# Senate Budget and Fiscal Review

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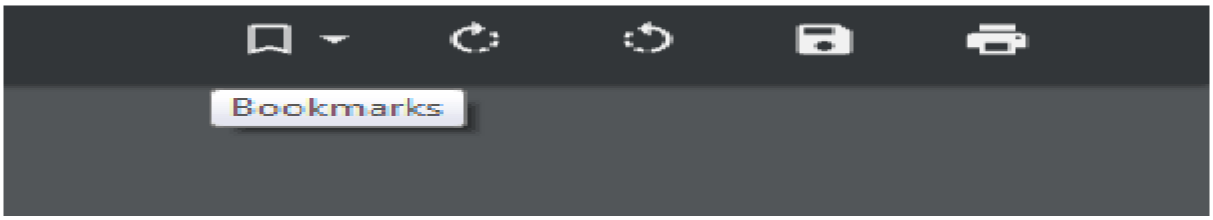


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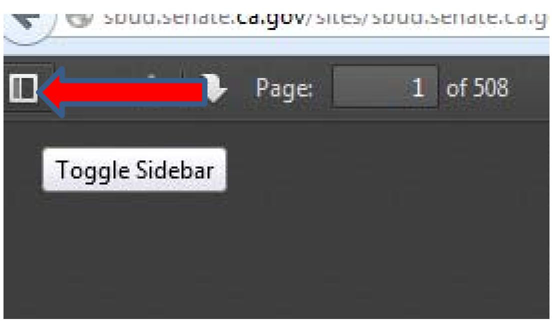


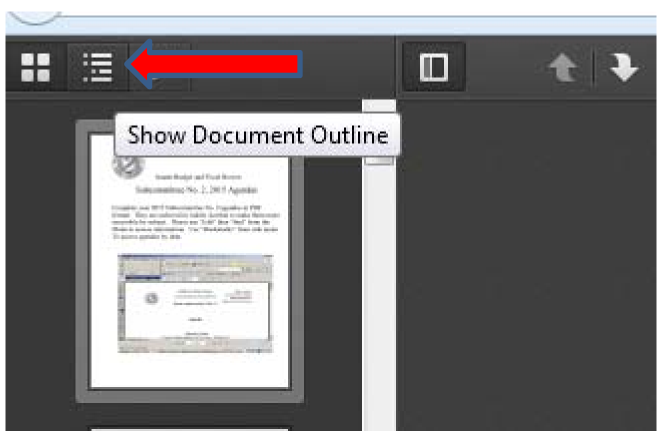

*Senate Budget and Fiscal Review—Holly J. Mitchell, Chair*

# SUBCOMMITTEE NO. 4 Agenda

**Senator Maria Elena Durazo**
**Senator Jim Nielsen**
**Senator Thomas J. Umberg**

**Thursday, March 7, 2019**
**9:30 a.m. or Upon Adjournment of Session**
**State Capitol - Room 2040**

Consultant: Yong Salas

## PROPOSED FOR VOTE-ONLY



## PROPOSED FOR DISCUSSION/VOTE

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# ISSUES PROPOSED FOR VOTE-ONLY

## 7760 DEPARTMENT OF GENERAL SERVICES

### Issue 1: Technical Adjustments

**Governor's Budget.** The Department of General Services (DGS) requests the establishment of 40 positions, of which six positions will be converted from blanket positions, with no additional funding authority. Of the remaining positions, 23 will be for the Contracted Fiscal Services program, and 11 positions will be for the Administration Division.

**Background.** The Financial Information System for California (FI$Cal) provides a unified and consistent financial system that will be used by virtually all state entities, and provides transparency in state financial data. With the transition to the new system, FI$Cal changed how some state entities performed their accounting and budgeting functions. For example, FI$Cal requires multiple users operating within it to maintain a separation of duties in order to prevent fraud and minimize errors, and changed how transactions were recorded. At the same time, the Contracted Fiscal Services (CFS) unit within DGS, which provides budgeting and accounting services to other state departments, boards, and commissions that do not have the staff or expertise necessary to perform budget and/or accounting functions, has seen an increase in its clientele. Currently, CFS provides accounting services to 44 state entities and budgeting services to 21 state entities using FI$Cal, and recovers its costs by billing customers through an interagency agreement. DGS stated that they anticipate gaining one or two clients in the upcoming year.

As the demand for central services provided by DGS to external entities grows, either with the implementation of FI$Cal, new programs or new positions in other DGS programs, DGS stated that the position authority in its Administration Division, which provides internal services for DGS like human resources and contract services, has not been adjusted to meet the changing administrative workload. While funding for the administrative workload was provided with previous program augmentations, the position authority was not. This request aligns the position authority with the administrative workload.

On July 24, 2018, the Department of Finance (DOF) issued a budget letter encouraging departments to identify critical, permanent positions funded from the Temporary Help Blanket, which is a funding source that provides flexibility for departments to meet operational needs. DGS requests to convert six positions funded formerly from the blanket to permanent positions so that departments may receive accurate funding for salaries and benefits.

**Staff Recommendation.** Approve as budgeted.

## 8940 CALIFORNIA MILITARY DEPARTMENT

### Issue 2: Capital Outlay Projects

**Governor's Budget.** The California Military Department (CMD) requests a total of $15.2 million ($7.6 million General Fund and $7.6 million federal matching funds) for four capital outlay proposals listed below:

- Advance Plans and Studies: The department requests $300,000 ($150,000 General Fund and $150,000 federal matching funds) for architect-engineering services to conduct design studies and programming charrettes for future capital projects. These services will allow the department to develop conceptual designs and cost estimates for future projects.

- Petaluma Armory Renovation: The department requests $4.3 million ($2.14 million General Fund and $2.14 federal matching funds) for the performance criteria and design-build phases of the Petaluma project. The request would provide funds to renovate the 12,909 square foot Petaluma armory, which was built in 1958, and is a critical emergency response meeting point. The renovations will allow for more efficient use of space, improve security with vault upgrades, provide proper facilities for female soldiers, and allow assigned units to train and maintain their equipment more effectively.

- Redding Armory Renovation: The department requests $6.4 million ($3.2 General Fund and $3.2 federal matching funds for the performance criteria and design-build phases of the Redding project. The request would provide funds to renovate the 15,936 square foot Redding facility, which was built in 1961. The renovations will allow for more efficient use of space, improve security with vault upgrades, provide proper facilities for female soldiers, and allow assigned units to train and maintain their equipment more effectively. The Redding Armory is in a strategic location, which provides access to northern-most counties within the state.

- Visalia Armory Renovation: The department requests $4.2 million ($2.1 million General Fund and $2.1 million federal matching funds) for the performance criteria and design-build phases of the Visalia project. The request would provide funds to renovate the 13,212 square foot Visalia facility, which was built in 1949. The renovations will allow for more efficient use of space, improve security with vault upgrades, provide proper facilities for female soldiers, and allow assigned units to train and maintain their equipment more effectively. The Visalia facility is located between Fresno and Bakersfield, and provides access to Lemoore Naval Air Station.

**Background.** The department maintains 95 active armories, 4 aviation centers, 23 field maintenance shops, 2 combined support maintenance shops, and 2 maneuver area training equipment sites.

CMD's Sustainable Armory Renovation Program intends to strategically renovate a handful of armories at a time while consolidating certain armory sites. Since 2015-16, the state has provided $56 million General Fund, which has been able to draw $29.4 million federal funds, most of which matched

General Fund investments for the armories with the exception of the Los Alamitos Readiness Center, to renovate the aging armories under the department's purview.

These armories provide space for strategic defense and emergency response centers throughout the state, as well as serving community functions such as emergency shelters or community event spaces.

**Staff Recommendation.** Approve as budgeted.

**Issue 3: San Diego Readiness Center Re-Appropriation**

**Governor's Budget.** The CMD requests a re-appropriation of $7.7 million ($7,688,000) ($3.8 million General Fund and $3.8 million federal funds) for construction phases two and three of the San Diego Readiness Center Renovation project.

**Background.** The San Diego Readiness Center Renovation project received funding during the following years:

- The 2015 Budget Act provided $1.7 million ($856,000 General Fund and $856,000 federal funds) for phase one of the project.
- The 2016 Budget Act provided $3.4 million ($1.7 million General Fund and $1.7 million federal funds) for phase two of the project.
- The 2017 Budget Act provided $3.9 million ($1.9 million General Fund and $1.9 million federal funds) for phase three of the project.

However, phase one of this project experienced delays in the availability of federal funding due to sequestration at the time, and resulted in an unsuccessful bidding process. Due to these delays, phases two and three of construction are not anticipated to begin until December 2019, and funding provided for these purposes will revert unless re-appropriated.

The CMD states that the renovation of the San Diego Readiness center will improve the operational readiness and increase the effectiveness of the California National Guard to respond to emergencies in Southern California.

**Staff Recommendation.** Approve as budgeted.

## 8955 CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

### Issue 4: Emergency Coordination

**Governor's Budget.** The California Department of Veteran Affairs (CalVet) requests $152,000 ($145,000 General Fund and $7,000 Farm and Home Building Fund of 1943) and one ongoing position in 2019-20, and $146,000 ($139,000 General Fund and $7,000 Farm and Home Building Fund of 1943) ongoing thereafter to oversee CalVet's plans, response, and coordination in the event of an emergency.

**Background.** CalVet maintains eight Veteran Homes and three veteran cemeteries. While each home has emergency protocols in place, CalVet states that existing staff must coordinate resources and work with other agencies during an emergency event. However, fires during 2017 and 2018 threatened four Veterans Homes and two Veterans Cemeteries due to the sites' proximity to forests, wildlands, and other undeveloped areas, and the demands on existing staff diverted resources from other necessary duties. In these events, CalVet used existing staff to coordinate with other agencies and leverage existing resources, as well as coordinating recovery operations.

CalVet states that with the growth of wildfires in recent history, a dedicated staff member who can coordinate the response as well as recovery is needed to help manage these duties.

**Staff Recommendation.** Approve as budgeted.

### Issue 5: Technical Adjustment to Convert Blanket Positions to Authorized Positions

**Governor's Budget.** The California Department of Veterans Affairs (CalVet) requests to convert 32.5 positions from the temporary help blanket to authorized positions. This request does not require an increase in budget authority.

**Background.** On July 24, 2018, the Department of Finance issued a budget letter encouraging departments to identify critical, permanent positions funded from the Temporary Help Blanket, which provides flexibility for departments to meet operational needs. CalVet requests to convert 32.5 positions funded formerly from the blanket to permanent positions so that departments receive accurate funding for salaries and benefits. These positions will be established in the headquarters as well various veteran homes.

**Staff Recommendation.** Approve as budgeted.

# ISSUES PROPOSED FOR DISCUSSION/VOTE

## 8880 FINANCIAL INFORMATION SYSTEM FOR CALIFORNIA (FI$CAL)

**Overview.** The Department of FI$Cal is responsible for supporting the Financial Information System for California (FI$Cal) Project, including supporting the system's customers and stakeholders, onboarding any new, deferred, or exempt entities, as well as assuming responsibility for system maintenance, upgrades, and enhancements as portions of the system are implemented and accepted.

The FI$Cal project is a partnership of four control agencies: the Department of Finance, the State Controller's Office, the State Treasurer's Office, and the Department of General Services. FI$Cal will provide the state with a single integrated financial management system that encompasses budgeting, accounting, procurement, cash management, and financial management and reporting. FI$Cal, through the adoption of best business practices, will: reengineer business processes; improve efficiency; enhance decision making and resource management; and provide reliable, accessible, and timely statewide financial information allowing the state to be more transparent.

**Budget.** The budget includes $76,034,000 ($47.9 million General Fund) and 243.9 positions in 2019-20.

### Issue 6: Informational – FI$Cal Project Update

**Background**. One of the most vital projects for the state is FI$Cal, the statewide project being undertaken to integrate and re-engineer the statewide business processes related to budgeting, accounting, procurement and cash management. FI$Cal provides a unified and consistent financial system that will be used by virtually all state entities, and provides transparency in state financial data. FI$Cal is managed by a partnership of four control agencies – Department of Finance, State Controller's Office, State Treasurer's Office, and the Department of General Services. In 2016-17, the Legislature approved a permanent administrative structure for FI$Cal, establishing it as a stand-alone department. FI$Cal is a central service agency, and non-general fund costs are recouped through the Central Service Recovery Fund, which charges various special and nongovernmental funds.

FI$Cal is an ambitious and complex project that has undergone numerous changes in scope, schedule and cost. These various changes have been incorporated and documented in special project reports (SPRs) with the project currently working under the rubric of SPR 7. SPR 7 was primarily driven by the need to re-plan for the implementation of the State Treasurer's Office (STO) and State Controller's Office (SCO) accounting and cash management functions that were not ready for its scheduled deployment, but was resolved through the Integrated Solution to maintain an accurate book of record for state government finances.

Under the Integrated Solution, SCO will run the FI$Cal system and its existing legacy accounting systems in tandem. The Integrated Solution develops interfaces between both FI$Cal and SCO's legacy systems so that data is entered only once (in either system) but then both systems share the data. This way each system can perform the accounting and cash management functions for the state. During this interim phase, SCO's legacy systems will continue to serve as the state's official accounting record. However, the annual report to the Legislature by FI$Cal, released in February 2019, indicated that the rollout schedule to complete the Integrated Solution and implement the statewide financial reporting function is being assessed.

In its August 16, 2018, letter to the Governor and the Legislature, the California State Auditor indicated that the FI$Cal project will exceed its originally planned timeline and resources, and recommended that FI$Cal submit a new SPR to address the issues it raised. FI$Cal states that it is currently conducting an analysis to determine whether a new SPR is warranted. Additionally, the State Auditor has raised concerns of the departments' abilities to complete timely financial statements despite the FI$Cal project office reporting that these departments have implemented FI$Cal. According to FI$Cal, implementation indicates that the system is ready to use and the user has a starting point for recording transactions, but not necessarily transitioned from the legacy system to FI$Cal. This may be due to a variety of reasons, including the departments' reluctance that the system will produce accurate and timely financial information to meet federal requirements, as well as the volume of transactions that needs to be recorded within the limited staffing that perhaps a prior system required.

From 2005-06 to 2019-20, the costs of the project are estimated at $918.2 million. This estimate includes $327.7 million in payments to the system integrator to design, develop and implement the FI$Cal system. However, not included in these estimates are tangential costs to operate the system—that is, staffing augmentations at the department level through position authority, funding authority or both, or increased demand for Contracted Fiscal Services within DGS, which provides budgeting and accounting services to other state departments, boards, and commissions that do not have the staff or expertise necessary to perform budget and/or accounting functions. For example, among the Governor's Budget requests in 2019-20 are the following:

- The Office of Planning and Research requests $334,000 General Fund in 2019-20 and $329,000 General Fund ongoing thereafter for three permanent positions to assist with the implementation of FI$Cal.
- The Department of Parks and Recreation requests $1.7 million General Fund in 2019-20 and $1.6 million General Fund ongoing thereafter for 12 permanent positions to meet the workload as a result of the FI$Cal implementation.
- The Judicial Council requests $952,000 General Fund in 2019-20 and $887,000 General Fund ongoing thereafter to support the FI$Cal implementation.
- The Department of Consumer Affairs requests $1.2 million in 2019-20 and $943,000 thereafter to fund seven permanent positions to assist with the implementation of FI$Cal. These positions are to be funded through the department's pro rata allocations.
- The Department of General Services requests 23 positions in its Contracted Fiscal Services to meet the workload of its growing clientele, in part as a result from the implementation of FI$Cal.

Lastly, the Office of Statewide Project Delivery within the Department of Technology has assessed that there is a significant risk to the health of the FI$Cal project—due to continuing issues with various project management areas, including delays with the Integrated Solution, delays in fully transitioning departments onto FI$Cal, and failing to document significant project risks—and escalated the project for immediate corrective action for the January 2019 reporting period.

**Staff Recommendation.** Informational item.

## 7760 DEPARTMENT OF GENERAL SERVICES

**Overview.** The Department of General Services, as an enterprise organization under the Government Operations Agency, provides centralized services to state agencies in the areas of: management of state-owned and leased real estate, including design and construction of state infrastructure projects; approval of architectural designs for local schools and other state-owned buildings; printing services; procurement of commodities, services, and equipment for state agencies; and management of the state's vehicle fleet. Furthermore, DGS employs practices that support initiatives to reduce energy consumption and help preserve California resources. The director of DGS serves on several state boards and commissions.

**Budget.** The Governor's Budget includes $1.1 billion ($37 million General Fund, $1.1 billion special funds, and $5.7 million in reimbursements) to support the department and its various programs.

### Issue 7: Trailer Bill Language: Golden State Financial Marketplace Program (GS $mart)

**Governor's Budget.** The Administration requests statutory changes related to the Golden State Financial Marketplace program (GS $mart) to reflect a more complex regulatory environment for public financing.

**Background.** The GS $mart program serves as a financing program allowing high-cost purchases, as specified in law, that agencies are not capable of paying for in a single budget year. The program allows an agency to spread the cost of specified goods over several years versus paying for them all in one fiscal year at tax-exempt rates.

The proposal makes a number of changes that strengthen the accountability of the program and communication with other state financing programs, including changes that: (1) clarify the types of assets items for financing through the program; (2) require the GS $mart program use law firms that are more likely to be familiar with state laws, and comply with related labor laws when doing so; and (3) require the Department of General Services to obtain approval from the State Treasurer's Office and the Department of Finance for terms and conditions used for the GS $mart program in order to ensure that it is consistent with other state financings, and provide notice so that GS $mart financings can be coordinated with other financings if necessary.

**Staff Recommendation.** Adopt placeholder trailer bill language to ensure consistency with the GS $mart program and other state financings, and strengthen the communication with other state financing programs.

## Issue 8: Authority Increase for the Statewide Travel Program

**Governor's Budget.** The Department of General Services (DGS) requests a permanent increase in expenditure authority of $1.5 million ($1,523,000) in Service Revolving Fund authority to offset transaction fees on behalf of the Statewide Travel Program (STP) client agencies.

**Background.** The DGS Statewide Travel Program (STP) is a program state and local entities use to make travel arrangements with discounted costs by various vendors, including hotels, airlines, and car rental companies. While other state entities, such as CalPERS and CalSTRS, have adopted responsible contractor policies where contractors and subcontractors paying their workers fair wages and benefits are provided a preference during the contracting process, the STP has no such policy. Lawsuits alleging wage theft are currently active against certain subcontractors and airline subsidiaries that are receiving public dollars through its relationship with the prime contractor, like airlines, currently offering its services through the STP. DGS' contracts with certain airlines that provide services through the STP are set to expire on June 30, 2019, and DGS is currently in the process of developing its solicitation.

