

SUBCOMMITTEE NO. 5

Agenda

Senator Nancy Skinner, Chair
Senator Joel Anderson
Senator Jim Beall



Thursday, April 19, 2018
9:30 a.m. or upon adjournment of Session
State Capitol - Room 113

Consultant: Christopher Francis

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Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

PROPOSED FOR VOTE ONLY**0250 JUDICIAL BRANCH**

1. **Advancing the implementation of the Strategic Plan for Language Access in the California Courts.** The Judicial Council requests a one-time augmentation of \$4.0 million General Fund in 2018-19 to further advance the implementation of the Strategic Plan for Language Access in the California Courts adopted in January 2015. This funding is one-time pending the results of the Video Remote Interpreting Spoken Language Pilot designed to advance language access expansion. Funding has historically been used solely to provide interpreter services in criminal and juvenile matters (referred to as "mandatory cases"), but changes in state law and policy now also require the provision of interpreters in civil case types.
2. **Court Appointed Special Advocate grants program.** The Judicial Council requests an ongoing augmentation of \$500,000 General Fund beginning in 2018-19 to support the Court Appointed Special Advocate (CASA) grants program. The CASA programs are nonprofit organizations that provide trained volunteers assigned by a juvenile court judge to a child in foster care. The annual budget act currently provides \$2.2 million to support CASA programs. This request will provide funding to increase the number of children served by 20 percent, or 2,200 children, and will reduce the backlogs of children in local courts waiting for a volunteer assignment.
3. **Collective Bargaining: Judicial Council (AB 83).** The Judicial Council requests an augmentation of \$610,000 General Fund (\$56,000 one-time) and three positions in 2018-19, \$554,000 and three positions in 2019-20, and \$369,000 and two positions in 2020-21 and ongoing to support costs associated with increased workload for the Judicial Council as a result of the enactment of AB 83 (Santiago), Chapter 835, Statutes of 2017, the Judicial Council Employer-Employee Relations Act. AB 83 creates the Judicial Council Employer-Employee Relations Act to provide Judicial Council employees, as defined, the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations, except for excluded employees.
4. **Court Fee Sunset Extension Trailer Bill Language.** The Governor's proposal includes, via trailer bill language, an extension of the \$40 supplemental fee for filing any first paper subject to the uniform fee in certain civil proceedings until July 1, 2023. Moreover, the bill would extend the operation of the \$1,000 complex case fee and the \$18,000 total fee limitation to July 1, 2023, thereby extending that higher fee rate and limitation until that date. This bill will extend operation of the \$60 filing fee to July 1, 2023. This would also extend the filing fee for a request for special notice to January 1, 2024. These fees have sunset on January 1, 2018 or will sunset on July 1, 2018 without approval of this extension language.
5. **Lease Revenue Budget Bill Language.** The Administration has submitted a Spring Letter proposing that provisional language be added to Item 0250-301-0660 to clarify that any fund source from the Judicial Council's operating budget can be used to pay the rental obligations on the lease revenue bonds appropriated in this item.

The proposal is to specifically add the following provision to Item 0250-301-0660:

“3. Notwithstanding any other provision of law, rental obligations for the lease revenue bonds authorized in this appropriation may be paid from any lawfully available fund source within the Judicial Council's operating budget.”

6. **Amendment to Riverside County: New Mid-County Civil Courthouse Spring Letter.** It is requested that Item 0250-301-3138 be amended to correct a technical error that resulted in the incorrect project identification number and title being used for the working drawings phase of this project.

0850 DEPARTMENT OF JUSTICE

7. **Registry of Charitable Trusts - Delinquency Compliance.** The Department of Justice (DOJ), Public Rights Division (PRD), Registry of Charitable Trusts, requests an increase in the Registry of Charitable Trusts Fund of \$525,000 in FY 2018-19 and \$462,000 in FY 2019-20 and ongoing. Additionally, the DOJ requests authority for five positions beginning in FY 2018-19. The requested spending and position authority will allow the DOJ to sustain continued improved result and enforcement of charity compliance and associated activities.
8. **Bureau of Children's Justice.** The DOJ, Public Rights Division (PRD) requests a permanent augmentation of fourteen positions and Public Rights Law Enforcement Fund spending authority of \$3,567,000 in FY 2018-19 and ongoing to support the Attorney General's Bureau of Children's Justice (BCJ). The BCJ is a specialized unit in the Attorney General's Office that primarily conducts independent civil systemic investigations of local governmental agencies regarding compliance with state laws pertaining to protecting children from physical and sexual abuse, providing children their constitutionally-mandated educational rights, and assessing the manner in which law enforcement resources are used against children. BCJ also investigates private entities.
9. **Immigration Data Governance (SB 54).** The DOJ, Criminal Justice Information Services Division and the Division of Public Rights, Civil Rights Enforcement Section request an increase in General Fund spending authority of \$2,406,000 and 13.0 positions in FY 2018-19; \$1,807,000 and 10.0 positions in FY 2019-20; and \$1,185,000 and 10.0 positions ongoing to address the mandates outlined in Senate Bill 54 (de León), Chapter 495, Statutes of 2017. SB 54 limits state and local law enforcement agencies involvement in immigration enforcement and to ensure that eligible individuals are able to seek services from and engage with state agencies without regard to their immigration status.
10. **Nonprofit Health Facilities: Sale of Assets (AB 651).** The DOJ, Public Rights Division, Charitable Trust Section, requests a permanent augmentation of two positions and General Fund spending authority of \$369,000 for FY 2018-19 and \$356,000 for FY 2019-20 and ongoing to support the implementation of and thereafter to address the mandates associated with Assembly Bill 651 (Muratsuchi), Chapter 782, Statutes of 2017. AB 651 extends the time that the Attorney General (AG) has to approve or reject the proposed sale of a nonprofit health facility from 60 to 90 days; requires public notice of a hearing regarding the proposed sale to be provided in additional languages; and requires the AG to consider whether the sale would have an adverse impact on the significant cultural interests in the affected community.

11. **Firearm Violence Research Center: Gun Violence Restraining Orders (SB 536).** The DOJ, California Justice Information Services Division requests a permanent General Fund spending authority increase of \$138,000 in FY 2018-19 and \$130,000 ongoing to support one position. The requested spending authority will allow the DOJ to meet the mandates associated with Senate Bill 536 (Pan), Chapter 810, Statutes of 2017. SB 536 gives researchers at the Firearm Violence Research Center, and, at DOJ's discretion, any other nonprofit educational institution or public agency immediately concerned with the study and prevention of violence, access to information relating to gun violence restraining orders, as specified.

Staff Recommendation: Approve all vote-only items as proposed

ITEMS TO BE HEARD**0820 DEPARTMENT OF JUSTICE****Issue 12: Update by Attorney General Xavier Becerra**

Attorney General. The constitutional office of the Attorney General, as chief law officer of the state, has the responsibility to see that the laws of California are uniformly and adequately enforced. This responsibility is fulfilled through the diverse programs of the Department of Justice (DOJ). The Attorney General's responsibilities include safeguarding the public from violent criminals, preserving California's spectacular natural resources, enforcing civil rights laws, and helping victims of identity theft, mortgage-related fraud, illegal business practices, and other consumer crimes.

Under the state Constitution, the Attorney General is elected to a four-year term in the same statewide election as the Governor, Lieutenant Governor, Controller, Secretary of State, Treasurer, Superintendent of Public Instruction, and Insurance Commissioner. In 1990, California voters imposed a two-term limit on these statewide offices.

On January 24, 2017, Xavier Becerra was sworn in as the 33rd Attorney General of the State of California, and is the first Latino to hold the office in the history of the state. He was appointed by the Governor as a replacement for former Attorney General Kamala Harris, who was elected to the United States Senate.

Attorney General Becerra previously served 12 terms in Congress as a member of the U.S. House of Representatives. While in Congress, Attorney General Becerra was the first Latino to serve as a member of the Committee on Ways and Means, served as Chairman of the House Democratic Caucus, and was Ranking Member of the Ways and Means Subcommittee on Social Security.

Prior to serving in Congress, Attorney General Becerra served one-term in the California Legislature as the representative of the 59th Assembly District in Los Angeles County. He is a former deputy attorney general with the California Department of Justice. The Attorney General began his legal career in 1984 working in a legal services office representing persons with mental illness.

Department of Justice. The Attorney General oversees more than 4,500 lawyers, investigators, sworn peace officers, and other employees at DOJ. DOJ is responsible for providing legal services on behalf of the people of California. The Attorney General represents the people in all matters before the appellate and supreme courts of California and the United States; serves as legal counsel to state officers, boards, commissioners and departments; represents the people in actions to protect the environment and to enforce consumer, antitrust, and civil laws; and assists district attorneys in the administration of justice. The DOJ also provides oversight, enforcement, education and regulation of California's firearms/dangerous weapons laws; provides evaluation and analysis of physical evidence; regulates legal gambling activities in California; supports the telecommunications and data processing needs of the California criminal justice community; and pursues projects designed to protect the people of California from fraudulent, unfair, and illegal activities.

Budget Overview. The Governor's 2018-19 budget proposes a total of \$926 million to support DOJ—roughly the same amount as the revised 2017-18 spending level. Of the total amount proposed, \$245 million is from the General Fund.

Staff Recommendation. This is an informational item. No action is necessary at this time.

Issue 13: Armed Prohibited Persons System (APPS)

Background. Under California law, in order to purchase a firearm, an individual must provide a licensed gun dealer with proof of age (21 years for handguns and 18 years for long guns), pass a background check, pay a \$25 fee, and wait for 10 days. In addition, all firearms must be sold with a locking device. Finally, a person purchasing a gun must provide proof that they passed the gun safety exam. Under certain circumstances, individuals are prohibited from owning or possessing firearms. Generally, a person is prohibited from owning guns if any of the following apply:

- Has been convicted of a felony.
- Has been convicted of certain misdemeanors.
- Has been proven to be a danger to himself/herself or others due to a mental illness.
- Has been restrained under a protective order or restraining order.
- Is on probation or parole.
- Has been convicted of certain crimes as a juvenile and is adjudged a ward of the state.

