 hearing, Senate Budget Sub 5 approved the suspension of all public safety mandates noted in the table above, except for one mandate. (This remaining mandate relates to Crime Statistics Reports, and will also be addressed in Subcommittee 5.)

- **Reject Repeal TBL.** At its April 11 hearing, Senate Budget Sub 2 rejected the TBL to repeal the mandates for Airport Land Use Commission/Plans, Animal Adoption, Local Coastal Plans and SIDS Training for Firefighters. At its May 10 hearing Senate Budget Sub 2 took action to reject TBL to repeal the mandates for Conservatorship for Developmentally Disabled Adults, SIDS Autopsies, and SIDS Contacts by Local Health Officers.

- **Adopt Repeal TBL.** At its May 8 hearing, Senate Budget Sub 5 took action to approve TBL to repeal the mandate for Filipino Employee Surveys. At its March 8 hearing, Senate Budget Sub 3 took action to approve TBL to repeal the Perinatal Services.

Assembly Actions: Assembly Budget Subcommittee 4 considered mandates at its March 13 hearing. It took action to suspend those mandates noted in the table above, but reject the repeal TBL in its entirety. (It also approved funding the mandates noted in Issue 1, above.)

Staff Comment: At the time this agenda was finalized, no concerns had been raised with the continued suspension of these mandates. The mandates selected have been suspended in previous years. Regarding the TBL to repeal, a careful review should be conducted. Some of the mandates were considered as part of the budget subcommittee process and actions taken. To the extent that this did not occur, these proposals could be referred to policy committee that considers and addresses the particular subject matter.

Staff Recommendations: Suspend mandates proposed for suspension as noted above that have not already been suspended by other Senate Budget Subcommittees. Reject TBL to repeal selected mandates, except for those two mandates noted above where repeal TBL was specifically approved in subcommittee.

<u>Vote:</u>

9210 Local Government Financing

Department Overview: The 9210 budget item includes several programs that make State subventions to local governments. The payments include $2.1 billion General Fund for constitutionally-required repayment of 2009-10 "Prop 1A" borrowing from local governments; a small subvention related to former Redevelopment Agencies (RDAs) to help retire a portion of outstanding debt that was backed by the personal property tax – about $500,000, and a new subvention of $4.4 million General Fund proposed this year for Mono and Amador counties.

Budget Overview: The proposed budget for the 9210 item is $2.1 billion General Fund. Year-over-year comparisons show a major increase in expenditures as Prop 1A borrowing was $91 million in 2011-12 and will be $2.1 billion in 2012-13. Prop 1A debt will fully be repaid in 2012-13, so there is no ongoing cost. Additionally, some public safety grants were included in this item in prior years, but that funding was shifted with the 2011 Public Safety Realignment legislation and is now funded with the new local revenues instead of State grants.

Issue 1 – Reimbursements to Amador County

Governor's Request: In the January Budget, the Governor proposed a new General Fund subvention of $4.4 million to backfill Mono and Amador counties due to unique circumstances that reduced property tax directed to those county governments and cities within those counties in 2010-11. In an April 1 Finance Letter, the Governor rescinded the funding for Mono County indicating that updated data suggested the problem did not exist in that county for 2010-11. The Governor maintains the funding request of $1.5 million for Amador County. The revenue loss is understood to also have occurred in 2011-12 and will continue into 2012-13 and likely beyond, but the Administration indicates it is undetermined at this time whether its proposal is one-time or ongoing.

Background and Detail: Legislation enacted early in the Schwarzenegger Administration shifted local property tax from schools to cities and counties to accommodate two State fiscal initiatives. Schools were then backfilled with State funds. Overall, the fiscal changes resulted in a large net revenue gain for cities and counties as the replacement revenue streams have grown faster than the relinquished revenue streams. However, for Amador County, unique circumstances reportedly reversed this outcome in 2010-11 and it is possible this outcome could occur for a few additional counties in the future.

- **Financing Economic Recovery Bonds (ERBs).** In the 2004 primary election, voters approved Proposition 58, which allowed the State to sell ERBs to pay its accumulated budget deficit. The local sales tax for cities and counties was reduced by one-quarter cent and the State sales tax was increased by one-quarter cent to create a dedicated funding source to repay the ERBs. Property tax was redirected from schools to cities and counties, and the State backfilled schools via the Proposition 98 funding guarantee. This financing mechanism is sometimes called the “triple flip,” and was anticipated to hold local governments harmless. When the ERBs are repaid in 2016-17 (or earlier), the local sales tax rate is restored.

- **Backfilling for the V ehicle License Fee (VLF) Tax Cut** . Also in 2004, the Legislature enacted the “VLF Swap” to provide a more reliable funding mechanism to backfill cities and counties for the local revenue cut by the State when the VLF tax on motor vehicles was reduced from 2.0 percent of a vehicle’s value to 0.65 percent of a vehicle’s value. Here again, the state redirected property tax from schools to cities and counties and backfilled schools with State funds.

- **Problem for Amado r**: The funding mechanism stopped fully working for Amador County (and initially Mono County) reportedly in 2010-11 due to all the schools in those counties becoming “basic aid” schools. Basic aid schools receive sufficient local property tax to fully fund the per-student amounts required by the Proposition 98 guarantee and therefore the State’s funding is minimal. Due to this “basic aid” situation, current law would not backfill schools for any property tax shifted to cities and counties and county auditors have reportedly reduced or discontinued the “AB 8” shift of property tax from schools to those cities and counties. The estimated loss for the two counties in 2010-11 is $4.4 million. Conversely, in a non-“Test 1” Proposition 98 year, the State would realize a savings from not having to backfill schools – but 2012-13 appears to be a Test 1 year.

Issues to Consider: The financing shifts and educational financing provisions are complex, and perhaps not entirely relevant to making a determination on this budget request. The Subcommittee may instead want to focus on some broader ideas and issues:

- **Revenue growth uncertainty.** The funding shifts did include uncertainty and risk, as the relative growth of various revenue streams over many years was unknown. On a statewide basis, data suggests most counties – perhaps as many as 56 of 58 counties - have received a net benefit from the shifts. Since 2010-11, reportedly Amador has not seen net benefits. Individual county estimates of benefits or costs are not currently available, but Amador County has estimated the isolated effect of the property tax shift at $1.5 million.

- **No backfill guaranteed in the original legislatio n, but the Amador outcome w as not anticipated.** The enacting legislation did not include provisions for the State to backfill locals with new subventions if the baseline funding mechanism proved to be insufficient to maintain city and county funds. At the time of the legislation, stakeholders were likely aware of the risk of variable levels of growth for different revenue streams, but may not have anticipated this outcome of all schools within the county becoming “basic aid.” Since this outcome may not have been foreseen by the State or local governments at the time of bill enactment, does the State have a responsibility to backfill for this revenue loss?

- **Budget challenges in most cities and counties.** Since many cities and counties are continuing to experience budget shortfalls, should the Legislature consider the fiscal condition of the two counties relative to other counties as a factor in the determination. For example, has the decline in revenue for these counties since 2007-08 exceeded the statewide average?

- **Timing of the Subvention.** If the Legislature determines a subvention is appropriate, should the Legislature appropriate for revenue loss through 2012-13 (maybe funding at a level of $13.2 million), or conversely decide to fund, but defer reimbursement to later in the fiscal year.

Question:

LAO: Is there any potential for other counties to fall into a position similar to Amador’s? What might be the potential costs to the state?

Staff Comment: The Subcommittee heard this issue on March 8, when the Administration was requesting $4.4 million for Amador and Mono counties. The issue was left open. The Administration has reduced the request in an April 1 Finance Letter and is currently requesting only $1.5 million for Amador County, indicating that Mono County did not lose funds in 2010-11.

Staff Recommendation: Given the state’s fiscal condition and the ongoing program reductions in other areas, staff recommends that the funding for this not be fulfilled in the budget year. Staff also recommends that LAO be directed to develop criteria whereby funding for such situations might be determined in the future.

Vote:

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Doug La Malfa
Senator Noreen Evans

Monday, May 21, 2012
10 a.m.
Room 112

Consultant: Mark Ibele

Part 2
State and Local Finance / Business Development / Administration

Item Number and Title **Page**

Proposed Vote-Only Issues:

Proposed Discussion / Vote Issues:

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Noreen Evans
Senator Doug La Malfa

Thursday, May 24, 2012
10 a.m.
Room 3191
Consultants: Brady Van Engelen / Mark Ibele

Items Proposed for Discussion and Vote

<u>Item Number and Department</u>

0502	California Technology Agency
0840	State Controller's Office
0860	Board of Equalization
0890	Secretary of State
1110	State Consumer Services Agency
1700	Department of Fair Employment and Housing
2240	Department of Housing and Community Development
8880	FI$CAL
8885	Commission on State Mandates
8940	California Military Department
9210	Local Government Financing

(See Table of Contents on page 1 for a More Specific Listing of Issues)

AGENDA – DISCUSSION / VOTE ITEMS

Issues Proposed for Discussion / Vote

8880 FINANCIAL INFORMATION SYSTEM FOR CALIFORNIA (FI$CAL)

Background: The Financial Information System for California (FI$Cal), is an Enterprise Resource Planning (ERP) information technology (IT) project intended to replace, consolidate, and upgrade multiple legacy financial systems with a single system that would encompass the areas of: budgeting; accounting; procurement; cash management; and financial management. The development of FI$Cal resides with four "Partner Agencies," the Department of Finance, the State Treasurer's Office, the State Controller's Office, and the Department of General Services. The FI$Cal system has been in development for several years, but is now at a critical juncture because the Administration selected a contractor or "systems integrator" on March 1, 2012, to implement the system. To move forward with the contract and expenditures, legislative approval is required. Included in this budget item is funding for the contract staff and State staff that manage the project, and funding for the selected systems integrator, which is Accenture. Accenture would implement this ERP IT system using Oracle's PeopleSoft software.

Previous Subcommittee Hearing : On March 8, 2012, the Subcommittee heard the FI$Cal project, including the Governor's budget request and March Finance Letter that requested $89 million ($53.5 million General Fund) for the budget year. The state has expended $94.8 million on the FI$Cal project through the current fiscal year. At that hearing, the Subcommittee heard that the overall project costs through 2017-18 would be $616.8 million over the life of the program allocated as follows:

- $295.7 million for project staff (both State staff and contract staff);
- $213.1 million for the Accenture contract; and
- $19 million for state data center services.

The Subcommittee also learned that upon completion of the project, ongoing annual operations and maintenance costs would be $32.5 million (all funds).

The Subcommittee also discussed the overall rationale for the project, including the estimated annual savings and/or cost avoidance of $415 million from the following:

- Process cost savings of $173.2 million from efficiency and productivity improvements.

- Technology cost savings of $28 million from retiring outdated legacy systems that are expensive and difficult to maintain.

- Procurement effectiveness savings of $213.4 million from better procurement management and consolidated purchasing.

- Risk reduction and system failure costs are not quantified, but FI$Cal is expected to replace dozens of systems that are at a high risk of failure because of their age and outdated software platforms.

- Business performance improvement is also not quantified, but FI$Cal is expected to yield additional savings due to the enhanced financial management tools available in the new system, including the ability to implement performance budgeting-type systems.

The Subcommittee discussed the Administration's decision to fund the FI$Cal project using a pay-as-you-go methodology as opposed to vendor or bond financing alternatives. The financing alternatives would have resulted in increased interest charges and the Administration also indicated that only about half of the project costs would have been financeable. The Subcommittee also discussed a staff alternative for funding the FI$Cal project that would eliminate GF expenditures in the budget year and would instead accelerate expenditures from various special funds and nongovernmental cost funds to cover the investments required for the project in 2012-13.

May Revision: The Governor has submitted a May Revision letter on the FI$Cal system that adopts a version of the staff alternative presented to the Subcommittee on March 8, 2012. This letter continues to request the same $89 million requested in the March Finance Letter, but instead eliminates all General Fund for the project by shifting $53.5 million to various special and nongovernmental cost funds. The May Revision also proposes to make two technical adjustments as follows:

- Eliminates two pieces of provisional language that would have allowed the Department of Finance to adjust total expenditures for the project to adjust to an approved Special Project Report (SPR). The SPR has already been submitted and approved by the California Technology Agency and these provisions are no longer needed.

- Requests additional provisional language that would allow the Department of Finance to increase GF expenditures on the project only if special and nongovernmental cost funds are not sufficient to cover the costs of the project. Any adjustments authorized pursuant to this section would require notification of the Joint Legislative Budget Committee prior to authorization.

- Additional Reviews Received. Since the March 8, 2012 hearing, two reviews of the FI$Cal project have been received by the Legislature, including a review by the Bureau of State Audits (BSA) and the Legislative Analyst's Office (LAO).

- The BSA independently monitored the entire FI$Cal procurement, a unique requirement placed on the project by the Legislature because of the size and risk of the project. In this review, dated April 26, 2012, the BSA made the following recommendations:

- Require FI$Cal to track the costs of department subject matter expert staff time spent on FI$Cal. The final project does not have dedicated funding for each department (beyond the core partner agencies). Non-partner agencies will be expected to absorb time related to providing subject matter expertise on business processes from within existing resources.

- Require FI$Cal to report annually on the benefits achieved and any changes in total projected benefits. The FI$Cal project engaged a firm to do the initial benchmarking study that projected the expected project benefits reported earlier in this agenda, but the project has indicated that annual tracking will require additional studies based on actual implementation.

- Require FI$Cal to report annually on the cost and reasons for any significant customizations to the software that were not anticipated at the onset of FI$Cal implementation.

The LAO also released a comprehensive study on the FI$Cal project dated April 30, 2012. In this report the LAO recommended that the Legislature approve the project going forward. The LAO described funding strategies that would minimize GF expenditures in the early years of implementing the project. The Administration has adopted a variation of this strategy in the May Revision. While the LAO indicated that the FI$Cal staff had made significant progress in mitigating risk and better defining cost of the project, they did make two recommendations that they thought would further strengthen the project. Specifically they recommended that project staff do the following:

- Develop a more comprehensive and detailed change management plan; and

- Take efforts to ensure that departments have adequate staffing to assist with a smooth transition to FI$Cal.

Staff Com ments: Staff finds that there has been considerable discussion about the FI$Cal project starting in 2005. Since that time, the project costs have been reduced significantly and project staff has made considerable efforts to minimize risk to the project. Even so, ERP projects are considerable undertakings that sometimes require significant change in business processes. Both the BSA and LAO have raised some concerns about the staff time that will be required at the non-partner agencies required to implement this system. The change management planning, training, and leadership in the non-partner agencies will be crucial to ensure smooth and successful implementation of the system. Furthermore, there are literally thousands of deliverables and details that will go into implementing the FI$Cal system. Given this, there are bound to be changes and adjustments that are required to keep the project on track. Therefore, staff finds that ongoing Legislative oversight of this project, as it is implemented over the next six years, is critical. The oversight will be especially critical related to change management at the non-partner agencies as they get ready to implement the new system.