In 2014, state agencies were required to make all travel arrangements through the STP. This allowed the state to capture travel spending data and leverage its buying power for discounted travel costs. STP is funded solely through various contractual incentives, rebates and fees through the vendors. Additionally, agencies using the STP pay a $5 booking fee when making travel arrangements. DGS estimates that approximately 358,000 transactions occurred in 2017-18. Since its implementation, DGS determined that the revenue generated by the STP is enough to offset the $5 booking fees for agencies, but will require an increase of $1.5 million in their authority to do so.

**Staff Recommendation.** Hold open.

**Issue 9: Electric Vehicle Service Equipment Infrastructure Assessment and Facility Development**

**Governor's Budget.** The Department of General Services (DGS) requests a one-time augmentation of $18.6 million ($9.3 million General Fund and $9.3 million Service Revolving Fund) in 2019-20 to continue activities related to the installation of Electric Vehicle Service Equipment (EVSE) at state facilities.

**Background.** In 2012, the Governor issued an executive order directing state government to help accelerate the market for zero-emission vehicles (ZEVs) in California, including the goal of having 1.5 million ZEVs on California roads by 2025. The 2013 ZEV Action Plan, which was developed to implement the goals established in the executive order, identified specific actions state government would take to meet the milestones of the executive order. The Action Plan was updated in 2016, and contained over 200 specific action items for state agencies to implement in order to accelerate ZEV adoption. In 2018, the Governor issued an executive order that set an additional target of putting five million ZEVs on California roads by 2030. While the 2016 Action Plan is still in effect due to ongoing work implementing those directives, the 2018 Action Plan prioritized actions for state agencies to execute in 2018 to enable progress toward the 2025 and 2030 goals.

As part of this plan, DGS is responsible for assisting state agencies in: (1) having at least 50 percent of the state's annual light-duty fleet purchase be ZEVs by 2025, and (2) creating charging capabilities in five percent of workplace parking spaces. DGS also supports state agencies in completing readiness surveys, conducting site assessments, and providing oversight of architectural and engineering functions, construction management, system activation, and identification of alternative funding options if available.

In 2018-19, DGS received a one-time augmentation of $15.6 million ($7.8 million General Fund and $7.8 million Service Revolving Fund) and one permanent position to continue the installation of EVSE in state facilities. In the prior year, DGS received a one-time augmentation of $6.7 million ($3.4 million Service Revolving Fund and $3.3 million General Fund) and three permanent positions, which brings the total funding to date for this effort to $22.3 million and four permanent positions.

This request is to fund year three of the DGS ZEV Five-Year Infrastructure Plan to install EVSEs in state facilities to support both the state fleet and state employee charging needs. $18 million will support 1,405 EVSE installations and the remaining $512,000 will support work related to facility assessments. Total costs to implement this effort is $93.9 million to install 6,484 EVSEs by 2021-22.

**Legislative Analyst's Office (LAO).** The LAO continues its concerns around the full cost of implementing the goals, and has raised suggestions in the past that the Legislature consider other state funding sources for this project, such as the Greenhouse Gas Reduction Fund, given the costs. The LAO highlights that the Administration does not have a plan to fully meet the goals laid out in statute and policy, so that total costs are currently unknown.

**Staff Recommendation.** Hold open.

## Issue 10: Deferred Maintenance

**Governor's Budget.** The Department of General Services (DGS) requests one-time $16 million General Fund to address four critical deferred maintenance projects for buildings owned and operated by DGS.

**Background.** Last year, DGS identified and prioritized all deferred maintenance projects in its buildings, including urgent and critical projects estimated to cost $121 million. These urgent and critical projects specifically include fire and life safety systems, end of life elevator systems, heating, ventilation, and air conditioning (HVAC) systems, and end of life roofing systems.

Of the $121 million in identified urgent and critical deferred maintenance projects, DGS requests $16 million, which will be available for encumbrance or expenditure by June 30, 2022, to address four critical deferred maintenance projects in three state-owned buildings:

| Facility Location | Project Title and Description | Estimated Cost |
|---|---|---|
| Attorney General Building<br>1300 I Street<br>Sacramento, CA | Fire and life safety upgrade to the roof top fire alarm panels and associated system, including the smoke control system and all related programming. The current system has regular faults due to obsolete parts, which pose a tremendous threat to the safety of DGS tenants. | $1,557,000 |
| Elihu M. Harris Building<br>1515 Clay Street<br>Oakland, CA | (1) Elevator replacement: The elevator system contains obsolete parts causing continuous maintenance posing significant challenges. Multiple safety issues have been identified and the frequency of service calls have increased. If not addressed, the existing elevator system will pose serious life safety issues in the future.<br><br>(2) Fire and life safety replacement: full replacement of the existing fire alarm panels and associated devices. The fire alarm system poses serious fire and life safety system issues and is at risk of being placed on fire watch by the State Fire Marshal. | (1): $3,450,000<br><br>(2) $1,567,000<br><br>Total: $5,016,000 |
| Ronald Reagan State Building<br>300 South Spring Street<br>Los Angeles, CA | Elevator Modernization: The elevators are obsolete and were due for modernization in 2017. There have been numerous entrapments and the current system poses serious fire and life safety issues. | $9,417,000 |
| | **Total Estimated Costs (rounded):** | **$16,000,000** |

**LAO.** The LAO issued its report on the state's deferred maintenance requests and recommends that: (1) departments report on proposed projects and approach; (2) the Legislature adopt supplemental reporting language that requires the Department of Finance to report on which projects departments undertook with the funds provided; and (3) departments be required to detail plans for better maintaining facilities.

**Staff Comment.** Since 2014-15, most of the state's deferred maintenance projects were funded through Control Section 6.10 and provisional language required the Department of Finance to provide to the Joint Legislative Budget Committee (JLBC) a detailed report of the deferred maintenance projects. Deferred maintenance projects funded within individual budgets do not fall under this reporting requirement. The subcommittee may wish to inquire about how DGS prioritized the projects that would be completed with this funding, and how the state will track these funds for the proposed deferred maintenance projects.

**Staff Recommendation.** Approve the requested funding for deferred maintenance, and adopt supplemental reporting language requiring the Department of Finance to notify the chair of the JLBC prior to allocating deferred maintenance funding to the departments.

## Issue 11: Capital Outlay: State Printing Plant Demotion

**Governor's Budget.** The Department of General Services requests $21.5 million ($21,471,000) General Fund for the final construction phase of the State Printing Plant Demolition project. The project includes the demolition and hazardous materials mitigation of the property to prepare it for new office space development.

**Background.** Since the mid-1990s, the state has targeted the 17.3-acre parcel on which the existing Printing Plant is located for future office development. The existing State Printing Plant located at 344 North Seventh Street in Sacramento was built in 1954 and has well-documented health and safety, infrastructure and programmatic deficiencies. The 2017 Budget Act provided $909,000 General Fund to fund the preliminary plans phase, and in the following year, the 2018 Budget Act provided $815,000 General Fund for the working drawings phase. DGS' request for $21.5 million General Fund is for the construction phase, which is scheduled to begin in October 2019, with a completion date of October 2020. Total project costs are an estimated $23. 2 million.

This site is intended for the development of the Richards Boulevard Complex project, detailed in the next item in this agenda.

**Staff Recommendation.** Approve as budgeted.

## Issue 12: Capital Outlay: Richards Boulevard Office Complex

**Governor's Budget.** The Department of General Services (DGS) requests $1 billion ($1,014,598,000) in lease revenue bond financing for the design-build phase of the new Richards Boulevard Complex project.

**Background.** The 2018 Budget Act provided $18 million General Fund for the performance criteria phase of the new Richards Boulevard Complex project. The performance criteria phase began in July 2018 and will be completed in March 2020. This request will fund the design-build phase, which will begin in March 2020 and will be completed in March 2024.

This project would continue implementation of the Ten Year Sequencing Plan by constructing a new office campus of approximately one million net usable square feet on the state property at the corner of Richards Boulevard and North Seventh Street. The site of the new Richards Boulevard Complex project is currently occupied by the State Printing Plant, which is in the process of being demolished and scheduled to be completed by October 2020.

The project would be financed through lease revenue bonds, which will be issued by the State Public Works Board. Annual lease revenue bond payments derived from this financing will be determined by interest rates at the time the bonds are sold; however, DGS states that when the performance criteria phase was approved in 2017, the lease revenue bond payments were estimated to be $66.7 million a year over 25 years, of which a portion will be comprised of lease revenue generated from non-state sources such as the non-state tenants and parking costs.

This proposal to develop an office complex on the site will create a future opportunity to relocate business, consumer services and housing agency departments out of leased space, as well as relocating Business, Consumer Services and Housing Agency departments and the Department of Tax and Fee Administration staff out of the 450 N Street Building and other leased space. The complex would consist of four buildings, and include office space, retail and childcare.

**Staff Recommendation.** Approve as budgeted.

**Issue 13: Capital Outlay: Resources Building Renovation**

**Governor's Budget.** The Department of General Services requests $8.9 million ($8,874,000) General Fund for the performance criteria phase to renovate the Old Resources Building located at 1416 Ninth Street in Sacramento.

**Background.** This project would continue the implementation of the Ten Year Sequencing Plan by renovating the Resources Building, which includes 520,000 usable square feet through the design-build delivery method. Proposed tenants include the Employment Development Department, who are currently housed in various locations in downtown Sacramento.

A study completed in 2008 (and updated in 2013) identified various fire and life safety, building code, hazardous materials, and other infrastructure deficiencies at the Resources Building, which was the first major post-war development constructed in 1964 and has not received any significant renovations since then. It has been designated as a "historic building" due to its historical significance and its architectural design and requires State Historic Preservation Office review.

A facilities condition assessments completed in 2015 found that the Resources Building ranked first statewide for state-owned, DGS-controlled office buildings requiring renovation or replacement. This project will correct numerous and serious code deficiencies, including lack of fire suppression, inadequate fire alarm, presence of hazardous materials such as asbestos, poor indoor air quality, lack of proper emergency exiting, and inadequate structural integrity.

Estimated costs for the design-build phase of this project are $367 million lease revenue bond funds.

**Staff Recommendation.** Approve as budgeted.

**Issue 14: State Capitol Building Annex (Annex) & New State Office Building Projects**

**Governor's Budget.** The 2018-19 budget includes funding set aside for rebuilding the State Capitol Building Annex and lease-revenue bond authority to construct a new office building near the capitol to be used as "swing space" during Annex construction and a state office building over the longer term. The Governor proposes trailer bill language to ensure that inclusion of office space or an emergency dispatch center for the California Highway Patrol (CHP) in the Annex and/or new office building would not subject the entire projects to heightened seismic safety or other requirements that could slow down, or increase the cost of, construction.

**Background.** The existing state capitol building in Sacramento includes two sections: 1) the original west wing (completed in 1874 and brought up to modern fire safety codes in 1975-1982), and 2) the attached Annex, which connects to the historic section on its east side (completed in1952). The Annex houses the Governor's office and 115 of California's 120 legislators, as well as a number of support offices. The capitol building is also among the state's most-visited public buildings.

In light of significant deficiencies in the functionality, safety, and accessibility of the Annex, the State Capitol Building Annex Act of 2016 authorizes the Joint Rules Committee to undertake a project to rebuild the Annex. As a part of the 2018-19 budget, the Legislature and Governor also authorized the design and construction of a new office building to serve as "swing space" for the Legislature and Executive Branch during Annex construction and a new office building near the capitol in the longer term. This new office building will be located on O Street, between 10th and 11th Streets. DGS anticipates that the building will include 472,600 gross square feet and 10 floors of office space, with integrated parking, and will be ready for occupancy late in 2021.

The Essential Services Buildings Seismic Safety Act of 1986 requires buildings that provide essential services (e.g., fire stations, police stations) to be capable of providing those services to the public after a disaster. The Act requires these buildings to be designed and constructed in accordance with requirements that are considerably higher than typical code standards, which generally adds time and cost to construction projects. The rebuilt Annex and/or new state office building may house certain CHP facilities and functions as a small portion of their overall use. The proposed trailer bill language would allow these functions to be included without requiring the whole projects to be subject to the Act and other heightened standards.

**Staff Recommendation.** Approve trailer bill language to ensure that the Annex and New State Office Building projects are not subject to the Essential Services Building Seismic Safety Act of 1986 or other requirements as a result of including CHP functions or facilities.

## 8940 CALIFORNIA MILITARY DEPARTMENT

**Overview.** The California Military Department (CMD) oversees and manages the California Army National Guard, the California Air National Guard, the California State Military Reserve, and the California Youth and Community Programs. CMD has federal, state, and community functions. Soldiers and airmen are deployed by the President in support of military operations overseas, activated by the Governor to protect lives and property after disasters in the state, and provide various community services. The California Army National Guard and the California Air National Guard include 22,325 members that are organized, manned, and funded in accordance with federal Departments of the Army and Air Force regulatory guidance.

**Budget.** The budget includes $194.1 million ($70.1 million General Fund, $114.2 million federal funds, $7.4 million reimbursements, and $2.2 million special funds) to support the department and its various programs. In addition to these funds, the department receives other federal funds, which are not deposited in the State Treasury, totaling $737 million for the Army – National Guard, Air – National Guard, and the Adjutant General.

### Issue 15: Administrative Resources for Response Activities

**Governor's Budget.** The California Military Department (CMD) requests eight permanent positions and $1,744,000 ongoing General Fund to maintain, improve, and expand the use of military air and ground administrative resources for response activities.

**Background.** The CMD is a part of an interagency agreement with the California Department of Forestry and Fire Protection and the California Office of Emergency Services to effectively and quickly leverage the resources of each entity in the event of responding to an emergency event. The chart below provides information on the usage of CMD's air and ground resources during these events:

| PY | Missions Supported | | Air | | Ground | Cost |
|---|---|---|---|---|---|---|
| | OES | Incidents | Rotary | Fixed Wing | Operational Support | |
| | MRT | Fires | Hours | Hours | Man Days | |
| PY-5 | 5 | 17 | 851 | 75 | x | $8,608,970.06 |
| PY-4 | 7 | 9 | 515 | 143 | x | $5,862,787.54 |
| PY-3 | 9 | 10 | 609 | 148 | 9,172 | 8,659.860.90 |
| PY-2 | 13 | 28 | 1,033 | 191 | 25,942 | 21,727,794,00 |
| PY-1 | 19 | 19 | 518 | 76.6 | 13,054 | $9,520,774.29 |
| PY | 67 | 40 | 1,223 | 443 | 83,763 | 22,598,389.18 |
| CY | 42 | 16 | 1,340.30 | 922.1 | 71,407 | $30,177,529.60 |

** CY represents the 2018 calendar year.*

The increased demand for military firefighting exceeds the CMD's full-time staff, and CMD states that they rely on the activation of surge staffing to manage the operational, administrative, sustainment and financial functions needed for the seasonal activation of hundreds or thousands of part-time military personnel for firefighting. The requested positions are: (1) Military Firefighting Operations Director, (2) Interagency Emergency Finance Administration Section Chief, (3) Interagency Emergency Finance Administration Non-Commissioned Officer, (4) Interagency Logistics, Travel and Property Non-

Commissioned Officer, (5) Wildfire Aviation Rotary Wing Coordinating Officer, (6) Wildfire Equipment Maintenance Non-Commissioned Officer, (7) Advanced Life Support and Rescue Technician Program Manager, and (8) Air Guard Wildfire Resource Coordinator.

This request is intended to ensure the administrative policies of the agencies that are part of the interagency agreement are aligned to provide prompt reimbursement of response cost; the logistical and property accountability actions between CMD and the other agencies are aligned; and that there are appropriate resources available for wildfire season. CMD states that these resources are also available in the event that other, non-wildfire, natural disasters occur.

**Staff Recommendation.** Approve as budgeted.

**Issue 16: Facilities and Infrastructure – Maintenance Program Expansion**

**Governor's Budget.** The California Military Department (CMD) requests seven positions and $1.2 million ($594,000 General Fund and $593,000 federal funds) in 2019-20, and $826,000 ($413,000 General Fund and $413,000 federal matching funds) ongoing to increase maintenance staffing to meet the higher demand for maintenance, repair, construction operations, and emergency events. This proposal also includes funding for the purchase of work trucks and tools.

**Background.** Currently, the department's regular maintenance workload requires the responsibility of five to eight facilities per person, who must travel, in some cases, three to five hours to get to the facility. Additionally, the department provides support and resources, including its facilities, in response to emergency disasters, such as the recent wildfires. In the event that the department must provide its facilities in response to an emergency, the department redirects the maintenance staff from their regular duties to ensure that the facilities are prepared for use as a shelter, operation center, and/or staging area for the first responders. The maintenance staff also must address issues that arise from community use, including maintenance issues that arise with use from youth programs, community events, or emergency shelters.

The positions provided through this request will help the department meet its workload demand related to the maintenance needs at its facilities.

**Staff Recommendation.** Approve as budgeted.

## Issue 17: Deferred Maintenance

**Governor's Budget.** The California Military Department (CMD) requests a one-time appropriation of $5 million General Fund to address deferred maintenance projects at its facilities.

**Background.** The department currently has deferred maintenance projects that are estimated to cost a total of $117 million for its facilities, of which more than 70 percent are for infrastructure that was built before 1970. CMD will be able to receive matching federal funds of $5 million to complement the $5 million General Fund authority to address its deferred maintenance projects, for a total of $10 million in deferred maintenance funding.

This request will allow the department to address critical deferred maintenance projects at its armories, which serve a variety of functions including training centers, community hubs, emergency shelters, and emergency operations.

**Staff Comment.** This item will apply to previously adopted reporting language related to deferred maintenance projects.

**Staff Recommendation.** Approve the requested funding for deferred maintenance.

## Issue 18: Informational Item – Work for Warriors

**Background.** According to the California Department of Veterans Affairs, California is home to the largest population of Veterans in the country, with more than 1.7 million veterans. There are also over 190,000 active duty personnel, reserve personnel, and military civilians living in California. Unemployment and underemployment are among the most critical issues facing our service members, including National Guard members, and their families. Personnel returning from deployments face a particularly high unemployment rate. California is currently one of only 15 states to have a higher unemployed veteran population than unemployed non-veteran population.

The Work for Warriors program uses a direct placement model, which walks service members through each step of the hiring process, including resume preparation, and interviews. To date, Work for Warriors has assisted in placing over 6,700 service members and veterans, an average of just over two per day. The program is also remarkably cost effective, with a cost per placement ratio of under $1,500, representing a significant savings to the government when factoring in unemployment compensation costs. Currently, the program has 18 team members who help match military personnel, veterans and military family members into employment commensurate with their education and experience.

