



COMMITTEE ON BUDGET & FISCAL REVIEW  
Room 5019, State Capitol  
Sacramento, CA 95814

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## **Quick Summary**

### **Special Session Actions**

February 19, 2010

The purpose of this Quick Summary is to provide members and staff of the State Senate with a review of the Special Session actions adopted by the Senate Budget and Fiscal Review Committee in February 2010. If you have questions, please contact the committee at (916) 651-4103.

#### **Summary of Special Session**

On January 8, the Governor released his proposed 2010-11 budget, declared a fiscal emergency, and called a special session of the Legislature, consistent with Proposition 58.

The Governor proclaimed a "fiscal emergency" utilizing the authority provided within the State Constitution (passed as Proposition 58 by the electorate in early

2004). Under the Constitution, the Governor can call the Legislature into a special session to deal with substantial revenue declines or expenditure increases, accompanied by proposed legislation to address the fiscal emergency. If the Legislature fails to pass, and send to the Governor, a bill or bills by the 45<sup>th</sup> day following this type of proclamation, the Legislature may not act on any other bill. The 45<sup>th</sup> day of the Special Session called by the Governor to address the declared fiscal emergency is February 22, 2010.

As defined by the Department of Finance (DOF) the size of the budget deficit, constituting the fiscal emergency, is approximately \$19.9 billion General Fund over the two-year period.

The Senate Budget and Fiscal Review Committee held ten full-committee hearings to understand, discuss, and hear public testimony on the various issues presented by the administration to address the fiscal emergency. On February 10, 11, and 16 the Committee took various actions, as outlined throughout this document. In total the Committee took actions in the special session to reduce the budget problem by \$5 billion, which is over 50 percent of what the Governor had proposed for the special session. The Senate's actions reduce the overall deficit over the current and budget years by 25 percent.

The summary of the solutions are as follows:

**General Fund Solutions:**

• Expenditure Reductions:	\$2.1 billion
• Alternative Funding:	\$1.4 billion
• Revenues:	\$824 million
• Fund Shifts/Other Revenues:	\$551 million
• Federal Funding Relief:	\$76 million
<b>Total</b>	<b>\$5.0 billion</b>

The solutions help the state move towards closing the budget deficit in the 2010-11 fiscal year. Actions were also taken to address cash flow concerns in the current fiscal year and the budget year. The cash flow solutions should strengthen the State's position in the bond market and ensure sufficient cash reserves throughout the 2010-11 fiscal year.

In the following pages are brief summaries, by major program area, of actions taken.

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## **Employee Compensation**

### **Governor's Executive Order S-01-10: Workforce Cap**

***Five Percent Personnel Savings.*** Recognized savings of \$449 million General Fund as proposed by the Administration in the Budget Act of 2010 from implementation of the five percent reduction to departmental personnel costs resulting from Governor Schwarzenegger's Executive Order S-01-10. The Executive Order requires agencies and departments to cap the size and cost of the workforce by July 1, 2010, effectively reducing the size of the state workforce by 8,915.7 personnel years. Also stated legislative intent that first priority for achieving these personnel savings come from administration to avoid negative impacts on the delivery of direct services.

***Operating Expenses and Equipment Savings.*** Recognized savings of \$130 million General Fund in the Budget Act of 2010 to reflect the Operating Expenses and Equipment savings resulting from Governor Schwarzenegger's Executive Order S-01-10 (as detailed above).

### **Other Post Employment Benefits**

***Delaying Pre-payment of Other Post Employment Benefits.*** Recognized savings of \$98.1 million General Fund as proposed by the Administration in the Budget Act of 2010 to reflect budgetary workload savings from delaying prepayment of other post employment benefits.

## **Health & Human Services**

### **Department of Health Care Services**

***Delay Medi-Cal Payments to Fee-for-Service Institutional Providers.*** Recognized the Governor's authority to delay \$256.9 million (\$94.3 million General Fund) in Medi-Cal payments made to 40 categories of institutional providers by shifting the June 17, 2010 checkwrite to the first week of July and the new fiscal year. Providers affected by this action include hospitals, long-term care facilities, various types of clinics, Adult Day Health Care Centers, Home Health agencies, Mental Health inpatient services and several other categories. The Governor's proposal includes an expenditure of \$38.5 million General Fund for

2010-11 since, if the Administration chooses to make this shift, it would violate federal prompt payment requirements and this penalty would be accessed.