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

- Approve March Finance Letter.

- Approve May Revision Letter that eliminates GF requested in the March Finance Letter including requested changes to Provisional Language.

- Approve placeholder trailer bill language that requires ongoing annual reporting to the Legislature on the status of the project, including modifications made to the project plan and change management activities.

0890 CALIFORNIA SECRETARY OF STATE

Issue 1 – CAL-ACCESS and CALVOTER Server Stability

Governor's Budget Request : The Governor's May Revise includes a request to augment $375,000 ($206,000 General Fund) in Fiscal Year 2012-13 and $95,000 ($66,000 General Fund) in 2013-14 to purchase servers, software licenses, and to contract for services to address failing operating systems related to the Cal-Access and CalVoter databases. The Secretary of State's Office (SOS) states that this request is required to comply with the California Political Reform Act of 1974 and the Help America Vote Act of 2002.

Background: Created in 1999, Cal-Access is a database maintained by the Secretary of State's Office used to make lobbying and campaign finance information available to the public. CalVoter is a database containing voter registration information. Both systems are run on servers that are more than 12 years old, and are the only two of nine Secretary of State Information technology programs that have not been updated since 2010.

The Cal-Access system went down on November 30, 2011, and again on December 9, 2011. The system was restored on December 30, 2011 through a process called virtualization, which runs the system by creating a new system on new servers and software to emulate the old system.

CalVoter cannot be operated at full capacity while the Cal-Access system is operated in its current state. To address this issue, SOS proposes to separate the two systems onto different servers. SOS proposes to spend $130,000 on new servers, $130,000 on a virtualization software license, and $40,000 on contract services in 2012-13. Another $20,000 in contract services for 2013-14 is proposed.

SOS believes this proposal will allow it to operate these systems through the 2012 election cycle. In addition, SOS proposes to temporarily relocate the operating systems in January 2013, at a cost of $75,000 in 2012-13 and another $75,000 in 2013-14.

Staff Comment: It is worth noting that the solutions provided are temporary. The Secretary of State will need to identify a more permanent solution to resolve both Cal-Access and CalVoter. CalVoter will transition to VoteCal in the near future, but a permanent solution for Cal-Access will still need to be identified.

Staff Recommendation: Approve May Revise request.

Issue 2 – Statement of Interests Backlog

Governor's Budget Request: The Governor's May Revise includes a request for a two-year limited augmentation of $947,000 in Reimbursement authority to more quickly fill positions and allow for paid overtime to reduce the backlog regarding processing annual Statement of Information documents filed by businesses.

Background: Corporations and limited liability companies are required to file an annual Statement of Interest with the Secretary of State's Business Programs Division that contains information regarding the business and its key personnel. Filed Statements of Information are used by businesses to open checking accounts and enter into contracts.

Businesses pay a fee when submitting this form, and they can pay a higher fee for expedited service. The Secretary of State has noted that it has 100,000 Statements of Information waiting to be opened and processed, many of which have a check for $20 to $25 attached. Current processing procedures are completed manually.

The Secretary of State has proposed to use funding from expedited fees, which are deposited in the office's Reimbursements account, to quickly fill positions and pay overtime to decrease the current 117-day turnaround time for processing Statements of Interest. This will not increase fees and is only a request to expend existing funds.

Staff Comment: At its April 26th hearing, the Senate Budget and Fiscal Review Subcommittee No. 4 heard a similar issue related to the request of $1.1 million in Business Fees Funds to accelerate the processes related to Business Formation Documents. This is a similar request related to the Secretary of State's processes for addressing Statements of Interest, which are filed annually.

California Business Connect project, which will automate the filing and retrieval of business documents and create a centralized database for all business records is expected to be completed by June 2016.

Staff Recommendation: Approve the May Revise request

0890 STATE CONTROLLER'S OFFICE

Department Overview: The State Controller is the Chief Fiscal Officer of California. The State Controller's Office (SCO) is a separately established constitutional office. The Controller chairs or serves on 81 state boards and commissions, and is charged with duties ranging from participating in the oversight of the administration of the nation's two largest public pension funds, to protecting the coastline, and helping to build hospitals. The Controller provides fiscal control for, and independent oversight of, more than $100 billion in receipts and disbursements of public funds. In addition, the Controller offers fiscal guidance to local governments, and performs audit functions to uncover fraud and abuse of taxpayer dollars. The SCO's primary objectives are to:

- Account for and control disbursement of state funds.
- Determine legality and accuracy of claims against the State.
- Issue warrants in payment of the State's bills.
- Administer the Uniform State Payroll System.
- Audit and process personnel and payroll transactions for state civil service, exempt employees, and state university and college system employees.
- Audit state and local government programs.
- Inform the public of the State's financial condition.
- Administer the Unclaimed Property Law.
- Inform the public of financial transactions of city, county, and district governments.

Issue 1 – Fraudulent Claims Detection and Prevention Program

Governor's Budget Request: The Governor's 2012-13 Budget includes a request for 17.9 permanent positions and $2.28 million in 2012-13 and ongoing from the Unclaimed Property Fund to establish a unit within the Unclaimed Property Program designed to detect and prevent fraudulent unclaimed property from being paid.

Background: Under current law, the State Controller's Office is responsible for safeguarding unclaimed property until it is returned to the lawful owner. The Unclaimed Property Division (UPD) of the State Controller's Office reunites owners with their lost or abandoned property when the owner files a paper claim following a search for property on the State Controller's website or after calling the Unclaimed Property Division call center to request a claim form. A claim may be filed by either the owner or the heir of the owner as reported by the holder.

Staff Com ment: This item was originally heard in Senate Budget and Fiscal Review Subcommittee No. 4 on April 26th. At that time staff had addressed concerns about approving this request as an ongoing appropriation. The request will be scaled down to a pilot project with

Supplemental Reporting Language asking for updates on the progress of the Unclaimed Property Program.

Staff Recommendation: Approve as a two-year limited term pilot with Supplemental Reporting Language to report on progress.

Issue 2 – Integrated Data Management System Cost Increase

Governor's Budget Request: The Governor's May Revise included a request for $201,000 ($47,000 General Fund, $97,000 reimbursements and $57,000 Special Fund) for 2011-12 and $902,000 ($207,000 General Fund, $437,000 reimbursement and $258,000 Special Funds) in 2012-13 to fund increased Office of Technology Data Center costs to support Computer Associate Integrated Data Management System (IDMS)Technology services. This request reflects a minor reduction in costs to support the Integrated Data Management System.

Background: The State Controller's Office has requested the additional support to maintain an existing information system for three departments (State Controller's Office, California Highway Patrol, and California State Teachers Retirement System) while these departments complete their own information technology improvements. The Office of Technology will no longer offer IDMS as a shared service as of March 31, 2012. The service will be offered as a dedicated service to the three agencies continuing to use this system. As part of the State Controller's Office ongoing technology improvements, the IDMS capabilities will be transitioned in the future.

Staff Comment: This item was held open at the Senate Budget and Fiscal Review Subcommittee No. 4 an April 26th with the understanding that there would be a slight decrease in the costs associated with the support of the Integrated Data Management System.

Staff Recommendation: Approve May Revise request.

Issue 3 – Increased Audit Workload

Governor's Budget Request: The Governor's 2012-13 Budget includes a request for $2.09 million ($1.42 permanent and $673,000 one-year limited-term) in reimbursement authority to support 12.6 existing positions and 7.4 new positions (1.1 permanent positions and 6.3 one-year limited term) beginning in 2012-13.

April 1 Finance Letter: In addition to the original positions requested to support the audit workload, the State Controller's Office has requested an additional $1.75 million ($856,000 one-year limited-term and $899,000 five year limited-term) in reimbursement authority to support 8.0 existing positions and 7.4 new positions (8.0 one-year limited-term and 7.4 five-year limited-term) beginning in 2012-13. Included within this request was the request for support of 8.0 positions and $856,000 in reimbursements in 2012-13 to perform federally-mandated audits of the Disproportionate Share Hospital program, administered by the Department of Health Care Services.

Background: Both proposals would either maintain or, in some cases, increase the presence of auditing the following programs:

- **Women, Infants and Children (WIC)** – Vendors participating in the program administered by the California Department of Public Health (CPDH). The January Budget request was for 12.6 positions with $1.3 million in reimbursements in order for CPDH (which contracts with the State Controller's Office) to maintain the increased auditing requirements of the US Department of Agriculture (USDA) which runs the WIC program. The April 1 Finance Letter requested an additional $899,000 and 7.4 positions for five years for federally mandated audits of the WIC program to ensure that the state is in compliance with the requirement that five percent of the vendors be audited annually. The April 1 Finance letter also included a request for $23,000 in one-time costs for minor equipment (laptops, mobile printers).

- **California Department of Public Health (CDPH)** – CDPH financial statements, single audits of the Safe Drinking Water Revolving Fund, and the CDPH's federally funded Public Water System Supervision grant. This request is to continue the funding for 1.1 positions and $92,000 in reimbursements to continue to permanently maintain this position. The auditing presence will continue to be required in order for the state to receive the federal grant funding of $75 million annually for the program.

- **Disproportionate Share Hospital Program (DSH)** – Federally run program established to assist hospitals that serve a large number of Medicaid (Medi-Cal) and low-income patients. Through the DSH Program, the State pays a qualifying hospital a DSH payment that is in addition to the standard Medicaid payment. The State then submits a reimbursement claim to the federal government.

- **California Department of Transportation (Caltrans)** – It is anticipated that there will be additional ARRA construction costs incurred through 2012-13, which would require an auditing presence in order to comply with federal standards. This request is for the continuance of 6.3 positions and $673,000 in reimbursement authority to perform audits of the projects funded through ARRA.

Staff Comment: Members expressed concern with the originating fund source of many of the programs that the State Controller's Office is requesting to support the audit workload. The fund source for each of the items is listed below:

- **WIC**

  The originating fund source for the administration of the WIC program is federal funds. The administrative funding is separate from funding for participant benefits. The federal government requires the audits to identify and/or deter fraud, waste, and abuse by vendors participating in the WIC program.

- **Disproportionate Share Hospital (DSH) Program**

  The originating fund source for the administration of the DSH program is a mix of 50 percent federal funds and 50 percent state general fund. These funds are separate from the federal DSH Allotment provided to hospitals. The federal DSH Allotment to qualifying hospitals is contingent on the state providing an annual independent certified audit of the DSH program.

- **California Department of Public Health (CDPH) – Safe Drinking Water Revolving Fund (SDWRF)**

  The originating fund source for these audits is SDWRF accounts, which are 80 percent federally funded with a 20 percent state match. The state match has, in both prior and current years, come from Proposition funds. In future years it will come from Revenue Bonds. The amount allocated to "recipients" (i.e., the local water districts) is not reduced by the cost of the audits. The funding for the audit comes out of a separate administrative portion of the grant and loan awards, included to cover all CDPH administrative costs. These audits are required by the grants.

- **California Department of Public Health (CDPH) – Public Water System Supervision (PWSS)**

  The originating fund source for these audits is the federal PWSS grant. The federal PWSS grant helps pay for a portion of the CDPH's administrative cost of running the Safe Drinking Water Program. CDPH contracts with the SCO to fulfill their federal contract requirement.

- **Caltrans ARRA**

  The originating fund source for these audits is the State Highway Account State Transportation Fund. The audits do reduce the amount available in the fund. However, they fulfill an audit requirement to ensure ARRA funds are expended correctly and in compliance with federal requirements.

Staff Recommendation: Approve request included in Governor's 2012-13 Budget, approve request submitted on April 1.

Issue 4 – Airport Facility Fee Audits

Governor's Budget Request: The Governor's Budget proposes trailer bill language (TBL) that would eliminate the requirement that the Controller's Office independently review and report to the Legislature regarding the results of audits required to be conducted by airports with respect to the collection of fees to fund consolidated rental car and other transportation facilities.

Background: Under SB 1192 (Oropeza), Chapter 642, Statutes of 2010, the Legislature expanded the definition of customer facility charge to include a fee to be collected for the purpose of financing common-use transportation facilities and thus allowed the collection of an alternative fee, if necessary, for funding purposes. The bill also requires that airports that collect the fee to report certain information to the Legislature and complete a specified independent audit at particular intervals. The Controllers' Office is to independently examine the audits and substantiate the necessity for the customer facility charge. The Controller is to report the finding to the Legislature and expenses of the review are paid by the airports.

The authority to collect the customer facility fee began in 1999 with special approval for such collection granted to international airports at San Jose, San Francisco and San Diego. The Legislature expanded this to other public airports in 2001 and 2007. Under the program, each airport is required to complete an independent audit to ensure the aggregate amount of fee revenue does not exceed the reasonable costs paid by the airport to finance the design and construction of consolidated car rental facilities and common-use transportation systems. In

2010, the Legislature required that SCO review the audits and independently examine and substantiate the necessity of the customer facility fee. Thus, the audits will ensure that the fee (not to exceed $10 per contract) charged to airport car renters is not excessive.

One two-year, limited-term position was funded, resulting in $140,000 in reimbursement authority for 2010-11 and $134,000 for 2011-12 to conduct mandated independent reviews of the audits. The limited-term position expires at the end of this fiscal year. The SCO proposed to continue the funding in order to fulfill the independent review required by statute. The Administration has proposed TBL to eliminate the review requirement.

To date, the SCO has conducted an independent review of three independent CPA audits of the charges. The reviews reviewed undercharges and overcharges. For the Burbank-Glendale-Pasadena Airport Authority Audit, the review revealed that the Authority could have charged $4.4 million more than it actually did. Two other reviews—San Jose International Airport and Fresno-Yosemite International Airport—reveal overcharges of $19.5 million and $7.0 million, respectively. The overcharges were the result of unrecognized income and overstated costs.

Staff Comment: In 2011, Fresno, Burbank, and San Jose, went through the audit process as prescribed in SB 1192 (Oropeza). As noted, the bill required an outside audit on the rental car facility financing plan to be conducted by an independent auditor, and, that audit would in turn be audited by the State Controller's Office. As described in SB 1192 (Oropeza), an audit from the State Controller's Office was a necessary component of an airport's request to impose a Customer Facility Charge, a new fee authorized in the legislation.

However, there have been concerns with the review process conducted by the State Controller's Office. The California Airports Council has noted that, historically, the state has not had any oversight over the airport finance process. Understandably, the State Controller's Office, which typically has had oversight of remitters of state funds or beneficiaries of state funds, lacked the background and understanding of the process prior to the implementation of SB 1192. This additional ramp-up time led to a lengthier audit and review process, which, in some cases, hindered the ability of the airport to go the bond market to finance construction.

A point has been raised that this audit uncovered the fact that some airports were overcharging the approved Customer Facility Charge, while others were undercharging the appropriate rate. According to the California Airports Council regarding the instance of undercharging, the airport contract with the rental car companies requires them to cover any debt service shortfall, thus keeping the fee lower for rental car companies. The overcharge stemmed from the airport utilizing the fee to defease the bonds sooner, therefore eliminating the fee entirely for rental car customers sooner and saving airport financing costs.