Between calendar year 2012 and calendar year 2013, total gun purchases rose by over 15 percent in California. In 2014, the number of sales dropped for the first time since 2007. The table that follows illustrates the annual number of overall purchases of firearms in the state. Despite the decrease, gun sales in California have almost tripled over the last decade.

**Firearms in California
Purchases and Denials**

Year	Hand Guns Purchased	Hand Gun Denials	Long Guns Purchased	Long Gun Denials	Total Guns Purchased	Total Denials
2004	145,335	1,497	169,730	1,828	315,065	3,325
2005	160,990	1,592	183,857	1,878	344,847	3,470
2006	169,629	2,045	205,944	1,689	375,573	3,734
2007	180,190	2,373	190,438	1,926	370,628	4,299
2008	208,312	2,737	216,932	2,201	425,244	4,938
2009	228,368	2,916	255,504	2,221	483,872	5,137
2010	236,086	2,740	262,859	2,286	498,945	5,026
2011	293,429	3,094	307,814	2,764	601,243	5,805
2012	388,006	3,842	429,732	3,682	817,738	7,524
2013	422,030	3,813	538,419	3,680	960,179	7,493
2014	512,174	4,272	418,863	4,297	931,037	8,569
2015	483,372	5,417	397,231	4,252	880,603	9,669
2016	572,644	6,172	758,678	6,149	1,331,322	12,321
2017	522,984	4,264	359,601	2,570	882,585	6,834

Firearms regulation funding. Every individual purchasing a firearm in California is required to pay a \$25 fee. That fee is the total of three separate state fees. A \$19 background check fee is payable to the Dealer Record of Sale Special Account (DROS), which currently funds the APPS program, \$5 is payable to the Firearms Safety and Enforcement Special Fund (FS&E) and a \$1 firearm safety device fee is paid to the Firearms Safety Account (FSA). All of these funds go primarily toward supporting firearm safety and regulation within the Department of Justice.

Statistics on gun violence. The Centers for Disease Control reports that in 2013, 33,636 people died in firearms-related deaths in the United States. That equates to 10.6 people out of every 100,000. Of those deaths, 11,208 were homicides. According to statistics gathered by the Brady Campaign to Prevent Gun Violence, over 100,000 people a year in the United States are shot. According to the latest United States Department of Justice data, in 2011, about 70 percent of all homicides and eight percent of all nonfatal violent victimizations (rape, sexual assault, robbery and aggravated assault) were committed with a firearm, mainly a handgun. A handgun was used in about seven in ten firearm homicides and about nine in ten nonfatal firearm violent crimes in 2011. In the same year, about 26 percent of robberies and 31 percent of aggravated assaults involved a firearm, such as handguns, shotguns or rifles.

Beginning in 1999, DOJ—Bureau of Firearms began to study some of California’s high-profile shootings in an effort to determine if there were remedial measures that could be enacted to curtail instances of gang violence and other similar violent events. The study found that many of the offending individuals were law-abiding citizens when they purchased the firearms, and were subsequently prohibited from gun ownership due to the reasons listed above. At the time of the study, DOJ lacked the capacity to determine whether or not an individual who had legally purchased a firearm, and subsequently became prohibited from such ownership, was still in possession of a firearm. In addition, even if such a determination could have been made, the DOJ lacked the authority to retrieve that weapon from the prohibited person.

Previous legislation. In 2001, the Legislature created the Prohibited Armed Persons File to ensure otherwise prohibited persons do not continue to possess firearms (SB 950 (Brulte), Chapter 944, Statutes of 2001). SB 950 provided DOJ with the authority to cross-reference their database of individuals who own handguns with their database listing of prohibited individuals. SB 950 also mandated that DOJ provide investigative assistance to local law enforcement agencies to better insure the investigation of individuals who continue to possess firearms despite being prohibited from doing so. (Penal Code § 30010.) The 2002 Budget Act included General Fund support of \$1.0 million for DOJ to develop the Armed Prohibited Persons System (APPS). The database was complete in November 2006, with continued funding to support the program provided from the General Fund. Further legislation, SB 819 (Leno), Chapter 743, Statutes of 2011, allowed the department to utilize funds within the Dealers Record of Sale Account (DROS) for firearm enforcement and regulatory activities related to the Armed Prohibited Persons System.

DOJ previously stated that its special agents have trained approximately 500 sworn local law enforcement officials in 196 police departments and 35 sheriff’s departments on how to use the database during firearms investigations. The department stated it also conducted 50 training sessions on how to use the vehicle-mounted California Law Enforcement Telecommunications System terminals to access the database.

Local law enforcement agencies are provided monthly information regarding the armed and prohibited persons in the agency’s jurisdiction. Given this access, once the armed and prohibited person is identified, DOJ and local agencies could coordinate to confiscate the weapons. However, at the present time, many agencies are relying on assistance from DOJ’s criminal intelligence specialists and special agents to work APPS cases. When local agencies do confiscate weapons, they are required to send DOJ a notice so that the individual can be removed from the list.

In 2013, the Legislature, in coordination with DOJ, determined that there was a significant workload resource gap. At that time, it was estimated that approximately 2,600 offenders were added to the APPS list annually, creating a significant backlog in the number of investigations. According to DOJ,

each special agent is capable of conducting 100 APPS investigations over a one -year period. During fiscal year 2012-13, the Bureau of Firearms had authority for 21 agents. Therefore, the bureau was capable of conducting roughly 2,100 investigations on an annual basis with that special agent authority, which would add 500 possible armed and prohibited persons to the backlog each year.

SB 140. To address the workload resources required to both reduce the growing backlog, and actively investigate incoming cases in a timely fashion, the Legislature passed SB 140 (Leno), Chapter 2, Statutes of 2013. SB 140 provided DOJ with \$24 million from the Dealer's Record of Sale (DROS) account in order to increase regulatory and enforcement capacity within DOJ's Bureau of Firearms. The resources financed in SB 140 were provided on a three-year limited-term basis, which, according to the DOJ, was adequate time to significantly reduce or eliminate the overall number of armed and prohibited persons in the backlog. Ongoing cases could be managed with resources within DOJ's Bureau of Firearms. Additionally, the measure included reporting requirements due annually to the Joint Legislative Budget Committee. This regulatory and enforcement capacity was granted prior to a January 1, 2014 law that significantly increased the number of APPS persons added per year.

Addition of APPS persons identified in 2014. The up-to-date DOJ's Bureau of Firearms workload history is provided below. According to their fourth APPS legislative report, released in March 2018, department agents have been able to reduce the number of prohibited subjects to 10,226, the lowest amount since January 2008. It should be noted that until recently, the APPS database was based exclusively on handgun transaction records, not long-gun transaction records. According to the DOJ, "approximately half" of all California firearm sales involve long guns. Effective January 1, 2014, a new California law mandated the DOJ collect and retain firearm transaction information for all types of guns, including long-guns. The impact of this change is that the number of APPS subjects added to APPS changed from approximately 3,000 to 10,000 subjects annually. The workload history is shown below.

**Armed Prohibited Persons
Workload History**

Fiscal Year	Armed and Prohibited Persons Identified	APPS Investigations Conducted
2007-08	8,044	1,620
2008-09	11,997	1,590
2009-10	15,812	1,763
2010-11	17,606	1,700
2011-12	18,668	1,716
2012-13	21,252	2,772
2013-14	21,429	4,156
2014-15*	17,460	7,573
2015-16	12,691	8,574
2016-17	10,634	9,183
2017-18	10,226	8,559

**As of 1/1/2014, long-gun transaction purchases were collected and retained. Long-gun purchases account for approximately fifty percent of gun purchases according to the DOJ.*

APPS in Budget. During the 2015 budget hearing process, the Legislature expressed concern that half-way through the three years, the department had spent 40 percent of the \$24 million, and the backlog had only been reduced by approximately 3,770. In addition, the Bureau of Firearms had hired 45 agents, as of the date of their update, but had only retained 18 agents. Of the agents that left the bureau, the vast majority went to other agent positions in DOJ. It is unclear what caused this staff retention issue, whether it was due to the fact that the new positions were limited-term or that more senior agents were permitted to transfer. As a result, some SB 140 funding that was intended to directly address the APPS backlog was instead used to conduct background checks, provide training and to equip newly hired agents subsequently left the bureau.

The 2015 Budget Act provided DOJ's Bureau of Firearms with 22 additional permanent positions dedicated to APPS investigations and required that they be funded utilizing existing resources. In addition, supplemental reporting language required DOJ to provide the Legislature, no later than January 10, 2016, an update on the department's progress on addressing the backlog in the APPS program and hiring and retaining investigators in the firearms bureau.

As part of the 2016-17 budget, the Legislature approved an on-going increase of \$4.7 million in Firearms Safety and Enforcement Special Fund (FS & E) to provide permanent funding for 22 positions for APPS investigations.

Future additions to APPS due to 2016 ammunition regulations. California had enacted legislation designed to keep guns out of the hands of criminals, but until 2016, it had done little to prevent criminals, gang members, and other prohibited people from procuring the ammunition that fuels gun violence. Several cities require vendors to keep records of ammunition sales, leading to the arrest of thousands of armed and dangerous criminals. Similarly, California enacted statewide legislation requiring vendors to record handgun ammunition sales, but this law has been tied up in litigation involving the statutory definition of handgun ammunition. Consequently, as the result of a court injunction preventing enforcement of the law, any criminal can purchase ammunition, no questions

asked. SB 1235 (de León), Chapter 55, Statutes of 2016, replaced the language in Proposition 63 and required vendors to obtain a state license to sell ammunition, log information about ammunition transactions, and screen the ammunition purchaser for any prohibitions at the point of sale. There are three main components to the legislation: vendor licensing, purchase authorization, and purchase information collection.