The number of veterans who have requested assistance and submitted applications are growing steadily through the years. In 2015-16, 3,000 veterans requested assistance and 2,000 candidates submitted applications. In 2017-18, 3,700 veterans requested assistance and 4,700 candidates submitted applications. From 2012 to 2015 the program was funded through a grant from the Speaker of the Assembly. In 2015-16 the program was funded with a $670,000 Workforce Innovation and Opportunity grant from the Employment Development Department. Since 2016-17, the program has received annual one-time General Fund augmentations to complement the $1.1 million federal funds it receives for the program.

**Staff Comment.** The Work for Warriors program has a direct, measurable, positive impact on the California economy. Although the department has received annual, one-time funding during the last four years, it remains uncertain whether additional funding to maintain the program will be available.

**Staff Recommendation.** Informational Issue. No action necessary.

## 8955 CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

**Overview.** The California Department of Veterans Affairs (CalVet) serves nearly two million California veterans and their families, helping present claims for entitled state and federal benefits or direct low-cost loans to acquire farms and homes; and providing the veterans, who are aged or have disabilities, with residential and medical care in a home-like environment at the Veterans Homes. The department facilities include eight veteran homes on 776 acres of land and 2.4 million gross square feet of building space; three state cemeteries (Igo, Seaside in Monterey County, and in Yountville) with 24,000 gravesites on 91 acres; and two office buildings.

**Budget.** The budget provides $488.9 million ($425.7 million General Fund, $2.8 million federal funds, and $60.4 million special funds) to support the department and its programs.

### Issue 19: California Transition Assistance Program

**Governor's Budget.** CalVet requests an augmentation of $1 million ($1,062,000) General Fund, of which $45,000 is one-time, and eight permanent positions for the California Transition Assistance Program (CalTAP).

**Background.** The 2016 Budget Act provided $813,000 General Fund for seven positions and to implement the development of CalTAP. Prior to its launch, CalTAP identified two key target populations—separating service members and student veterans—and held inaugural events at Ventura Community College and the Marine Corps Base Camp Pendleton in fall 2017. Currently, more than 20 of California's military installations run CalTAP within their current transition processes.

The Department of Defense Transition Assistance Program (TAP) was developed in 1990 to assist separating and retiring military members for their transition back to civilian life. In 2013, the federal government launched a revamped program known as Transition GPS (T-GPS), to include: (1) pre-separation assessment and individual counseling; (2) five-day curriculum with a financial planning seminar, federal veterans' benefits and services, and employment workshop; and (3) two-day optional career-specific curriculum (education track, for those pursuing a higher education degree; technical and skills training, for those seeking job-ready skills and industry-recognized credentials in shorter-term training programs; and an entrepreneurship track).

Currently, state agencies, county veterans service officers (CVSOs), and nonprofit organizations participate in TAP/T-GPS sessions on military bases located in California; but, participation varies from base to base, and material is not uniform. AB 1509 (Fox), Chapter 647, Statutes of 2014, created CalTAP, which is meant to complement the federal TAP/T-GPS process and help identify California-specific benefits that veterans are eligible for. The goals of this program are to: (1) inform and connect veterans of all eras to their earned federal and state benefits; (2) coordinate the delivery of the program with all stakeholders to meet the needs of veterans and their families; and (3) provide continued support and assistance to veterans and their families as their needs change overtime.

CalVet states that in 2018-19, 4,200 veterans were served by this program, and estimates that by 2020-21, they can serve up to 15,000 veterans should this request be approved.

**Staff Recommendation.** Approve as budgeted.

## Issue 20: Northern California Veterans Cemetery, Igo: Water System Upgrade

**Governor's Budget.** CalVet requests an augmentation of $917,000 General Fund to complete the Northern California Veterans Cemetery, Igo water system upgrade project.

**Background.** In 2010, CalVet entered into an agreement with the California Veterans Assistance Group for the purpose of building a veterans memorial building on the grounds of the Northern California Veterans Cemetery in Igo, which is located in Shasta County. According to the lease agreement terms, a 2,200 square foot, faith-neutral veterans memorial building was donated to CalVet, and construction of the memorial building was complete in 2011. Shortly thereafter, CalVet was notified by the Shasta County Fire Marshal that water system upgrades would be required in order to comply with state and local safety standards, and was granted a temporary occupancy permit and fire watch requirement in the meantime. While the temporary permit and the fire watch requirement is still in place, CalVet is now working with the Department of General Services (DGS) and the State Fire Marshal (SFM) to address the additional fire suppression related deficiencies.

The 2015 Budget Act provided $525,000 General Fund to construct a water pressure system at the Veterans Memorial Building in Igo. Of this funding, CalVet has spent to date $173,000 on design work. However, CalVet paused this work when it determined that additional fire suppression deficiencies must be met in order to meet current National Fire Protection Standards, State Fire Marshal, California Building Code, and California Fire Code requirements. After reassessing the needs of the water system, CalVet determined that an additional $917,000 is needed to bring the memorial building into compliance with federal, state, and local requirements and also provide fire hydrant capabilities in the event of a wildfire incident.

CalVet estimates that total project costs will be $1.4 million and that working drawings will be completed in October 2019, with construction scheduled to begin February 2020 and completed by June 2020.

**Staff Recommendation.** Approve as budgeted.

## Issue 21: Program Review and Audits

**Governor's Budget.** The California Department of Veterans Affairs (CalVet) requests an augmentation of $832,000 ($749,000 General Fund and $83,000 Farm and Home Building Fund of 1943) and six ongoing positions in 2019-20 and $798,000 ($718,000 General Fund and $80,0000 Farm and Home Building Fund of 1943) ongoing thereafter to establish a Program Review and Internal Audits Unit.

**Background.** Within the last ten years, various programs administered by CalVet, including its home loan program, veterans homes, and outreach programs, have been the subject of numerous audit reports conducted by the State Auditor, as well as investigative reports by the Little Hoover Commission. These reports highlighted CalVet's inadequate internal controls, lack of documentation, and insufficient measures of program outcomes. Most recently, the State Auditor released two audits: one on the management of the Veteran Homes, and another on the management of the Disabled Veteran Business Enterprise (DVBE) program, both by CalVet and the Department of General Services.

First, the audit report on the Veteran Homes found that lease agreements on Veteran Homes properties were made in violation of the law, including non-favorable lease agreements that were not in the best interest of the homes, with administrators receiving inappropriate housing agreements that were also below fair market value. The auditor made several recommendations, including that: (1) DGS, in consultation with CalVet adopt a definition of what constitutes the best interest of the homes; (2) CalVet implement policies that ensure the leases of Veteran Homes properties comply with state law; and (3) DGS and CalVet report its lease revenue to the proper entity so that it would augment the veteran homes' budgets.

In response, the Secretary of CalVet states:

> "Since 2015, CalVet has made significant progress improving property management. CalVet has renegotiated prior agreements to ensure leases better serve residents and protect state interests; developed a licensing program for short-term uses of the campus; redirected staff to oversee property use; and begun assessing the best future uses of each Veterans Home. The audit recommendations, all of which have been implemented or will be implemented in the coming months, are critical to continuing to enhance property management. In anticipation of the audit and while it was conducted, many changes were implemented to create clear policies and procedures for program oversight and to centralize decision-making authority among appropriate leadership in Sacramento."

Second, the audit report on the DVBE program, which requires that state departments that award contracts strive to expend not less than three percent of the cumulative value of all their contracts on DVBE firms, found that the program had several shortcomings. The audit found that 30 out of 1,671 certified DVBE firms received 89 percent of the contracts, and while DGS believes some DVBE firms benefited as subcontractors, it does not consistently track this type of data. The audit recommended that awarding departments implement a secondary review process so that reported activities with regard to DVBE participation is accurate, and that DGS should also track subcontractor information. Additionally, CalVet is responsible for assisting departments reach its three percent threshold; however, the audit found its outreach lacking and recommended that this authority be reassigned to DGS.

This request is aligned with findings that call for stronger internal controls of CalVet policies and practices. Several other departments, such as the Department of Developmental Services and the Department of Healthcare Services, maintain independent internal audit organizations that evaluate and improve internal controls and processes, and provide risk management. CalVet states that the request for a Program Review and Internal Audits Unit will provide the ability to standardize policies and procedures, help ensure ongoing and consistent compliance with laws and regulations, and protect against fraud, waste, and abuse.

**Staff Recommendation.** Approve as budgeted.

## Issue 22: Deferred Maintenance

**Governor's Budget.** The California Department of Veterans Affairs (CalVet) requests a one-time augmentation of $5 million General Fund to address deferred maintenance projects, at the Veterans Homes of California-Yountville (VHC-Yountville), including elevator modernization, road repair, and reservoir plant filter replacement.

**Background.** VHC-Yountville was founded in 1884 and is the largest veterans' home in the United States, serving 1,000 residents. Since 2015-16, $14 million was provided to CalVet for critical unfunded deferred maintenance projects, of which $12,070,000 went to projects at VHC-Yountville. Additionally, CalVet must meet maintenance and water rights obligations at Rector Reservoir to comply with water quality requirements, as well as inspections and regulatory requirements by the Department of Water Resources, Division of Safety of Dams, State Water Resources Control Board, and Department of Fish and Game. As YHC-Yountville continues to age, CalVet states that it has been unable to keep up with the ongoing and increasing facility needs. CalVet's request for $5 million General Fund will go towards the following projects at VHC-Yountville:

| Summary | Funding |
|---|---:|
| Elevator modernization for 14 of 26 elevators. | $3,700,000 |
| Repair paved roads and upgrade gravel roads at Rector Reservoir. | $800,000 |
| Replace media in the Rector Reservoir plant filters and related upgrades. | $500,000 |
| **Total** | **$5,000,000** |

**Staff Comment.** This item will apply to previously adopted reporting language related to deferred maintenance projects.

**Staff Recommendation.** Approve the requested funding for deferred maintenance.

## 7502 DEPARTMENT OF TECHNOLOGY

**Overview**. The Department of Technology is the central information technology (IT) organization for the State of California. The department is responsible for the approval and oversight of statewide IT projects, statewide IT professional development, and provides centralized IT services to state and local governments as well as non-governmental entities. The department promulgates statewide IT security policies and procedures, and has responsibility over telecommunication and IT procurements.

**Budget**. The budget includes $402 million ($393.3 million Technology Services Revolving Fund, $4.9 million General Fund, $3.7 million Central Service Cost Recovery Fund, and $10,000 reimbursements) and 878 positions to support the department.

### Issue 23: Security Operations Center Capacity Increase

**Governor's Budget.** The Department of Technology (CDT) requests nine permanent positions to support the Security Operations Center. These positions will be funded with $1.4 million from the Technology Services Revolving Fund that will be internally re-directed by CDT.

**Background.** The Security Operations Center (SOC), which was established with an initial nine positions in the 2017 Budget Act, provides continuous monitoring and protection of the California Government Enterprise Network (CGEN) from malicious cyber activities. Currently, the SOC provides its services to more than 100 state entities, and in 2018, investigated approximately 158,000 security alerts, which occur anytime CGEN activity, or activity on devices connected to CGEN, violates one of the SOC's security rules. SOC staff must investigate whether these violations occurred due to malicious activity, a defective device, or abnormal but safe activity. Of the 158,000 alerts investigated by SOC staff, 100 were reported as confirmed security incidents.

CDT states that the SOC has now reached operational capacity, and activity and alerts for the remaining platforms and service offerings related to CGEN cannot be incorporated without increased resources.

**Recommendation.** Approve as budgeted.

***Senate Budget and Fiscal Review—Holly J. Mitchell, Chair***

# SUBCOMMITTEE NO. 4 Agenda

**Senator Maria Elena Durazo**
**Senator Jim Nielsen**
**Senator Thomas J. Umberg**

**Thursday, March 14, 2019**
**9:30 a.m. or Upon Adjournment of Session**
**State Capitol - Room 2040**

Consultant: James Hacker

**PROPOSED FOR VOTE-ONLY**



**PROPOSED FOR DISCUSSION**

*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.*

# ISSUES PROPOSED FOR VOTE-ONLY

## 0515 BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY

### Issue 1: Homeless Youth Act of 2018 (SB 918)

The budget requests $389,000 in 2019-20 and $359,000 ongoing for two positions to expand the Homeless Coordinating and Financing Council (HCFC) and implement SB 918 (Wiener), Chapter 841, Statutes of 2018, otherwise known as the Homeless Youth Act of 2018. Current law establishes the Council and sets a number of statutory goals, including: identifying and seeking funding opportunities; brokering agreements between state agencies, state departments, and local jurisdictions; serving as a statewide facilitator, coordinator, and policy development resource; and overseeing the state's implementation of Housing First policy.

SB 918 tasks the council with setting and measuring progress towards goals to prevent and end homelessness among youth in California by setting specific, measurable goals aimed at preventing and ending homelessness among youth in the state, as specified, and defining outcome measures and gathering data related to those goals. It also instructs the HCFC to coordinate with various stakeholders, including young people experiencing homelessness, the California Department of Social Services (CDSS), and appropriate state and county agencies and departments, to inform policy, practices, and programs. It also requires HCFC to provide technical assistance and program development support, to the extent that funding is made available, in order to increase capacity among new and existing service providers.

## 0650 OFFICE OF PLANNING AND RESEARCH (OPR)

### Issue 2: Study of Tax Increment Financing (SB 961)

The budget requests $190,000 in 2019-20 from the General Fund to implement SB 961 (Allen), Chapter 559, Statutes of 2018. SB 961 allows the local government to issue bonds for certain projects within one-half mile of a transit stop without voter approval. It requires OPR to complete a study on the effectiveness of tax increment financing tools for increasing housing production. The study must also address the feasibility of extending financing tools to areas around bus stops, and be completed before January 1, 2021.

OPR has indicated that the requested funds will be used to hire a consultant to research the financing tools and write a report on their efficacy in regard to housing production and general utilization. OPR will oversee the consultant and assist with drafting the section of the report on the feasibility of extending the financing tools to areas around bus stops. The report will be released to the public and the Legislature by the January 1, 2021 deadline.

## 1700 DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING (DFEH)

### Issue 3: Sexual Harassment Prevention Interactive Training (SB 1343)

The budget requests $255,000 in 2019-20 and $20,000 ongoing General Fund to create online, interactive, sexual harassment and abusive conduct prevention training pursuant to SB 1343 (Mitchell), Chapter 956, Statutes of 2018. SB 1343 requires that, by January 1, 2020, DFEH create two online, interactive, sexual harassment and abusive conduct prevention trainings. One training must be aimed at non-supervisors and must be one hour in length. The other training must be aimed at supervisors and must be two hours in length. The trainings must contain prompts for the viewer to answer questions in order to continue the training; must be dubbed into Spanish, Mandarin, Vietnamese, Korean, and Tagalog; must be subtitled in English, Spanish, Simplified Chinese, Vietnamese, Korean, and Tagalog; and must offer users the opportunity to print a certificate of course completion. DFEH received two rough quotes from e-learning content creators in support of this request, which ranged from $195,000 to $255,000.

## 2240 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD)

### Issue 4: Affirmatively Furthering Fair Housing (AB 686)

The budget requests $346,000 in 2019-20 and $316,000 ongoing General Fund for two positions to implement new requirements to affirmatively further fair housing pursuant to AB 686 (Santiago), Chapter 958, Statutes of 2018. The Affirmatively Furthering Fair Housing (AFFH) obligation is a federal rule intended to implement the 1968 federal Fair Housing Act. The goal of this directive was to eliminate housing discrimination, and reduce the number of segregated communities across the country. AB 686 defines an AFFH obligation as taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation, and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.

### Issue 5: Loan Portfolio Restructuring (AB 2562)

The budget requests $985,000 in 2019-20 and $940,000 ongoing from the Housing Rehabilitation Loan Fund for five positions to restructure loans made under the Multifamily Housing Program and all other multifamily housing loans funded or monitored by HCD pursuant to AB 2562 (Mullin), Chapter 765, Statutes of 2018. Prior to the enactment of AB 2562, HCD had minimal flexibility to modify interest rates for a project so that the project can maintain its feasibility. HCD's ability to modify the interest rate on loans was limited to those that meet a very specific set of criteria. SB 707 (Ducheny), Chapter 658, Statutes of 2007 authorized HCD to extend and restructure the loan terms for its legacy loan programs. After passage of AB 1699 (Torres) Chapter 780, Statutes of 2012, HCD created the Loan Portfolio Restructuring Program (LPR) to continue preserving HCD's housing stock. This statute authorized HCD to infuse additional capital from new debt or new tax credit equity into a project. It also authorized HCD to charge transaction fees for restructuring activities and deposit those fees into the Housing Rehabilitation Loan Fund. AB 2562 authorizes the extension, subordination and resyndication of all other multifamily housing loans funded and monitored by HCD (estimated to be about 10 additional programs).

**Issue 6: Mobilehome Purchase Program (AB 2056)**

The budget requests $935,000 for 5.0 positions in 2019-20, $860,000 for five positions in 2020-21, and $495,000 for three positions ongoing in state operations for the Mobilehome Park Rehabilitation and Resident Ownership Program (MPRROP), pursuant to AB 2056 (Eduardo Garcia), Chapter 750, Statutes of 2018. AB 2056 makes several changes to MPRROP that have the potential to significantly increase the demand for the program by expanding eligible activities and limiting annual loan payments.

**Issue 7: Mobilehome Residency Law Program (AB 3066)**

The budget requests $1,057,000 in 2019-20 and $3,872,000 ongoing from the Mobilehome Dispute Resolution Fund for five positions in 2019-20 and seven positions ongoing, contracted legal services, and infrastructure upgrades to implement the Mobilehome Residency Law Protection Act (MRLPA) provisions of AB 3066 (Mark Stone), Chapter 774, Statutes of 2018. Chapter 986, Statutes of 1986 established the Mobilehome Ombudsman, known as Mobilehome Assistance Center (MAC), within HCD to provide enhanced public assistance and coordinate the resolution of health and safety issues that arise within mobilehome parks. Currently, the MAC is not authorized to assist, directly or indirectly, with alleged violation(s) of the Mobilehome Residency Law. AB 3066 creates a program in which HCD will accept complaints related to the MRLP and help resolve or coordinate resolution through referrals to the appropriate enforcement agencies.

**Staff Recommendation:** Approve Vote Only Items as Budgeted.

# ISSUES PROPOSED FOR DISCUSSION

## 0650 Office of Planning and Research

The Office of Planning and Research (OPR) assists the Governor and the Administration in planning, research, policy development, and legislative analyses. OPR formulates long-range state goals and policies to address land use, climate change, population growth and distribution, urban expansion, infrastructure development, groundwater sustainability and drought response, and resource protection. OPR maintains and updates the General Plan Guidelines, the California Environmental Quality Act (CEQA) Guidelines, and operates the CEQA Clearinghouse. OPR also houses and supports the Strategic Growth Council (SGC).