Staff Recommendation: Adopt proposed trailer bill language.

Issue 5 – 21st Century Project

Governor's Budget Request: The Governor's May Revise included a request for 152.0 one year limited-term positions and $79.69 million ($45.31 million General Fund, $1.0 million in reimbursement authority, and $33.38 in Special Fund) to fund the 21st Century Project in 2012-13. This reflects a reduction of 29.0 positions, $1.67 million in funding ($1.56 General Fund). The May Revise also includes a request to amend Control Section 25.25 (21st Century Project) by decreasing the amount by $109,000 in 2012-13 for one year.

Background: This request reflects a continuation of 111.0 positions that have received prior approval. The May Revise reflects a reduction of 29.0 total positions. The majority of the reduction will occur in the requested level of Organization Change Management positions. A brief description of each of the requested positions is listed below:

- Project Management – The Project Management Office is composed of teams with the objective of implementation. The office's day-to-day activities include administrative support with budgets, funding and contracts, and ensuring reporting and compliance requirements are met. A quality assurance team performs its duties using methodologies designed to measure the accuracy and success of the project implementation. Advisors with expertise in large-scale Information Technology are accessible for guidance when needed.

- Business Operations - The Business Operations team monitors Project functional deadlines, milestones, work products, and deliverables. Staff manages and performs day-to-day operations for time, payroll, benefits, and configuration functions. The team also performs gap analysis and leads business processes reengineering activities including interface coordination and control agency reporting.

- Technology Operations – The Technology Operations team support's technology design, development, and the implementation of the MyCalPAYS system. Technical staff is also responsible for leading Data Conversion, Reporting, Development, Infrastructure, and Security activities.

- Organizational Change Management – The Organizational Change Management team is responsible for the execution and planning of deployment, training, workforce transition, internal and external communications, mobilization and alignment, and stakeholder management.

Staff Comment: There clearly is a need to transition from a transaction based system to an enterprise database system that better supports the business needs of the state. Unfortunately, the state's solution, the 21st Century Project, has been subject to a series of setbacks that have prolonged implementation. Upon termination with the original vendor (BearingPoint), the State Controller's Office has awarded a new contract to SAP that was approved in February 2010. This project is currently subject to approximately a twelve month delay from the approved Special Project Report 4.

In 2005, the Legislature approved the project with an estimated total cost of $130 million. Currently, total project costs, as noted in SPR 5, total $370 million dollars. Budget Year 2012-13 will remain the high-water mark in spending to support the 21st Century Project. It is expected that there will be significantly less resources required in 2013-14 to support the 21st Century Project.

Staff Recommendation: Approve May Revise request.

Issue 6 – My CalPERS

Governor's Budget Request: The Governor's May Revision included a request of $1.5 million in 2012-13 and 15 two-year limited-term positions for workload associated with the temporary data incompatibility between the SCO and PERS computer systems.

Background: When CalPERS implemented its MyCalPERs system in 2009, the new system recorded tens of thousands of "fallout records" errors that needed to be reviewed manually. A "fallout record" occurs when the data received from the Controller does not match the data in the CalPERS computer records. These "fallout errors" are expected to continue until the Controller implements the 21st Century Project. CalPERS also reports that it is working on automation fixes in the hopes to reduce the number of these errors.

The May Revision requests $1.5 million and 15 two-year limited-term positions to address these fallout records. The Controller's office says that it reassigned staff from other SCO areas to cover this workload, but it has started to accrue backlogs in these other areas as a result of this redirection and thus believes dedicated resources should be identified to address this problem. The May Revision proposal includes budget bill language to allow the Department of Finance to reduce the staffing levels if this workload diminishes.

Staff Comment: Staff is under the impression that a temporary solution has been provided to prevent future fallouts from occurring. However, there is still a large amount of data that needs to be reviewed to address the fallouts that occurred prior to the automation fix. A smaller amount of resources should be adequate to address the records that have not matched properly. Staff recommends funding this proposal at half of the level requested in May Revise.

Staff Recommendation: Approve funding and position authority for 7 positions on a two-year limited-term basis.

0502 CALIFORNIA TECHNOLOGY AGENCY

Issue 1 – Elimination of the 9-1-1 Advisory Board

Background: The Governor's 2012-13 Budget includes a request via trailer bill language to eliminate the 9-1-1 Advisory Board. The State 9-1-1 Advisory Board is responsible for providing the Telecommunications Office with the proper policies, practices; and procedures for the California 9-1-1 Emergency Communications Office. The Governor's 2012-13 Budget has stated that the policies and procedures considered by the Board will be performed by the State's administrative process.

Staff Comment: The Board is the only publically assessable venue to present and deliberate issues related to the 911 system. This proposal has limited savings, but could have possible impact on public safety.

Staff Recommendation: Reject proposed Trailer Bill Language.

Issue 2 – Contract Oversight

Governor's Budget Request: The Governor's May Revise includes a request for an increase in expenditure authority for 2012-13 of $670,000 ($218,000 General Fund) and 5.0 positions. The Administration has submitted Trailer Bill Language accompanying this request in order to ensure that there is a requirement that the Technology Agency approve oversight contracts by state agencies.

Background: The California Technology Agency (CTA) contends that providing these services by state staff will enable CTA to develop and apply uniform criteria on high risk projects in order to reduce project risk and the potential for cost increases. Additionally, this will reduce reliance on contractors to provide oversight of technology projects, which will also result in savings to state information technology projects.

Staff Comment: Savings achieved in information technology projects will be captured through Control Section 4.05 adjustments in 2012-13, and departmental budgets will be adjusted in future years.

Staff Recommendation: Approve request and adopt placeholder Trailer Bill Language.

2310 OFFICE OF REAL ESTATE APPRAISERS

Issue 1 – Extension of Repayment Date

Governor's Budget Request: The Governor's May Revision includes a request for a one-year extension to repay a loan from the Real Estate Appraisers Fund to the General Fund.

Background: The 2008 Budget Act authorized an $11.6 million loan from the Real Estate Appraisers Fund to the GF. The Administration requests that repayment of the loan be extended until Fiscal Year 2013-14. According to the January budget, the fund has a $2.4 million projected balance for 2012-13 after $5.1 million in projected expenditures.

Staff Recommendation: Adopt the proposed Budget Bill Language.

0820/1700/2240 DEPARTMENT OF JUSTICE/DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING AND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Issue 1 – National Mortgage Settlement Proceeds

Governor's Budget Request: The Governor's May Revise includes a request via trailer bill language that identifies where a portion of the $410.6 million in discretionary funds will be spent in Budget Year 2012-13. According to the proposed trailer bill, for 2011-12 and 2012-13, $94.2 million of the settlement will be utilized to offset General Fund contributions that support public protection, consumer fraud enforcement and litigation, and housing related programs. Specifically, the funds will be utilized for the following programs in 2012-13:

- $41.1 million paid as a civil penalty into the Unfair Competition Law Fund to offset the costs of the various Department of Justice Programs.

- $44.9 million to support the Department of Justice's Public Rights and Law Enforcement programs relating to public protection and consumer fraud enforcement and litigation.

- $8.2 million for the Department of Fair Employment and Housing. This will offset a portion of the General Fund contribution made to the Department; the contribution from this settlement reflects the housing related portion of the Department's workload.

- $198 million will be set aside to offset General Fund costs for housing bond debt service for those programs funded with Proposition 46 and Proposition 1C housing bonds that assist homeowners.

The remaining funds ($118.4 million) will be set aside for use in the 2013-14 budget for similar purposes.

Background: On February 9, 2012, the federal government and 49 states reached a settlement with a number of national banks with respect to certain practices implemented by these banks regarding mortgage servicing and home foreclosures, the agreement was signed off by a federal judge on April 6th. The settlement provides for relief for borrowers in the form of modifications, mortgage loan servicing reforms, increased compliance monitoring and enforcement. In joining the national servicing settlement agreement the state was able to reach an agreement that could amount to $18 billion in support for homeowners in the state. According to the Department of Justice, the settlement will be structured as follows:

- $12 billion will be dedicated to reduce the principal balance on loans by offering either affordable modifications or short sales to approximately 250,000 California homeowners.
- $430 million payment in penalties, costs, and fees.
- $849 million to help refinance the loans of approximately 28,000 California homeowners with interest rates above 5.25 percent who are current on their mortgage payments but underwater on their loans.
- $279 million will be dedicated to provide payments to approximately 140,000 homeowners foreclosed upon during the worst period of servicing misconduct.
- $1.1 billion will be distributed to California communities to repair blight and devastation left by waves of foreclosures in hard-hit areas.
- $3.5 billion to forgive unpaid debts to banks for about 32,100 homeowners who have lost their homes to foreclosure.

LAO Findi ngs: It is the LAO's belief the administration's proposal to use the settlement proceeds to provide budgetary savings makes sense given the state's fiscal situation. However, some of the expenditures that the administration proposes to offset with the settlement proceeds may fall outside the intent of the settlement agreement to the extent that they do not directly relate to consumer fraud, borrower relief, services for homeowners, or other specified uses. For example, the administration proposes to fully supplant General Fund support for DOJ's Division of Law Enforcement, which conducts investigations into organized crime, gangs, and drug trafficking. This may expose the state to legal challenges.

However, while the administration takes a cautious approach by limiting the expenditure of settlement funds to homeowner programs as prescribed by the agreement, we believe the Legislature is not legally restricted from appropriating these funds for other purposes. The settlement provides damages that were awarded directly to the state and that are not being held in trust for particular individuals. Therefore, the terms of the settlement agreement do not limit the Legislature's appropriation authority. Consequently, we believe the full amount of the state's settlement is available for appropriation in the current and budget years to cover costs not contemplated by the settlement agreement.

LAO Recommendation: Modify the Governor's proposal to use the full $411 million settlement to offset General Fund costs in the current and budget years, rather than reserving $118 million to offset costs in 2013-14.

Staff Com ment: According to the actual settlement terms the state does seem to have the capacity to use the funds as specified. However, it is important that the settlement be viewed strictly through the terms agreed to by the state and not through the prism of what agreements were reached with other states.

"The payment to the California Attorney General's Office shall be used as follows: a) Ten percent of the payment shall be paid as a civil penalty and deposited in the Unfair Competition Law Fund; b) The remainder shall be paid and deposited into a Special Deposit Fund created for the following purposes: for the administration of the terms of this Consent Judgment; monitoring compliance with the terms of this Consent Judgment and enforcing the terms of this Consent Judgment; assisting in the implementation of the relief programs and servicing standards as described in this Consent Judgment; supporting the Attorney General's continuing investigation into misconduct in the origination, servicing, and securitization of residential mortgage loans; to fund consumer fraud education, investigation, enforcement operations, litigation, public protection and/or local consumer aid; to provide borrower relief; to fund grant programs to assist housing counselors or other legal aid agencies that represent homeowners, former homeowners, or renters in housing-related matters; to fund other matters, including grant programs, for the benefit of California homeowners affected by the mortgage/foreclosure crisis; or to engage and pay for third parties to develop or administer any of the programs or efforts described above."

Staff Recommendation: Leave this item open.

1110 STATE CONSUMER SERVICES AGENCY

Issue 1 – Implementation of Bus iness and Professions Code Se ction 35 Supplemental Reporting Language

Background: According to AB 2783, Statutes of 2010, Chapter 214, the Legislature determined that the California Military Department shall be consulted before the adopting of rules and regulations that provide for the licensure and regulation of certain businesses, occupations, and professions by specified boards within the Department of Consumer Affairs created under the Business and Professions Code. Specifically, the section states:

"It is the policy of this state that, consistent with the provision of high-quality services, persons with skills, knowledge, and experience obtained in the armed services of the United States should be permitted to apply this learning and contribute to the employment needs of the state at the maximum level of responsibility and skill for which they are qualified. To this end, rules and regulations of boards provided for in this code shall provide for methods of evaluating education, training, and experience obtained in the armed services, if applicable to the requirements of the business, occupation, or profession regulated. These rules and regulations shall also specify how this education, training, and experience may be used to meet the licensure requirements for the particular business, occupation, or profession regulated. Each board shall consult with the Department of Veterans Affairs and the Military Department before adopting these rules and regulations. Each board shall perform the duties required by this section within existing budgetary resources of the agency within which the board operates."

Staff Comment: To date, it seems that a limited amount of consultation has occurred. The Assembly has taken action to include Supplemental Reporting Language asking that:

"*The Department of Consumer Affairs shall prepare a report describing its implementation of Business and Professions Code Section 35. No later than October 1, 2012, the department shall report to the Subcommittee the following:*

1. *A list of the boards that have statutes, rules, regulations or agreements allowing military experience to be used to meet professional licensure requirements and a description of the statutes, rules, regulations, or agreements.*

2. *A list of the boards that do not have statutes, rules, regulations or agreements allowing military experience to be used to meet professional licensure requirements with an explanation from the boards on why they do not have statutes, rules, regulations or agreements.*

3. *If the board has decided not to accept military experience, an explanation from the board about why they do not accept military experience.*

4. *A description of the department's actions to direct the boards to implement this code section, including any memoranda to boards or other evidence of the department's actions.*

5. *A description of how the department has interacted with the Department of Veterans Affairs and the Military Department regarding this issue."*

Staff would recommend that the Senate Budget and Fiscal Review Subcommittee No. 4 adopt a similar recommendation to include the Supplemental Reporting Language mentioned above.

Staff Recommendation: Adopt Supplemental Reporting Language referenced above.

8940 CALIFORNIA MILITARY DEPARTMENT

Issue 1 – State Active Duty Compensation

Background: The Senate Budget and Fiscal Review Subcommittee heard the Governor's 2012-13 budget request to add $1.147 million ($495,000 GF) to support state active duty personnel cost increases that stem from increases approved by Congress on March 15th. The Assembly heard the item shortly thereafter, and, included Budget Bill Language asking the Military Department to review all existing State Active Duty positions to determine which could be converted to State Civil Service upon becoming vacant to the Legislature no later than December 31, 2012.

Staff Comment: In accordance with Sections 320 and 321 of the Military and Veterans Code, pay for State Active Duty employees is based upon federal military pay scales that are determined by Congress. Compensation is based on each military member's pay grade, duty location, and years of military service. The table below represents the cost of the position slotted for State Active versus a similar position within the State Civil Service classification:

Positions Slotted to Convert to SCS

SAD Position	Base Pay+BAH=Salary	SCS Classification Salary	Range
Position Control NCO (E7)	$6687	AGPA	$4400 - $5348
Chief HRO (W4), SP,	$9268	SSM II	$6173 - $6727
Fiscal NCO (E7), Sunburst	$7203	Associate Budget Analyst	$4400 - $5350
Security Forces Admin NCO	$5317	Executive Secretary	$3020 - $3672
Youth Programs Admin NCO	$5317	Executive Secretary	$3020 - $3672
Real Property Tech	$5317	Associate Budget Analyst	$4400 - $5348
Federal Government Liaison	$8493	CEA I	$6173 - $7838

Staff Recommendation: Adopt Budget Bill Language asking the Military Department to review all existing State Active Duty positions to determine which could be converted to State Civil Service upon becoming vacant and report their findings to the Legislature no later than December 31, 2012.