Questions for the Department of Justice. DOJ should be prepared to address the following questions:

1. In 2013, the Legislature appropriated \$24 million to the Department of Justice to reduce the backlog in the Armed Prohibited Persons System (APPS). In 2016-17, the Legislature provided an ongoing increase of \$4.7 million to provide permanent funding for 22 positions. Please describe how these funds were spent.
2. Can you describe some of the previous and future complexities associated with getting the backlog down to zero?
3. How do you currently prioritize the cases during the APPS enforcement process?
4. Are there other ongoing programs in California that assist with reducing the APPS backlog?
5. Will the 2016 ammunition regulations increase the number of APPS subjects added per year? If so, by how much?
6. Is there a specific number that you have as a goal and timeline for reaching that goal?

Staff Recommendation. This is an oversight item. No action is necessary at this time.

Issue 14: Antitrust Workload (BCP)

Governor’s budget. The Department of Justice (DOJ) Antitrust Law Section (Section) requests a permanent augmentation of 23.0 positions and Attorney General Antitrust Account spending authority of \$1,780,000 in FY 2018-19, \$3,488,000 in FY 2019-20, \$4,527,000 in FY 2020-21, \$4,419,000 in FY 2021-22 and ongoing to support the Section's increase in workload.

Background. DOJ’s Section is responsible for maintaining a competitive business environment in California by ensuring businesses complies with federal and state antitrust laws. The section’s major activities include investigations and litigation around business mergers and acquisitions as well as anticompetitive behavior (such as price-fixing).

The state and local governments are often the victims of price-fixing conspiracies for which it may be possible to recover damages through antitrust litigation. Consumers in California ultimately bear the brunt of higher prices and inefficient marketplaces brought about by unfair competition. High prices resulting from monopolistic practices in areas ranging from consumer goods to pharmaceuticals shrink the spending power of individual Californians, and make California's economy less productive.

In 2017-18, the Section received \$8.4 million in funding—\$4.7 million (56 percent) from the General Fund, \$2.6 million (31 percent) from the Attorney General Antitrust Account (AGAA), and \$1.1 million (13 percent) from the Unfair Competition Law Fund. The latter two special funds generally receive revenues from litigation settlements or awards.

The Section's DAG staffing level has remained at this level for the past five years, while the Section's workload has continued to grow. The Section reports that workload has increased to the point that its deputy attorney generals are each working, on average, approximately 20 percent more hours than normal. They also note that DOJ is not taking cases that the Section believes should have been pursued because of lack of staffing or due to priority given to litigation already on file and active. However, the exact number of cases that the Section would have otherwise pursued is unknown. Federal criminal prosecutions of international price-fixing cartels, vacancies at the federal antitrust agencies and a reported increase in merger activity could result in cases to pursue.

According to DOJ, the requested spending and position authority will allow them to handle the burgeoning caseload demands resulting from an increase in mergers and acquisitions nationwide over the last decade as well as increasing concerns over competitive abuses in high tech, health care, and energy markets. Moreover, they note that improved staffing levels would also result in increased monetary recoveries for the state as a pursuer of bid-rigging and price-fixing litigation.

Legislative Analyst’s Office (LAO). In their assessment, the LAO states that additional resources are needed to meet the increased workload. However (1) the total level of additional workload is unclear and (2) whether sufficient resources will be available to support requested positions.

- (1) *The total level of additional workload is unclear.* While some additional resources appear reasonable, the total level of additional workload facing the Section is unclear. For example, it is unclear how many new cases—beyond those which the Section currently lacks resources to take—should be pursued. It is also unclear how many additional cases will actually be pursued due to factors such as the inaction by the federal antitrust agencies or an increase in merger activity. In addition, the total number positions needed to process the workload are unclear as the type and complexity of the cases DOJ would pursue is not known.

- (2) *It is unclear whether sufficient resources will be available to support requested positions.* It is also unclear whether all of the requested positions will generate enough revenue for the Attorney General Antitrust Account to support themselves. According to DOJ, only 20 percent to 25 percent of investigated cases currently turn into litigation with the potential to generate revenue for the Attorney General Antitrust Account. First, it is unclear how this percentage could change with the requested resources. This percentage could either decrease or increase depending on the specific cases DOJ chooses to pursue. For example, this percentage could go down if DOJ decides to pursue cases it would otherwise have decided not to pursue based on its estimates of potential success. On the other hand, this percentage could go up to the extent DOJ pursues cases that it believes has merit, but are not pursued currently only due to a lack of resources. Second, other factors—such as the types of cases pursued and the remedies sought in such actions—can also impact the amount of revenue generated. For example, cases that seek injunctive relief can benefit California consumers and businesses but may not generate monetary recoveries that can support the section’s positions. Additionally, the impacts of the additional positions may not be quickly realized. This is because some of the section’s cases can take years to resolve, which could delay the receipt of any monetary awards or settlements. To the extent the positions cannot support themselves, the state may either need to identify alternative sources of funding (such as the General Fund) or eliminate the positions in the future.

LAO Recommendation. The LAO recommends the Legislature to only provide DOJ with the first year of resources requested by the Governor’s budget—specifically the nine positions and \$1.8 million to support increased Antitrust Law Section activities in 2018-19. These additional resources could generate state benefit, particularly since the section is currently not pursuing some cases which it believes have merit. Additionally, to ensure that sufficient resources are available on an ongoing basis to support these positions, the LAO recommends the Legislature direct DOJ to submit a report by December 1, 2020 on certain fiscal and performance measures (such as number of cases pursued and litigated as well as the amount of monetary recoveries generated) to monitor the impact of these provided positions.

The uncertainty in the total level of additional workload and whether the requested positions will be able to support themselves makes it difficult to justify the positions proposed by the Governor beyond those proposed for 2018-19. To the extent that DOJ is able to (1) demonstrate the impact of the nine additional positions requested for 2018-19 and (2) provide more definitive estimates of additional workload, the Legislature could consider a request for additional positions and funding in the future.

Staff Recommendation. Hold open.

Issue 15: Bureau of Gambling Control-Third-Party Providers Workload (BCP)

Governor's budget. The Department of Justice's Bureau of Gambling Control requests \$1,564,000 in permanent funding from the Gambling Control Fund to retain 12.0 positions granted in fiscal year 2015-16 with three-year limited-term funding.

Background. The Bureau of Gambling Control (BGC), within the DOJ, is the state law enforcement authority with special jurisdiction over gambling activities within the state of California and is the entity that conducts background investigations for the California Gambling Control Commission (Commission) on gaming license and work permit applications. The BGC regulates legal gambling activities in California to ensure that gambling is conducted honestly, competitively, and free from criminal and corrupt elements. The Division of Gambling Control (now the BGC) was created on January 1, 1998, with the enactment of the Gambling Control Act (Act). The Act established a comprehensive plan for the statewide regulation of legal gambling. It provides a bifurcated regulatory system whereby the BGC serves in an investigative role and the Commission serves in an adjudicatory role.

There are four categories of applicants associated with gambling establishments:

1. All persons and/or business entities that have control or ownership interest in a gambling establishment, or third-party providers of proposition player services (TPPPPS).
2. A cardroom key employee license for all persons employed in a supervisory capacity or empowered to make discretionary decisions over the establishment's gambling operations.
3. A work permit is required of all persons employed in a gambling establishment for certain positions such as dealer, waitress/waiter, surveillance, etc.
4. TPPPPS Supervisors and Players.

The scope of each background investigation varies depending on the license type, applicant, and the complexity of the applicants' history, but normally includes in-depth research and analysis of each applicant's background through inquiries of various personal, public, and law enforcement sources. Also, the financial aspects of business owners and entitles are closely examined to verify that all persons with ownership/control interest in the gambling operation are identified and properly licensed.

Previous funding for BGC work. When the BGC was created in 1998, based on a 2000-01 Budget Change Proposal (BCP), the BGC had 20.0 analyst positions to process a projected workload of 1,000 applications (800 owner/key employees and 200 work permits) for the Cardroom industry.

In 2004-05, the BGC was provided five analyst positions, in addition to other classifications, to handle the TPPPPS workload. At that time, it was estimated there would be approximately 1,184 applications (25 TPPPPS companies, 135 owners, 200 supervisors and 824 proposition players) associated with the TPPPPS industry. Of the 25.0 analyst positions, the Bureau has assigned four analysts to conduct the mandated workload associated with game and gaming activity review.

In budget year 2015-16, the BGC was granted 12.0 permanent positions with three-year limited-term funding, which is expiring on June 30, 2018. Since July 1, 2015, these 12.0 analysts have completed a

total of 544 cases. As staff complete their onboarding and training program and become proficient with their investigations the average number of cases completed increases over time. As such, the BGC anticipates that these 12.0 seasoned analysts will complete an additional 1,104 cases by the end of fiscal year 2017-18.

The 2016 Budget Act included \$3,000,000 from the Gambling Control Fund and 20.0 positions due to a legislative augmentation. This augmentation was also provided to address the current backlog related to initial and renewal license suitability background investigations for the California Cardroom and TPPPS license applicants. As a result, the BGC received permanent position authority with three-year limited term funding for these 20.0 positions effective July 1, 2016.

Case backlog issues. According to the DOJ, the scope of the background investigations increased due to requests of the Commission, changes in the industry, and/or increased scrutiny due to identified violations within the industry. The DOJ believes that the positions are necessary to continue to reduce the backlog and maintain the ongoing workload associated with California cardroom and TPPPS license applicants. Below is a workload history that includes the current backlog.

Workload History

Fiscal Year	2012-13	2013-14	2014-15	2015-17	2016-17
Beginning	1,339	2,001	2,588	2,696	2,153
Incoming Cases	2,211	4,594	5,117	5,379	5,566
Closed Cases	1,031	3,259	3,639	4,926	5,561
Abandoned/Other	518	749	1,370	996	167
<i>Cases at Year's end (Backlog)</i>	<i>2,001</i>	<i>2,588</i>	<i>2,696</i>	<i>2,153</i>	<i>1,991</i>

Legislative Analyst's Office (LAO). The LAO acknowledges that the backlog has decreased since 2014-15 but that it also is likely to remain through 2018-19. They raise two additional points:

1. **Impact of previously granted resources remains unclear.** However, the full impact of limited-term resources remains unclear. This is because 2017-18 is the first year in which nearly all 32 analytical positions provided on a limited-term basis were filled. Moreover, given the complexity of some of the background investigations, it generally takes analysts months before they become fully proficient at processing background investigations. As such, workload metrics collected at the end of 2017-18 will be a much more accurate representation of the full impact of all of the limited-term positions.