**Budget Overview:** The Governor's budget proposes $546 million and 53.5 positions to support OPR in the budget year, as shown in the figure below. This is an increase of six positions and a decrease of $700 million, mainly due to a decline in Greenhouse Gas Reduction Fund resources.

**3-YEAR EXPENDITURES AND POSITIONS**

| | | Positions | | | Expenditures | | |
|---|---|---|---|---|---|---|---|
| | | 2017-18 | 2018-19 | 2019-20 | 2017-18* | 2018-19* | 2019-20* |
| 0360 | State Planning & Policy Development | 29.7 | 12.2 | 15.2 | $16,321 | $45,017 | $47,792 |
| 0365 | California Volunteers | 15.3 | 21.3 | 21.3 | 32,837 | 45,661 | 51,976 |
| 0370 | Strategic Growth Council | 12.7 | 14.0 | 17.0 | 1,816 | 1,159,978 | 446,983 |
| **TOTALS, POSITIONS AND EXPENDITURES (All Programs)** | | **57.7** | **47.5** | **53.5** | **$50,974** | **$1,250,656** | **$546,751** |

| **FUNDING** | | **2017-18*** | **2018-19*** | **2019-20*** |
|---|---|---|---|---|
| 0001 | General Fund | $9,222 | $44,014 | $67,259 |
| 0890 | Federal Trust Fund | 35,859 | 41,659 | 27,974 |
| 0995 | Reimbursements | 3,752 | 4,548 | 4,549 |
| 3228 | Greenhouse Gas Reduction Fund | 1,665 | 1,159,818 | 446,431 |
| 9740 | Central Service Cost Recovery Fund | 476 | 617 | 538 |
| **TOTALS, EXPENDITURES, ALL FUNDS** | | **$50,974** | **$1,250,656** | **$546,751** |

## Issue 8: CaliforniaVolunteers

**Governor's Budget.** The budget requests $20 million General Fund in fiscal year 2019-20, to be spent over two years, for CaliforniaVolunteers to begin the expansion of the state's AmeriCorps members and to supplement the federal education award to reach a combined total of $10,000. It is anticipated that private funds will supplement the state's investment.

**Background.** CaliforniaVolunteers supports nearly 5,000 AmeriCorps State members who provide direct service to communities across the state in the areas of education, disaster services, economic opportunity, healthy futures, environmental stewardship, and veterans and military families.

AmeriCorps members are recruited, trained, supervised, and managed by eligible organizations, and may receive a modest living allowance and other benefits while serving. Upon successful completion of their service, AmeriCorps members are eligible to receive a Segal AmeriCorps Education Award from the National Service Trust, which can be used to pay for higher education expenses or applied to qualified student loans. The Segal AmeriCorps Education Award is $6,095 for a full-time AmeriCorps participant in 2019.

The average cost of operating an AmeriCorps program is approximately $33,000 per one full-time equivalent AmeriCorps member position. The maximum amount that an applicant may be awarded in federal funds in 2019 to support one FTE member position is $15,192. AmeriCorps grantees are expected to provide matching funds to support costs not adequately covered through the federal portion of the grant.

**Staff Comment.** The Administration has indicated that there are several components to this request. Specifically:

- $9.42 million to expand AmeriCorps state positions by an additional 471 new full-time slots. To support each new AmeriCorps position at a cost per member level of $33,000, CaliforniaVolunteers is recommending to use the requested state funds to support the expanded AmeriCorps positions at $20,000 per one full-time position while requiring applicants to leverage federal and other private funds to support the remaining $13,000 cost per member.
- $9.31 million to fund the state education award for 1,913 current full-time members and 471 new full-time members.
- $528,000 for an AmeriCorps Promotional Campaign to highlight the benefits of service.
- $742,000 over two years for administration and implementation costs, including program monitoring, outreach, and education award administration.

CaliforniaVolunteers expects to receive approximately $13.7 million in federal formula allocation funding for California to support AmeriCorps programs in 2019, of which $3.8 million will be available to support new programs after meeting current continuation grant obligations. CaliforniaVolunteers will leverage this to support the overall federal cost share of the AmeriCorps expansion, while requiring grant recipients to provide cash and/or in-kind match resources to support the remaining 15 percent of the total program cost.

**Staff Recommendation.** Hold Open.

## Issue 9: FI$Cal Staffing

**Governor's Budget.** The budget requests $334,000 General Fund in 2019-20 and $329,000 General Fund in 2020-21 and ongoing to establish three positions to assist with the implementation of the Financial Information System of California (FI$Cal).

**Background.** Historically OPR has utilized the California State Accounting and Reporting System (CalSTARS), a table based system, for accounting and budgeting purposes. The simplicity of the processes within CalSTARS allowed for the distribution of the more technical task to non-accounting staff. In July of 2018, however, OPR transitioned to the FI$Cal system. FI$Cal is a central system where all accounting, budgeting, procurement, and reporting functions are performed within one system, unlike CalSTARS, which was used strictly for accounting purposes. Input into FI$Cal is not transaction based and requires users to have accountant level skills sets. Whereas, in the past, the more technical tasks were delegated out to non-accounting staff the minimal knowledge base for transacting in FI$Cal is a more complex system that requires a more proficient staff and a skill set to ensure compliance with control agencies guidelines, rules and regulations.

**Staff Comments.** While OPR's staffing has actually declined in recent years, from 57.5 PYs in 2017-18 to 53.5 PYs in the proposed 2019-20 budget, actual funding has increased significantly, from $51 million to $545 million. Funding peaked in 2018-19 at $1.25 billion. Much of this increase has been driven by Greenhouse gas Reduction Fund (GGRF) funding for a variety of grant programs, as well as additional state funding for the Precision Medicine program and additional funding from the Corporation for National and Community Services, which supports the CaliforniaVolunteers program.

Over the same period, OPR has redirected a single position to support OPR's accounting functionality and respond to immediate needs. This was sufficient under the CalSTARS system. However, because FI$Cal is a more complex system that increases complexity as it adds an additional review component to the process, resulting in more workload to process basic transactions. The department has indicated that up to eight different staff are required to sign off on, record, or otherwise be engaged in any given transaction in the FI$Cal system. This additional staff engagement has resulted in additional workload, longer processing times, and delays in completing even simple transactions. This has created a significant backlog of basic processes that requires additional effort from the single position OPR currently has tasked to this backlog.

While additional resources would clearly be beneficial to the department, the proper level of resources is less clear. Larger departments with similar grant-making operations typically have larger accounting and finance staffs relative to smaller, more administrative entities. Because OPR has both grant-making and research / policy sections, the appropriate level of accounting and finance resources is unclear absent additional workload information.

**Staff Recommendation:** Hold Open.

**Issue 10: SB 1072 Implementation**

**Governor's Budget.** The budget requests three positions and $392,000 General Fund in 2019-20 until 2028-29 to implement SB 1072 (Leyva, Chapter 377, Statutes of 2018).

**Background.** In 2015-16, the Legislature appropriated $500,000 from the Greenhouse Gas Reduction Fund (GGRF) to the Strategic Growth Council (SGC) to establish a pilot program for technical assistance (TA) through Affordable Housing and Sustainable Communities (AHSC), for disadvantaged communities. SGC commissioned UC Davis researchers to assess the effectiveness of the AHSC Pilot TA Program. In this report, the evaluators found that the applicants who received comprehensive technical assistance through the pilot program "overwhelmingly outcompeted those who did not."

SB 1072 requires SGC to develop technical assistance guidelines by July 1, 2020. The bill also creates the Regional Climate Collaborative Program to assist under-resourced communities with accessing statewide public and other grant moneys. The Regional Climate Collaboratives Program includes establishing criteria for the development of regional collaboratives and a grant program to support established collaboratives pursuant to the program.

**Staff Comments.** SB 1072 requires SGC to 1) develop technical assistance guidelines by July 1, 2020, and 2) establish a Regional Climate Collaborative Program to assist under-resourced communities to access statewide public and other grant moneys. OPR has indicated that the requested resources will perform the workload required by the bill, as well as support SGC in delivering on other climate-related programs. These include the California Climate Investment Technical Assistance Program, the Transformative Climate Communities Program, and the Affordable Housing and Sustainable Communities Program.

White the requested positions are broadly reasonable, and in-line with the estimated cost of implementing SB 1072, this proposal raises several questions. Notably, the first year of implementation requires OPR to develop technical assistance guidelines and establish the outlines of the grant program. However, the grant program would not begin issuing grants until 2020-21. This means that 1) 2019-20 does not include any workload related to the administration and distribution of grant funds, and 2) the workload associated with that grant program is at least partially dependent upon the guidelines developed in the first year of implementation. This suggests that the out-year workload is subject to considerable uncertainty.

**Staff Recommendation:** Hold Open.

## 0515 BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY

**Overview.** The Business, Consumer Services and Housing Agency (Agency) is responsible for overseeing departments, boards, commissions and agencies that provide the following services to the people of California: protection of the public through the licensing and regulation of more than 100 businesses and 200 professional categories; regulation of financial services and state-licensed financial institutions; enforcement of the sale of alcoholic beverages; regulation of the horse racing industry; protection of civil rights; safe and affordable housing opportunities; and earthquake safety. The Agency is comprised of the following entities: the Department of Consumer Affairs, the Department of Real Estate, the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Business Oversight, the Department of Alcoholic Beverage Control, the Alcoholic Beverage Control Appeals Board, the California Housing Finance Agency, the California Horse Racing Board, the Alfred E. Alquist Seismic Safety Commission, and the Cannabis Control Appeals Panel. In addition, the Agency is charged with administration of the Homeless Coordinating and Financing Council.

**Budget.** The budget includes $504 million ($501 million from the General Fund, $2.7 million in Reimbursement authority) to support 23 positions and a variety of grant-making programs. This is an increase of two positions from 2018-19.

**3-YEAR EXPENDITURES AND POSITIONS**

| | | Positions | | | Expenditures | | |
|---|---|---|---|---|---|---|---|
| | | 2017-18 | 2018-19 | 2019-20 | 2017-18* | 2018-19* | 2019-20* |
| 0260 | Support | 15.3 | 21.3 | 23.3 | $3,086 | $504,355 | $504,745 |
| **TOTALS, POSITIONS AND EXPENDITURES (All Programs)** | | **15.3** | **21.3** | **23.3** | **$3,086** | **$504,355** | **$504,745** |

| **FUNDING** | | **2017-18*** | **2018-19*** | **2019-20*** |
|---|---|---|---|---|
| 0001 | General Fund | $85 | $500,647 | $501,036 |
| 0067 | State Corporations Fund | 211 | 238 | 238 |
| 0240 | Local Agency Deposit Security Fund | 1 | 1 | 1 |
| 0298 | Financial Institutions Fund | 104 | 118 | 118 |
| 0299 | Credit Union Fund | 28 | 31 | 31 |
| 0317 | Real Estate Fund | - | 254 | 254 |
| 0995 | Reimbursements | 2,358 | 2,744 | 2,745 |
| 3036 | Alcohol Beverage Control Fund | 261 | 281 | 281 |
| 3153 | Horse Racing Fund | 38 | 41 | 41 |
| **TOTALS, EXPENDITURES, ALL FUNDS** | | **$3,086** | **$504,355** | **$504,745** |

**Issue 11: Planning and Progress Grants to Address Homelessness**

**Governor's Budget.** The budget requests $500 million in one-time General Fund resources to fund grants for regional planning ($300 million) and meeting milestones ($200 million), administered by the Homeless Coordinating and Financing Council (HCFC).

**Background.** Homelessness in California is no longer confined to urban corridors. It pervades both urban and rural communities across the state and puts stress on local resources, from emergency rooms to mental health and social services programs to jails. Recent federal data estimates the state's homeless population at 134,278 in 2017, or 25 percent of the nation's homeless population. While national homelessness has decreased by 13 percent since 2010, homelessness in California has increased by nine percent in the same period.

The Budget Act of 2018 made a significant $500 million investment to support local approaches to addressing homelessness. These Homeless Emergency Aid Program (HEAP) funds provided flexible grants that could be used for emergency housing vouchers, rapid rehousing, and emergency shelter construction, among other uses. Jurisdictions were eligible if they declared a local shelter crisis and identified city-county coordination.

This request is part of the Administration's comprehensive proposal to address the state's housing and homelessness crises.

**Staff Comments.** The Administration has indicated that this request is split into two components:

- Regional Planning: $300 million for jurisdictions that establish joint regional plans to address homelessness. HCFC will distribute funds through federally-designated Continuums of Care ($200 million) and the most populous cities in the state ($100 million). Plans must include regional coordination between counties and cities and report all funds currently being used to provide housing and services to the homeless population in their regions. Funds must be spent on expanding or developing shelters and navigation centers. Local governments will report their expenditures to the state.
- Meeting Milestones: $200 million for general purpose funding for jurisdictions that show progress toward developing housing and shelters, including permitting new supportive housing units or constructing emergency shelters and navigation centers. Jurisdictions must report to the state on their uses of these funds.

There is merit to this approach, but it also means that a large portion of the requested funding programs is not targeted at addressing homelessness. The Legislature should determine whether this is an appropriate approach and if it is, if this is the appropriate proportion of directly targeted funds to incentives. It is also unclear how, exactly, this funding would complement or continue the work funded by last year's HEAP program.

The Administration has yet to release detailed trailer bill language for this proposal, which may address some of the issues raised above. Absent this detail, it is difficult for the committee to evaluate this proposal.

**LAO Comments:**

**Prior Investments in Short-Term Homelessness Assistance Showing Promise, but Need Remains.** The 2018-19 budget provided $500million one-time General Fund to establish the Homelessness Emergency Aid Program (HEAP). Eligible cities and Continuums of Care (CoCs) can use the funds for a variety of short-term housing solutions for the homeless, such as shelters and rapid rehousing. Cities and CoCs have begun to receive funding available through HEAP and have indicated to the state how they intend to use the funds to provide relief for the homeless in their communities. Approaches include: capital improvements for housing and shelters; direct delivery of services, such as health education; and rental assistance programs. Despite these efforts, significant demand for short-term homelessness assistance remains. In addition to leading the nation with the highest number of homeless individuals, California has the highest proportion (69 percent) of unsheltered homeless individuals of any state in the nation. This indicates a demand for additional short-term assistance. The Governor's proposal helps address this unmet demand, which could cost $2 billion to $3 billion annually to fully address.

**Reasonable to Invest in Short-Term Assistance.** While there is no obviously right answer as to how the Legislature should balance the short-and long-term approaches for addressing homelessness we mentioned above, the approval of No Place Like Home by voters opened up a sizeable amount of funding for construction of permanent supportive housing. In this case, it might make more sense to focus one-time funds on short-term assistance—such as shelters—for which much less funding is available and considerable demand remains. As compared to additional funding for supportive housing—which would take years to result in new housing units—allotting funding for short-term assistance would help move more people out of homelessness in the near term while NPLH is ramping up.

**Unclear How Local Governments Will Respond to Flexible Funding Rewarding Shelter Development.** The state has tried to encourage communities to build affordable housing by offering financial rewards in the past. While it is difficult to rigorously evaluate these incentive programs given their design, we outline in "The 2019-20 Budget: What Can Be Done to Improve Local Planning For Housing" that they have not resulted in a notable increase in housing construction. It is unclear to us whether local governments would respond any differently to the Governor's proposal for $200 million General Fund encouraging constructing of shelters. Therefore, this component of the Governor's proposal would be risky and the Legislature could not be sure what effect, if any, the funds would have on the development of shelters in the State. There are alternative uses of these funds that would yield more certain benefits. For example, providing $200 million to construct shelters would almost certainly yield over 6,000 new beds for the homeless. Given the uncertain benefits of the Governor's proposal, we recommend the Legislature not appropriate $200million for one-time rewards for local governments. However, if the Legislature were to decide to move forward with this proposal, our aforementioned report offers recommendations on how the State could structure the program to allow for a more rigorous evaluation of its outcomes.

**Recommendation.** Hold Open.

## 2240 CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

The Department of Housing and Community Development's (HCD's) mission is to preserve and expand safe and affordable housing opportunities and promote strong communities for all Californians by (1) administering housing finance, economic development, and community development programs, (2) developing housing policy and advocating for an adequate housing supply, and (3) developing building codes and regulating manufactured homes and mobilehome parks. HCD also provides technical and financial assistance to local agencies to support community development.

The California Housing Finance Agency's (CalHFA) mission is to create and finance progressive housing solutions so that more Californians have a place to call home. The agency is financially self-supporting, setting loan interest rates slightly above its costs and charging fees to cover investments related to bond proceeds. Since 2013, pursuant to the Governor's Reorganization Plan No. 2 of 2012, CalHFA has been displayed within HCD's budget and reports to the Business, Consumer Services, and Housing Agency.

**Governor's Budget:** The budget provides $2.9 billion and supports 919 positions at HCD in 2019-20, including roughly 255 positions at the California Housing Finance Agency. This is an increase of roughly $1.2 billion from 2017-18, mostly due to the proposed investments in housing planning and production grants and CalHFA loan programs.

**3-YEAR EXPENDITURES AND POSITIONS**

| | | Positions | | | Expenditures | | |
|---|---|---|---|---|---|---|---|
| | | 2017-18 | 2018-19 | 2019-20 | 2017-18* | 2018-19* | 2019-20* |
| 1660 | Codes and Standards Program | 181.4 | 170.2 | 175.2 | $31,365 | $34,944 | $36,045 |
| 1665 | Financial Assistance Program | 172.3 | 274.1 | 326.1 | 245,063 | 1,508,701 | 2,084,521 |
| 1670 | Housing Policy Development Program | 14.8 | 39.1 | 55.1 | 4,538 | 131,412 | 773,455 |
| 1675 | California Housing Finance Agency | 219.8 | 234.2 | 234.2 | 34,598 | 37,420 | 37,350 |
| 1680 | Loan Repayments Program | - | - | - | -10,323 | -1,944 | -1,944 |
| 1685 | HPD Distributed Administration | - | - | - | -150 | -167 | -170 |
| 9900100 | Administration | 151.6 | 117.5 | 128.5 | 16,245 | 22,512 | 24,330 |
| 9900200 | Administration - Distributed | - | - | - | -16,245 | -22,512 | -24,330 |
| **TOTALS, POSITIONS AND EXPENDITURES (All Programs)** | | **739.9** | **835.1** | **919.1** | **$305,091** | **$1,710,366** | **$2,929,257** |

## Issue 12: Short-Term Planning and Production Grants

**Governor's Budget.** The budget requests $750 million General Fund in 2019-20, including $750 million for housing Planning and Production Grants at HCD.