***Medi-Cal Anti-Fraud on Physician Services and Pharmacy.*** Recognized savings of \$28.3 million General Fund within the Medi-Cal Program as proposed by the Administration for the Department of Health Care Services to proceed with additional anti-fraud activities pertaining to physician services and pharmacy.

## **Department of Public Health**

***Shift \$3.5 million from State Operations to Local Assistance for HIV/AIDS.*** Shifted \$3.5 million in unexpended federal funds for State operations to local assistance to support HIV/AIDS prevention and testing activities, and care and support services within the Office of AIDS.

## **Department of Developmental Services**

***Continues Three Percent Reduction to Services Purchased by Regional Centers.*** Adopted the Governor's proposal to continue a three percent reduction for certain payments for services purchased by Regional Centers for the 2010-11 fiscal year. This results in a reduction of \$99.5 million (\$49.7 million General Fund).

Exempt from this reduction are Supported Employment, the SSP supplement for independent living, and services with "usual and customary" rates as established in regulation. In addition, other services may be exempt from this reduction if a Regional Center demonstrates that a non-reduced payment is necessary to protect the health and safety of a consumer and the department has granted written approval of this specific exemption.

***Continues Three Percent Reduction to Regional Center Operations.*** Adopted the Governor's proposal to continue the suspension of several administrative and case management requirements in existing law for the 2010-11 fiscal year in order to provide flexibility for the purpose of reducing their Operations expenditures by three percent. This results in a reduction of \$16.2 million (\$11.2 million General Fund).

The requirements to be suspended include:

- The average service coordinator-to-consumer ratio for certain consumers established at 1:66;
- The overall average service coordinator-to-consumer ratio at a Regional Center for all consumers who have not moved from a Developmental Center to the community, currently established at 1:62;
- The requirement that Regional Centers shall either have in-house or contract with the following expertise: (1) criminal justice; (2) special education; (3) family support; (4) housing; (5) community integration; and (6) quality assurance; and
- The reporting to the department regarding prior year fiscal expenditures for administrative services.

## **Department of Social Services**

***Expanded federal eligibility for foster care.*** Enacts statutory changes to allow for federal financial participation in a greater number of the state's foster care cases. Contingent upon related amendments to federal law, these changes would save an estimated \$6 million General Fund in 2009-10 and \$69.5 million GF in 2010-11.

## **Judicial Branch**

***Delay of Conservatorship and Guardianship Program.*** Adopted a one-year delay in the implementation of certain provisions of the Omnibus Conservatorship and Guardianship Reform Act of 2006. This delay results in \$17.4 million General Fund savings in the budget year.

## **Local Government**

***State Mandate Funding.*** Approved savings of \$228 million General Fund in the Budget Act of 2010 to reflect the suspension of certain mandates and payment deferrals for other mandates. Generally, these savings would accrue by mirroring the 2009 Budget Act treatment of mandates. Most mandates are suspended, with the exception of mandates relating to law enforcement, election procedures, open meeting requirements, and tax collection. Payment of pre-Proposition 1A mandate claims is deferred. The Local Recreational Background Checks mandate and the

Crime Victims' Rights mandate were excluded from this savings for further analysis in budget subcommittees.

## **Public Safety**

### **California Department of Corrections and Rehabilitation**

***Receiver Savings.*** Reduced the California Department of Corrections and Rehabilitation (CDCR) funding by \$811 million General Fund in the budget year to account for a reduction in inmate health care costs.

***Immigration and Customs Enforcement (ICE) Commutation Savings.*** Reduced CDCR's funding by \$182 million General Fund in the budget year to reflect the commutation of inmate sentences by the Governor and the deportation of those inmates to their country of origin.

***Division of Juvenile Justice Savings.*** Reduced CDCR's funding by \$48 million General Fund in the budget year to reflect a reduction in the population of juvenile offenders housed in state facilities.

***Implementation of Prison Rehabilitation Reductions.*** Adopted trailer bill language requesting CDCR to consider reestablishing credentialed teacher positions in lieu of hiring teaching assistants as part of the department's plan to implement cuts to its prison and parole rehabilitation programs in the current year.

## **Department of Justice**

***DNA Fee Increase.*** Increased the DNA penalty charged to all criminal offenders from \$1 for every \$10 in fine, penalty, or forfeiture collected by the courts to \$3 for every \$10 collected. Allowed the revenues to be used for operation of state criminal laboratories. Reduced the Department of Justice funding by \$45.1 million General Fund in the budget year to reflect the projected increase in DNA penalty revenues.