Number of filled limited-term positions per year

Fiscal Year	2015-16	2016-17	2017-18
Approved positions	12	32	32
Filled positions	8	15	30
Percent of positions filled (%)	67	47	94

2. ***Difficult to Determine Appropriate Level of Ongoing Resources.*** Given the uncertainty of the full-impact of the recently-provided limited-term positions, it is difficult to determine the appropriate level of ongoing resources needed to (1) eliminate the backlog and (2) prevent the creation of an extensive backlog.

LAO Recommendation. The LAO recommends that the Legislature provide \$1.6 million from the Gambling Control Fund to support the 12 positions provided in 2015-16 for one additional year, rather than on an ongoing basis as proposed by the Governor. This would allow DOJ to continue to reduce the backlog and collect additional workload data. Under our recommendation, all of the Cardroom Gaming Unit's limited-term positions will expire at the end of 2018-19. During budget deliberations for the 2019-20 budget, the additional workload data will allow the Legislature to determine the appropriate level of ongoing resources needed.

Staff Recommendation. Hold open.

Issue 16: Tax Recovery and Criminal Enforcement (TRaCE) Task Force Augmentation

Proposal. This proposal requests an allocation of \$11.86 million in 2018-19, \$17.32 million in 2019-20, and \$16.62 million in 2020-21 to support the augmentation of the Tax Recovery and Criminal Enforcement (TRaCE) task force program. Specifically, this funding will be used towards full-time dedicated staffing, an increase in DOJ agents, and expansion of the force to major metropolitan areas.

Background. The TRaCE task force established by AB 576 (Perez) Chapter 614, Statutes of 2013, is a multi-agency effort that focuses on investigating and prosecuting individuals involved in the underground economy. The underground economy entails individuals and businesses using various schemes to deliberately evade tax liabilities. Evasion practices include avoiding regulatory, labor, tax agencies, and licensing. One practice for example, involves paying workers a lower wage than stated on payroll reports and evading employee taxes and fees by designating employees as independent contractors.¹ According to a 2013 University of California, Los Angeles Labor Center report, the state's underground economy generates between \$60-180 billion in revenue annually and an estimated \$8.5 billion in uncollected corporate, personal, sales, and use taxes.²

Participating agencies include the Department of Justice, the Department of Tax and Fee Administration, the Franchise Tax Board, and the Employment Development Department. Currently, the task force, which originated as a pilot program, only consists of two teams that operate in Sacramento and Los Angeles. According to the DOJ, the two teams identified \$210 million in unreported or underreported gross sales or gross receipts estimated by the investigator during the investigation phase and an associated \$46 million in unreported tax loss to the state. To date, they report approximately \$10.3 million in actual dollar amounts received in court ordered restitution and investigative costs and \$1.34 million in money and/or assets seized as evidence during search warrants. Moreover, \$29.9 million in potential recovery from anticipated billings and restitution tax loss associated with ongoing cases exist.

In 2015, the Little Hoover Commission published a report on the underground economy that recognized the success of the TRaCE task force, recommending the program's expansion to every metropolitan region.

SB 1272 (*Galgiani and Atkins*). In the current legislative session, SB 1272 was introduced to expand the program into other major metropolitan regions in the state by codifying the existing TRaCE teams in San Diego, the San Francisco Bay Area, and Fresno. This bill was passed in Senate Public Safety on April 17, 2018 but has been re-referred to Senate Appropriations.

Staff Recommendation. Hold open.

¹ "California and the Underground Economy," A report prepared for the Board of Equalization by the UCLA Labor Center, April 19, 2013.

²Ibid.

Issue 17: Rape Kit Testing

Proposal. This proposal requests one-time augmentation of \$6.5 million to ensure the timely testing of rape kits throughout California communities.

Background. Following a sexual assault, survivors in California may elect to undergo a forensic medical examination to collect evidence in a rape kit. If the survivor also chooses to report the crime, the law enforcement agency with jurisdiction over the offense will take the kit into custody and submit it to a forensic laboratory for DNA analysis. To maximize evidentiary value and standardize investigation of sexual crimes, federal best practices issued by the United States Department of Justice-Bureau of Justice Assistance recommend that all rape kits connected to reported crimes be swiftly submitted to laboratories and tested for DNA. Testing DNA evidence in rape kits can identify an unknown assailant, link crimes together, identify serial perpetrators, and exonerate the wrongfully convicted.

As amended by Chapter 874, Statutes of 2014, California law states that law enforcement agencies “should” transfer rape kit evidence to the appropriate forensic laboratory within 20 days and that laboratories “should” process such evidence as soon as possible, but no later than 120 days, following receipt. Due to the current language of the law, this guidance is not currently being followed by a number of law enforcement agencies in the state. As a result, newly collected rape kit evidence in many jurisdictions in California is still not tested in timely fashion. Depending on the jurisdiction in which the crime occurred, the timeframe for submission and analysis of their rape kits may vary widely, slowing the criminal justice process. A significant barrier to rape kit testing is the lack of funding.

An augmentation of \$6.5 million is proposed to ensure the timely testing of rape kits throughout California communities and aid in justice to victims.

SB 1449 (Leyva). SB 1449, introduced in 2018 would strengthen the language of existing law, which states that law enforcement agencies and forensic laboratories “should” follow listed timeframes for submission and analysis of rape kit evidence, by stating that such entities “shall” follow specified timeframes.

Staff Recommendation. Hold open.

0250 JUDICIAL BRANCH

The judicial branch is responsible for the interpretation of law, the protection of individual rights, the orderly settlement of all legal disputes, and the adjudication of accusations of legal violations. The branch consists of statewide courts (the Supreme Court and Courts of Appeal), trial courts in each of the state's 58 counties, and statewide entities of the branch (the Judicial Council, Judicial Branch Facility Program, and the Habeas Corpus Resource Center). The branch receives revenue from several funding sources, including the state General Fund, civil filing fees, criminal penalties and fines, county maintenance-of-effort payments, and federal grants.

Due to the state's fiscal situation, the judicial branch, like most areas of state and local government, received a series of General Fund reductions from 2008-09 through 2012-13. Many of these General Fund reductions were offset by increased funding from alternative sources, such as special fund transfers and fee increases. A number of these offsets were one-time solutions, such as the use of trial court reserves and, for the most part, those options have been exhausted. In addition, trial courts partially accommodated their ongoing reductions by implementing operational actions, such as leaving vacancies open, closing courtrooms and courthouses, and reducing clerk office hours. Some of these operational actions resulted in reduced access to court services, longer wait times, and increased backlogs in court workload.

Budget Overview: The Governor's budget proposes about \$3.9 billion from all state funds (General Fund and state special funds) to support the judicial branch in 2018-19, an increase of \$188 million, or 5.1 percent, above the revised amount for 2017-18. (These totals do not include expenditures from local revenues or trial court reserves.) Of the total amount proposed for the judicial branch in 2018-19, \$1.9 billion is from the General Fund—47 percent of the total judicial branch budget. This is a net increase of \$158 million, or 9.1 percent, from the 2017-18 amount. This increase reflects various proposals to increase General Fund support for trial courts by a total of \$210 million—nearly all of which is ongoing.

Table: Judicial Branch Budget Summary—All State Funds

(Dollars in millions)

Program	2016-17 Actual	2017-18 Estimated	2018-19 Proposed
Supreme Court	\$45	\$50	\$51
Courts of Appeal	223	242	243
Judicial Council	127	146	149
Judicial Branch Facilities Program	386	478	462
State Trial Court Funding	2,727	2,742	2,943
Habeas Corpus Resource Center	15	17	17
Total	\$3,522	\$3,675	\$3,864

Issue 18: Chief Justice's Priorities

Governor's budget. The total funding for the judicial branch has steadily increased and is proposed to reach \$4 billion in 2018-19, an increase of \$188 million or 5.1 percent above the revised amount for 2017-18. Each year, after reviewing the Governor's proposed budget, California's Chief Justice develops a list of funding priorities for the judicial branch. The increase in funding will support various proposals, nearly all of which is ongoing, including:

- \$75 million discretionary funding for allocation to trial courts by the Judicial Council.
- \$47.9 million for allocation to certain trial courts that are comparatively underfunded relative to other trial courts.
- \$34.1 million to backfill a further decline in fine and fee revenue to the Trial Court Trust Fund, increasing the total backfill in \$89.1 million in 2018-19. This backfill has been provided since 2014-15.
- \$25.9 million for increased trial court health benefit and retirement costs.

Background. The Governor's 2018-19 budget proposes a \$123 million General Fund augmentation to general purpose funding for trial court operations—the Judicial Council's priorities and equalization of trial court funding levels.

Judicial Council's priorities. The Administration proposes \$75 million for the trial courts that would be allocated by the Judicial Council based on its priorities. The Administration states that it anticipates that the Judicial Council will rely on recommendations made by the Commission on the Future of California's Court System to improve the accessibility and efficiency of court operations. The Administration also states that it expects the Judicial Council to report on any anticipated outcomes.

WAFM and equalization of trial court funding levels. The Judicial Council utilizes the Workload Allocation Funding Methodology (WAFM) to allocate funds for trial court operations. WAFM was intended to distribute funding based on workload instead of the historic "pro rata" approach because the pro rata approach generally maintained funding inequities among trial courts. WAFM uses the Resource Allocation Study, which estimates the number of personnel needed for each court primarily based on the number of filings for various case types and the amount of time it takes staff to process such a filing. Each court's estimated staffing need is then converted to a cost estimate using various assumptions and is combined with various other cost factors to determine the total estimated workload-driven costs for each trial court. The resulting total is the amount the judicial branch believes is needed to fully operate each trial. In addition, the Judicial Council may allocate any augmentations in the state budget for trial court operations and not designated for a specific purpose through WAFM.