1690 SEISMIC SAFETY COMMISSION

Governor's Budget Request : The Governor's May Revise includes a request via trailer bill language to establish the Seismic Safety Account within the Insurance Fund. The Seismic Safety Account would then be utilized, at the discretion of the Legislature, to fund Seismic Safety Commission related activities.

The Governor's January 2012-13 Budget included a request to fund the Seismic Safety Commission with direct support from the Insurance Fund.

Background: The Seismic Safety Commission was originally created in 1975 and was supported by the General Fund. The Commission's mission is to investigate earthquakes, research earthquake related activities and recommend to the Governor and the Legislature policies and programs needed to reduce earthquake risk. Additionally, the Commission is responsible for managing *California's Earthquake Loss Reduction Plan 2007-2011.*

The Commission currently has one office that houses 6.4 positions and supports the Commission's activities including the bi-monthly meetings at various sites statewide. The use of the Insurance Fund for the Commission was designed to be a short term solution. However, the ongoing budget concerns in the state have forced the Commission to utilize the Insurance Fund as a more permanent source of funding.

Staff Comment: When reviewing the January submission to re-approve the use of the Insurance Fund as a funding source it was brought to the Legislature's attention that use of the Insurance Fund as originally structured by the Commission would be unconstitutional. Specifically, Article XIII, Section 28 (f) of the California Constitution specifies that, with limited exceptions, the state's insurance tax shall be in lieu of all other state and local taxes. This seismic safety assessment imposed on the gross receipts of insurers of commercial and residential properties is a tax under the provisions of Proposition 26.

The Commission, with technical assistance from the Department of Finance, has submitted a revision to their original request that would have the Department of Insurance calculate an annual assessment not to exceed $0.15 on commercial and residential property policy holders to be collected by insurers. According to Legislative Counsel the proposed trailer bill language does not raise the constitutional concerns referenced above but, in accordance with Proposition 26, is subject to a supermajority vote.

Staff Recommendation: Hold open, item included for discussion.

0860 BOARD OF EQUALIZATION

Issue 1 – Dell Computer Settlement

Background: The BOE was named as the cross defendant in the class action case of *Diane Mohan v. Dell*, currently pending in San Francisco County Superior Court. The case involves the collection of use tax by Dell Computers on the extended warranty service contracts during the years 2000 to 2008. The extended warranty service contract is an intangible and the court found that the use tax was collected erroneously. The class action attorneys have estimated as many as 10 million transactions over this time period. The BOE's experience is that about 20 percent actually completed refund claims and submitted them for payment, but this could still mean hundreds of thousands of claims that need to be processed. The BOE has indicated that it does not have the staff to process these additional transactions.

Governor's Budget: The Governor's budget included a "placeholder" request of $3.2 million ($2.1 million General Fund) in the budget year to support 14.5 positions to address the additional workload associated with processing the Dell refunds. The majority of these positions are proposed as limited-term, but the request does include two permanent positions. The positions are proposed to be allocated as follows:

- 2 tax auditors for 2-year limited-term to audit large and medium-sized refund claims.
- 1 business tax specialist for 2-year limited-term to audit largest and most complex claims.
- 1 business tax specialist for 1-year limited-term to coordinate, initiate, and review refund processing.
- 3 tax technician IIIs for 2-year limited-term to search for better addresses for returned warrants and respond to inquiries by class action administrator.
- 3.5 tax technician IIIs for 1-year limited-term to validate name/address changes and process correspondence related to claim exceptions.
- 1 supervising tax auditor II for 2-year limited-term to manage the overall refund project.
- 1 associate accounting analyst permanently established to review refunds and reconcile claims filed and claims paid.
- 1 associate administration analyst permanently established to maintain claim databases.
- 1 tax technician II for 2-year limited-term to manage 30,000 additional calls in the call center expected from the class action lawsuit.

Further Information: This item was heard by the Subcommittee at its May 3rd Hearing and held open. In the subcommittee hearing questions arose regarding the status of the Dell Settlement and the need for the positions noted. BOE now has a signed settlement agreement and expects expenditures in FY 2012-13 and FY 2013-14. The potential refunds range from $50 to $250 million. It is estimating the total number of refund claims to be approximately 2 million or 20 percent of the 10 million original transactions where sales tax was charged on the extended warranty contract.

Key dates outlined in the attached settlement agreement include:

- April 30, 2012 - Dell to provide the BOE a payables database, which contains the total potential number and amount of claims. (BOE received a disk from Dell on May 2, 2012 and is currently in the process of importing or uploading the data of the universe of claimants.)

- Before July 16, 2012 – Notices will be mailed to Dell customers. The website will also go live.
- Customers will have until mid-September 2012 to opt out of the class action lawsuit.
- The customers may file claims through January 16, 2013.
- BOE will pay claims for refunds in batches as they come into BOE.
- BOE anticipates paying claims in FY 2012-13 and FY 2013-14. Approximately 751 audits of refund claims are expected. Materiality thresholds will be established and all claims over a certain dollar threshold will be audited. Remaining claims will be selected on a random sample basis.
- Staffing levels of 14.5 positions in FY 2012-13 dropping to 10.0 positions for FY 2013-14 to validate, audit and process claims for refund, look for refund offsets to other agencies, address returned warrants, perform account maintenance, reconcile claims filed and paid, provide proper documentation to the State Controller's office, and answer telephone inquiries related to the settlement and claim forms.

Staff Comments: The BOE has indicated that there is a signed settlement agreement in the Dell Computers case. Errors in the original BCP have been corrected to make all positions limited-term. The BOE has indicated that notices will be mailed to Dell customers by July 16, 2012 and that customers will have until mid-September 2012 to opt out of the class action lawsuit. The customers will be able to file claims through January 16, 2013. The BOE estimates that the majority of the claims will be paid in 2012-13. Assembly Budget Subcommittee 4 approved this request based on two-year, limited-term positions.

Staff Recommendation: Staff recommends that the Subcommittee approve this request on a two-year, limited-term basis, thus conforming to the Assembly action.

Vote:

Issue 2 – State Responsibility Area Fire Prevention Fee Collection

Background: Last year, Chapter 8x, Statutes of 2011 (AB 29x, Budget) was enacted to implement a fire prevention fee on owners of habitable structures in state responsibility areas (SRAs). This legislation requires a fee of $150 per structure to support the fire prevention activities of the California Department of Forestry and Fire Protection. The BOE is assigned the responsibility of collecting the fee. The fee is expected to generate $50 million in the current fiscal year and $85 million in the budget year. This issue was heard on May 3, and held open.

Governor's Budget: The Governor's budget includes $6.4 million in reimbursements and 57 positions in the budget year to administer this program.

Staff Comments: Staff finds that the legislation enacted last year requires the California Department of Forestry and Fire Protection to submit to BOE a list of names and addresses of those that are required to pay the fee. Therefore, it is unclear why BOE requires the number of permanent staff being requested. It is expected that there would be startup costs associated with implementing a new fee collection program like the SRA fee. However, the BOE's proposal does not reflect much of a decline in ongoing resources needed to support this program. Staff notes that the Assembly Budget Subcommittee 4 has already taken action on this item and approved the staffing package on a two-year limited-term basis and also approved reporting language to get more information on actual experience related to collecting the SRA fee.

Staff Recommendation: Staff recommends approving the request as two-year, limited-term positions and reporting language based on a full year of operation, thus conforming to the Assembly action.

Vote:

Issue 3 – AB 155 Use Tax Enforcement

Background: The Legislature passed, and the Governor signed, as part of the 2011-12 budget, AB 28 X1 (Blumenfield), Chapter 7, Statutes of 2011, which required that out-of-state businesses with certain connections to California—such as sales using affiliates or the presence in the state of related companies—be required to collect the use tax on behalf of the state. Subsequently, the operative date of this bill was delayed until fiscal year 2012-13 through the passage of AB 155 (Charles Calderon and Skinner), Chapter 313, Statutes of 2011, with the date of implementation dependent on the outcome of certain federal actions.

Budget Proposal: The budget proposes additional resources of $3.2 million ($2.1 million General Fund and $1.1 million special funds) and 28 positions to implement the expanded collection of the use tax by out-of-state business pursuant to AB 155. These additional resources will be used to identify out-of-state business required to collect the use tax and institute compliance programs for the initiative. Two positions relate to coordination of legislation that may be adopted at the federal level that could affect the implementation of the measure. The committee heard this item at its May 3 hearing and approved the proposal as budgeted; the item is being heard again for reconsideration.

Assembly Action: Assembly Budget Subcommittee 4 heard this issue at its May 9 hearing and approved the proposal with some revisions. All positions were approved on a two-year, limited-term basis, with the two legislative positions referenced-above to begin January 1, 2013.

Staff Comment: The approach taken by the Assembly Budget Subcommittee 4 is a reasonable one and would allow the Legislature to revisit this issue in a timely fashion when the program has been established. The issue was heard by the Subcommittee at a prior hearing and approved. It is being reopened for the purpose of making the positions limited-term as opposed to permanent.

State Recommendation: Rescind prior action on this budget item. Approve as two-year, limited term positions, thus conforming to Assembly action.

Vote:

Issue 4 – Centralized Revenue Opportunity System (CROS)

May Revision Proposal: As part of the May Revision, the Administration is requesting $23.8 million ($14.6 million General Fund) and 156.7 positions in 2012-13 and $29.1 million $18.1

million General Fund) and 242.1 positions in 2013-14 for the beginning stages of a new centralized data and tax collection system. The initial stage of the project would largely address the beginning implementation stage of the project, maintain the existing legacy systems, address data conversion issues, address external interface issues and engage in certain tax compliance and enforcement activities. While the initial phase of the project relates to preparatory work, the final product will result in combining several of the department's existing systems and provide a centralized and unified tax collection and data system. The project is designed to generate revenue during its implementation and will be structured based on "alternative procurement" in that it will be benefits-funded. During the initial two years, the project would result in additional revenue of $38.8 million in 2012-13 and $66.5 million in 2013-14.

Background: BOE's current automation systems were developed in the 1990s. The hardware and software which supports these systems is dated and more costly to maintain than newer technologies. Additionally, because BOE's systems have required continuous modifications over the last ten years, there has also been a significant, and steady, increase to the costs, staffing resources and time involved to make changes, enhancements, or maintain these systems. The programming language is outdated and it is becoming increasingly difficult to find staff, or contractors, to maintain the systems. The current systems are antiquated, do not have the capability to easily adapt to new or expanding requirements, and cannot adapt or take advantage of emerging technologies.

As the systems have become more dated, workload has increased. Over the recent past, BOE has been directed to implement several new tax and fee programs or other proposed statutory changes. Each of these statutory changes or new programs requires significant programming hours to modify the existing automation systems. Any new implemented tax program uses the same computer components as the existing tax programs while in use by BOE's multiple tax programs. Multiple programming changes are difficult to accomplish since programming components are tightly integrated and changes to the components disrupt existing tax program activities. Implementing a new tax and fee programs can take as long as ten months to complete with existing systems. In addition, the department is increasingly experiencing frequent and recurring requests for statistical data or quantitative information.

BOE has developed a number of ad hoc methods and ancillary systems to respond to these information requests. Extracts from the department's principal systems--Integrated Revenue Information System (IRIS) and Automated Compliance Management System (ACMS) are stored with data received from external agencies in data marts and reports are created utilizing desktop applications. The difficulty in accessing BOE internal data and the ability to only perform one-source data matching is cumbersome and often detrimental in responding timely to requests and performing program analysis. Requests still require programming expertise and are expensive and time consuming to perform. BOE does not have the business intelligence tools required to provide the requestor or client access to the information that is required to complete necessary business processes in a timely and cost effective manner.

To address this, BOE proposes a significant automation project which will ultimately replace IRIS and ACMS, its two current automation systems. In addition, the project will expand online taxpayer services and provide an enterprise data warehouse. This project will impact virtually all processing areas within the organization. The new technologies and tools will provide increased efficiency and will augment revenue production while incorporating "best practices" to reengineer how work is performed. Replacement of the legacy systems should improve the BOE's performance. Additionally, the integration of a data warehouse would provide a single enterprise repository of BOE internal data and external data.

Proposal Detail: For the budget year 2012-13, roughly $12.3 million will constitute personnel services with the balance ($11.5 million) used for operating expenses and equipment (OE&E). A large portion of the OE&E—slightly less than $5 million—is for consulting services and data center services. About a third of the personnel will be directly involved in the CROS project, which in this phase is concentrated on project direction and generally relate to data cleansing and preparing for conversion to the new system. The positions, in addition to administrative project-direction positions--include software specialists, programmers, and system analysts. Performing much of this work in-house, as opposed to by the vendor--is expected to reduce overall project costs.

At the same time the activities related to the implementation of the CROS are occurring, other personnel will be addressing the accumulated backlog of activities that need to be addressed in preparation for the new integrated system. Significant backlogs have been identified in the areas of audits, collections, State wide Compliance and Outreach Program (a BOE tax gap program), offers in compromise, and settlements. Addressing the backlogs in these areas generates the revenues identified in the proposal. In addition, addressing the backlogs also makes the project itself more feasible by improving the quality of the data prior to system implementation.

Subsequent Proposal Revision: Staff requested the department reformulate its proposal to postpone certain CROS components while maintaining the revenue generated in the budget year as well as the overall implementation of the project. BOE staff responded with a recalibrated BCP that lowers costs in 2012-13. BOE identified 43.7 positions that may be delayed starting until 2013-14. A majority of these positions are under the CROS proper component. The department indicates that it can delay the starting date for certain specialized staff until the second year and still achieve the desired revenue of $38.8 million in 2012-13 and $66.5 million in 2013-14. This proposed reduction represents a 28 percent reduction from the original position request. With this reduction, BOE would be requesting 113.0 positions and $18.1 million ($11.2 General Fund) in 2012/13 and 242.1 positions and $30.1 million ($18.7 General Fund) in FY 2013-14.

Questions:

BOE: Can you outline the timing for the implementation of the project?

BOE: How will you proceed on the benefits-funded approach for the project?

BOE: Could you address the impact of simply going forward with the revenue related positions without the CROS-related positions?

LAO: Does the approach of the department resemble the approach taken in other benefits-funded projects?

CTA: Could you comment on the outline of the proposal and the procurement approach?