## Department of Alcoholic Beverage Control

***Fund Reimbursement.*** Adopted trailer bill language allowing previously awarded federal grants to be released to reimburse the Alcohol Beverage Control Fund which had been used as an interim measure to award a total of about \$497,000 in federal grants in 2005-06 and 2006-07.

## Natural Resources

***Beverage Container Recycling Program.*** Adopted solutions to improve the short-term solvency of the Beverage Container Recycling Fund, including the following:

- Accepted the Governor's plan to accelerate California Refund Value payments by distributors in order to provide \$100 million one-time revenue increase in the current fiscal year, and provided flexibility to allow certain distributors until April 30, 2010, to make first accelerated payment. Additionally, adopted July 1, 2012, sunset to acceleration.
- Consistent with the Governor's proposal to make all program participant's "whole" for the second half of the 2010-11 fiscal year, authorized program payments retroactive to January 1, 2010.
- Identified additional savings of approximately \$28 million in the current year (and approximately \$56 million in the budget year) via two-year suspensions of various continuous appropriations (Public Resources Code Section 14581).

Acknowledged the need to pursue more comprehensive program and fiscal reforms, but deferred these policy deliberations to the regular session.

***Fire Protection.*** Approved trailer bill language to implement a statewide emergency services surcharge on commercial and residential property insurance policies. Beginning in the budget year, the fee revenue would supplant \$200 million in existing General Fund support for wildland fire protection in the Department of Forestry and Fire Protection (CALFIRE) and would fund additional emergency response expenditures including enhancement of mutual aid capacity for local agencies.

***Fish and Game Budget Year Reduction.*** Accepted Governor's proposed \$5 million General Fund reduction to the Department of Fish and Game for the 2010-11 fiscal year, but deferred allocation until the spring budget process.



## **Environmental Protection**

***State Water Pollution Control Revolving Fund (SWPCRF).*** Approved trailer bill language to conform to federal law and authorize the State Water Resources Control Board (Board) to issue grants, forgive loan principal and provide other types of assistance from specified federal SWPCRF funds. Similar authority was provided with respect to American Recovery and Reinvestment Act funds pursuant to Chapter 25, Statutes of 2009 (SBx3 27); however, the Board now requires this clarification with respect to “regular” federal appropriations that include funding for activities outside the traditional revolving-loan aspect of the program.

## **State Administration and General Government**

### **Information Technology Savings**

***Information Technology Savings.*** Recognized savings of an additional \$40 million General Fund as proposed by the Administration in the Budget Act of 2010 to reflect information technology (IT) and related savings achieved by state agencies pursuant to the Governor’s Reorganization Plan No. 1 of 2009 (GRP No. 1). These savings are in addition to the \$100 million in ongoing General Fund savings in the current year budget which are reflective of the implementation of the GRP No. 1.

### **Tribal Gaming Revenues**

***Shift of revenue from transportation funds to the General Fund.*** Directs \$101 million in 2010-11 to the General Fund from a specified portion of tribal-gaming revenues. Senate Bill 3X 7 (Statutes of 2009), enacted similar shifts for 2008-09 and 2009-10. Existing law designates the 2010-11 revenues as available for repayment of 2001 and 2002 transportation loans to the General Fund. In 2011-12 and thereafter, tribal revenues would again be available for transportation-loan repayment.

### **Cash Management**

***Cash Management.*** Includes trailer bill language to provide statutory authorization to defer specific cash payments to schools, universities, trial courts, and local governments to ensure sufficient cash reserves at the state for the

remainder of the 2009-10 fiscal year and the 2010-11 fiscal year. The language specifies maximum deferral amounts and the maximum length of the deferral. Language is also included to “smooth” cash payments to the University of California and California State University so that they are relatively the same each month of the fiscal year. All of the deferrals are limited to the current and budget year only and the deferrals may be triggered off by findings of the State Controller, the Director of Finance, and the State Treasurer. The trailer bill language also changes the dates of the bi-annual contributions to the State Teachers Retirement System. The language will provide approximately \$5 billion in cash flow relief that will reduce the size and cost of the State’s short term borrowing.