In 2018, Judicial Council approved significant changes related to WAFM. First, in years where increased funding is provided by the state, the funding would be first allocated to the fifteen smallest trial courts to ensure they received 100 percent of their WAFM-identified costs. Up to fifty percent of the remaining augmentation would be allocated to courts below the statewide average funding ratio. The remaining amount would be allocated to all trial courts according to WAFM. Second, in the first year in which there are no general-purpose funding augmentations provided for trial court operations, allocations would remain the same. In the second year in which no increased funding is provided, up to one percent of funding allocated to trial courts that are more than two percent above the statewide average funding ratio could be reallocated to those courts that are more than two percent below the

statewide average funding ratio. Trial courts receiving this funding would have complete flexibility in how to use these funds.

Legislative Analyst's Office (LAO). At the time of the LAO's analysis, it was unclear how \$75 million of the proposed augmentation would be allocated to trial courts. This is because the Governor's proposal would give the Judicial Council complete discretion and maximum flexibility in allocating these funds. For example, it could decide to allocate the funds under the newly revised WAFM allocation methodology. Allocation through WAFM would mean that individual trial courts have flexibility in how they use their funding—likely resulting in different impacts across trial courts. Some trial courts could use a portion of these funds to address increased cost pressures—such as increased salary costs for existing employees or contractors—in order to maintain existing levels of service.

Different Ways to Equalize Funding for Individual Trial Courts. There are different ways to equalize funding among trial courts depending on the intended goal and how quickly that goal is to be reached, which in turn dictates how much funding is needed. The Governor's proposal reflects one example of how this could be done by setting an equalization goal of the WAFM statewide average ratio of 76.9 percent and providing a \$47.8 million augmentation in general purpose funding solely for the thirty courts currently below this target.

Unclear Whether WAFM Accurately Identifies Trial Court Funding Needs. While the development of WAFM was an important first step by the judicial branch to ensure that funding is allocated equitably based on workload, it is unclear whether WAFM accurately identifies trial court funding needs. This is because it is uncertain whether WAFM's underlying assumptions and adjustments appropriately measure and calculate individual trial court need. For example, although WAFM includes adjustments to address salary differentials across trial courts, it is unclear whether such adjustments should be made or how they should be made. Similarly, it is unclear whether WAFM appropriately differentiates between costs that are unaffected by changes in filings (fixed costs) and costs that change based on changes in filings (or marginal costs). This differentiation is important since WAFM is based on the number of filings each court receives.

LAO Recommendation. The LAO has two recommendations for this proposal:

- 1. Provide 2018-19 funding based on Legislative priorities.*** In evaluating the Governor's proposals for \$123 million in increased general purpose funding for trial courts, the LAO recommends the Legislature to first consider the level of funding it wants to provide trial courts relative to its other General Fund priorities—which could be higher or lower than the Governor's proposed level. Second, the LAO recommends the Legislature to allocate any additional funds provided based on its priorities. This would generally be consistent with how the Legislature has allocated funds to trial courts in recent years. As discussed above, under the Governor's proposal, \$75 million of the proposed increase would be allocated at the discretion of the Judicial Council, which may or may not be aligned to the Legislature's priorities.

Moreover, the LAO identifies a number of potential priorities for increased trial court funding that the Legislature could consider. For example, the Legislature could consider providing funding that is based on a cost-of-living or inflationary adjustment in recognition that the costs for maintaining service levels will naturally increase from year to year. They estimate that this could range from the low to mid-tens of millions of dollars, depending on how the Legislature chose to calculate the adjustment. Similar to the Governor, the Legislature could consider

providing funding to equalize funding among trial courts based on a goal it deems appropriate. The Legislature could also allocate funds to support specific programs or services.

2. ***Establish a Working Group to Evaluate WAFM as Budgeting and Allocation Methodology.*** Given the uncertainty around whether WAFM accurately estimates trial court needs raised above, the LAO believes further study is necessary. One way to assess the various issues raised above is for the Legislature to direct the LAO to jointly work with the Department of Finance (DOF) to evaluate WAFM—with technical assistance from the judicial branch as necessary—and offer potential recommendations for change by November 1, 2019. The intended outcome would be a workload-based model that can be used for both estimating trial court needs and allocating trial court operations funding in the future. Ideally, the model could be adjusted over time to account for new workload, changed processes, or increased efficiency. An accurate formula would provide a clear understanding of how much funding is needed to meet specific workload or service levels. This would also help the Legislature determine the appropriate level of total funding for trial courts each year and how such funding should be allocated (or reallocated) to ensure that all trial courts meet legislatively desired service levels.

Staff Recommendation. Hold open.

Issue 19: Pilot Project for Online Adjudication of Traffic Violations (BCP)

Governor's budget. The Judicial Council requests \$3.4 million and seven positions in FY 2018-19 and an ongoing amount of \$1.365 million and seven positions to design, deploy and maintain software to adjudicate traffic violations online in designated pilot courts.

Background. Individuals charged with traffic infractions can resolve their case in a number of ways, including submitting a payment, contesting the charge in court, or contesting the charge in writing, known as trial by written declaration. Under trial by written declaration, if the individual is dissatisfied with the decision, he or she can contest the charges in court, with the court deciding the case as if the trial by written declaration never took place. Currently, courts offer only limited options for handling traffic matters online. As traffic cases are the highest volume case type, providing more options online would benefit thousands of Californians each year. The largest potential for impact is with low-income Californians who may be unable to pay all of the fines and fees assessed with their infraction.

Criminal fine and fees assessments. Upon conviction of a criminal offense (including traffic cases), trial courts typically levy fines and fees upon the individual. Individuals may request the court to consider their ability to pay. Judges can reduce or waive certain fines and fees or provide an alternative sentence (such as community service in lieu of payment). Individuals who plead guilty or are convicted and required to pay fines and fees must either provide full payment immediately or set up installment payment plans with the court or county collection program. If the individual does not pay on time, the amount owed becomes delinquent. State law then authorizes collection programs to use a variety of tools or sanctions (such as wage garnishments) to motivate individuals to pay the debt. Collected revenues support various state and local programs.

Commission on the Future of California's Court System. The Chief Justice's Commission on the Future of California's Court System identified strategies to effectively adjudicate cases, achieve greater fiscal stability for the branch, and use technology to enhance the public's access to the courts.

Pilot details. With funding from this proposal, California will pilot a process for offering people an option other than coming to court or suffering significant financial hardship if they are unable to pay. The online adjudication system would build and expand on the Judicial Council's Price of Justice projects, which includes developing processes for determining ability to pay and adding intelligent chat technology to provide information to traffic violators. This proposal would also build and expand upon existing Judicial Council efforts to adjudicate ability-to-pay determinations for traffic infraction proceedings online in five pilot courts (the Superior Courts of San Francisco, Santa Clara, Ventura, Shasta, and Tulare Counties).

Court users will log on to a website, enter their citation number and be guided through a process of providing financial information a judge will review to consider an adjusted fine or fee. The judicial determination will be emailed back to the court user and a payment or community service plan established and tracked through to completion.

The one-time funding would be used for the development of online interfaces and integration with trial court case management and other systems, while the ongoing funding and requested positions would provide ongoing support and oversight of the program.

Details of associated trailer bill language. Some of the activities that would be tested, according to the Governor’s proposed trailer bill language, include allowing individuals charged with certain traffic infractions to request a continuance, conduct a trial to contest charges rather than appear in court or through a trial by written declaration, and request the court consider their ability to pay fines and fees. To the extent a court offers all of the activities seeking to be tested and a particular individual utilizes all of them, a traffic violation would be adjudicated completely online. Under budget trailer legislation, participating courts would not be required to offer more than one of these activities and would be prohibited from requiring defendants to engage in any of the online activities offered.

Under the proposed budget trailer legislation, the pilot courts may authorize court staff to make the ability-to-pay determinations with the consent of the defendant. However, defendants can request judicial review of any decision made by court staff within ten days of the decision. Pilot courts that offer the trials online would still be required to make trials by written declaration available to defendants. In either case, the defendant would not be permitted to contest the charges in court if dissatisfied with the decision made in the original trial—a departure from existing law for trials by written declaration. Finally, the Judicial Council is required to report to the Legislature no later than December 31, 2021, on the implementation of the pilot.

LAO Recommendations. The LAO has three recommendations for this proposal:

1. ***Approve Requested Funding, but on Limited-Term Basis.*** The LAO recommends that the Legislature approve the request, but only provide the \$1.4 million on a four-year limited term basis through 2021-22. This would provide sufficient time for the pilot to operate for a meaningful period and allow the state to assess the pilot. It would also ensure sufficient time to collect the necessary information, as individuals making use of online adjudication may take months to pay the amount they owe or to default on what they owe.
2. ***Require Each Activity Be Tested at Multiple Courts.*** To ensure that the Legislature has sufficient data to assess the impact of each activity that is proposed to be available online, the LAO recommends the Legislature to modify the proposed budget trailer legislation to require that each activity be tested at a minimum of three courts. This would help ensure that each activity is tested on courts with different processes, systems, and court users—which could impact the costs and benefits of each activity. Additionally, the Legislature could consider requiring all activities be implemented at a minimum of two courts in order to measure the overall impact of all of the activities, which would mean that the entire traffic violation was resolved online. This would help determine whether there are any unexpected implementation challenges as well as the benefit of fully adjudicating traffic infractions online.
3. ***Require Judicial Council Submit an Evaluation Report.*** The LAO recommends the Legislature to modify the proposed budget trailer legislation to require the Judicial Council to evaluate the proposed pilot and submit a report to the Legislature by December 31, 2021 on its findings. Specifically, this evaluation should clearly compare and contrast the pilot program with the existing system. This should include an assessment of the costs and benefits of the program to court users by their income levels, as well as each of the individual courts. The evaluation should also include an assessment of how the pilot impacts the total amount of criminal fines and fees assessed, the rate at which individuals complete or stop making payments, and the overall impact on the amount of revenue collected for distribution to state and local governments. Finally, the evaluation report should identify any unexpected obstacles or challenges as well as suggestions for improvement. This proposed evaluation would allow

the Legislature to determine whether to expand the pilot program statewide, as well as whether it should be modified before such an expansion.