**Background.** California is in the midst of a serious housing crisis. Homeownership rates in the state have fallen to the lowest rate since the 1940s. California is home to 21 of the 30 most expensive rental housing markets in the country, which has had a disproportionate impact on the middle class and the working poor. A person earning minimum wage must work three jobs on average to pay the rent for a two-bedroom unit. Housing units affordable to low-income earners, if available, are often in serious states of disrepair.

In 2017, the Legislature passed a package of 15 bills aimed at increasing the affordability of housing in California. The package included enact a variety of regulatory reforms to speed up development and construction of new housing. It also placed a general obligation bond on the November 2018 ballot (which was subsequently passed by voters). Additionally, SB 2 (Atkins), Chapter 364, Statutes of 2017, provided an ongoing source of revenue for affordable housing and homelessness programs, providing an estimated $289 million per year for a variety of programs.

**LAO Comments.** The Governor's plan to establish state-defined housing goals and have local governments carry out planning to meet these goals is not a new strategy. The State has carried out such a strategy for years via the housing element and RHNA processes with only limited success. The Governor's plan hopes to encourage locals to participate by offering one-time financial rewards. Prior state attempts to offer such rewards provide little assurance that doing so will significantly increase communities' willingness to plan for and approve housing. All in all, it is unclear how the Governor's plan differs significantly from past strategies that generally have fallen short of their goals.

We recommend the Legislature reject the Governor's proposal for short-term housing production goals and $500 million in incentive funds for cities and counties. Instead of focusing on the short term, the State may be better off focusing on opportunities to further improve long-term planning and considering other policy changes aimed at boosting home building over the long term. California's current housing situation is the culmination of decades of decisions to under-prioritize home building. It will similarly take many years or decades to truly address. Should the Legislature reject the Governor's plan to establish short-term housing goals, there would be no need to provide $250million to cities and counties for them to plan to meet these short-term goals. That being said, if the Legislature pursues changes to the State's long-term planning policies, it could consider providing this funding to cities and counties to help implement those changes.

Even if the Legislature ultimately approves the Governor's proposals, the Legislature should consider the best timeline for awarding the new housing funding. On the one hand, releasing the funding right away is consistent with the immediacy of the housing affordability problem and helps bring relief to Californians more quickly. On the other hand, the State has approved significant funding for affordable housing in recent years, most notably the $3 billion included in the Veteran and Affordable Housing Bond Act of 2018. Given the recently authorized funding, there might be some benefit to delaying the award of this funding until economic conditions weaken. Development and land costs likely will be cheaper during a recession, perhaps making it so that more affordable housing units could be built later than if the resources were used immediately. At the same time, other funding sources for development could be exhausted, so if this funding were available it could help serve as a backstop for affordable housing. This is akin to the Safety Net Reserve, which sets aside funds for future costs for the California Work Opportunity and Responsibility to Kids and Medi-Cal programs in the event of a recession.

**Staff Comments.** The proposed Planning and Production Grants have two components:

- $250 Million for Technical Assistance Grants - The Department of Housing and Community Development (HCD) will establish short-term housing production goals for 2020-21, based on existing RHNA estimates, which will then be allocated to local jurisdictions. These funds are to be used to help cities and regions plan for ways to meet these targets. Examples of ways to use the funding may include, but are not limited to, rezoning for greater density, completing environmental clearance, permitting units, and revamping local processes to speed up production.
- $500 Million When Milestones Are Achieved - The state will review the result of local and regional planning processes and certify that certain milestones have been reached in implementing those plans. As jurisdictions reach these milestones, the remaining $500 million will be available for cities and counties for general purposes.

It is worth noting that this proposal is not fully dedicated to either housing production. $500 million for housing planning and production would be awarded to local jurisdictions for “general purposes” once certain performance milestones are met. The Administration has indicated that these are intended to be an incentive for local jurisdictions to deliver on actions that build affordable housing. There is merit to this approach, but it also means that the majority of the funding in these programs is not targeted at housing production or homelessness. The Legislature should determine whether this is an appropriate approach and if it is, if this is the appropriate proportion of directly targeted funds to incentives.

Additionally, the proposal includes language around long-term changes to the RHNA process. Specifically, the bill proposes the following:

- By December 31, 2022, HCD / OPR will propose improved RHNA process and methodology
- By December 31, 2022, HCD (w/ CalSTA) shall propose opportunities to link trans and other funds to statutory housing goals
- Beginning July 1, 2023, certain funding for local streets and roads provided by SB 1 (Beall), Chapter 5, Statutes of 2017, may be withheld from local jurisdictions that do not have compliant housing elements or fail to meet housing production goals.

These are major policy changes which would have a significant impact on local and regional governments. As such, the Legislature should consider whether these long-term changes are aligned with the Legislature’s goals for statewide housing production, and whether the chosen mechanisms are appropriate to the task.

**Staff Recommendation:** Hold Open.

**Issue 13: Housing Element Workload Adjustment**

**Governor's Budget.** The budget requests $1,361,000 in 2019-20 and $1,241,000 ongoing General Fund for eight positions to expand and enhance its housing element review and enforcement functions.

**Background.** As discussed earlier in this agenda, the state plans for housing by first conducting a Regional Housing Needs Assessment (RHNA). Housing elements are a required part of each local government's general plan and are updated to ensure that each local government is adequately planning to meet their existing and projected housing needs, including their share of the RHNA. After completion of its housing element, the local government submits it to HCD for review and approval.

Historically, HCD's RHNA determination methodology responsibilities was evenly distributed over a five-year planning period with due dates staggered. However, SB 375 (Steinberg), Chapter 728, Statutes of 2008, significantly changed this schedule, condensing the majority of the workload into approximately four years.

To date, HCD has participated in five RHNA cycles. The downturn of the housing market in 2008 resulted in many underdeveloped fourth cycle-identified sites. Consequently, the fifth cycle provided HCD with an opportunity to streamline its review process.

A series of bills passed in 2017 and 2018 have made HCD's role in the RHNA and housing element processes more involved. These included bills to encourage the feasibility of sites included in the sites inventory under AB 1397 (Low), Chapter 375, Statutes of 2017, analyze and remove constraints to the development of housing under AB 879 (Grayson), Chapter 374, Statutes of 2017, and hold local governments accountable through enforcement of existing housing element laws under AB 72 (Santiago and Chiu), Chapter 370, Statutes of 2017. In addition. AB 686 (Santiago), Chapter 958, Statutes of 2018 added new requirements to ensure programs and policies in the housing element are consistent with the principles of affirmatively furthering fair housing.

**Staff Comments.** Recent statute has directed HCD to take a more involved, labor-intensive role in the housing element process, resulting in more work per housing element reviewed. HCD will be asked to review approximately 1,200 housing elements between 2019-20 and 2023-24. Failure to have an HCD-approved housing element affects local government's ability to approve development and apply for local assistance. An approved housing element is increasingly a threshold requirement for state resources.

HCD currently has seven staff devoted to housing element workload. In 2013-14, HCD had 12.0 staff available for housing element review, including five limited-term positions provided for the peak of fifth cycle review workload. The Administration has indicated that this request would lead to a total of 16.0 positions devoted to housing element workload. This includes seven currently filled housing element positions, one authorized housing element position associated with the implementation of AB 1397, and the eight positions requested in this proposal.

**Staff Recommendation:** Hold Open.

## Issue 14: Regional Housing Needs Allocation Process (AB 1771 and SB 828)

**Governor's Budget.** The budget requests $638,000 in 2019-20 and $543,000 ongoing General Fund for 3.0 positions to implement AB 1771 (Bloom), Chapter 989, Statutes of 2018 SB 828 (Wiener), and Chapter 974, Statutes of 2018, which added methodology review requirements for HCD in the Regional Housing Needs Allocation (RHNA) process.

**Background.** State law requires local jurisdictions to plan for their future housing needs through the RHNA process. Under RHNA, the Department of Finance and HCD develop forecasts of the number of housing units at various income levels needed to keep pace with population growth, which they allocate to regions throughout the state. Regional "councils of governments" allocate the regional housing need to local governments within those regions, which must develop a plan –the housing element portion of their general plan –to accommodate the additional housing growth.

Historically, HCD's RHNA determination methodology responsibilities was evenly distributed over a five-year planning period with due dates staggered. However, SB 375 (Steinberg), Chapter 728, Statutes of 2008, significantly changed this schedule, condensing the majority of the workload into approximately four years.

As part of the 2017 housing package, AB 1771 and SB 828 made important changes to the RHNA objectives, methodology, and distribution process, as part of a larger conversation in the Legislature on how to revamp the RHNA process.

**Staff Comments.** AB 1771 and SB 828 collectively revise the process and criteria for developing local housing goals in regional needs allocation plans. SB 828 incorporates additional data into regional methodologies and specifies that prior underproduction does not justify a reduction on housing goals while AB 1771 allows HCD to verify the methodology used to develop these plans is consistent with state law. It is reasonable to believe that this additional workload will require additional resources, particularly given the timing of much of the workload.

As discussed earlier in this agenda, the Administration has proposed long-term changes to the methodology for allocating housing needs to regions and jurisdictions. Because changes to the RHNA process may impact the workload required by AB 1771 and SB 828, this budget proposal should be considered in the context of the proposed changes to the RHNA process.

**Staff Recommendation:** Hold Open.

## Issue 15: Moderate Income Housing Production

**Governor's Budget.** The Governor's budget proposes to invest $500 million General Fund one-time in the development of housing for moderate-income households.

**Background.** The Mixed-Income Loan Program was created by SB 2, which allocates 15 percent of ongoing real estate transaction fee revenues to creating mixed-income housing for low- to moderate-income households. This program provides competitive long-term financing for newly constructed multifamily housing projects restricting units between 30 percent and 120 percent of county Area Median Income (AMI).

The Mixed-Income Housing Program requires either 20 percent of the units in a development be restricted to 50 percent of AMI or 40 percent restricted at 60 percent of AMI. Projects that restrict 10 percent of the units in a development to moderate income, 81 percent to 120 percent of AMI, receive a priority over other projects.

**LAO Comments.** Because the need for housing assistance outstrips resources and low-income households have fewer options for accessing affordable housing, we suggest the Legislature prioritize General Fund resources towards programs that assist low-income households. As noted earlier, the Legislature could continue to pursue broader changes that facilitate private housing construction, which would help address affordability challenges for middle-income households.

**Staff Comments.** The Administration has indicated that program design may change for the requested funds. As currently designed, the program encourages the construction of new units that would not otherwise be built by pairing with underutilized federal housing tax credits in the Four Percent program and private activity bonds from the California Debt Limit Allocation Committee. Program loans cannot pair with the competitive federal housing tax credits in the Nine Percent program to avoid diverting those funds from needed housing for low- and very low-income households.

The current program design offers a subsidy level of no more than $40,000 per restricted unit (between 30 to 120 percent of AMI). Developments must maintain either 20 percent of the units at 50 percent of AMI, or 40 percent of units at 60 percent of AMI and 10 percent of the units at 50 percent of AMI. The Administration intends to pair this program with the expanded tax credit program discussed earlier.

**Staff Recommendation:** Hold Open.

**Issue 16: Remove 55 Percent Voter Threshold for Enhanced Infrastructure Financing District (EIFD) Debt Issuance and Pairing EIFDs with Opportunity Zones**

**Governor's Budget.** The Administration has proposed Trailer bill language removing the 55 percent voter threshold and making conforming changes in EIFD law.

**Background.** After Redevelopment Authorities (RDAs) were dissolved in 2011, local officials sought other ways to use tax increment financing to raise the capital they need to fund public works projects. In response, the Legislature enacted SB 628 (Beall), Chapter 785, Statutes of 2014, to allow local officials to create Enhanced Infrastructure Financing Districts (EIFDs), which augment the tax increment financing powers available to local government under existing infrastructure financing district statutes. City or county officials can create an EIFD to finance public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community. An EIFD is governed by a public financing authority with a specified membership comprising both public members and members from the legislative body of a participating taxing entity or entities.

Once approved by the initiating city or county, an EIFD receives funding from three revenue streams to fund its infrastructure financing plan. Similar to Redevelopment Agencies, EIFDs can use a portion of the property tax increment, if the local governments approve it. They may also use revenue that the infrastructure project generates, such as money generated from user fees, public-private partnerships, loans, and grants. Finally, an EIFD may receive the local share of sales and use taxes (SUT) and transactions and use taxes (TUTs). Like an RDA, an EIFD may issue bonds backed by these revenues to pay for projects. However, unlike an RDA, an EIFD requires 55 percent voter approval to do so.

**Staff Comments.** Only three EIFDs have been formed since statute created them in 2014.

This proposal raises concerns about the public being completely shut out of the process of creating and financing EIFDs. If the voter threshold needs to go to make these tools easier to use, there are still ways to keep the public involved in the process (e.g. protest procedures and 10-year check ins as is the case with a similar tool).

Additionally, it is an open question whether this conforms to provisions of Article XVI, Section 16 of the California Constitution.

The Administration has indicated that they will seek to make EIFDs a more attractive economic tool by pairing them with the federal Opportunity Zones program. To make Opportunity Zones more effective, the state will conform to federal law allowing for deferred and reduced taxes on capital gains in Opportunity Zones for investments in green technology or in affordable housing, and for exclusion of gains on such investments in Opportunity Zones held for 10 years or more. The Administration has not released language for the pairing of EIFDs with Opportunity Zones.

**Staff Recommendation:** Hold Open.

## Issue 17: CalHome Program Changes

**Governor's Budget.** The Administration has propoased trailer bill language to allow the program to include auxiliary dwelling units (ADUs) and junior accessory dwelling units, and to authorize the program to make grants for housing purposes in declared disaster areas.

**Background.** The Calhome program provides grants of appropriated funds to local public agencies and nonprofit developers to assist individual first-time homebuyers through deferred-payment loans for downpayment assistance, home rehabilitation, including manufactured homes not on permanent foundations, acquisition and rehabilitation, homebuyer counseling, self-help mortgage assistance, or technical assistance for self-help homeownership. Funds are loaned from grant recipients to individual homeowners.

Proposition 1, approved by voters in 2018, continuously appropriates $300 million in bond funds to the Self-Help Housing Fund, itself a continuously appropriated fund, for the CalHome program.

CalHome has previously made awards of funds for disaster recovery in 2018, 2016, and 2014.

**Staff Comments.** The department has indicated that the trailer bill language is intended to allow cities and counties to assist moderate income families who lost a home to disasters. Sonoma County, in particular, has few affected homeowners who earn less than 80 percent AMI but sees a great need to assist families up to 120 percent who otherwise have insufficient insurance proceeds to rebuild. CalHome funds are anticipated to be used as gap financing in this situation. The department intends to offer a special CalHome Disaster NOFA and seek to help meet this need across the counties recently affected by disasters. Including ADUs in eligible program uses both creates new housing units and helps homeowners retain homeownership through additional income. Given the recent focus on ADUs, this is an enhancement of the program that should be offered immediately.

The language includes a provision to serve moderate income families in disaster areas only. The language requires awardees (local government and nonprofits) who serve moderate income households to demonstrate to HCD how they will continue to serve low-income households.

The department anticipates offering a $75 million Disaster NOFA ($63 million from Propositions 46 & 1C and $12 million Proposition 1). This responds to the urgent needs of disaster areas. ADUs will not have a set aside, but simply be an eligible use of funds.

**Staff Recommendation:** Hold Open.

## Issue 18: Local Housing Trust Fund

**Governor's Budget.** The Administration has proposed trailer bill language to allow the Local housing Trust Fund to make matching grants to Native American Tribes, and to increase the minimum size of awards to various local trusts.

**Background.** The Local Housing Trust Fund provides matching grants (dollar for dollar) to local housing trust funds that are funded on an ongoing basis from private contributions or public sources that are not otherwise restricted in use for housing programs. Recipients provide loans for construction of rental housing projects with units restricted for at least 55 years to households earning less than 60 percent of area median income, and for downpayment assistance to qualified first-time homebuyers. Current eligible recipients include cities and counties with adopted housing elements that the Department of Housing and Community Development (HCD) has determined comply with housing element law, and charitable nonprofit organizations. The minimum allocation is $500,000 for newly-established housing trusts and $1,000,000 for trusts that have previously received funds from the program. The maximum allocation is $2,000,000 for new trusts and $1,000,000 for trusts that have previously received funds through the program.

The LHTF last made awards to local trusts in 2014, when $8.8 million was awarded to seven recipients.

Proposition 1, approved by voters in 2018, continuously appropriates $300 million in bond funds for the Low Income Housing Trust Fund.

**Staff Comments.** Unlike other Proposition 1 funded programs, LHTF is largely described in statute rather than guidelines or regulations. This makes it more challenging to update the program under the authority granted in Proposition. 1. The department has indicated that small grants have flat administration costs and are therefore relatively expensive. Given that the program has significantly more resources than in the past ($300 million Proposition 1, compared to only $35 million Proposition 1C and $25 million Proposition 46), HCD intends to target larger grants.

Native American tribes are currently not eligible recipients of LHTF funds. The department has made a concerted effort over the years in other program to treat tribes as any other local government. Since it has been dormant for some time, the LHTF program statute has not been amended accordingly. The proposed language will ensure tribes are not left out of the program.

**Staff Recommendation:** Hold Open.

## Issue 19: Community Development Block Grant (CDBG) Disaster Recovery Program

**Governor's Budget.** The budget requests $108,825,000 in 2019-20 and $2,555,000 ongoing Federal Trust Fund for 10 positions to design and implement the CDBG-Disaster Recovery Program focused on recovery from the 2017 Northern and Southern California wildfires.

**Background.** On February 9, 2018, the federal government extended the 2017 Supplemental Appropriations for Disaster Relief Requirements and made available $28 billion in Community Development Block Grant -Disaster Recovery (CDBG-DR) funds. These funds are authorized for disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in areas affected by a major disaster declared in 2017. The State of California will receive $212.3 million of the $28 billion to support long-term recovery and mitigation efforts related to the October and December 2017 wildfires. The Federal Emergency Management Agency (FEMA) identified the following counties in its major disaster declarations:

| October 2017 Declaration | December 2017 Declaration |
|---|---|
| Butte County | Los Angeles County |
| Lake County | San Diego County |
| Mendocino County | Santa Barbara County |
| Napa County | Ventura County |
| Nevada County | |
| Orange County | |
| Sonoma County | |
| Yuba County | |

HCD must demonstrate to HUD adequate staff capacity, knowledge, skills, and ability to successfully implement and monitor CDBG-DR grant funds, as defined in program guidelines in The Federal Register Notices.