## **Transportation**

***Modified Fuel Swap.*** Approved a modified fuel swap proposal that generates General Fund relief of \$219 million in 2009-10 and \$1.6 billion in 2010-11, while at the same time improving funding for transit and highways over both the Governor’s proposal and current law. The detail by category is as follows:

- **Swap for Transit** – For the remainder of 2009-10 and for 2010-11, appropriated a total of \$400 million for transit operations, and fully funds intercity rail. In 2011-12, increases the state sales tax on diesel from 5 percent to 6.75 percent and decreases the excise tax on diesel from 18 cents to 13.6 cents. This diesel fuel swap provides for growth in both transit operations and intercity rail. Transit operators will get \$350 million in 2011-12, and a growing amount thereafter, via receipt of 75 percent of the state sales tax on diesel. The amount available for intercity rail and other purposes will grow, via receipt of 25 percent of the state sales tax on gas and non-Article XIX transportation funds. Authorizes, with local voter approval, a local mitigation fee on gasoline to fund transit, bicycle, and pedestrian projects, programs, and operations. The diesel excise tax is recalculated annually to offset revenue gained from the increase in state sales tax on diesel, and maintain overall revenue neutrality.

- **Swap for roads and highways** – Maintained full funding at the Prop 42 level for roads and highways in 2010-11. For 2011-12, and thereafter, provides net new revenues for roads and highways. After funding debt service, the new excise funds are split 30 percent for STIP, 30 percent for SHOPP, and 40 percent for local roads. This should generate over \$400 million in new funding in 2011-12 and several billion dollars in additional funding over the next decade. The gasoline excise tax is recalculated annually to match revenue lost from the elimination of the state sales tax on gas, and maintain overall revenue neutrality.
- **Swap for General Fund relief** – Augmented the Governor’s GF relief: (1) increased 2009-10 bond reimbursement by \$162 million (to a total of \$219 million); (2) increased 2010-11 GF revenue by \$655million by delaying by one year unitary-group tax-credit sharing and, for 2010, limit net operating loss (NOL) usage to 68 percent of income – these are business tax breaks or tax expenditures. Achieved the Governor’s level of General Fund from GO debt service in 2010-11 of \$929 million. Overall General Fund relief is \$219 million in 2009-10 and \$1.6 billion in 2010-11.
- **Swap and Proposition 98 – No decrease to education funding** – Requires that schools be held harmless in the Proposition 98 funding calculation from any tax changes in this swap.

*Letters of no prejudice (LONP) for Proposition 116 projects.* Authorized the California Transportation Commission to approve LONPs for Proposition 116 projects (The Clean Air and Transportation Improvement Bond Act of 1990), which have been delayed due to the limited ability of the State to sell general obligation bonds. LONPs refers to the process wherein a local project sponsor has a project programmed for State funding, but state funding is delayed. The local entity may continue the project with local funds knowing that that action would not prejudice them from receiving reimbursement from the State when funds become available.

## **Tax Administration**

***Financial Institutions Records Match (FIRM).*** Adopts the Franchise Tax Board (FTB) financial institutions record match (FIRM) proposal. FIRM requires financial institutions to perform quarterly matches of their account records with a file of tax delinquents provided by the FTB in order to identify assets that can be applied to pay the delinquent tax debts. This provision improves collections, but does not change tax liability. Revenue gain of \$32 million in both 2010-11 and 2011-12.

***Sales tax "nexus".*** Requires out-of-state sellers, such as Amazon, that pay commissions to California firms or residents for sales referrals (often through a website link) to collect sales tax on their sales to California residents. This provision improves compliance, but does not change tax liability. Existing law requires Californians to pay equivalent use tax on these purchases, but compliance is low. Revenue gain of \$107 million in 2010-11 and ongoing.

***Abusive tax shelters.*** Strengthened definition of abusive tax shelters. Discourages tax avoidance and the use of abusive tax shelters by defining a “potentially abusive tax avoidance transaction” as: (1) a tax shelter; (2) an undisclosed reportable transaction; (3) a listed transaction; (4) an entity, investment plan or arrangement, or other plan or arrangement that has the potential for tax avoidance or evasion, as identified by the Secretary of the Treasury or the Franchise Tax Board; (5) a gross misstatement; or (6) a transaction subject to the non-economic substance transaction understatement penalty. FTB indicates that the strengthened definition will result in increased penalty assessments. Revenue gain of \$1.8 million in 2010-11 and \$3.8 million in 2011-12.

***License revocation.*** Revocation of licenses for delinquent tax payments. Permits the state to suspend state occupational and professional licenses because of unpaid income tax liabilities. Allows taxpayers to avoid suspension by entering into an installment agreement with FTB. Revenue gain of \$14 million in 2009-10, and \$19 million in both 2010-11 and 2011-12.