Staff comments: Staff believes that a pilot program targeted to low-income Californians who may be unable to pay all of the fines and fees assessed with their infraction via an online tool is a worthwhile endeavor. While there are two aspects of this proposal only one, the online adjudication software, has been adequately discussed. Concerns over the variability of this tool's use amongst the pilot courts, variability in the methods that ability to pay is assessed between the five trial courts, and the number of courts participating exist—all of which center on ability-to-pay—remain. More discussions need to be held between stakeholders and the Legislature to decide upon how to address these concerns in trailer bill language.

Staff Recommendation. Hold open.

Issue 20: Self-Help Centers in Trial Courts (BCP)

Governor's budget. The Judicial Council requests an ongoing augmentation of \$19.1 million General Fund beginning in 2018-19 to implement recommendations of the Chief Justice's Commission on the Future of the California Courts regarding self-represented litigants.

Background. The California court system is the largest in the nation, with more than 19,000 court employees. It serves a population of about 39 million people - 12.5 percent of the nation. During 2014-15, over 6.8 million cases were filed statewide in the Superior Courts alone. The Courts of Appeal had approximately 23,000 filings and the Supreme Court had 7,868 filings over the same time. Each day, hundreds of Californians form lines outside their county trial courts in order to research or seek information that will enable them to resolve a legal issue on their own, without the cost of an attorney. The majority of these people are seeking a divorce, separation, or resolution of a child-related dispute, such as custody or child support.

Given their lack of familiarity with statutory requirements and court procedures (such as what forms must be filled out or their legal obligations in the potential case), self-represented individuals can be at a legal disadvantage. In addition, trial court staff tend to spend significantly more time processing a self-represented filing than one with legal representation. For example, incomplete or inaccurate paperwork can lead to having to file paperwork repeatedly, to continue or delay cases, or to generate additional hearings. To help self-represented individuals access the court system, the judicial branch offers or partners with other legal stakeholders (such as county law libraries or the State Bar) to provide various programs or services, including self-help centers.

Each of California's trial courts operates a self-help center which serves as a central location for self-represented individuals to educate themselves and seek assistance with navigating court procedures. Attorneys and other trained personnel who staff the centers provide services in a variety of ways (such as through one-on-one discussions, courtroom assistance, workshops, and referrals to other legal resources) for a wide range of issue areas.

In 2004, the Judicial Council approved the Statewide Action Plan for Serving Self-Represented Litigants (plan). Based upon the growth in the number of self-represented litigants coming to California's courts, the plan recommended that court-based, staffed, self-help centers should be developed throughout the state. This was based on evaluations of the family law facilitator program and individual projects as well as a legislatively mandated evaluation of three Family Law Information Centers.

In 2005, an independent report evaluated the five pilot self-help centers that were designed to develop and test best practices in five specific areas of concern. These included coordinating self-help services in small rural courts, services to a Spanish-speaking population, services to a population speaking a range of languages, use of technology to assist self-represented litigants, and coordination and support for services in a large urban community. The evaluation concluded that self-help centers are a valuable method for providing services to people who need access to legal education and information and for improving the quality of justice for litigants.

Previous Budget actions. The 2001 Budget Act included \$832,000 annually to support pilot projects in five courts that were designed to develop and test best practices in providing comprehensive self-help services in small rural courts, services to a Spanish-speaking population, services to a population

speaking a range of languages, use of technology to assist self-represented litigants, and coordination and support for services in a large urban community.

As a result of the 2005 evaluation of self-help pilots, the 2005 Budget Act included \$5 million from the State Trial Court Improvement and Modernization Fund (IMF) for self-help assistance. As a first step, the Judicial Council allocated over \$2.5 million in 2005-06 funds for self-help programs. The next year, it allocated an additional \$8.7 million from the judicial branch budget for ongoing funding for courts to start or expand self-help services.

The 2007 Budget Act included \$11.2 million in funding to support self-help services (\$5 million IMF and \$6.2 million Trial Court Trust Fund). All 58 courts are provided a baseline of \$34,000 per year and the remainder is distributed based on population in the county." The baseline was established in response to the research conducted by the California Commission on Access to Justice for their report on Improving Civil Justice in Rural California. The research demonstrated that there is a great disparity in funding per capita for legal services for low-income persons in rural communities throughout California, creating significant inequities in the state.

Use of 18-19 proposed funding. According to the Judicial Branch, the funds would be used to expand the availability of attorneys and paralegal staff at self-help centers in trial courts. This would allow courts to address critical unmet needs in family, domestic violence, as well as civil cases such as landlord/tenant, consumer debt, employment law and small claims where there is often no assistance available. Based on the currently available funding of \$11.2 million and the number of people served annually (over 425,000 people per year), they estimate that if this proposal is approved, the total allotment of funding will provide approximately 1,150,000 people each year with necessary assistance, allowing many of them to settle their cases and resolve their legal problem without having to appear before a judge.

Legislative Analyst's Office (LAO). Given that the Governor's proposal would more than double the current funding provided to self-help centers, the proposal could significantly increase self-represented individuals' access to court services, particularly given that trial courts report not being able to provide services to all individuals who visit self-help centers. However, the exact magnitude of the impact would depend primarily on how individual trial courts use the additional funding. As discussed previously, trial courts have flexibility over how they use self-help center funds. This means that trial courts will generally differ in where and how they would use any additional funding.

Potential State Fiscal Benefit Uncertain. This increased service level to self-represented individuals could potentially generate state fiscal benefit according to a limited-scope cost benefit analysis carried out in 2009 by a private contractor using data from six trial courts. This analysis estimated that self-help services generally resulted in net state savings from avoiding at least one hearing and reducing court staff time needed to review and process filings for each case in which self-help services were provided. However, the analysis acknowledged that it was not a comprehensive cost-benefit analysis of the self-help programs at the six trial courts and that it was limited in various ways. Thus, while it is possible that self-help services could result in net state benefit, it is uncertain whether such benefit will *actually* be realized and to what extent.

Proposed Language Would Increase Legislative Oversight. The Governor's proposed budget bill language would increase legislative oversight over the use of self-help funding as it would require that

a certain level of funding is spent annually on self-help services from both the Trial Court Trust Fund and Improvement and Monetization Fund.

LAO Recommendations. The LAO has three recommendations:

1. ***Direct the Judicial Council to conduct a cost-benefit analysis.*** The LAO recommends the Legislature to adopt budget trailer legislation directing the Judicial Council to conduct an independent comprehensive cost-benefit analysis of self-help services and provide a report on its findings by November 2020. The Legislature could also authorize the Judicial Council to deduct the costs of such an analysis from the total amount provided for self-help centers. Such costs should not exceed a few hundred thousand dollars annually. A comprehensive analysis is necessary to objectively assess all costs and benefits of self-help services as well as determine which methods of delivering self-help (such as one-on-one services or workshops) are most cost-effective and in which issue areas. This information would then allow the Legislature to determine what level of funding is merited, where the funding should be targeted to maximize state benefit, and whether funding allocations need to be adjusted elsewhere to account for savings created by self-help services.
2. ***Provide Funding Based on Legislative Priorities.*** Until a recommended comprehensive cost-benefit analysis is completed, it is difficult to determine what level of additional funding is warranted and what specific self-help services should be funded (both in terms of additional and existing funding). Given that such an analysis would not be available until November 2020, it seems reasonable to provide some level of additional funding to self-help centers in the interim since they are reportedly turning away individuals seeking assistance. However, the LAO recommends that any additional funding provided be on a limited-term basis through 2020-21—the year in which we recommend that Legislature direct the Judicial Council submit a completed cost-benefit analysis report. As part of this process, the LAO recommends the Legislature to consider questions such as:
 - a. Should Funding Be Targeted to Particular Issue Areas?
 - b. How Can Funding Be Used to Maximize Impact?
 - c. Should Innovation and Efficiency Be Incentivized?
3. ***Approve the LAO's proposed Budget Bill Language.*** The LAO also recommends that the Legislature approve the proposed budget bill language (adjusted for the actual amount provided) as it would ensure that any funding the Legislature decided to provide for self-help services could only be used for that purpose. This increases the Legislature's ability to ensure that such funding is used accountably.

Staff Recommendation. Hold open.

Issue 21: Self-Represented Litigants e-Services Web Portal Spring Letter

Governor’s budget. The Judicial Council proposes a General Fund augmentation of \$3.236 million in 2018-19, \$1.9 million in 2019-20, and \$709,000 ongoing beginning in 2020-21, to design, build, and maintain a statewide Self-Represented Litigants e-Services Web Portal to enable those without legal representation to research, e-file, and track noncriminal cases via an online portal. This proposal also requests four positions at the Judicial Council of California to provide support in administering and maintaining the statewide e-Services Web Portal.

Background. Like many other state and federal government agencies, the Judicial Branch is undertaking a digital transformation to bring greater convenience to Californians, greater cost savings and operational efficiencies to the courts, and greater access to the justice system.

This request, attempts to address the needs of the growing number of Californians trying to resolve or litigate cases in court without the cost of hiring an attorney for reasons outlined in Issue 10. In California today, more than four million people each year come to our trial courts without representation. The primary driver behind this number is the inability of many to afford the costs of an attorney.

Web portal details. The proposed statewide Self-Represented Litigants e-Services Web Portal will provide Californians with a central, one-stop shop for legal and procedural information to better prepare and educate court users about preparing for court. The portal will integrate with trial courts across the state and provide seamless connectivity to trial court sites, to enable site visitors to conduct document assembly and e-filing, wherever available. Californians will be able to establish online user accounts to save and retrieve documents at any time. Moreover, when unsure about a next step, a real-time chat engine would attempt to answer questions and prompt next steps. Funding will also support integration with existing document assembly programs, identity management solutions, and e-filing systems at local trial courts throughout the state.

Legislative Analyst’s Office (LAO). At this moment, there are no published assessments from the LAO

Staff comments. At the moment, LAO assessment is not available but further discussion on this proposal and the other self-help service proposal is needed. Both proposals seek to address the same issue-- the inability of many to afford the costs of an attorney—and thus seem to be related; If this web portal is successful, then the number of people who access self-help centers could reduce. The opposite could also be true. More discussions are needed on the proper funding that could be dedicated to both given the potential for both being interconnected.