**Staff Comments.** The CDBG-DR funds are split into two components:

- $124.2 million for unmet recovery needs
- $88.2 million for preparedness and mitigation needs

Unmet recovery needs funding is designed to address disaster recovery needs that remain after local assistance has been exhausted, including federal assistance and private insurance. Mitigation funding will allow for specific activities to protect communities from predictable damage from future disaster events. HCD is the responsible entity for implementing CDBG-DR funds for both unmet needs and mitigation funds.

The department has indicated that this request includes funding for the unmet needs portion of the program. HUD has yet to release details on the $88.2 million in preparedness and mitigation. Once that funding is released, HCD intends to bring forward a request for the resources necessary to distribute that funding.

**Staff Recommendation:** Hold Open.

## Issue 20: Deferred Maintenance

**Governor's Budget.** The budget requests $3,000,000 General Fund for deferred maintenance to address health and safety deficiencies at state-owned agricultural migrant housing centers.

**Background.** HCD administers the Office of Migrant Services (OMS) program, which provides housing and housing-related services for migratory farmworkers and their families, making HCD responsible for repairing and rehabilitating the housing. HCD oversees contractors who operate 24 migrant centers with 1,885 housing units statewide. Rental rates at the housing centers have not increased for more than twelve years, leading to deferred repairs.

The 24 OMS centers have a combined annual budget of roughly $9.5 million.

**Staff Comments.** A 2018 inspection and assessment of OMS housing centers identified critical deferred maintenance needs due to health and safety concerns. This effort identified $9.6 million in deferred maintenance needs across the 24 OMS centers. This includes $3.9 million in repair needs for sewer and wastewater systems. The department has indicated that this request will allow the department to address critical water-related repair needs, though it is insufficient to fully perform the required repairs.

The department has indicated that the $900,000 in critical water-related repairs not covered by this request will be covered by remaining Proposition 1C funds directed to the Joe Serna Jr. Farmworker Housing program.

**Staff Recommendation:** Approve the requested funding for deferred maintenance, and adopt supplemental reporting language requiring the Department of Finance to notify the chair of the Joint Legislative Budget Committee prior to allocating deferred maintenance funding to the departments.

## Issue 21: Organizational Development and Strategic Planning Unit

**Governor's Budget.** The budget requests $565,000 in 2019-20 and $505,000 annually through 2022-23 from administrative budget authority for four positions to permanently establish the Organizational Development and Strategic Planning (ODSP) unit.

**Background.** The ODSP unit was created in 2017-18 for the implementation of strategic planning governance, business process innovation (BPI) projects, enterprise risk management, and organizational change management training. The ODSP unit is currently comprised of five positions, four of which are limited-term positions for up to 24 months. Employees who currently hold limited-term positions in the ODSP unit will return to their previous divisions within HCD on July 1, 2019.

**Staff Comments.** The ODSP unit has been providing hands-on consultation, training and support to coach identified program staff and management in BPI methodologies to build a sustainable structure within each respective program since 2017. Business process reviews in the project financing and Community Development Block Grant programs have resulted in faster processing of program documents and improvements in program outputs (as measured by fewer errors in project documents). For example, the Community Development Block Grant program BPI analysis has deployed solutions that have resulted in: a reduction in overall processing time from when the general clearance conditions checklist is received to when a clearance letter is sent out (goal is 14 day turnaround, average was 21 day turnaround); a reduction in processing time from when the general conditions clearance packet is distributed to when it is verified (goal is within six days, average was 11 day turnaround); a reduction in number of standard agreements with defects (goal is 40 percent, average was 83 percent); and a reduction in average number of defects per standard agreement (goal is one, average was 2.8)

The department has indicated that ongoing resources for the requested positions will be available from operational efficiencies created as a result of the BPI process once the requested funding expires in 2022-23.

**Staff Recommendation:** Hold Open.

*Senate Budget and Fiscal Review—Holly J. Mitchell, Chair*

# SUBCOMMITTEE NO. 4 Agenda

**Senator Maria Elena Durazo**
**Senator Jim Nielsen**
**Senator Thomas J. Umberg**

## Thursday, March 21, 2019
## 9:30 a.m. or Upon Adjournment of Session
## State Capitol - Room 2040

Consultant: Joe Stephenshaw

### PROPOSED FOR VOTE-ONLY



### PROPOSED FOR DISCUSSION/VOTE

*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.*

# ISSUES PROPOSED FOR VOTE-ONLY

## 0509 GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT

### Issue 1: Information Technology Infrastructure and Desktop Support Services

**Governor's Budget.** The Governor's budget requests $487,000 General Fund and three positions beginning in fiscal year 2019-20 and ongoing to meet the additional workload requirements associated with the transfer of infrastructure and desktop support responsibilities from the Governor's Office to the Governor's Office of Business and Economic Development (GO-Biz).

**Background.** The Governor's Office previously provided information technology support services, such as networking and desktop support, to GO-Biz. Last year, the Governor's Office decided to stop providing this support to GO-Biz and completed the transition of responsibility in October.

GO-Biz is a small department that has been growing rapidly as the state has expanded several existing programs, including the I-Bank and the California Film Commission. Last year, GO-Biz received funding for two additional information technology staff to support application development and cloud services that support GO-Biz programs. Several of these projects have been delayed or deferred, however, because existing staff have had to take on the additional technology support workload previously provided by the Governor's Office. For example, planned improvements to a permit assistance tool called CalGOLD have been delayed by several months.

**Staff Recommendation.** Approve as budgeted.

### Issue 2: Zero Emission Vehicle Infrastructure Unit

**Governor's Budget.** The Governor's budget requests $767,000 in budget authority from the Air Pollution Control Fund for 2019-20 and ongoing, as well as four positions. This request will provide permanent staff and a secure funding source for the GO-Biz Zero Emission Vehicle Infrastructure Unit as well to replace temporary inter-agency agreements.

**Background.** In March 2012, Executive Order B-16-2012 set goals of establishing infrastructure to support one million ZEVs by 2020 and deploying one and a half million ZEVs by 2025. This Executive Order led to the publication of two ZEV Action Plans (2013 and 2016) as well as a 2018 Priorities Update; all three of which detail key actions for each state agency to take to enable the ZEV market and specifically call attention to GO-Biz's pivotal role in helping achieve this goal.

In January 2018, Governor Brown issued Executive Order B-48-18 setting a target of five million ZEVs on California roads by 2030 and setting infrastructure deployment targets aimed at enabling California to meet its one and a half million ZEVs by 2025 goal. Within Executive Order B-48-18, GO-Biz is the only agency directly identified by name. GO-Biz is tasked with developing a Plug-in Charging Station Development Guidebook, as well as updating the Hydrogen Station Permitting Guidebook. Additionally, the Governor's Office has tasked GO-Biz with leading the implementation of the full breadth of the Executive Order including developing the 2016 ZEV Action Plan Priorities Update, coordinating agency actions, and increasing transparency and participation among private, local, regional, state and federal stakeholders.

The current program has been in place since 2014, utilizing temporary position authority and the temporary help blanket at GO-Biz. The GO-Biz ZEV Infrastructure Unit is currently supported by four temporary help blanket positions. The positions are funded through inter-agency agreements with the California Air Resources Board (CARB) and the California Energy Commission. The agreements have been in place since the inception of the ZEV initiatives and are set to expire by 2019-20. GO-Biz is requesting approval to permanently establish the requested positions with a reliable funding source, the Cost of Implementation Account-Air Pollution Control Fund. The CARB is the administrator of that fund and concurs with the proposal.

**Staff Recommendation.** Approve as budgeted.

## 0840 STATE CONTROLLER'S OFFICE (SCO)

### Issue 3: Leasing Costs Adjustment

**Governor's Budget.** The Governor's budget requests $455,000 General Fund in 2019-20 and ongoing to fund leasing cost adjustments.

**Background.** The operating costs for SCO facilities increase by both step increases to the base fees, and adjustments for the Consumer Price Index (CPI), as outlined in the terms of the lease agreements. SCO is legally required to pay the increased fees. These rates were built into the lease agreements and cannot be absorbed by SCO. The annual Price Letter adjustment would have historically covered the CPI increases for this cost. However, driven primarily by the recession, in 2009-10 statute was enacted that eliminated automated price increases for state entities unless they were provided in the annual budget act. As such, 2009-10 was the last time that the SCO received an automatic operating expense adjustment. SCO cannot absorb these indexed operating costs without seriously impacting other programs.

**Staff Recommendation.** Approve as budgeted.

## 1701 DEPARTMENT OF BUSINESS OVERSIGHT (DBO)

### Issue 4: Internal Audit Unit Workload

**Governor's Budget.** The Governor's budget requests $149,000 in 2019-20 and $140,000 ongoing for one Associate Management Auditor position to provide ongoing independent, objective evaluation and assessment of operational effectiveness and program compliance.

**Background.** Government Code Section 1237 requires state agencies with an aggregate spending of $50 million or more annually to consider establishing an ongoing audit function. Government Code Section 13885 references the importance of internal audit activity to public accountability and governance. In 2015-16, the DBO's appropriation reached $89 million. The Internal Audit Unit (IAU) was established in 2016-17 following the consolidation of the Department of Corporations and the Department of Financial Institutions to form the DBO.

The IAU serves the DBO and financial services consumers by ensuring DBO examination programs are functioning as intended in performing sound examinations to prevent consumer harm, and operations are effective to facilitate resource utilization and mitigate improper use of state resources.

The IAU reports directly to the commissioner of the DBO, and its role is to provide independent and objective assurance and consulting activity that is guided by a philosophy of adding value to improve the operations of a department. It is responsible for performing internal audits and coordinating external audits to ensure a systematic, disciplined approach to evaluate program effectiveness and mitigate risk throughout the DBO. The IAU not only directly affects the DBO, but also provides value to California taxpayers by ensuring effective use of resources and safeguarding public funds.

At the time IAU was established, the DBO had not performed a department-wide risk assessment to determine the appropriate staffing level needed to monitor the effectiveness of programs. As a result, only two positions (one Senior Management Auditor and one Associate Management Auditor) were requested and approved. The DBO later performed a department-wide risk assessment leading to the development of an annual audit plan which calls for approximately 11 annual audits, including all special management requested audits, averaging 5,280 total audit hours per year. This exceeds the available 3,520 hours with two staff resources.

**Staff Recommendation.** Approve as budgeted.

# ISSUES PROPOSED FOR DISCUSSION/VOTE

## 0509 GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT

**Overview.** The Governor's Office of Business and Economic Development (GO-Biz) provides a single point of contact for economic development, business assistance and job creation efforts. The GO-Biz works with companies and organizations across the nation to market the benefits of doing business in California, recruit new businesses, retain businesses, and support private sector job growth. The GO-Biz serves as the Governor's lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, economic growth, export promotion, permit assistance, innovation and entrepreneurship. Following are the programs within GO-Biz's budget:

- **GO-Biz.** The GO-Biz serves as the Governor's lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth, and export promotion. This program makes recommendations to the Governor and the Legislature regarding policies, programs, and actions to advance statewide economic goals.

- **California Business Investment Services.** This program serves employers, corporate executives, business owners, and site location consultants who are considering California for business investment and expansion. This program convenes teams on key business development issues. This program works with local, state, and federal partners to attract, retain, and grow businesses in addition to providing permit assistance and helping businesses succeed in California. The Innovation Hub (iHub) initiative improves the state's national and global competitiveness by stimulating partnerships, economic development, and job creation around specific research clusters through state-designated iHubs.

- **Office of the Small Business Advocate.** The director of the Office of the Small Business Advocate (OSBA) serves as the principal advocate in the state on behalf of small businesses, including legislation and administrative regulations that affect small business. The OSBA is responsible for disseminating information about programs and services provided by the state that benefit small businesses, and how small businesses can participate in these programs and services. The OSBA responds to issues from small businesses concerning the actions of state agencies, state laws and regulations adversely affecting those businesses. The OSBA maintains and distributes an annual list of persons serving as small business ombudsmen throughout state government.

- **California Film Commission.** The California Film Commission (CFC) enhances California's status as the leader in motion picture, television and commercial production. The Commission is tasked with retaining and increasing motion picture production and to see that it continues to create jobs and boost business throughout the State. A one-stop office for filmmakers, the Commission supports productions of all sizes and budgets with a variety of services. In addition to issuing film permits for all state properties, administering the film and TV tax credit program, maintaining an extensive location library, and offering production assistance on a wide variety of issues, CFC also works closely with cities and counties with the goal of creating “film friendly" policies that are consistent statewide.

- **Division of Tourism.** The California Tourism Market Act provides for the marketing of California through an assessment of businesses that benefit from travel and tourism. The objective of the Tourism Assessment Program is to identify potentially assessable businesses, assist companies with determining the appropriate amount of their self-assessment, and collect the fee.

- **California Infrastructure and Economic Development Bank.** California Infrastructure and Economic Development Bank (IBank) was created to finance public infrastructure and private development that promote a healthy climate for jobs, contribute to a strong economy and improve the quality of life in California communities. IBank has a broad authority to issue tax-exempt and taxable revenue bonds, provide financing to public agencies, provide credit enhancements, acquire or lease facilities, and leverage State and Federal funds. IBank's current programs include the infrastructure state revolving fund, 501(c)(3) tax-exempt and taxable revenue bond program, industrial development revenue bond program, exempt facility revenue bond program, governmental bond program and the Clean Energy Finance Center (CEFC) and the Statewide Energy Efficiency Program under the CEFC.

- **Small Business Loan Guarantee Program.** The Small Business Loan Guarantee Program (SBLGP) promotes local economic development by providing guarantees for loans issued to small businesses from financial institutions, typically banks, that otherwise would not approve a term loan or line of credit to a small business. As a result of the SBLGP, participating small businesses are able to secure financing that allows them to grow and expand their business. The loan guarantee serves as a credit enhancement and an incentive for financial institutions to make loans to small businesses that otherwise would not be eligible for such financing.

- **California Welcome Centers.** California Welcome Centers are visitor information centers that are readily accessible to and recognizable by tourists to encourage tourism in California and provide benefits to the state economy. The objective of the California Welcome Center Program is to determine the locality of underserved travelers, designate a welcome center, and establish operating standards across the network.

- **Community Reinvestment Grants Program.** The California Community Reinvestment Grants Program (CalCRG) was established on July 1, 2018, to implement the competitive grant program mandated by Proposition 64, the Adult Use of Marijuana Act, and the provisions specified in Revenue and Taxation Code Section 34019(d). The CalCRG administers grants for local public health departments and qualified community-based nonprofit organizations to support various mental health treatment, substance use treatment, job placement, legal services and other health and wellness-related programs for communities disproportionately affected by past federal and state drug policies in California. GO-Biz must award grants annually and at least 50 percent of the grant funding will be allocated to qualified community-based nonprofit organizations.

**Budget.** The budget includes $70.2 million ($33.4 million General Fund) and 99.3 positions in 2019-20 to support the office and its programs. The following chart from the Governor's budget displays prior year, current year, and budget year positions and expenditures.

**3-YEAR EXPENDITURES AND POSITIONS**

| | | Positions | | | Expenditures | | |
|---|---|---|---|---|---|---|---|
| | | 2017-18 | 2018-19 | 2019-20 | 2017-18* | 2018-19* | 2019-20* |
| 0220 | Go-Biz | 28.8 | 38.7 | 41.7 | $5,312 | $7,733 | $7,873 |
| 0225 | California Business Investment Services | 8.1 | 7.2 | 12.2 | 1,773 | 2,238 | 2,773 |
| 0230 | Office of the Small Business Advocate | 2.9 | 2.7 | 2.7 | 3,312 | 23,329 | 20,330 |
| 0235 | Infrastructure, Finance and Economic Development | 39.8 | 35.7 | 35.7 | 8,373 | 18,218 | 19,219 |
| 0240 | Community Reinvestment Grants Program | - | 3.0 | 7.0 | - | 10,000 | 20,000 |
| TOTALS, POSITIONS AND EXPENDITURES (All Programs) | | 79.6 | 87.3 | 99.3 | $18,770 | $61,518 | $70,195 |

## Issue 5: Local Economic Development Liaison Services (SB 635)

**Governor's Budget.** The Governor's budget requests $148,000 in General Fund and a Staff Services Manager I position in 2019-20 and ongoing to address geographically targeted economic development areas as required by SB 635 (Hueso), Chapter 888, Statutes of 2018.

**Background**. Existing law requires GO-Biz to serve as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. GO-Biz offers a range of services to business owners and prospective owners including: attraction, retention and expansion services, site selection, permit assistance, clearing of regulatory hurdles, small business assistance, international trade development, and assistance with state government.

SB 635 requires GO-Biz to take on two primary activities related to Opportunity Zones (OZs) and Promise Zones (PZs). First, GO-Biz is required to develop informational materials and digital content about location based and other geographically targeted economic development programs, with the intent of the statute pointing to a focus on OZs and PZs. Next, GO-Biz is required to convene, at least annually, representatives from various programs and agencies across the state and from various programs and agencies to discuss how California can leverage PZs and OZs to meet state and local economic development needs.

SB 635 further outlines some of the specific information that must be made available by GO-Biz, including how the local jurisdictions or census tracts were selected, where local jurisdictions and investors can get additional information, and updates about federal programs as they are issued. SB 635 also outlines the topics that must be reviewed in the annual meetings of stakeholders including discussions on enhanced engagement opportunities and targeted outreach to assist designated areas in their efforts to access state resources and services.

PZs are high poverty communities designated by the federal government to increase economic activity, improve educational opportunities, leverage private investment, reduce violent crime, enhance public health and address other priorities identified by the community. Through three rounds of national competition, 22 urban, rural, and tribal PZs were selected with applicants demonstrating a consensus vision for their community and its residents, the capacity to carry it out, and a shared commitment to specific, measurable results. There are four PZs in California: South Los Angeles, San Diego, Los Angeles, and Sacramento. PZ designees have received:

- An opportunity to engage five AmeriCorps VISTA members in the PZ's work,
- A federal liaison assigned to help designees navigate federal programs,
- Preferences for certain competitive federal grant programs and technical assistance from participating federal agencies, and
- PZ tax incentives, if enacted by Congress (None have been enacted to date).

The package of assistance is meant to accelerate local efforts to drive investments to high poverty communities. During the 10-year term of the designation, the specific benefits made available to PZs will vary from year to year, and sometimes more often than annually, due to changes in the agency policies and changes in appropriations and authorizations for relevant programs.