Staff Com ments: The department's current proposal is much improved from earlier draft versions. Technology and data system improvements at BOE are overdue. Its technology systems are clearly dated and expensive, and the current proposal is a reasonable start in the process of modernization. The department has pursued a benefits-funded approach that has been recommended in the past and has also reviewed the plan with other agencies in order to benefit from lessons learned. In particular, the department has consulted with the Franchise Tax Board, which has been generally successful with its various technology modernization projects. The short-term benefit/cost ratio does not meet historical standards, but the project is based not on short-term returns, but rather longer-term benefits. In addition, the benefit/cost ratio is generally in keeping with FTB's similar technology upgrades. An interim report for this project that would allow the Legislature to evaluate progress in conjunction with subsequent budget requests the department indicates will be forthcoming. The proposal may also benefit from additional vetting of the estimated revenue generated by the project. This could be incorporated as part of the reporting language. Finally, the proposal as adjusted would maintain revenues while reducing costs for the project.

Staff Recommendation: Approve project funding based on the revised BCP from the department with SRL requiring a status report to the Legislature after the initial full year of implementation.

Vote:

8885 COMMISSION ON STATE MANDATES (COSM)

Background: The Governor's Budget proposes the continued funding of property tax and public safety mandates, discussed in Issue 1 below. In addition, the Governor's Budget achieves substantial savings by the continued suspension (and in some cases, repeal) of various mandates that are not associated with law enforcement or property taxes as discussed in Issue 2 below. Of the $4.2 billion in expenditure reductions identified as budget balancing solutions, cost reductions related to mandates account for $828 million. This $828 million is comprised of the following:

- **Suspended Mandates.** 56 mandates are slated for suspension, resulting in a savings in the budget year of $375.7 million.

- **Expired Mandates.** 10 expired mandates will not be funded in the budget plan, resulting in a savings of $295.1 million.

- **Deferred Pa yment Mandates.** 2 mandates noted above are still in place but the payment has been deferred, resulting in a savings of $57.9 million.

- **Pre-2004 Mandates.** Payment for mandate costs incurred prior to 2004 is deferred resulting in a budget year savings of $99.5 million. These costs must eventually be paid by 2021.

Once a required activity or expanded activity imposed on local governments has been determined to be a mandate, the State still has some options regarding the actual funding of this mandate.

- **Fund the Mandate.** If the State chooses to fund the mandate, it is required to pay for all unpaid bills submitted since 2003 up through the most current year of cost approval.
- **Suspend the Mandate.** Suspension of a mandate through the budget process keeps the mandate on the books, but absolves the local government of responsibility of providing the service and relieves the State of paying the cost of the service during the suspension.

Proposition 1A, adopted by the voters in 2004, requires the Legislature to either fund mandates and appropriate funds for payment, or suspend or repeal the mandate. Two mandates were exempt from this requirement, allowing them to remain in place even without funding. These two mandates are Peace Officer Procedural Bill of Rights (POBAR) and Local Government Employee Relations mandate. These mandates have continued and reimbursable costs due local governments are continuing to accrue. Proposition 1A also requires the Legislature to pay all pre-2004 mandate claims over a period of time. The State owes local agencies in excess of $1 billion in unpaid mandate costs. A portion of these costs is scheduled to be paid by 2021, while other costs have no payment schedule in place.

In the recent decades, the Legislature has suspended numerous mandates as a form of budget relief. In the current year, some 60 mandates have been suspended. A large number of the suspensions occurred during the current period of budget difficulties, although some suspensions go back to 1990. Some have been suspended immediately after COSM reported their costs to the Legislature.

Issue 1 – Funded Mandates

Governor's Budget Request: The Governor's proposal includes the continued funding of certain mandates related to public safety and property taxes. The policy reason behind the decision to fund the public safety mandates is apparent given the focus of these requirements. For property tax-related mandates, the policy motivation for funding these is based on the statewide interest in property tax compliance, given the interrelationship of education funding from local property taxes and General Fund obligation to backfill education costs for purposes of the Prop 98 guarantee. In addition to the General Fund cost presented in the table below, the request includes an additional $2.5 million from special funds.

Proposed Funded Mandates

Mandate	2012-13 GF Cost ($000s)
Threats Against Peace Officers	26
Custody of Minors: Child Abduction and Recovery	12,999
Medi-Cal Beneficiary Death Notices	10
Sexually Violent Predators	20,963
Domestic Violence Treatment Services	1,944
Domestic Violence Arrest Policies	7,608
Unitary Countywide Tax Rates	267
Allocation of Property Tax Revenues	727
Rape Victim Counseling	349
Health Benefits for Survivors of Peace Officers and Firefighters	1,695
Crime Victims' Domestic Violence Incident Reports	167
Peace Officer Personnel Records: Unfounded Complaints & Discovery	657
Domestic Violence Arrests and Victims Assistance	1,374
Total Funded Costs	**48,786**

Staff Comment: At the time this agenda was finalized, no concerns had been raised with these budget requests. The mandates selected for funding continue the policy adopted in previous years by the Legislature.

Staff Recommendations: Approve the budget request for continued funding of selected local government mandates.

Vote:

Issue 2 – Suspended Mandates

Governor's Budget Request: The mandates slated for suspension under the Governor's proposal are listed in the table below. Many of these have been suspended for several years, usually as part of the budget process. In general, the suspension of many of the mandates has not been subject to a thorough policy review that would result in an evaluation of the costs and benefits of the mandate, but rather have been suspended solely for the purpose of budgetary savings. The policy decision to establish the mandate in the first place has not generally been a substantial component of the discussion.

In addition to the suspension, the Administration has proposed trailer bill language (TBL) that certain mandates be repealed. These are denoted by an asterisk in the list below. The budget year savings associated with suspension and repeal are identical. With suspension, the mandate remains in statute but is simply not funded. As a result, in order to determine whether a mandate is actually in effect, confirmation of both the statutory reference and the budget bill is required. With repeal, the statute requirement is repealed by Legislative action.

Suspended Mandates

Mandate	2012-13 GF Savings ($000s)
Adult Felony Restitution*	0
AIDS/Search Warrant*	1,596
Airport Land Use Commission/Plans*	1,595
Animal Adoption*	46,296
Conservatorship: Developmentally Disabled Adults*	349
Coroners' Costs	222
Crime Victims' Domestic Violence Incident Reports II*	1,959
Deaf Teletype Equipment*	0
Developmentally Disabled Attorneys' Services	1,198
DNA Database & Amendments to Postmortem Examinations: Unidentified Bodies	310
Domestic Violence Information*	0
Elder Abuse, Law Enforcement Training*	0
Extended Commitment, Youth Authority*	0
False Reports of Police Misconduct*	10
Filipino Employee Surveys*	0
Firearm Hearings for Discharged Inpatients*	157
Grand Jury Proceedings*	0
Handicapped Voter Access Information	0
Inmate AIDS Testing*	0
Judiciary Proceedings*	274
Law Enforcement Sexual Harassment Training*	0
Local Coastal Plans*	0

Mandate	2012-13 GF Savings ($000s)
Mandate Reimbursement Process	6,419
Mandate Reimbursement Process II (includes suspension of consolidation of the two)	0
Mentally Disordered Offenders: Treatment as a Condition of Parole	4,910
Mentally Disordered Offenders: Extended Commitments Proceedings	7,232
Mentally Disordered Sex Offenders: Recommitments	340
Mentally Retarded Defendants Representation*	36
Missing Persons Report*	0
Not Guilty by Reason of Insanity*	5,214
Open Meetings Act/Brown Act Reform	96,090
Pacific Beach Safety: Water Quality and Closures	344
Perinatal Services*	2,338
Personal Safety Alarm Devices*	0
Photographic Record of Evidence*	291
Pocket Masks*	0
Post-Conviction: DNA Court Proceedings	410
Postmortem Examinations: Unidentified Bodies and Human Remains	1,180
Prisoner Parental Rights*	0
Senior Citizens Property Tax Postponement	481
Sex Crime Confidentiality	0
Sex Offenders: Disclosure by Law Enforcement Officers	0
SIDS Autopsies*	0
SIDS Contacts by Local Health Officers*	0
SIDS Training for Firefighters*	0
Stolen Vehicle Notification*	1,117
Very High Fire Hazard Severity Zones	0
Victims' Statements-Minors*	0
Fifteen-Day Close of Voter Registration	0
Absentee Ballots	50,924
Permanent Absent Voters	2,686
Absentee Ballots-Tabulation by Precinct	68
Brendon Maguire Act	0
Voter Registration Procedures	2,452
In-Home Supportive Services II	449
Crime Statistics Reports for the DOJ and CSR for the DOJ Amended*	138,722
Total Suspended Savings	**$375,669**

The 56 mandates proposed to be suspended for 2012-13 generally include the same mandates that were suspended last year. In addition, some mandates suspended during the current year have expired. The suspension of these mandates would result in budget savings of almost $376 million.

Actions in Other Subcommittees: The Senate Budget Committee adopted a process to allow examination of mandates selected for repeal by its appropriate subcommittees. The following actions have been taken in those subcommittees:

- **Suspensions.** At its May 10 hearing, Senate Budget Sub 5 approved the suspension of all public safety mandates noted in the table above, except for one mandate. (This remaining mandate relates to Crime Statistics Reports, and will also be addressed in Subcommittee 5.)

- **Reject Repeal TBL.** At its April 11 hearing, Senate Budget Sub 2 rejected the TBL to repeal the mandates for Airport Land Use Commission/Plans, Animal Adoption, Local Coastal Plans and SIDS Training for Firefighters. At its May 10 hearing, Senate Budget Sub 3 took action to reject TBL to repeal the mandates for Conservatorship for Developmentally Disabled Adults, and at its March 8 hearing rejected the TBL to repeal SIDS Autopsies, and SIDS Contacts by Local Health Officers.

- **Adopt Repeal TBL.** At its May 8 hearing, Senate Budget Sub 5 took action to approve TBL to repeal the mandate for Filipino Employee Surveys. At its March 8 hearing, Senate Budget Sub 3 took action to approve TBL to repeal the Perinatal Services.

Assembly Actions: Assembly Budget Subcommittee 4 considered mandates at its March 13 hearing. It took action to suspend those mandates noted in the table above, but reject the repeal TBL in its entirety. (It also approved funding the mandates noted in Issue 1, above.)

Staff Comment: At the time this agenda was finalized, no concerns had been raised with the continued suspension of these mandates. The mandates selected have been suspended in previous years. Regarding the TBL to repeal, a careful review should be conducted. Some of the mandates were considered as part of the budget subcommittee process and actions taken. To the extent that this did not occur, these proposals should be referred to policy committee that considers and addresses the particular subject matter.

Staff Recommendations: Suspend mandates proposed by the Governor for suspension, as noted above. Reject TBL to repeal selected mandates, except for those two mandates noted above where repeal TBL was specifically approved in subcommittee.

Vote:

9210 LOCAL GOVERNMENT FINANCING

Department Overview: The 9210 budget item includes several programs that make State subventions to local governments. The payments include $2.1 billion General Fund for constitutionally-required repayment of 2009-10 "Prop 1A" borrowing from local governments; a small subvention related to former Redevelopment Agencies (RDAs) to help retire a portion of outstanding debt that was backed by the personal property tax – about $500,000, and a new subvention of $4.4 million General Fund proposed this year for Mono and Amador counties.

Budget Overview: The proposed budget for the 9210 item is $2.1 billion General Fund. Year-over-year comparisons show a major increase in expenditures as Prop 1A borrowing was $91 million in 2011-12 and will be $2.1 billion in 2012-13. Prop 1A debt will fully be repaid in 2012-13, so there is no ongoing cost. Additionally, some public safety grants were included in this item in prior years, but that funding was shifted with the 2011 Public Safety Realignment legislation and is now funded with the new local revenues instead of State grants.

Issue 1 – Reimbursements to Amador County

Governor's Request: In the January Budget, the Governor proposed a new General Fund subvention of $4.4 million to backfill Mono and Amador counties due to unique circumstances that reduced property tax directed to those county governments and cities within those counties in 2010-11. In an April 1 Finance Letter, the Governor rescinded the funding for Mono County indicating that updated data suggested the problem did not exist in that county for 2010-11. The Governor maintains the funding request of $1.5 million for Amador County. The revenue loss is understood to also have occurred in 2011-12 and will continue into 2012-13 and likely beyond, but the Administration indicates it is undetermined at this time whether its proposal is one-time or ongoing.

Background and Detail: Legislation enacted early in the Schwarzenegger Administration shifted local property tax from schools to cities and counties to accommodate two State fiscal initiatives. Schools were then backfilled with State funds. Overall, the fiscal changes resulted in a large net revenue gain for cities and counties as the replacement revenue streams have grown faster than the relinquished revenue streams. However, for Amador County, unique circumstances reportedly reversed this outcome in 2010-11 and it is possible this outcome could occur for a few additional counties in the future.

- **Financing Economic Recovery Bonds (ERBs).** In the 2004 primary election, voters approved Proposition 58, which allowed the State to sell ERBs to pay its accumulated budget deficit. The local sales tax for cities and counties was reduced by one-quarter cent and the State sales tax was increased by one-quarter cent to create a dedicated funding source to repay the ERBs. Property tax was redirected from schools to cities and counties, and the State backfilled schools via the Proposition 98 funding guarantee. This financing mechanism is sometimes called the "triple flip," and was anticipated to hold local governments harmless. When the ERBs are repaid in 2016-17 (or earlier), the local sales tax rate is restored.

- **Backfilling for the Vehicle License Fee (VLF) Tax Cut.** Also in 2004, the Legislature enacted the "VLF Swap" to provide a more reliable funding mechanism to backfill cities and counties for the local revenue cut by the State when the VLF tax on motor vehicles was reduced from 2.0 percent of a vehicle's value to 0.65 percent of a vehicle's value. Here again, the state redirected property tax from schools to cities and counties and backfilled schools with State funds.

- **Problem for Amador**: The funding mechanism stopped fully working for Amador County (and initially Mono County) reportedly in 2010-11 due to all the schools in those counties becoming "basic aid" schools. Basic aid schools receive sufficient local property tax to fully fund the per-student amounts required by the Proposition 98 guarantee and therefore the State's funding is minimal. Due to this "basic aid" situation, current law would not backfill schools for any property tax shifted to cities and counties and county auditors have reportedly reduced or discontinued the "AB 8" shift of property tax from schools to those cities and counties. The estimated loss for the two counties in 2010-11 is $4.4 million. Conversely, in a non-"Test 1" Proposition 98 year, the State would realize a savings from not having to backfill schools – but 2012-13 appears to be a Test 1 year.

Issues to Consider: The financing shifts and educational financing provisions are complex, and perhaps not entirely relevant to making a determination on this budget request. The Subcommittee may instead want to focus on some broader ideas and issues:

- **Revenue growth uncertainty.** The funding shifts did include uncertainty and risk, as the relative growth of various revenue streams over many years was unknown. On a statewide basis, data suggests most counties – perhaps as many as 56 of 58 counties - have received a net benefit from the shifts. Since 2010-11, reportedly Amador has not seen net benefits. Individual county estimates of benefits or costs are not currently available, but Amador County has estimated the isolated effect of the property tax shift at $1.5 million.