Staff Recommendation. Hold open.

Issue 22: County Law Libraries

Proposal. This proposal requests a one-time allocation of \$16.5 million for County Law Libraries to account for the difference between civil filing fee revenue in 2009 and currently.

Background. The California Judicial Council has reported that 75 percent of civil cases nationally, and more than 80 percent of family law matters in California, involve at least one self-represented litigant. Many self-represented litigants in California cannot afford representation. The cost of hiring a private attorney is simply prohibitive for the majority of Californians. Legal aid, pro bono organizations and court-based self-help centers assist but can only address a very small portion of the need (and only a small portion of those in need are even eligible, because of income and subject matter limitations). The County Law Library system- the libraries provide needed and necessary access to legal information for Californians who are without the means to hire a lawyer and would be without help but for their local public law library.

In 1891 the State of California, recognizing the need for free public access to legal information, authorized the formation of county law libraries in all 58 counties and provided for their funding via civil filing fees. Up until 2005, the Legislature provided for local control over library revenue by periodically authorizing County boards of supervisors to increase filing fees to enable law libraries to fulfill their defined mission. From 1994 to 2005, 75 percent of all counties used this authority to raise the local law library portion of the civil filing fee to maintain an adequate level of funding and public access to legal resources. However, the Uniform Civil Fee and Standard Fees Schedule Act of 2005 (UCF) established a schedule for trial courts across the state and provided a sunset to the authority of counties to adjust filing fees.

Over 90 percent of County Law Library funding comes from a small portion of civil filing fees (ranging from \$2 to \$50 per case, depending on the county and type of case). Funding from the State needed since the civil filing fee revenue that County Law Libraries depend on has dropped precipitously since 2009-a drop of nearly 40 percent. A one-time allocation would assure that County Law Libraries can remain open, and therefore continue and expand the vital services they provide to Californians, while simultaneously providing time to determine an ongoing, future, stable funding source for County Law Libraries. Despite the reduced funding from revenue, the County Law Libraries respond to 500,000 in-person visits, 150,00 public computer sessions, and 2.3 million website visits per year.

The additional funds requested would be used by County Law Libraries to serve vulnerable populations and rural communities, address disaster preparedness and response and provide service for non-English speakers, especially in areas of immigration, workforce-reentry and housing.

Staff Recommendation. Hold open.

Issue 23: Update on Collaborative Courts

Background. Collaborative justice courts-also known as problem-solving courts- combine judicial supervision with rehabilitation services that are rigorously monitored and focused on recovery to reduce recidivism and improve offender outcomes.³

Examples of collaborative justice courts are community courts, domestic violence courts, drug courts, DUI courts, elder abuse courts, homeless courts, mental health courts, reentry courts, veterans' courts, and courts where the defendant may be a minor or where the child's welfare is at issue. These include dating/youth domestic violence courts, drug courts, DUI court in schools' program, mental health courts, and peer/youth courts.

History. In January 2000, then Chief Justice Ronald M. George appointed the Collaborative Justice Courts Advisory Committee to explore the effectiveness of such courts and advise the Judicial Council about the role of these courts in addressing complex social issues and problems that make their way to the trial courts. Formation of the committee expanded the scope of the Oversight Committee for the California Drug Court Project, which was appointed by Chief Justice George as of July 1, 1996, and continued until December 31, 1999. On August 3, 2000, the Conference of Chief Justices and the Conference of State Court Administrators passed a resolution to support collaborative justice courts.

Staff Recommendation. This is an informational item. No action is to be taken.

³ Citation: <http://www.courts.ca.gov/programs-collabjustice.htm>

Issue 24: Deferral of Sentencing Trailer Bill Language

Proposal. This proposal makes the deferral of sentencing program that was piloted in L.A., through AB 2124 (Lowenthal) Chapter 732, Statutes of 2014, but sunset in January 1, 2018, permanent and applicable statewide through trailer bill language.

Background. Deferred entry of judgment (DEJ) allows a judge to accept a defendant's guilty plea, hold that plea in abeyance, and then set-aside the plea and dismiss the case upon completion of certain conditions (i.e., community service, counseling, etc). In California, a conviction does not occur until judgment gets entered. Because judgment does not get entered in DEJ cases, a participant does not end up with a conviction. The benefits of resolving cases this way are:

- **Reduced recidivism.** When first-time, low-level offenders are offered the opportunity to leave their encounter with the justice system without a criminal conviction, they have heightened incentive to maintain their clean record prospectively and avoid reoffending.
- **Avoidance of collateral consequences.** When a defendant is convicted, even if the conviction is subsequently expunged, he/she faces a lifetime of debilitating collateral consequences (i.e., state licensing, employment, housing, deportation, etc). With DEJ, a judge has the discretion to spare a first-time offender, who has made a low-level mistake, from such consequences.
- **Cost savings.** The court system saves money with DEJ through avoided court appearances and jury trials. Currently, many low-level, first-time offenders invoke their right to have a jury trial because it is not the sentence after trial that they fear, it is the fact of the conviction itself that they seek to avoid.

Currently, there are various diversion programs that a person arrested for and charged with a crime is diverted from the prosecution system and into a rehabilitation or restorative justice program.

Previous legislation. AB 2124 allowed a judge to order a defendant who has submitted a plea of guilty or nolo contendere to misdemeanor diversion over the objection of the prosecuting attorney. Prior to the enactment of AB 2124 judges did not have the discretion to offer diversion over a prosecutor's objection to a defendant. AB 2124 passed the legislature and was signed into law by the Governor, going into effect on January 1, 2015. However, the legislation sunset on December 31, 2017.

Staff Recommendation. Hold Open

Issue 25: Capital Outlay January BCPs
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Governor's budget. The budget proposes using approximately \$1.3 billion in General Fund-backed lease revenue bonds to complete construction on the next ten courthouse projects that are ready to proceed. Namely, the budget proposes the following schedule: Imperial, Riverside/Indio, Shasta, Siskiyou, and Tuolumne will begin in 2018-19 and Glenn, Riverside/Mid-County, Sacramento, Sonoma and Stanislaus will begin in 2019-20. Specifically, the 2018-19 budget requests the following:

Proposal	Project	2018-19 Amount	Total Project Costs
	Lease Revenue Bond Funding:		
1	Imperial - El Centro Courthouse	\$ 41,944,000.00	\$ 49,944,000.00
2	Riverside - Indio Juvenile and Family Courthouse	\$ 45,327,000.00	\$ 54,118,000.00
3	Shasta - Redding Courthouse	\$ 138,763,000.00	\$ 160,357,000.00
4	Siskiyou - Yreka Courthouse	\$ 59,203,000.00	\$ 68,950,000.00
5	Tuolumne - Sonora Courthouse	\$ 57,722,000.00	\$ 66,434,000.00
Immediate and Critical Needs Account:			
6	Riverside - Mid County Civil Courthouse	\$ 5,666,000.00	\$ 91,280,000.00
7	Sonoma - Santa Rosa Criminal Courthouse	\$ 11,252,000.00	\$ 186,354,000.00
8	Stanislaus - Modesto Courthouse	\$ 15,252,000.00	\$ 279,353,000.00

Background. The judicial branch's two primary court construction funds, State Court Facilities Construction Fund (SCFCF), established in 2002, and the Immediate and Critical Needs Account (ICNA), established in 2008, receive funding from fees and penalty assessments. The Governor's budget projects a SCFCF fund balance of \$365 million for 2018-19. The budget also assumes \$161 million in expenditures from that fund in 2018-19. For ICNA, the proposed budget projects a \$431 million fund balance in 2018-19 and proposes expending \$263 million in ICNA funds. Both funds are discussed in more detail below.

Recession-Era Funding Solutions. During the recent recession, the judicial branch, like most areas of state and local government, received a series of significant General Fund reductions from 2008-09 through 2012-13. Many of these General Fund reductions were offset by increased funding from alternative sources, such as special fund transfers and fee increases. Among the solutions were a series of transfers from funds used for court construction totaling approximately \$903 million to date. For example, in 2011-12, the Legislature approved the transfer of \$143 million from ICNA and \$70 million from SCFCF to the Trial Court Trust Fund (TCTF). In addition, in 2012-13 \$240 million in ICNA funds and \$59.5 million in SCFCF funds were transferred to the TCTF and in 2013-14 an additional \$50 million from ICNA was transferred to both the TCTF. Additionally, these funds also provided \$550.3 million in transfers to the General Fund to help address reductions in its availability during the recession. Also, both funds also loaned \$440 million to the General Fund (\$350 million SCFCF and \$90 million ICNA). The SCFCF loan has been repaid and the ICNA loan is scheduled to be repaid in 2021-22. Finally, despite the end of the recession, the state continues to transfer \$50 million in ICNA funds and \$5.5 million in SCFCF to the TCTF for trial court operations each year. The long-term impact of these recession-era funding decisions and the funds' continued support of trial court operations is that absent some sort of action, both funds will become insolvent in the near future.

State Trial Court Facilities Construction Fund. AB 1732 (Escutia), Chapter 1082, Statutes of 2002, enacted the Trial Court Facilities Act of 2002, which provided a process for the responsibility for court facilities to be transferred from the counties to the state, by July 1, 2007. In addition, this legislation increased criminal fines and civil filing fees to finance \$1.5 billion in lease–revenue bonds to support 14 court facility construction projects.

Immediate and Critical Needs Account (ICNA). SB 1407 (Perata), Chapter 311, Statutes of 2008, authorized various fees, penalties and assessments, which were to be deposited into ICNA to support the construction, renovation and operation of court facilities. Specifically, the legislation increased criminal and civil fines and fees to finance up to \$5 billion in trial court construction projects and other facility-related expenses such as modifications of existing courthouses. The measure also specified that the Judicial Council was prohibited from approving projects that could not be fully financed with the revenue from fines and fees.

In accordance with the legislation, the Judicial Council selected 41 construction projects to be funded from ICNA that were deemed to be of “immediate” or “critical” need for replacement, generally due to the structural, safety, or capacity shortcomings of the existing facilities.