OZs are federally designated economically-distressed communities (census tracts) where new investments may, under certain circumstances, be eligible for preferential tax treatment. OZs are eligible by either having a poverty rate of at least 20 percent or a median family income that does not exceed 80 percent of the statewide median income. Nearly nine-thousand OZs were selected in April of this year in every state, district, and territory, with 879 of them in California (over 3,500 were eligible to be nominated). The California Department of Finance coordinated the Administration's recommendation of the 879 census tracts to the U.S. Department of Treasury in March 2018. Investors at risk of tax liability from capital gains earned from a previous investment can elect to defer tax liability from capital gains by reinvesting gains into a Qualified Opportunity Fund. Investments made by a Qualified Opportunity Fund into an OZ allow investors to benefit through:

- A temporary tax deferral until December 31, 2026,
- A tax reduction, and
    - By holding investments in a Qualified Opportunity Fund for a minimum of 5 years, the investor's gains will be taxed at a reduced rate of 90 percent
    - By holding investments in a Qualified Opportunity Fund for a minimum of 7 years, the investor's gains will be taxed at a reduced rate of 85 percent
- A tax exclusion (tax-free earnings) after 10 years—all gains accrued on an investor's Opportunity Fund investment during the ten-year period are permanently excluded from taxable gross income.

**Staff Recommendation.** Approve as budgeted.

## 0840 STATE CONTROLLER'S OFFICE

**Overview.** The State Controller is the chief fiscal officer of California, the fifth largest economy in the world. Principally responsible for transparency and accountability of the state's financial resources, the Controller ensures the appropriate disbursement and tracking of taxpayer dollars. The Controller serves on dozens of state boards, commissions, and committees with duties ranging from administrative oversight of the nation's two largest public pension funds, to protection of state lands and coastlines, to modernization and financing of major infrastructure. The Controller also offers fiscal guidance to local governments and has independent auditing authority over government agencies related to the spending of state funds. The Controller's primary objectives are to:

- Account for and control disbursement of all state funds, issuing warrants in payment of the state's bills, including lottery prizes.
- Determine legality and accuracy of financial claims against the state.
- Audit state and local government programs.
- Safeguard many types of assets until claimed by the rightful owners, in accordance with the Unclaimed Property Law.
- Inform the public of the state's financial condition.
- Inform the public of financial transactions of city, county, and other local governments.
- Administer the Uniform State Payroll System.
- Audit and process all personnel and payroll transactions for state civil service, state exempt employees, state university employees, and college system employees.

The Controller's Office includes the following divisions and major projects:

- **Executive Office.** Provides the policy and operational priorities for the State Controller's Office (SCO). Agency functions are coordinated by the chief of staff with support from the chief operating officer and chief administrative officer. Further leadership and policy advice is provided by the chief legal counsel and deputy controllers responsible for legislative affairs, public affairs, investments and financial management, environmental policy, health and housing policy, and taxation policy. The Executive Office also includes Human Resources, Equal Employment Opportunity/Disability Office, and Management Audit and Review Services (an internal auditor function, which exists in most government agencies).

- **Administration and Disbursements Division.** Produces the warrants (printed checks) and electronic fund transfers from the State Treasury, annually issuing about 49 million payments including state payroll, retirement rolls, Medi-Cal, personal income tax refunds, and payments to vendors. Provides staff support services to SCO including budgeting, accounting, contracting, training, procurement, and facilities management.

- **Division of Audits.** Responsible for auditing all funds disbursed by the state and all claims presented to SCO for payment. Performs independent audits of government agencies that spend state funds. Assures the accuracy of local government claims and financial statements submitted to the state and federal government by annually reviewing and revising audit guidelines, reviewing audits performed by independent local auditors under these guidelines, and performing field audits of state and federal programs. Assists and advises local government officials in effective and uniform tax collecting procedures and internal fiscal controls. Audits highway users' tax funds at local levels, and the allocation and apportionment of local property taxes.

- **Information Systems Division.** Ensures the integrity and security of SCO technology, employees, and facilities. Supports SCO mainframe, public website, and payroll systems with application development, desktop support, and project management oversight.

**Budget.** The Governor's budget includes $229.2 million, including $71.1 million General Fund, $63.5 million in reimbursements, and $43.2 million from the Unclaimed Property Fund, to support the department and its various programs. The following chart from the Governor's budget displays prior year, current year, and budget year positions and expenditures.

**3-YEAR EXPENDITURES AND POSITIONS**

| | | Positions | | | Expenditures | | |
|---|---|---|---|---|---|---|---|
| | | 2017-18 | 2018-19 | 2019-20 | 2017-18* | 2018-19* | 2019-20* |
| 0500100 | Accounting and Reporting | 278.4 | 277.8 | 277.8 | $46,725 | $54,367 | $55,168 |
| 0500200 | Audits | 264.3 | 282.7 | 303.7 | 47,067 | 55,746 | 54,674 |
| 0500300 | Personnel/Payroll Services | 215.4 | 244.0 | 233.0 | 43,275 | 52,354 | 48,186 |
| 0500400 | Unclaimed Property | 250.4 | 255.8 | 255.8 | 39,091 | 41,066 | 40,068 |
| 0500500 | Disbursements | 80.6 | 95.8 | 95.8 | 27,148 | 30,860 | 30,826 |
| 0500900 | Departmental Administration | - | 301.8 | 305.8 | - | 277 | 277 |
| 9900100 | Administration | 319.1 | - | - | 57,260 | - | - |
| 9900200 | Administration - Distributed | - | - | - | -57,260 | - | - |
| TOTALS, POSITIONS AND EXPENDITURES (All Programs) | | 1,408.2 | 1,457.9 | 1,471.9 | $203,306 | $234,670 | $229,199 |

## Issue 6: CCURE Upgrade and ACA Reporting

**Governor's Budget.** The Governor's budget requests $835,000 ($687,000 General Fund and $148,000 Unclaimed Property Fund) in 2019-20, and $169,000 ($163,000 General Fund and $6,000 Unclaimed Property Fund) in 2020-21 and ongoing for the replacement of the Computer Coordinated Universal Retrieval Entry (CCURE) security system. This request also includes one position for increased workload related to the development of the Personnel Payroll Services Division (PPSD) Affordable Care Act (ACA) Reporting System.

**Background. CCURE Security System Upgrade.** SCO and the State of California have adopted the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-53 as minimum information security control requirements to support implementation and compliance with state and federal mandates. NIST is part of the U.S. Department of Commerce, which provides standards, guidelines and other useful security related information organizations can use to assess their security posture. NIST SP 800-53 provides specific guidance in a broad range of areas including risk assessment, continuous monitoring, security management, access controls, configuration management, contingency planning, incident response, and more. The adoption of NIST standards in 2008 was primarily motivated by the increasing sophistication and frequency of cyberattacks. Ultimately, these controls are contributing to hardening systems against cyber-attacks and other malicious threats.

SCO Information Security Office (ISO) employs a security program framework that follows NIST standards and requires the organization to use concentric levels of control and protection to provide progressively enhanced levels of physical security. To achieve this, ISO deploys a Physical Access Control System (PACS), CCURE 800. PACS devices are used for controlling access and monitoring building entrances, sensitive areas, mission critical asset areas, and alarm conditions from an access control perspective. This includes maintaining control over defined areas such as data sensitive areas, site access points, parking lot areas, building perimeters, and interior areas that are monitored from a centralized security system. ISO's existing security system (CCURE 800) has reached its end-of-life for product software support, necessitating a one-time upgrade to the newest version of the centralized security system (CCURE 9000). This level of security is aligned with the industry's best practice for mission critical security and safety protections for people, buildings, and assets. The existing workload to administer physical security control administration would remain consistent on an on-going workload basis.

**PPSD ACA Reporting System.** The healthcare law, known formally as the Patient Protection and Affordable Care Act, was initially signed into law in March 2010, with various amendments occurring over the subsequent years. On July 2, 2013, the federal government issued a notice acknowledging the complexity of the legislation and their delay in publishing rules under sections 6055 and 6056 of the Internal Revenue code, as amended by the ACA, to implement employer and insurer reporting requirements for all medium and large employers, such as the State of California.

Due to the complexity of ACA implementation, the Internal Revenue Service (IRS) issued notice 2013-045 providing transition relief to large employers (those with 50 or more employees) for calendar year 2014. This delayed the implementation of the mandated employer shared responsibility provisions until January 1, 2015, and the mandated reporting requirements until January 2016. In June 2015, the IRS issued an "early look" draft for electronically filling the mandated reports required of applicable large employers (forms 1094-C and 1095-C) and the United States Supreme Court upheld key provisions of the ACA in relation to the taxpayer subsidy. This decision allowed implementation of the ACA to proceed. In July 2015, the Trade Preferences Extension Act of 2015 was signed into law. This legislation doubled many of the financial penalties (particularly in the area of reporting) contained within the ACA legislation.

Through a 2016-17 BCP, SCO received funding for PPSD to collaborate with the Information Systems Division (ISD) to design, build, and implement a system to create the 1094-C and 1095-C data that is submitted to the IRS on an annual basis. ISD workload covered under that BCP included development of an ACA mainframe system to interface with SCO's current Payroll and Employment History mainframe systems to obtain reporting data. The actual 1095-C reporting system was developed with web-based technologies using data from the new ACA mainframe system, to take advantage of modern file transmission techniques on a non-mainframe platform. The 2016-17 BCP request did not anticipate this additional workload and an ISD technical resource was redirected to develop the ACA IRS 1095-C reporting system. Ongoing maintenance of the web-based solution was expected to be minimal resulting in SCO not requesting an ongoing resource to support the PPSD ACA Reporting system in the 2018-19 PPSD Workload BCP. However, this proved to be incorrect, as unexpected errors in the 2016 and 2017 1095-C transmissions were detected by the IRS. ISD was not aware until 2018, that unanticipated programming changes to the ACA IRS 1095-C reporting system would be needed.

SCO has determined the ACA reporting cycles are an ongoing workload and is therefore requesting the necessary permanent resource for the non-mainframe report system. The associated system enhancements will grow, as new correction functionality is added and 1095-C correction files need to be transmitted to the IRS on a regular basis.

**Staff Recommendation.** Approve as budgeted.

**Issue 7: Unclaimed Property (UCP) Holder Compliance Audits**

**Governor's Budget.** The Governor's budget requests $1.6 million from the Unclaimed Property Fund in 2019-20 and ongoing and 11 positions to perform audits of holders to ensure compliance with the California Unclaimed Property Law (UPL), reunite unclaimed property with its rightful owners or heirs, and provide administrative support.

**Background.** Under California's Constitution and Government Code (GC) section 12410, the State Controller is responsible for auditing all claims made against the State Treasury. GC 12410 states that "the Controller may audit the disbursement of any state money for correctness, legality, and sufficient provisions of law for payment." In addition, the State Controller may conduct a field audit if, in the opinion of the State Controller, such is warranted to protect and preserve taxpayer funds.

The SCO Division of Audits (Audits) acts as an oversight agency for audits of state or local government agencies and performs pre-payment (claim) audits, field audits, special reviews, and investigations, as well as audits of "pass-through" federal funds received by the State for allocation and disbursement to local government agencies. These objectives are accomplished under statutory mandates and through interagency agreements with other state departments, local governments, or the federal government.

The UPL was enacted to ensure that unclaimed property is returned to its rightful owners or heirs, and to prevent holders of unclaimed property from treating that property as business income. By law, holders of unclaimed property must report and remit unclaimed property to SCO after a designated period of time. SCO is a single point of contact for California citizens searching for unclaimed property reported by holders nationwide.

In 2007, Senate Bill 86 (Committee on Budget and Fiscal Review), Chapter 179, Statutes of 2007, modified Code of Civil Procedure Section 1501.5, requiring SCO to improve the reporting procedures for unclaimed property holders in California. This process requires holders of unclaimed property to submit Holder Notice Reports before remitting property to SCO; SCO uses the Holder Notice Reports to send Pre-Escheat Notices to rightful owners. The notices advise owners to contact holders directly to retrieve the reported property, giving the holders an opportunity to reestablish contact with the owners and return their property. After filing the Holder Notice Reports, holders are required to submit Holder Remit Reports to SCO, providing information about property that was not returned. When the Holder Remit Report is filed, holders are required to remit the property to SCO.

The trend in compliance with the Unclaimed Property Law is declining among holders. An SCO analysis identified 16,555 unclaimed property reports were received out of the 1,319,928 active California-based businesses in 2016. This reveals a minimum compliance rate of 1.25 percent. In comparison with prior fiscal years, 2.3 percent in 2013 and 2.2 percent in 2015, the trend in compliance is declining. Without the requested resources, the trend in compliance with the UPL will continue to decline, which will result in more Californians losing their properties, and reduced revenues to the State's General Fund in the form of penalty interest.

**Legislative Analyst's Office (LAO).** The LAO recently published a report in which they found that each year, the state receives unclaimed property from holders and reunites some portion of this property with its rightful owners. However, the value of property remitted to the state always exceeds the value of property reunited with owners. This difference provides a monetary benefit to the state, which first is deposited into the Unclaimed Property Fund and then transferred to the General Fund. The state uses the unclaimed property fund to finance SCO's administrative costs to operate the program. The remainder—the amount that is not reunited with owners or used for unclaimed property administration—provides a source of General Fund revenue. This money is spent on programs throughout the General Fund budget.

The LAO agrees with the Governor's goal to increase holder compliance. They cite that, compliance with unclaimed property law is very low. The state has the incentive to increase holder compliance for two main reasons: (1) to result in more property being reunited with owners (both directly by holders as well as by the state), and (2) to increase a source of state revenue.

They found that the threat of a potential audit is an important incentive for businesses to comply with unclaimed property law. That said, while there are benefits to auditing holders—and the General Fund benefit of the audits exceeds the cost of conducting them—there also are clear limitations. Namely, the scale of audits cannot address the vast holder under-compliance rate. With only a couple of dozen audits conducted each year, SCO cannot change the behavior of the hundreds of thousands of California businesses that are not complying with unclaimed property law. As such, this approach is unlikely to result in much additional compliance relative to current trends. The LAO presents the following options:

1. **Include an Unclaimed Property Question on Businesses' Tax Forms.** Most California businesses file income tax returns with the Franchise Tax Board (FTB) each year. Under one option, the Legislature could amend tax law to require businesses to respond to a question about unclaimed property as part of their tax filings. This addition to tax forms could be relatively simple with a single question. For example, the tax form could ask: "Did your business submit a holder notice report to the California State Controller's Office last year?" and indicate that the business could be out of compliance with existing law if it responds "no." Alternatively, the tax form could include a few different questions that ask about different property types and length of time since owner contact. The adoption of this question in tax software would be critical to its effectiveness in improving compliance because so many businesses file their taxes electronically.

2. **Provide a One-Time Amnesty for Noncompliant Holders.** Another option is to provide a one-time amnesty for holders who voluntarily report past-due unclaimed property. Under current law, these holders owe an interest penalty of 12 percent per year for past-due unclaimed property. This may deter some holders from becoming fully compliant, particularly because the probability of being audited is relatively low. The Legislature could temporarily waive this penalty for a certain period for holders who voluntarily report past-due unclaimed property.

**Staff Recommendation.** Hold open.

**Issue 8: Prompt Payment Act Trailer Bill Language**

**Governor's Budget.** The Governor's budget includes trailer bill language to make the Department of FI$Cal responsible for applicable penalties if the FI$Cal system delays the delivery of a correct claim from a state agency to the Controller.

**Background.** The Administration is proposing changes to existing language within the Prompt Payment Act in order to align it with the state's new business processes as a result of the deployment of the FI$Cal system. The proposed changes would change the wording from "claim schedule" to "claim" to allow for the inclusion of FI$Cal vouchers and paper claims. For FI$Cal departments, individual payment vouchers are submitted in the system and workflow to claim audits. The claim schedule process has not gone away and will not until full implementation of the FI$Cal system. Even after full implementation, there are a number of exempt and deferred departments that will continue to send claim schedules for payment through either the manual "paper" or electronic claims process. Additionally, Departments have the option to submit a paper claim in the event the FI$Cal system is not processing their claim timely.

This trailer bill also proposes to add GC 927.7(b) because SCO is no longer the sole entity (outside of departments) responsible for ensuring a claim is paid timely. With the implementation of the FI$Cal system, the Department of FI$Cal now becomes a responsible party. SCO is seeking this code modification sooner rather than later because of recent system caused delays in the processing of FI$Cal claims that both the SCO and departments have experienced. At this time, they are not aware that the time allotment for issuing pay (30 days for departments and 15 days for SCO) has exceeded or been impacted, however should it occur the language will accurately reflect the entities that bear responsibility.

**Staff Recommendation.** Approve as budgeted.

## 1701 DEPARTMENT OF BUSINESS OVERSIGHT

**Overview.** The Department of Business Oversight (DBO) serves Californians by effectively overseeing financial service providers, enforcing laws and regulations, promoting fair and honest business practices, enhancing consumer awareness, and protecting consumers by preventing potential marketplace risks, fraud, and abuse. Following are the programs within DBO's budget:

- **Investment Program.** The objective of this program is to protect investors in securities and franchise investment transactions and to promote capital formation in California. The program regulates the offer and sale of certain securities, franchises, and licenses and examines broker-dealers and investment advisers.

- **Lender-Fiduciary Program.** The objective of this program is to protect consumers who borrow and enter into financial transactions with lenders and fiduciaries licensed by the Department. The program licenses and regulates businesses engaged in financial transactions such as mortgage loan originators, finance lenders, escrow agents, deferred deposit originators, bill payers, proraters, securities depositories, and property assessed clean energy programs.

- **Licensing and Supervision of Banks and Trust Companies.** The objective of this program is to promote the integrity and stability of state-licensed banks and trust companies, student loan servicing, state-licensed business and industrial development corporations, and state-licensed industrial banks and premium finance companies. This objective is achieved through the regulation, supervision and examination of these institutions, which helps to ensure their safe and sound operation and compliance with laws and regulations.

- **Money Transmitters.** The objective of this program is to promote the integrity and stability of businesses that receive money for transmission, and sell or issue payment instruments and stored value. This objective is achieved through the regulation, supervision and examination of these institutions, which helps to ensure their safe and sound operation and compliance with laws and regulations.

- **Administration of Local Agency Security.** The objective of this program is to monitor the amount and quality of collateral pledged in compliance with law to secure deposits of public funds held by banks, savings and loans, industrial banks, credit unions, and federally chartered financial institutions.

- **Credit Unions.** The objective of this program is to promote the integrity and stability of state licensed credit unions. This objective is achieved through the regulation, supervision and examination of these institutions, which helps to ensure their safe and sound operation and compliance with laws and regulations.

**Budget.** The Governor's budget includes $103.5 million to support the Department and its various programs. Major sources of funding for the Department include the State Corporations Fund ($58 million), the Financial Institutions Fund ($32.6 million), and the Credit Union Fund ($10.9 million). The following chart from the Governor's budget displays prior year, current year, and budget year positions and expenditures.