- **No backfill guaranteed in the original legislation, but the Amador outcome was not anticipated.** The enacting legislation did not include provisions for the State to backfill locals with new subventions if the baseline funding mechanism proved to be insufficient to maintain city and county funds. At the time of the legislation, stakeholders were likely aware of the risk of variable levels of growth for different revenue streams, but may not have anticipated this outcome of all schools within the county becoming "basic aid." Since this outcome may not have been foreseen by the State or local governments at the time of bill enactment, does the State have a responsibility to backfill for this revenue loss?

- **Budget challenges in most cities and counties.** Since many cities and counties are continuing to experience budget shortfalls, should the Legislature consider the fiscal condition of the two counties relative to other counties as a factor in the determination. For example, has the decline in revenue for these counties since 2007-08 exceeded the statewide average?

- **Timing of the Subvention.** If the Legislature determines a subvention is appropriate, should the Legislature appropriate for revenue loss through 2012-13 (maybe funding at a level of $13.2 million), or conversely decide to fund, but defer reimbursement to later in the fiscal year.

Question:

LAO: Is there any potential for other counties to fall into a position similar to Amador's? What might be the potential costs to the state?

Staff Comment: The Subcommittee heard this issue on March 8, when the Administration was requesting $4.4 million for Amador and Mono counties, and the issue was left open. The Administration has reduced the request in an April 1 Finance Letter and is currently requesting only $1.5 million for Amador County, indicating that Mono County did not lose funds in 2010-11.

Staff Recommendation: Staff recommends approving the budget request, with one-half the funding to be provided initially and the remainder to be disbursed upon a finding of necessity by the Department of Finance based on criteria established in Budget Bill Language. Absent a finding by Department of Finance, the funds would revert to the General Fund. Staff also recommends that LAO and DOF be directed to develop criteria whereby funding for such backfill shortfalls might be determined in the future.

Vote:

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Gloria Negrete McLeod, Chair
Senator Noreen Evans
Senator Doug La Malfa

Outcomes Thursday, May 24, 2012
10 a.m.
Room 3191
Consultants: Brady Van Engelen / Mark Ibele

Items Proposed for Discussion and Vote

Item Number and Department

0502	California Technology Agency
0840	State Controller's Office
0860	Board of Equalization
0890	Secretary of State
1110	State Consumer Services Agency
1700	Department of Fair Employment and Housing
2240	Department of Housing and Community Development
8880	FI$CAL
8885	Commission on State Mandates
8940	California Military Department
9210	Local Government Financing

(See Table of Contents on page 1 for a More Specific Listing of Issues)

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AGENDA – DISCUSSION / VOTE ITEMS

Issues Proposed for Discussion / Vote

8880 FINANCIAL INFORMATION SYSTEM FOR CALIFORNIA (FI$CAL)

Background: The Financial Information System for California (FI$Cal), is an Enterprise Resource Planning (ERP) information technology (IT) project intended to replace, consolidate, and upgrade multiple legacy financial systems with a single system that would encompass the areas of: budgeting; accounting; procurement; cash management; and financial management. The development of FI$Cal resides with four “Partner Agencies,” the Department of Finance, the State Treasurer's Office, the State Controller's Office, and the Department of General Services. The FI$Cal system has been in development for several years, but is now at a critical juncture because the Administration selected a contractor or “systems integrator” on March 1, 2012, to implement the system. To move forward with the contract and expenditures, legislative approval is required. Included in this budget item is funding for the contract staff and State staff that manage the project, and funding for the selected systems integrator, which is Accenture. Accenture would implement this ERP IT system using Oracle’s PeopleSoft software.

May Revision: The Governor has submitted a May Revision letter on the FI$Cal system that adopts a version of the staff alternative presented to the Subcommittee on March 8, 2012. This letter continues to request the same $89 million requested in the March Finance Letter, but instead eliminates all General Fund for the project by shifting $53.5 million to various special and nongovernmental cost funds. The May Revision also proposes to make two technical adjustments as follows:

VOTE: 3-0

0890 CALIFORNIA SECRETARY OF STATE

Issue 1 – CAL-ACCESS and CALVOTER Server Stability

Governor's Budget Request : The Governor's May Revise includes a request to augment $375,000 ($206,000 General Fund) in Fiscal Year 2012-13 and $95,000 ($66,000 General Fund) in 2013-14 to purchase servers, software licenses, and to contract for services to address failing operating systems related to the Cal-Access and CalVoter databases. The Secretary of State's Office (SOS) states that this request is required to comply with the California Political Reform Act of 1974 and the Help America Vote Act of 2002.

Staff Recommendation: Approve May Revise request.

VOTE: 3-0

Issue 2 – Statement of Interests Backlog

Governor's Budget Request: The Governor's May Revise includes a request for a two-year limited augmentation of $947,000 in Reimbursement authority to more quickly fill positions and allow for paid overtime to reduce the backlog regarding processing annual Statement of Information documents filed by businesses.

Staff Recommendation: Approve the May Revise request

VOTE: 3- 0

0890 STATE CONTROLLER'S OFFICE

Issue 1 – Fraudulent Claims Detection and Prevention Program

Governor's Budget Request: The Governor's 2012-13 Budget includes a request for 17.9 permanent positions and $2.28 million in 2012-13 and ongoing from the Unclaimed Property Fund to establish a unit within the Unclaimed Property Program designed to detect and prevent fraudulent unclaimed property from being paid.

Staff Recommendation: Approve as a two-year limited term pilot with Supplemental Reporting Language to report on progress.

VOTE: 2-1 Sen. LaMalfa voting No

Issue 2 – Integrated Data Management System Cost Increase

Governor's Budget Request: The Governor's May Revise included a request for $201,000 ($47,000 General Fund, $97,000 reimbursements and $57,000 Special Fund) for 2011-12 and $902,000 ($207,000 General Fund, $437,000 reimbursement and $258,000 Special Funds) in 2012-13 to fund increased Office of Technology Data Center costs to support Computer Associate Integrated Data Management System (IDMS)Technology services. This request reflects a minor reduction in costs to support the Integrated Data Management System.

Staff Recommendation: Approve May Revise request.

VOTE: 3-0

Issue 3 – Increased Audit Workload

Governor's Budget Request: The Governor's 2012-13 Budget includes a request for $2.09 million ($1.42 permanent and $673,000 one-year limited-term) in reimbursement authority to support 12.6 existing positions and 7.4 new positions (1.1 permanent positions and 6.3 one-year limited term) beginning in 2012-13.

April 1 Finance Letter: In addition to the original positions requested to support the audit workload, the State Controller's Office has requested an additional $1.75 million ($856,000 one-year limited-term and $899,000 five year limited-term) in reimbursement authority to support 8.0 existing positions and 7.4 new positions (8.0 one-year limited-term and 7.4 five-year limited-term) beginning in 2012-13. Included within this request was the request for support of 8.0 positions and $856,000 in reimbursements in 2012-13 to perform federally-mandated audits of the Disproportionate Share Hospital program, administered by the Department of Health Care Services.

Staff Recommendation: Approve request included in Governor's 2012-13 Budget, approve request submitted on April 1.

VOTE: 3-0

Issue 4 – Airport Facility Fee Audits

Governor's Budget Request: The Governor's Budget proposes trailer bill language (TBL) that would eliminate the requirement that the Controller's Office independently review and report to the Legislature regarding the results of audits required to be conducted by airports with respect to the collection of fees to fund consolidated rental car and other transportation facilities.

Staff Recommendation: Adopt proposed trailer bill language.

VOTE: 3-0

Issue 5 – 21st Century Project

Governor's Budget Request: The Governor's May Revise included a request for 152.0 one year limited-term positions and $79.69 million ($45.31 million General Fund, $1.0 million in reimbursement authority, and $33.38 in Special Fund) to fund the 21st Century Project in 2012-13. This reflects a reduction of 29.0 positions, $1.67 million in funding ($1.56 General Fund). The May Revise also includes a request to amend Control Section 25.25 (21st Century Project) by decreasing the amount by $109,000 in 2012-13 for one year.

Staff Recommendation: Approve May Revise request.

VOTE: 3-0

Issue 6 – My CalPERS

Governor's Budget Request: The Governor's May Revision included a request of $1.5 million in 2012-13 and 15 two-year limited-term positions for workload associated with the temporary data incompatibility between the SCO and PERS computer systems.

Staff Recommendation: Approve funding and position authority for 7 positions on a two-year limited-term basis.

VOTE: 3-0

0502 CALIFORNIA TECHNOLOGY AGENCY

Issue 1 – Elimination of the 9-1-1 Advisory Board

Background: The Governor's 2012-13 Budget includes a request via trailer bill language to eliminate the 9-1-1 Advisory Board. The State 9-1-1 Advisory Board is responsible for providing the Telecommunications Office with the proper policies, practices; and procedures for the California 9-1-1 Emergency Communications Office. The Governor's 2012-13 Budget has stated that the policies and procedures considered by the Board will be performed by the State's administrative process.

Staff Recommendation: Reject proposed Trailer Bill Language.

VOTE: 3-0

Issue 2 – Contract Oversight

Governor's Budget Request: The Governor's May Revise includes a request for an increase in expenditure authority for 2012-13 of $670,000 ($218,000 General Fund) and 5.0 positions. The Administration has submitted Trailer Bill Language accompanying this request in order to ensure that there is a requirement that the Technology Agency approve oversight contracts by state agencies.

Staff Recommendation: Approve request and adopt placeholder Trailer Bill Language.

VOTE: 3-0

2310 OFFICE OF REAL ESTATE APPRAISERS

Issue 1 – Extension of Repayment Date

Governor's Budget Request: The Governor's May Revision includes a request for a one-year extension to repay a loan from the Real Estate Appraisers Fund to the General Fund.

Staff Recommendation: Adopt the proposed Budget Bill Language.\

VOTE: 2-1, Sen. LaMalfa voting No

0820/1700/2240 DEPARTMENT OF JUSTICE/DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING AND DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Issue 1 – National Mortgage Settlement Proceeds

Governor's Budget Request: The Governor's May Revise includes a request via trailer bill language that identifies where a portion of the $410.6 million in discretionary funds will be spent in Budget Year 2012-13. According to the proposed trailer bill, for 2011-12 and 2012-13, $94.2 million of the settlement will be utilized to offset General Fund contributions that support public protection, consumer fraud enforcement and litigation, and housing related programs. Specifically, the funds will be utilized for the following programs in 2012-13:

- $41.1 million paid as a civil penalty into the Unfair Competition Law Fund to offset the costs of the various Department of Justice Programs.
- $44.9 million to support the Department of Justice's Public Rights and Law Enforcement programs relating to public protection and consumer fraud enforcement and litigation.
- $8.2 million for the Department of Fair Employment and Housing. This will offset a portion of the General Fund contribution made to the Department; the contribution from this settlement reflects the housing related portion of the Department's workload.
- $198 million will be set aside to offset General Fund costs for housing bond debt service for those programs funded with Proposition 46 and Proposition 1C housing bonds that assist homeowners.

The remaining funds ($118.4 million) will be set aside for use in the 2013-14 budget for similar purposes.

item open.

1110 DEPARTMENT OF CONSUMER AFFAIRS

Issue 1 – Implementation of Bus iness and Professions Code Se ction 35 Supplemental Reporting Language

Background: According to AB 2783, Statutes of 2010, Chapter 214, the Legislature determined that the California Military Department shall be consulted before the adopting of rules and regulations that provide for the licensure and regulation of certain businesses, occupations, and professions by specified boards within the Department of Consumer Affairs created under the Business and Professions Code. Specifically, the section states:

"It is the policy of this state that, consistent with the provision of high-quality services, persons with skills, knowledge, and experience obtained in the armed services of the United States should be permitted to apply this learning and contribute to the employment needs of the state at the maximum level of responsibility and skill for which they are qualified. To this end, rules and regulations of boards provided for in this code shall provide for methods of evaluating education, training, and experience obtained in the armed services, if applicable to the requirements of the business, occupation, or profession regulated. These rules and regulations shall also specify how this education, training, and experience may be used to meet the licensure requirements for the particular business, occupation, or profession regulated. Each board shall consult with the Department of Veterans Affairs and the Military Department before adopting these rules and regulations. Each board shall perform the duties required by this section within existing budgetary resources of the agency within which the board operates."

Staff Comment: To date, it seems that a limited amount of consultation has occurred. The Assembly has taken action to include Supplemental Reporting Language asking that:

"*The Department of Consumer Affairs shall prepare a report describing its implementation of Business and Professions Code Section 35. No later than October 1, 2012, the department shall report to the Subcommittee the following:*

1. *A list of the boards that have statutes, rules, regulations or agreements allowing military experience to be used to meet professional licensure requirements and a description of the statutes, rules, regulations, or agreements.*

2. *A list of the boards that do not have statutes, rules, regulations or agreements allowing military experience to be used to meet professional licensure requirements with an explanation from the boards on why they do not have statutes, rules, regulations or agreements.*

3. *If the board has decided not to accept military experience, an explanation from the board about why they do not accept military experience.*

4. *A description of the department's actions to direct the boards to implement this code section, including any memoranda to boards or other evidence of the department's actions.*

5. *A description of how the department has interacted with the Department of Veterans Affairs and the Military Department regarding this issue."*

Staff would recommend that the Senate Budget and Fiscal Review Subcommittee No. 4 adopt a similar recommendation to include the Supplemental Reporting Language mentioned above.

Staff Recommendation: Adopt Supplemental Reporting Language referenced above.

VOTE: 3-0

8940 CALIFORNIA MILITARY DEPARTMENT

Issue 1 – State Active Duty Compensation

Background: The Senate Budget and Fiscal Review Subcommittee heard the Governor's 2012-13 budget request to add $1.147 million ($495,000 GF) to support state active duty personnel cost increases that stem from increases approved by Congress on March 15th. The Assembly heard the item shortly thereafter, and, included Budget Bill Language asking the Military Department to review all existing State Active Duty positions to determine which could be converted to State Civil Service upon becoming vacant to the Legislature no later than December 31, 2012.

Staff Recommendation: Adopt Budget Bill Language asking the Military Department to review all existing State Active Duty positions to determine which could be converted to State Civil Service upon becoming vacant and report their findings to the Legislature no later than December 31, 2012.

VOTE: 3-0

1690 SEISMIC SAFETY COMMISSION

Governor's Budget Request : The Governor's May Revise includes a request via trailer bill language to establish the Seismic Safety Account within the Insurance Fund. The Seismic Safety Account would then be utilized, at the discretion of the Legislature, to fund Seismic Safety Commission related activities.

Staff Recommendation: Hold open, item included for discussion.