Due to significant reductions in the total amount of revenue available in ICNA as a result of declining court fine and fee revenue and the recession-era transfers discussed previously, between 2011 and 2013 the Judicial Council subsequently chose to cancel four projects (replacing two with renovation projects) and indefinitely delayed another 10. Even with that, the Judicial Council estimated that if all 17 remaining projects that were not canceled or indefinitely delayed completed construction as planned, the ICNA operating deficit would have increased further, reaching nearly \$100 million by 2037–38. As a result, in August 2016, the Judicial Council suspended all 17 remaining construction projects.

ICNA is estimated to receive roughly \$195 million in revenue in 2018-19. The fund currently supports about \$230 million in various commitments on an annual basis. These include: (1) roughly \$100 million in debt–service costs on previously approved projects, (2) \$25 million for facility modification projects, (3) \$50 million for trial court operations to mitigate the impact of prior–year budget reductions, and (4) roughly \$55 million for service payments for the Long Beach courthouse, which grow annually and result from financing the courthouse through a public–private partnership.

ICNA Projects. The following table provides the status of the original 41 courthouses selected through the SB 1407 process.

SB 1407 Program - Project Status		
	County	Courthouse
COMPLETED COURTHOUSES		
1	Alameda	New East County Courthouse
2	Butte	New North Butte County Courthouse
3	Kings	New Hanford Courthouse
4	Merced	New Los Banos Courthouse
5	San Diego	New Central San Diego Courthouse
6	San Joaquin	Renovate Juvenile Justice Center Courthouse

7	Santa Clara	New San Jose Family Resources Courthouse
8	Solano	Renovation to Fairfield Old Solano Courthouse
9	Sutter	New Yuba City Courthouse
10	Tehama	New Red Bluff Courthouse
11	Yolo	New Woodland Courthouse
CANCELLED PROJECTS		
12	Alpine	New Markleeville Courthouse
13	Los Angeles	Renovate Lancaster Courthouse
14	Sierra	New Downieville Courthouse
INDEFINITELY DELAYED PROJECTS		
15	Fresno	Renovate Fresno County Courthouse
16	Kern	New Delano Courthouse
17	Kern	New Mojave Courthouse
18	Los Angeles	New Southeast Los Angeles Courthouse
19	Los Angeles	New Glendale Courthouse
20	Los Angeles	New Santa Clarita Courthouse
21	Monterey	New South Monterey County Courthouse
22	Nevada	New Nevada City Courthouse
23	Placer	New Tahoe Area Courthouse
24	Plumas	New Quincy Courthouse
PROPOSED TO BE FUNDED IN THE 2018-19 AND 2019-20 BUDGETS		
25	Glenn	Renovation and Addition to Willows Historic Courthouse, 2019-20
26	Imperial	New El Centro Family Courthouse
27	Riverside	New Indio Juvenile and Family Courthouse
28	Riverside	Addition to Hemet Courthouse
29	Sacramento	New Sacramento Criminal Courthouse, 2019-20
30	Shasta	New Redding Courthouse
31	Siskiyou	New Yreka Courthouse
32	Sonoma	New Santa Rosa Criminal Courthouse
33	Stanislaus	New Modesto Courthouse
34	Tuolumne	New Sonora Courthouse
UNDETERMINED STATUS		
35	El Dorado	New Placerville Courthouse
36	Inyo	New Independence Courthouse (Now Bishop)
37	Lake	New Lakeport Courthouse
38	Los Angeles	New Eastlake Juvenile Courthouse
39	Los Angeles	New Los Angeles Mental Health Courthouse
40	Mendocino	New Ukiah Courthouse
41	Santa Barbara	New Santa Barbara Courthouse

LAO Recommendation. While the Governor’s proposal would allow ten specific projects to proceed to construction by effectively backfilling the transfers from SCFCF and ICNA, it does not address key

underlying problems with the state's current trial court construction system. There are two approaches the LAO recommends—one with an alternative system with long-term benefits and another that modifies the Governor's proposal to modify some key issues.

a) *Recommend Alternative System for Court Construction.* In order to effectively address these issues, the LAO recommends that the Legislature consider an alternative approach to trial court construction. Their recommendation would generally overhaul the existing system by eliminating the two construction accounts, shifting full responsibility for funding trial construction projects to the General Fund, and increasing legislative input on funded projects. The key features of the LAO's proposed approach include:

- ***Shift Funding Responsibility for Trial Court Construction to the General Fund.*** Given the instability of the civil and criminal fine and fee revenue deposited into SCFCF and ICNA, the LAO recommends that all current and any future trial court construction projects be funded from the General Fund. This would help ensure that the number of projects approved and completed is determined by the Legislature rather than the amount of revenue available in SCFCF and ICNA. It also would help ensure that the Legislature is fully informed of the potential impact on the General Fund before approving any projects. Additionally, this shift would help ensure that existing debt obligations are addressed. However, this would now require trial court projects to compete with other General Fund priorities—which could mean that no projects move forward in certain years.
- ***Shift SCFCF and ICNA Revenues to General Fund.*** To partially offset the costs of the debt service shifted to the General Fund, the LAO recommends the Legislature to change state law to deposit criminal and civil fines and fees, as well as any other revenue, that would otherwise have been deposited into the SCFCF and ICNA, into the General Fund. They note that, due to legal limitations on the way the revenues can be used, the civil fee revenue may need to be deposited into the TCTF for the support of trial court operations with a corresponding reduction in the total amount of General Fund support transferred to the TCTF.
- ***Shift Non-construction Related ICNA and SCFCF Expenditures to General Fund.*** In view of their recommendation to shift all SCFCF and ICNA revenues into the General Fund, the LAO also recommends the Legislature to appropriate \$159 million annually from the General Fund to maintain funding levels for the non-construction related purposes which currently receive support from SCFCF and/or ICNA. Specifically, the LAO recommends appropriating: (1) \$65 million for facility modification projects, (2) \$55.5 million for the support of trial court operations, and (3) \$38.6 million to support judicial branch facility-related personnel costs and operating expenses.
- ***Appropriate Funding for Construction Projects Based on Legislative Priorities.*** Under the LAO's alternative approach, the Legislature would determine which specific projects to fund based on its priorities, which may or may not include any of the projects proposed by the Governor. To help the Legislature in its deliberations, the LAO recommends that the Judicial Council be required to reassess trial court facility needs, as project needs may have changed since its last assessment more than a decade ago. This could potentially result in a different list of projects than currently proposed by the judicial branch. The Legislature could also direct the judicial branch to include certain factors it believes should be considered, such as how much longer the building could potentially last without violating health standards.

- b) **Modify Governor's Proposal to Address Some Key Issues if Existing System Is Maintained.** To the extent the Legislature would like to maintain the existing court construction system, we recommend modifying the Governor's proposal to address some of the concerns the LAO raised about the proposal.
- **Consolidate SCFCF and ICNA.** The LAO finds that there is no rationale for needing to maintain two separate trial court construction accounts. With both accounts currently projected to become insolvent in the next few years, monitoring a single account makes it easier to track how much total revenue is available to meet existing obligations and how much General Fund would likely be needed to backfill the decline in revenue.
 - **Appropriate Funding for Trial Court Operations From General Fund Rather Than Construction Accounts.** The LAO recommends the Legislature to terminate the current court construction transfers to support trial court operations—\$5.5 million from SCFCF and \$50 million from ICNA—and instead appropriate \$55.5 million from the General Fund for trial court operations.
 - **Provide New Construction Account With \$102 Million General Fund Annually for 25 Years.** The Governor's proposal effectively backfills funds that were transferred from the construction accounts that could have been used to construct new projects. As such, the LAO recommends transferring from the General Fund to a consolidated construction account an amount equal to the amount included in the Governor's proposal—\$102 million annually for 25 years—but require the Judicial Council to ensure that all existing debt service obligations (and other non-construction facility-related obligations) are addressed before using the revenue to finance any new projects. At minimum, this action—combined with the other recommendations—would likely ensure that the construction account remains solvent to the extent that fine and fee revenue does not continue to decline significantly.
 - **Direct Judicial Branch to Submit Long-Term Fund Condition Statement With Each Construction Funding Request.** In order to ensure that the Legislature has sufficient information to determine whether a proposed project should begin or continue to move forward, the LAO recommends the Legislature to direct the judicial branch to submit a long-term fund condition statement for the construction account with each construction funding request.
 - **Direct Judicial Council to Reassess Trial Court Facility Needs.** A reassessment of trial court facility needs would help the Judicial Council determine whether the proposed projects have the greatest needs under the judicial branch's existing system for assessing needs. This updated assessment could also be considered by the Legislature when determining whether to approve subsequent construction budget requests.

Staff Recommendation. Approve as budgeted.

Issue 26: Capital Outlay Spring Letters

Spring Letters. The Administration has submitted an Spring Letters requesting the following capital outlay augmentations for the Judicial Branch:

1. **San Joaquin County: New Stockton Courthouse.** The Judicial Council requests a re-appropriation from the Public Building Construction Fund to extend the liquidation period of the construction phase of the San Joaquin County—New Stockton Courthouse to June 30, 2019. This extension will allow the Judicial Branch to make the final payments for this project totaling approximately \$1,570,000. Construction of this project is complete; however, there is a possibility of a delay in payments for design modifications made during construction. The extension of liquidation is necessary so the Judicial Council can continue to make payments for this project.
2. **Alameda County: East Hall of Justice Data Center.** The Judicial Council requests a re-appropriation of \$1,576,000 from the Immediate and Critical Needs Account (ICNA, Fund 3138) for the Preliminary Plans (\$1,000), Working Drawings (\$52,000), and Construction (\$1,523,000) phases of the Alameda County - East County Hall of Justice Courthouse Data Center due to delays in executing the necessary contract with the county to provide the funds for this effort. The County constructed the Alameda Courthouse project and will fund this data center out of savings from that project. The Courthouse was completed in May 2017, but a few outstanding bills need to be processed before the Courthouse project accounts can be closed and the savings can be transferred to the Judicial Council for this project.

Legislative Analyst’s Office (LAO). The LAO raised no concerns with these proposals

Staff Recommendation. Approve both Spring Letters as proposed.