ITEM OPEN

0860 BOARD OF EQUALIZATION

Issue 1 – Dell Computer Settlement

Background: The BOE was named as the cross defendant in the class action case of *Diane Mohan v. Dell*, currently pending in San Francisco County Superior Court. The case involves the collection of use tax by Dell Computers on the extended warranty service contracts during the years 2000 to 2008. The extended warranty service contract is an intangible and the court found that the use tax was collected erroneously. The class action attorneys have estimated as many as 10 million transactions over this time period. The BOE's experience is that about 20 percent actually completed refund claims and submitted them for payment, but this could still mean hundreds of thousands of claims that need to be processed. The BOE has indicated that it does not have the staff to process these additional transactions.

Governor's Budget: The Governor's budget included a "placeholder" request of $3.2 million ($2.1 million General Fund) in the budget year to support 14.5 positions to address the additional workload associated with processing the Dell refunds. The majority of these positions are proposed as limited-term, but the request does include two permanent positions. The positions are proposed to be allocated as follows:

- 2 tax auditors for 2-year limited-term to audit large and medium-sized refund claims.
- 1 business tax specialist for 2-year limited-term to audit largest and most complex claims.
- 1 business tax specialist for 1-year limited-term to coordinate, initiate, and review refund processing.
- 3 tax technician IIIs for 2-year limited-term to search for better addresses for returned warrants and respond to inquiries by class action administrator.
- 3.5 tax technician IIIs for 1-year limited-term to validate name/address changes and process correspondence related to claim exceptions.
- 1 supervising tax auditor II for 2-year limited-term to manage the overall refund project.
- 1 associate accounting analyst permanently established to review refunds and reconcile claims filed and claims paid.
- 1 associate administration analyst permanently established to maintain claim databases.
- 1 tax technician II for 2-year limited-term to manage 30,000 additional calls in the call center expected from the class action lawsuit.

Further Information: This item was heard by the Subcommittee at its May 3rd Hearing and held open. In the subcommittee hearing questions arose regarding the status of the Dell Settlement and the need for the positions noted. BOE now has a signed settlement agreement and expects expenditures in FY 2012-13 and FY 2013-14. The potential refunds range from $50 to $250 million. It is estimating the total number of refund claims to be approximately 2 million or 20 percent of the 10 million original transactions where sales tax was charged on the extended warranty contract.

Key dates outlined in the attached settlement agreement include:

- April 30, 2012 - Dell to provide the BOE a payables database, which contains the total potential number and amount of claims. (BOE received a disk from Dell on May 2, 2012 and is currently in the process of importing or uploading the data of the universe of claimants.)
- Before July 16, 2012 – Notices will be mailed to Dell customers. The website will also

go live.

- Customers will have until mid-September 2012 to opt out of the class action lawsuit.
- The customers may file claims through January 16, 2013.
- BOE will pay claims for refunds in batches as they come into BOE.
- BOE anticipates paying claims in FY 2012-13 and FY 2013-14. Approximately 751 audits of refund claims are expected. Materiality thresholds will be established and all claims over a certain dollar threshold will be audited. Remaining claims will be selected on a random sample basis.
- Staffing levels of 14.5 positions in FY 2012-13 dropping to 10.0 positions for FY 2013-14 to validate, audit and process claims for refund, look for refund offsets to other agencies, address returned warrants, perform account maintenance, reconcile claims filed and paid, provide proper documentation to the State Controller's office, and answer telephone inquiries related to the settlement and claim forms.

Staff Comments: The BOE has indicated that there is a signed settlement agreement in the Dell Computers case. Errors in the original BCP have been corrected to make all positions limited-term. The BOE has indicated that notices will be mailed to Dell customers by July 16, 2012 and that customers will have until mid-September 2012 to opt out of the class action lawsuit. The customers will be able to file claims through January 16, 2013. The BOE estimates that the majority of the claims will be paid in 2012-13. Assembly Budget Subcommittee 4 approved this request based on two-year, limited-term positions.

Staff Recommendation: Staff recommends that the Subcommittee approve this request on a two-year, limited-term basis, thus conforming to the Assembly action.

Vote: APPROVE AS TWO-YEAR, LIMITED-TERM POSITIONS. CONFORMS TO ASSEMBLY: 3 - 0

Issue 2 – State Responsibility Area Fire Prevention Fee Collection

Background: Last year, Chapter 8x, Statutes of 2011 (AB 29x, Budget) was enacted to implement a fire prevention fee on owners of habitable structures in state responsibility areas (SRAs). This legislation requires a fee of $150 per structure to support the fire prevention activities of the California Department of Forestry and Fire Protection. The BOE is assigned the responsibility of collecting the fee. The fee is expected to generate $50 million in the current fiscal year and $85 million in the budget year. This issue was heard on May 3, and held open.

Governor's Budget: The Governor's budget includes $6.4 million in reimbursements and 57 positions in the budget year to administer this program.

Staff Comments: Staff finds that the legislation enacted last year requires the California Department of Forestry and Fire Protection to submit to BOE a list of names and addresses of those that are required to pay the fee. Therefore, it is unclear why BOE requires the number of permanent staff being requested. It is expected that there would be startup costs associated with implementing a new fee collection program like the SRA fee. However, the BOE's proposal does not reflect much of a decline in ongoing resources needed to support this program. Staff notes that the Assembly Budget Subcommittee 4 has already taken action on this item and approved the staffing package on a two-year limited-term basis and also approved reporting language to get more information on actual experience related to collecting the SRA fee.

Staff Recommendation: Staff recommends approving the request as two-year, limited-term positions and reporting language based on a full year of operation, thus conforming to the Assembly action.

Vote: Hold Open

Issue 3 – AB 155 Use Tax Enforcement

Background: The Legislature passed, and the Governor signed, as part of the 2011-12 budget, AB 28 X1 (Blumenfield), Chapter 7, Statutes of 2011, which required that out-of-state businesses with certain connections to California—such as sales using affiliates or the presence in the state of related companies—be required to collect the use tax on behalf of the state. Subsequently, the operative date of this bill was delayed until fiscal year 2012-13 through the passage of AB 155 (Charles Calderon and Skinner), Chapter 313, Statutes of 2011, with the date of implementation dependent on the outcome of certain federal actions.

Budget Proposal: The budget proposes additional resources of $3.2 million ($2.1 million General Fund and $1.1 million special funds) and 28 positions to implement the expanded collection of the use tax by out-of-state business pursuant to AB 155. These additional resources will be used to identify out-of-state business required to collect the use tax and institute compliance programs for the initiative. Two positions relate to coordination of legislation that may be adopted at the federal level that could affect the implementation of the measure. The committee heard this item at its May 3 hearing and approved the proposal as budgeted; the item is being heard again for reconsideration.

Assembly Action: Assembly Budget Subcommittee 4 heard this issue at its May 9 hearing and approved the proposal with some revisions. All positions were approved on a two-year, limited-term basis, with the two legislative positions referenced-above to begin January 1, 2013.

Staff Comment: The approach taken by the Assembly Budget Subcommittee 4 is a reasonable one and would allow the Legislature to revisit this issue in a timely fashion when the program has been established. The issue was heard by the Subcommittee at a prior hearing and approved. It is being reopened for the purpose of making the positions limited-term as opposed to permanent.

State Recommendation: Rescind prior action on this budget item. Approve as two-year, limited term positions, thus conforming to Assembly action.

Vote: RESCIND PRIOR ACTION AND APPROVE AS TWO-YEAR, LIMITED-TERM POSITIONS. CONFORMS TO ASSEMBLY: 2 – 1 (LA MALFA)

Issue 4 – Centralized Revenue Opportunity System (CROS)

May Revision Proposal: As part of the May Revision, the Administration is requesting $23.8 million ($14.6 million General Fund) and 156.7 positions in 2012-13 and $29.1 million $18.1 million General Fund) and 242.1 positions in 2013-14 for the beginning stages of a new centralized data and tax collection system. The initial stage of the project would largely address the beginning implementation stage of the project, maintain the existing legacy systems, address data conversion issues, address external interface issues and engage in certain tax compliance and enforcement activities. While the initial phase of the project relates to preparatory work, the final product will result in combining several of the department's existing systems and provide a centralized and unified tax collection and data system. The project is designed to generate revenue during its implementation and will be structured based on "alternative procurement" in that it will be benefits-funded. During the initial two years, the project would result in additional revenue of $38.8 million in 2012-13 and $66.5 million in 2013-14.

Background: BOE's current automation systems were developed in the 1990s. The hardware and software which supports these systems is dated and more costly to maintain than newer technologies. Additionally, because BOE's systems have required continuous modifications over the last ten years, there has also been a significant, and steady, increase to the costs, staffing resources and time involved to make changes, enhancements, or maintain these systems. The programming language is outdated and it is becoming increasingly difficult to find staff, or contractors, to maintain the systems. The current systems are antiquated, do not have the capability to easily adapt to new or expanding requirements, and cannot adapt or take advantage of emerging technologies.

As the systems have become more dated, workload has increased. Over the recent past, BOE has been directed to implement several new tax and fee programs or other proposed statutory changes. Each of these statutory changes or new programs requires significant programming hours to modify the existing automation systems. Any new implemented tax program uses the same computer components as the existing tax programs while in use by BOE's multiple tax programs. Multiple programming changes are difficult to accomplish since programming components are tightly integrated and changes to the components disrupt existing tax program activities. Implementing a new tax and fee programs can take as long as ten months to complete with existing systems. In addition, the department is increasingly experiencing frequent and recurring requests for statistical data or quantitative information.

BOE has developed a number of ad hoc methods and ancillary systems to respond to these information requests. Extracts from the department's principal systems--Integrated Revenue Information System (IRIS) and Automated Compliance Management System (ACMS) are stored with data received from external agencies in data marts and reports are created utilizing desktop applications. The difficulty in accessing BOE internal data and the ability to only perform one-source data matching is cumbersome and often detrimental in responding timely to requests and performing program analysis. Requests still require programming expertise and are expensive and time consuming to perform. BOE does not have the business intelligence tools required to provide the requestor or client access to the information that is required to complete necessary business processes in a timely and cost effective manner.

To address this, BOE proposes a significant automation project which will ultimately replace

IRIS and ACMS, its two current automation systems. In addition, the project will expand online taxpayer services and provide an enterprise data warehouse. This project will impact virtually all processing areas within the organization. The new technologies and tools will provide increased efficiency and will augment revenue production while incorporating "best practices" to reengineer how work is performed. Replacement of the legacy systems should improve the BOE's performance. Additionally, the integration of a data warehouse would provide a single enterprise repository of BOE internal data and external data.

Proposal Detail: For the budget year 2012-13, roughly $12.3 million will constitute personnel services with the balance ($11.5 million) used for operating expenses and equipment (OE&E). A large portion of the OE&E—slightly less than $5 million—is for consulting services and data center services. About a third of the personnel will be directly involved in the CROS project, which in this phase is concentrated on project direction and generally relate to data cleansing and preparing for conversion to the new system. The positions, in addition to administrative project-direction positions--include software specialists, programmers, and system analysts. Performing much of this work in-house, as opposed to by the vendor--is expected to reduce overall project costs.

At the same time the activities related to the implementation of the CROS are occurring, other personnel will be addressing the accumulated backlog of activities that need to be addressed in preparation for the new integrated system. Significant backlogs have been identified in the areas of audits, collections, State wide Compliance and Outreach Program (a BOE tax gap program), offers in compromise, and settlements. Addressing the backlogs in these areas generates the revenues identified in the proposal. In addition, addressing the backlogs also makes the project itself more feasible by improving the quality of the data prior to system implementation.

Subsequent Proposal Revision: Staff requested the department reformulate its proposal to postpone certain CROS components while maintaining the revenue generated in the budget year as well as the overall implementation of the project. BOE staff responded with a recalibrated BCP that lowers costs in 2012-13. BOE identified 43.7 positions that may be delayed starting until 2013-14. A majority of these positions are under the CROS proper component. The department indicates that it can delay the starting date for certain specialized staff until the second year and still achieve the desired revenue of $38.8 million in 2012-13 and $66.5 million in 2013-14. This proposed reduction represents a 28 percent reduction from the original position request. With this reduction, BOE would be requesting 113.0 positions and $18.1 million ($11.2 General Fund) in 2012/13 and 242.1 positions and $30.1 million ($18.7 General Fund) in FY 2013-14.

Questions:

BOE: Can you outline the timing for the implementation of the project?

BOE: How will you proceed on the benefits-funded approach for the project?

BOE: Could you address the impact of simply going forward with the revenue related positions without the CROS-related positions?

LAO: Does the approach of the department resemble the approach taken in other benefits-funded projects?

CTA: Could you comment on the outline of the proposal and the procurement approach?

Staff Com ments: The department's current proposal is much improved from earlier draft versions. Technology and data system improvements at BOE are overdue. Its technology systems are clearly dated and expensive, and the current proposal is a reasonable start in the process of modernization. The department has pursued a benefits-funded approach that has been recommended in the past and has also reviewed the plan with other agencies in order to benefit from lessons learned. In particular, the department has consulted with the Franchise Tax Board, which has been generally successful with its various technology modernization projects. The short-term benefit/cost ratio does not meet historical standards, but the project is based not on short-term returns, but rather longer-term benefits. In addition, the benefit/cost ratio is generally in keeping with FTB's similar technology upgrades. An interim report for this project that would allow the Legislature to evaluate progress in conjunction with subsequent budget requests the department indicates will be forthcoming. The proposal may also benefit from additional vetting of the estimated revenue generated by the project. This could be incorporated as part of the reporting language. Finally, the proposal as adjusted would maintain revenues while reducing costs for the project.

Staff Recommendation: Approve project funding based on the revised BCP from the department with SRL requiring a status report to the Legislature after the initial full year of implementation.

Vote: APPROVE REVISED BCP AND ANNUAL SRL: 3 - 0

8885 COMMISSION ON STATE MANDATES (COSM)

Background: The Governor's Budget proposes the continued funding of property tax and public safety mandates, discussed in Issue 1 below. In addition, the Governor's Budget achieves substantial savings by the continued suspension (and in some cases, repeal) of various mandates that are not associated with law enforcement or property taxes as discussed in Issue 2 below. Of the $4.2 billion in expenditure reductions identified as budget balancing solutions, cost reductions related to mandates account for $828 million. This $828 million is comprised of the following:

- **Suspended Mandates.** 56 mandates are slated for suspension, resulting in a savings in the budget year of $375.7 million.

- **Expired Mandates.** 10 expired mandates will not be funded in the budget plan, resulting in a savings of $295.1 million.

- **Deferred Pa yment Mandates.** 2 mandates noted above are still in place but the payment has been deferred, resulting in a savings of $57.9 million.

- **Pre-2004 Mandates.** Payment for mandate costs incurred prior to 2004 is deferred resulting in a budget year savings of $99.5 million. These costs must eventually be paid by 2021.

Once a required activity or expanded activity imposed on local governments has been determined to be a mandate, the State still has some options regarding the actual funding of this mandate.

- **Fund the Mandate.** If the State chooses to fund the mandate, it is required to pay for all unpaid bills submitted since 2003 up through the most current year of cost approval.
- **Suspend the Mandate.** Suspension of a mandate through the budget process keeps the mandate on the books, but absolves the local government of responsibility of providing the service and relieves the State of paying the cost of the service during the suspension.

Proposition 1A, adopted by the voters in 2004, requires the Legislature to either fund mandates and appropriate funds for payment, or suspend or repeal the mandate. Two mandates were exempt from this requirement, allowing them to remain in place even without funding. These two mandates are Peace Officer Procedural Bill of Rights (POBAR) and Local Government Employee Relations mandate. These mandates have continued and reimbursable costs due local governments are continuing to accrue. Proposition 1A also requires the Legislature to pay all pre-2004 mandate claims over a period of time. The State owes local agencies in excess of $1 billion in unpaid mandate costs. A portion of these costs is scheduled to be paid by 2021, while other costs have no payment schedule in place.

In the recent decades, the Legislature has suspended numerous mandates as a form of budget relief. In the current year, some 60 mandates have been suspended. A large number of the suspensions occurred during the current period of budget difficulties, although some suspensions go back to 1990. Some have been suspended immediately after COSM reported their costs to the Legislature.

Issue 1 – Funded Mandates

Governor's Budget Request: The Governor's proposal includes the continued funding of certain mandates related to public safety and property taxes. The policy reason behind the decision to fund the public safety mandates is apparent given the focus of these requirements. For property tax-related mandates, the policy motivation for funding these is based on the statewide interest in property tax compliance, given the interrelationship of education funding from local property taxes and General Fund obligation to backfill education costs for purposes of the Prop 98 guarantee. In addition to the General Fund cost presented in the table below, the request includes an additional $2.5 million from special funds.

Proposed Funded Mandates

Mandate	2012-13 GF Cost ($000s)
Threats Against Peace Officers	26
Custody of Minors: Child Abduction and Recovery	12,999
Medi-Cal Beneficiary Death Notices	10
Sexually Violent Predators	20,963
Domestic Violence Treatment Services	1,944
Domestic Violence Arrest Policies	7,608
Unitary Countywide Tax Rates	267
Allocation of Property Tax Revenues	727
Rape Victim Counseling	349
Health Benefits for Survivors of Peace Officers and Firefighters	1,695
Crime Victims' Domestic Violence Incident Reports	167
Peace Officer Personnel Records: Unfounded Complaints & Discovery	657
Domestic Violence Arrests and Victims Assistance	1,374
Total Funded Costs	**48,786**

Staff Comment: At the time this agenda was finalized, no concerns had been raised with these budget requests. The mandates selected for funding continue the policy adopted in previous years by the Legislature.

Staff Recommendations: Approve the budget request for continued funding of selected local government mandates.

Vote: **APPROVE AS BUDGETED: 3 - O**

Issue 2 – Suspended Mandates

Governor's Budget Request: The mandates slated for suspension under the Governor's proposal are listed in the table below. Many of these have been suspended for several years, usually as part of the budget process. In general, the suspension of many of the mandates has not been subject to a thorough policy review that would result in an evaluation of the costs and benefits of the mandate, but rather have been suspended solely for the purpose of budgetary savings. The policy decision to establish the mandate in the first place has not generally been a substantial component of the discussion.

In addition to the suspension, the Administration has proposed trailer bill language (TBL) that certain mandates be repealed. These are denoted by an asterisk in the list below. The budget year savings associated with suspension and repeal are identical. With suspension, the mandate remains in statute but is simply not funded. As a result, in order to determine whether a mandate is actually in effect, confirmation of both the statutory reference and the budget bill is required. With repeal, the statute requirement is repealed by Legislative action.

Suspended Mandates

Mandate	2012-13 GF Savings ($000s)
Adult Felony Restitution*	0
AIDS/Search Warrant*	1,596
Airport Land Use Commission/Plans*	1,595
Animal Adoption*	46,296
Conservatorship: Developmentally Disabled Adults*	349
Coroners' Costs	222
Crime Victims' Domestic Violence Incident Reports II*	1,959
Deaf Teletype Equipment*	0
Developmentally Disabled Attorneys' Services	1,198
DNA Database & Amendments to Postmortem Examinations: Unidentified Bodies	310
Domestic Violence Information*	0
Elder Abuse, Law Enforcement Training*	0
Extended Commitment, Youth Authority*	0
False Reports of Police Misconduct*	10
Filipino Employee Surveys*	0
Firearm Hearings for Discharged Inpatients*	157
Grand Jury Proceedings*	0
Handicapped Voter Access Information	0
Inmate AIDS Testing*	0
Judiciary Proceedings*	274
Law Enforcement Sexual Harassment Training*	0
Local Coastal Plans*	0

Mandate	2012-13 GF Savings ($000s)
Mandate Reimbursement Process	6,419
Mandate Reimbursement Process II (includes suspension of consolidation of the two)	0
Mentally Disordered Offenders: Treatment as a Condition of Parole	4,910
Mentally Disordered Offenders: Extended Commitments Proceedings	7,232
Mentally Disordered Sex Offenders: Recommitments	340
Mentally Retarded Defendants Representation*	36
Missing Persons Report*	0
Not Guilty by Reason of Insanity*	5,214
Open Meetings Act/Brown Act Reform	96,090
Pacific Beach Safety: Water Quality and Closures	344
Perinatal Services*	2,338
Personal Safety Alarm Devices*	0
Photographic Record of Evidence*	291
Pocket Masks*	0
Post-Conviction: DNA Court Proceedings	410
Postmortem Examinations: Unidentified Bodies and Human Remains	1,180
Prisoner Parental Rights*	0
Senior Citizens Property Tax Postponement	481
Sex Crime Confidentiality	0
Sex Offenders: Disclosure by Law Enforcement Officers	0
SIDS Autopsies*	0
SIDS Contacts by Local Health Officers*	0
SIDS Training for Firefighters*	0
Stolen Vehicle Notification*	1,117
Very High Fire Hazard Severity Zones	0
Victims' Statements-Minors*	0
Fifteen-Day Close of Voter Registration	0
Absentee Ballots	50,924
Permanent Absent Voters	2,686
Absentee Ballots-Tabulation by Precinct	68
Brendon Maguire Act	0
Voter Registration Procedures	2,452
In-Home Supportive Services II	449
Crime Statistics Reports for the DOJ and CSR for the DOJ Amended*	138,722
Total Suspended Savings	**$375,669**

The 56 mandates proposed to be suspended for 2012-13 generally include the same mandates that were suspended last year. In addition, some mandates suspended during the current year have expired. The suspension of these mandates would result in budget savings of almost $376 million.

Actions in Other Subcommittees: The Senate Budget Committee adopted a process to allow examination of mandates selected for repeal by its appropriate subcommittees. The following actions have been taken in those subcommittees:

- **Suspensions.** At its May 10 hearing, Senate Budget Sub 5 approved the suspension of all public safety mandates noted in the table above, except for one mandate. (This remaining mandate relates to Crime Statistics Reports, and will also be addressed in Subcommittee 5.)

- **Reject Repeal TBL.** At its April 11 hearing, Senate Budget Sub 2 rejected the TBL to repeal the mandates for Airport Land Use Commission/Plans, Animal Adoption, Local Coastal Plans and SIDS Training for Firefighters. At its May 10 hearing, Senate Budget Sub 3 took action to reject TBL to repeal the mandates for Conservatorship for Developmentally Disabled Adults, and at its March 8 hearing rejected the TBL to repeal SIDS Autopsies, and SIDS Contacts by Local Health Officers.

- **Adopt Repeal TBL.** At its May 8 hearing, Senate Budget Sub 5 took action to approve TBL to repeal the mandate for Filipino Employee Surveys. At its March 8 hearing, Senate Budget Sub 3 took action to approve TBL to repeal the Perinatal Services.

Assembly Actions: Assembly Budget Subcommittee 4 considered mandates at its March 13 hearing. It took action to suspend those mandates noted in the table above, but reject the repeal TBL in its entirety. (It also approved funding the mandates noted in Issue 1, above.)

Staff Comment: At the time this agenda was finalized, no concerns had been raised with the continued suspension of these mandates. The mandates selected have been suspended in previous years. Regarding the TBL to repeal, a careful review should be conducted. Some of the mandates were considered as part of the budget subcommittee process and actions taken. To the extent that this did not occur, these proposals should be referred to policy committee that considers and addresses the particular subject matter.

Staff Recommendations: Suspend mandates proposed by the Governor for suspension, as noted above. Reject TBL to repeal selected mandates, except for those two mandates noted above where repeal TBL was specifically approved in subcommittee.

Vote: Hold Open

9210 LOCAL GOVERNMENT FINANCING

Department Overview: The 9210 budget item includes several programs that make State subventions to local governments. The payments include $2.1 billion General Fund for constitutionally-required repayment of 2009-10 "Prop 1A" borrowing from local governments; a small subvention related to former Redevelopment Agencies (RDAs) to help retire a portion of outstanding debt that was backed by the personal property tax – about $500,000, and a new subvention of $4.4 million General Fund proposed this year for Mono and Amador counties.

Budget Overview: The proposed budget for the 9210 item is $2.1 billion General Fund. Year-over-year comparisons show a major increase in expenditures as Prop 1A borrowing was $91 million in 2011-12 and will be $2.1 billion in 2012-13. Prop 1A debt will fully be repaid in 2012-13, so there is no ongoing cost. Additionally, some public safety grants were included in this item in prior years, but that funding was shifted with the 2011 Public Safety Realignment legislation and is now funded with the new local revenues instead of State grants.

Issue 1 – Reimbursements to Amador County

Governor's Request: In the January Budget, the Governor proposed a new General Fund subvention of $4.4 million to backfill Mono and Amador counties due to unique circumstances that reduced property tax directed to those county governments and cities within those counties in 2010-11. In an April 1 Finance Letter, the Governor rescinded the funding for Mono County indicating that updated data suggested the problem did not exist in that county for 2010-11. The Governor maintains the funding request of $1.5 million for Amador County. The revenue loss is understood to also have occurred in 2011-12 and will continue into 2012-13 and likely beyond, but the Administration indicates it is undetermined at this time whether its proposal is one-time or ongoing.

Background and Detail: Legislation enacted early in the Schwarzenegger Administration shifted local property tax from schools to cities and counties to accommodate two State fiscal initiatives. Schools were then backfilled with State funds. Overall, the fiscal changes resulted in a large net revenue gain for cities and counties as the replacement revenue streams have grown faster than the relinquished revenue streams. However, for Amador County, unique circumstances reportedly reversed this outcome in 2010-11 and it is possible this outcome could occur for a few additional counties in the future.

- **Financing Economic Recovery Bonds (ERBs).** In the 2004 primary election, voters approved Proposition 58, which allowed the State to sell ERBs to pay its accumulated budget deficit. The local sales tax for cities and counties was reduced by one-quarter cent and the State sales tax was increased by one-quarter cent to create a dedicated funding source to repay the ERBs. Property tax was redirected from schools to cities and counties, and the State backfilled schools via the Proposition 98 funding guarantee. This financing mechanism is sometimes called the "triple flip," and was anticipated to hold local governments harmless. When the ERBs are repaid in 2016-17 (or earlier), the local sales tax rate is restored.

- **Backfilling for the Vehicle License Fee (VLF) Tax Cut.** Also in 2004, the Legislature enacted the "VLF Swap" to provide a more reliable funding mechanism to backfill cities and counties for the local revenue cut by the State when the VLF tax on motor vehicles was reduced from 2.0 percent of a vehicle's value to 0.65 percent of a vehicle's value. Here again, the state redirected property tax from schools to cities and counties and backfilled schools with State funds.

- **Problem for Amador**: The funding mechanism stopped fully working for Amador County (and initially Mono County) reportedly in 2010-11 due to all the schools in those counties becoming "basic aid" schools. Basic aid schools receive sufficient local property tax to fully fund the per-student amounts required by the Proposition 98 guarantee and therefore the State's funding is minimal. Due to this "basic aid" situation, current law would not backfill schools for any property tax shifted to cities and counties and county auditors have reportedly reduced or discontinued the "AB 8" shift of property tax from schools to those cities and counties. The estimated loss for the two counties in 2010-11 is $4.4 million. Conversely, in a non-"Test 1" Proposition 98 year, the State would realize a savings from not having to backfill schools – but 2012-13 appears to be a Test 1 year.

Issues to Consider: The financing shifts and educational financing provisions are complex, and perhaps not entirely relevant to making a determination on this budget request. The Subcommittee may instead want to focus on some broader ideas and issues:

- **Revenue growth uncertainty.** The funding shifts did include uncertainty and risk, as the relative growth of various revenue streams over many years was unknown. On a statewide basis, data suggests most counties – perhaps as many as 56 of 58 counties - have received a net benefit from the shifts. Since 2010-11, reportedly Amador has not seen net benefits. Individual county estimates of benefits or costs are not currently available, but Amador County has estimated the isolated effect of the property tax shift at $1.5 million.

- **No backfill guaranteed in the original legislation, but the Amador outcome was not anticipated.** The enacting legislation did not include provisions for the State to backfill locals with new subventions if the baseline funding mechanism proved to be insufficient to maintain city and county funds. At the time of the legislation, stakeholders were likely aware of the risk of variable levels of growth for different revenue streams, but may not have anticipated this outcome of all schools within the county becoming "basic aid." Since this outcome may not have been foreseen by the State or local governments at the time of bill enactment, does the State have a responsibility to backfill for this revenue loss?

- **Budget challenges in most cities and counties.** Since many cities and counties are continuing to experience budget shortfalls, should the Legislature consider the fiscal condition of the two counties relative to other counties as a factor in the determination. For example, has the decline in revenue for these counties since 2007-08 exceeded the statewide average?

- **Timing of the Subvention.** If the Legislature determines a subvention is appropriate, should the Legislature appropriate for revenue loss through 2012-13 (maybe funding at a level of $13.2 million), or conversely decide to fund, but defer reimbursement to later in the fiscal year.

Question:

LAO: Is there any potential for other counties to fall into a position similar to Amador's? What might be the potential costs to the state?

Staff Comment: The Subcommittee heard this issue on March 8, when the Administration was requesting $4.4 million for Amador and Mono counties, and the issue was left open. The Administration has reduced the request in an April 1 Finance Letter and is currently requesting only $1.5 million for Amador County, indicating that Mono County did not lose funds in 2010-11.

Staff Recommendation: Staff recommends approving the budget request, with one-half the funding to be provided initially and the remainder to be disbursed upon a finding of necessity by the Department of Finance based on criteria established in Budget Bill Language. Absent a finding by Department of Finance, the funds would revert to the General Fund. Staff also recommends that LAO and DOF be directed to develop criteria whereby funding for such backfill shortfalls might be determined in the future.

Vote: **APPROVE AS BUDGETED AND BBL AND SRL: 3 - 0**