**3-YEAR EXPENDITURES AND POSITIONS**

| | | Positions | | | Expenditures | | |
|---|---|---|---|---|---|---|---|
| | | 2017-18 | 2018-19 | 2019-20 | 2017-18* | 2018-19* | 2019-20* |
| 1510 | Investment Program | 165.7 | 178.3 | 179.3 | $27,614 | $32,337 | $32,295 |
| 1515 | Lender-Fiduciary Program | 143.0 | 134.7 | 143.7 | 23,595 | 24,235 | 25,792 |
| 1520 | Licensing and Supervision of Banks and Trust Companies | 169.7 | 171.0 | 171.0 | 27,047 | 28,966 | 28,207 |
| 1525 | Money Transmitters | 32.6 | 31.3 | 31.3 | 4,282 | 4,552 | 5,307 |
| 1545 | Administration of Local Agency Security | 2.0 | 1.8 | 1.8 | 480 | 581 | 582 |
| 1550 | Credit Unions | 67.4 | 67.9 | 67.9 | 10,158 | 11,285 | 11,299 |
| TOTALS, POSITIONS AND EXPENDITURES (All Programs) | | 580.4 | 585.0 | 595.0 | $93,176 | $101,956 | $103,482 |

## Issue 9: Pilot Program for Increased Access to Responsible Small Dollar Loans (AB 237)

**Governor's Budget.** The Governor's budget requests $340,000 State Corporations Fund in 2019-20 and $320,000 ongoing for two Corporation Examiner positions to examine registered Pilot Program finders at least once every 24 months as required by AB 237 (Gonzalez-Fletcher), Chapter 1016, Statues of 2018.

**Background.** In 2009, almost 12 million short-term loans were made under the California Deferred Deposit Transaction Law (California's payday loan law). During that same period, only 167,265 loans were made under $2,500 under the California Financing Law (CFL). This information suggested a demand for small dollar loans that was not being met under the CFL. This data also showed that consumers were taking out multiple payday transactions and taking out an average of over eight transactions in a twelve-month period.

In 2010, to address California's shortage of affordable loans, the Legislature first established a pilot program named the Pilot Program for Affordable Credit Building Opportunities. CFL lenders approved by the Commissioner to participate in the Pilot Program were authorized to charge higher interest rates and fees on loans from $300 to $2,500.

Pilot Program lenders are authorized to use "finders." Finders as defined in statute are unlicensed companies authorized to act on the Pilot Program lenders' behalf. Under the CFL, these finders are required to be licensed as finance brokers. However, licensure is not required for Pilot Program finders. Therefore, under the Pilot Program, the Department only licenses the Pilot Program lender and not the finder.

SB 318 (Hill), Chapter 467, Statutes of 2013, replaced the original Pilot Program (the Pilot Program for Affordable Credit Building Opportunities) with the Pilot Program for Increased Access to Responsible Small Dollar Loans, which is the Pilot Program under current law. The Pilot Program's purpose is the same as the original Pilot Program - to increase consumer access to small-dollar loans. The Pilot Program retained several aspects of the original Pilot Program, including the use of unlicensed finders. The sunset date of the Pilot Program was extended to January 1, 2018.

SB 235 (Block), Chapter 505, Statutes of 2015, was enacted to expand the activities in which Pilot Program finders could engage on behalf of the Pilot Program lenders and increased the amount Pilot Program lenders could pay the finders.

SB 984 (Hueso), Chapter 480, Statutes of 2016, extended the sunset date of the Pilot Program to January 1, 2023, which is the current sunset date of the Pilot Program. This bill also required the Commissioner to post to the Department website a composite report annually from 2017 to 2021.

Finally, AB 237 expanded the Pilot Program and made changes to the Department's administration of the program. Specifically, the bill: 1) required the Department to examine each finder used by a Pilot Program licensee at least once every 24 months, 2) authorized the Department to charge a Pilot Program licensee that uses one or more finders a fee to offset the costs of finder examinations, 3) increased Pilot Program licensees' reporting requirements to include specific information on each finder whose services were used, 4) increased the maximum permissible loan amount from $2,500 to $7,500 and established a debt-to income cap of 36 percent of the borrower's monthly income for a loan greater than $2,500, 5) required Pilot Program licensees to perform reasonable background checks on their finders, and 6) required Pilot Program licensees to reduce the interest rate on loans made to borrowers who obtain subsequent loans and meet certain requirements.

**Staff Recommendation.** Approve as budgeted.

## Issue 10: California Financing Law License Amendment Processing

**Governor's Budget.** The Governor's budget requests $330,000 from the State Corporation Fund in 2019-20 and $311,000 ongoing for one Corporation Examiner and one Associate Government Program Analyst position to process California Financing Law (CFL) license amendments.

**Background.** The Department is responsible for the administration of the CFL, which is contained in Division 9 of the California Financial Code, commencing with Section 22000. The CFL requires licensing and regulation of finance lenders and brokers making and brokering consumer and commercial loans, except as specified. The CFL prohibits misrepresentations, fraudulent and deceptive acts in making and brokering loans.

CFL licensees include companies that make installment loans to consumers and to borrowers who need funds quickly for emergencies; non-profit organizations that offer loans at reasonable rates to borrowers to open their own businesses or repair their credit; individuals who act as brokers; and companies seeking licenses under the Property Assessed Clean Energy program.

As of June 30, 2017, there were 2,963 licensed companies operating 6,521 licensed locations. During 2017, CFL licensees reported making over 2.4 million consumer and commercial loans totaling approximately $194 billion.

The CFL requires licensees to file notifications with the Department when they want to amend a license. License amendment notifications are required to change addresses, names, officers, directors,' branch managers, authority, and surrenders. An amended license must be issued to verify that the licensee is authorized to do business at a new location or in a manner that it was not originally licensed for. Delays in processing these requests affect the licensee's ability to conduct business in the manner they feel is most advantageous to their business.

Processing name changes timely is important to borrowers as well as lenders. Lenders may not make a loan involving a broker using an unauthorized name, which can delay the closing of the loan or cause the broker to be in violation for using an unapproved name. Delays in processing address changes can result in companies having their licenses revoked because mail from the Department is sent using an old address and the license is revoked for lack of response. Actions that were initiated with non-current information must be reversed. Reversals result in additional work for the Department.

Approved amendments, including name and address changes, are updated on the Department's website. Borrowers and others use the Department's website to confirm licensee information and to confirm the company they are contracting with is properly licensed. The Department and other interested parties, such as consumers and consumer advocates, need to know where and how CFL licensees are operating. The CFL Amendments Section of the Department is responsible for processing license amendments and reinstatement requests. Currently, the Section consists of three staff: one Corporation Examiner IV and two Corporation Examiners. From 2014-15 to 2015-16, the number of licensees increased by 22 percent, from 2,357 to 2,879; and the number of locations increased by 19 percent, from 5,318 to 6,328. The sudden steep increase in CFL licensees within one year resulted in a significant backlog in the amendments processing unit. The Section did not track the number of amendments processed by year until 2017-18. The backlog of amendments to be processed as of June 21, 2018 was 616.

**Staff Recommendation.** Approve as budgeted.

## Issue 11: California Residential Mortgage Lending Act – Examination Cycle

**Governor's Budget.** The Governor's budget requests $854,000 from the State Corporations Fund in 2019-20 and $804,000 ongoing for five Corporation Examiner positions to carry out the regulatory requirement to examine California Residential Mortgage Lending Act (CRMLA) licensees and California Financing Law (CFL) licensees that conduct residential mortgage activities.

**Background.** The economy experienced a serious downturn between 2008 and 2012. The real estate industry was hit especially hard. The residential housing market experienced significant reductions in market value and consumers were faced with mortgages exceeding the value of their homes, difficulties in maintaining mortgage payments necessary to keep their homes, and often the inability to modify, refinance, or even sell their homes.

The economic downturn and the increased number of foreclosures motivated federal and state legislators to issue new federal and state laws and regulations to strengthen protections afforded homeowners in California and the nation. The Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act was enacted on July 30, 2008 and established minimum standards for individual states to license and register residential mortgage loan originators. The federal Consumer Financial Protection

Bureau issued the Ability to Repay and Qualified Mortgage Standards regulation to strengthen the Truth in Lending Act by prohibiting a creditor from making a higher-priced mortgage loan without regard to the consumer's ability to repay the loan. The California Homeowner Bill of Rights became law on January 1, 2013 to ensure fair lending and borrowing practices for California homeowners. The Due Process and California Foreclosure Reduction Act became law on January 1, 2013 to protect California homeowners from inadvertent foreclosure while applying for a loan modification.

The CRMLA authorizes licensees to make and service residential mortgage loans secured by properties with one to four family residences. The Department issues licenses under the CRMLA to companies that meet the requirement to be a residential mortgage lender, mortgage loan servicer or both.

A lender directly makes the loan, makes the credit decision in the loan transaction and uses its own funds, including warehouse lines of credit, to fund the loan. A mortgage loan servicer collects mortgage loan payments from borrowers. Mortgage payments include principal, interest and amounts placed in escrow for payment of property taxes, hazard insurance, mortgage insurance premium and other expenses.

As stated in California Financial Code Section 50302 (a), the CRMLA requires the Department to examine each CRMLA licensee at least once every 48 months, or more often as the commissioner deems necessary and appropriate. The Department currently has 418 licensees that must be examined at least once every four years. Licensees with a history of noncompliance with the CRMLA may be examined more often.

The Department also regulates residential mortgage lenders and servicers under the CFL. Under California Financial Code Division 9, Section 22701 (a) regulating CFL licensees, the commissioner may at any time examine a CFL licensee to discover violations or secure information to administer and enforce the division. To maintain Department accreditation with the Conference of State Bank Supervisors, Department standards require the examination of each CFL licensee conducting mortgage activities at least once every 60 months.

**Staff Recommendation.** Approve as budgeted.

***Senate Budget and Fiscal Review—Holly J. Mitchell, Chair***

# SUBCOMMITTEE NO. 4 Agenda

**Senator Maria Elena Durazo**
**Senator Jim Nielsen**
**Senator Thomas J. Umberg**

**Thursday, March 28, 2019**
**9:30 a.m. or upon adjournment of session**
**State Capitol - Room 2040**

Consultants: Anita Lee and Yong Salas

## ITEMS PROPOSED FOR VOTE ONLY

*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.*

## ITEMS PROPOSED FOR VOTE ONLY

## 0855 GAMBLING CONTROL COMMISSION

### Issue 1: Tribal Nation Grant Fund Program (AB 880)

**Governor's Budget.** The California Gambling Control Commission requests $237,000 Indian Gaming Special Distribution Fund (SDF) and one position to support the implementation of AB 880 (Gray), Chapter 801, Statutes of 2018. The Commission also requests provisional language that (1) provides the authority to transfer excess revenues from the Revenue Sharing Trust Fund (RSTF) to the Tribal Nation Grant Fund (TNGF), and (2) provides $39.3 million TNGF to provide grants to eligible tribes, as required by legislation.

**Background.** The TNGF was created in the 2012 Compact with the Federated Indians of Graton Rancheria and included in subsequent Compacts and the Secretarial Procedures. The Compacts established the TNGF as a fund to make discretionary distribution of funds to Non-Gaming Tribes and Limited-Gaming Tribes upon application of such tribes for purposes related to "effective self-governance, self-determined community, and economic development."

The SDF receives tribal revenues, which is used for gambling addiction programs, support of local and state entities impacted by tribal government gaming, including the Commission. The RSTF receives revenues from gaming device license fees and distributes these revenues to non-gaming tribes. Recent compacts require tribes to make payments to the Commission for deposit into the RSTF or TNGF, and these payments vary by compact. AB 880 requires that costs related to the implementation of the Compacts be paid out of the SDF, and explicitly prohibits these costs to be funded by the RSTF or the TNGF. Additionally, AB 880 established a nine-member panel to consider applications requesting grant awards from the TNGF.

**Staff Recommendation.** Approve as budgeted.

## 7910 OFFICE OF ADMINISTRATIVE LAW

### Issue 2: Staffing Augmentation

**Governor's Budget.** The Office of Administrative Law (OAL) requests ongoing $109,000 General Fund and one position to address increased workload related to a greater number of Public Records Act requests, legislative review, and regulatory packages.

**Background.** OAL was created to provide an important function to the public and the state by protecting the public's rights under the Administrative Procedure Act (APA) and reducing the state's exposure to potential litigation for state agencies enforcing illegal rules. Among its duties, OAL: (1) reviews over 700 filings submitted by more than 200 state agencies proposed administrative regulations for compliance with the APA; (2) publishes, maintains, and posts the California Code of Regulations; and (3) reviews allegations of state agencies using "underground regulations." OAL is also responsible for researching, reviewing, analyzing, monitoring and reporting on proposed legislation to the Government Operations Agency of any impact or potential impact on the APA.

Since 2015-2016, the number of hours staff spent to respond to Public Records Act requests have increased by 230 percent, with some being complex and related to sensitive matters, such as lethal injections of inmates and assault weapons. The proposed position will coordinate the Public Records Act requests, in addition to assisting with the coordination of the legislative workload of the office.

**Staff Recommendation.** Approve as budgeted.

## 8885 COMMISSION ON STATE MANDATES

### Issue 3: Administrative Staff Augmentation

**Governor's Budget.** The Commission on State Mandates (CSM) requests ongoing $53,000 General Fund and half of a position to meet human resources requirements, as well as personal services contracting and new procurement requirements under FI$Cal.

**Background.** CSM is the agency responsible to make mandate determinations and then estimate the costs of mandated programs. It has contracted with the Department of General Services' Contracted Fiscal Services for its accounting and budgeting services. However, the implementation of FI$Cal and a compliance audit conducted by the State Personnel Board showed that CSM required multiple roles that provided a separation of functions for its procurement for items such as office supplies. Due to the small staff size of CSM, the Chief Counsel has taken on a procurement role. Additionally, the California Department of Human Resources required agencies to appoint Human Resource Liaisons to serve as program-related personnel activities and must also undergo various trainings and roles. CSM states that the Assistant Executive Director, who is also the HR officer, has taken on this role and the required trainings has impacted the workload related the mandate determination process.

The proposed position would take on procurement and human resources duties and alleviate the workload for the existing staff who have undertaken these additional responsibilities.

**Staff Recommendation.** Approve as budgeted.

## 8850 STATE PUBLIC WORKS BOARD

### Issue 4: Technical Clean-Up – Baby Diaper Changing Stations

**Governor's Budget.** The Administration requests trailer bill language that will provide technical clean up for a drafting error in legislation requiring state-owned buildings to provide baby diaper changing stations.

**Background.** Section 15805 of the Government Code added by AB 1127 (Calderon and E. Garcia), Chapter 755, Statutes of 2017, requires certain state-owned public buildings financed with lease revenue bonds issued by the State Public Works Board that include at least one public restroom, to provide baby diaper changing stations. This requirement applies to public building construction and renovation projects with estimated costs of $10,000 or more in these state-owned public buildings, unless an exemption is granted by a local building permitting entity or building inspector.

This proposal corrects a drafting error in Section 15805 that made these state-owned public buildings subject to local government oversight for the installation or exemption of the baby diaper changing station requirements. Under the California Constitution, the state is sovereign and state facilities are not subject to local governmental permit or oversight requirements. This proposal would have the State Public Works Board as the entity providing the necessary oversight.

**Staff Recommendation.** Approve as budgeted.

## 7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

The Employment Development Department (EDD) connects employers with job seekers, administers the Unemployment Insurance, Disability Insurance, and Paid Family Leave programs, and provides employment and training programs under the federal Workforce Innovation and Opportunity Act. Additionally, EDD collects various employment payroll taxes, including the personal income tax, and collects and provides comprehensive economic, occupational, and socio-demographic labor market information concerning California's workforce.

### Issue 5: Information Security Enforcement Team

**Governor's Budget Proposal.** EDD requests $1.99 million ($996,000 in Contingent Fund and $996,000 in Disability Insurance Fund) and five positions in 2019, and $882,000 ($441,000 in Contingent Fund and $441,000 in Disability Insurance Fund) and five positions in 2020-21 and ongoing to establish a new Information Security Enforcement Team (ISET). The request for 2019-20 includes operating expenses for a one-time consulting contract and equipment purchases. The 2020-21 and ongoing request includes equipment maintenance costs. These resources will accommodate workload growth within the critical functions of information security, including detection and remediation of system security issues, infrastructure improvements, and improved compliance with current state and federal security standards.

Additionally, the Administration proposes provisional budget bill language to augment the unemployment compensation disability fund and the EDD Contingent Fund by up to $1 million each one-time, above the budget change proposal, for necessary security-related software in 2019-20.

**Staff Recommendation.** Approve and adopt modified budget bill language to require notification to the Joint Legislative Budget Committee should the Department of Finance approved increase fund authority on the unemployment compensation disability fund and EDD Contingent Fund.

### Issue 6: Deferred Maintenance

**Governor's Budget Proposal.** EDD requests $2 million General Fund one-time to address deferred maintenance needs at EDD's Modesto and Merced facilities. Specifically, funds will be used in the construction phase of replacing the heating, ventilation and air conditioning (HVAC) systems at both facilities, and the fire alarm system at the Merced facility. At Merced, a study conducted by the Department of General Services (DGS) found that the facility's HVAC system is past its equipment service life, and can no longer be maintained or serviced. For the Merced facility, DGS is currently preparing the study with recommendation for replacement of the HVAC and fire alarm systems, and will begin working drawings upon completion of the study.

In addition to the two facilities above, EDD has identified four other EDD owned facilities with deferred maintenance needs. These facilities are not funded by the Governor's budget. Specifically, the Eureka facility requires $1.27 million to replace HVAC, San Bernardino requires seismic bracing and repair to the Americans with Disabilities Act (ADA) pathways for $1.9 million, El Centro's parking lot requires ADA corrections and geotechnical work to address the sinking foundation for $1.7 million and Pasadena requires seismic bracing and repair for ADA pathways for $1.5 million. The subcommittee may wish to ask the rational for prioritizing the Modesto and Merced facilities.
**Staff Recommendation.** **Approve as budgeted.**

## 7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD

The California Workforce Development Board (CWDB) collaborates with both state and local partners to establish and continuously improve the state workforce system, with an emphasis on California's economic vitality and growth. CWDB also provides leadership for a unified state plan that works in partnership with other state entities such as the Health and Human Services Agency, the Departments of Social Services and Rehabilitation, the Community Colleges, and the Department of Education. The workforce system is comprised of state and local programs and services that prepare current and future workers to meet the ever-evolving demands of California's businesses and industries. These services include matching job seekers with career opportunities and jobs; supplying high-skill workers to business and industry; providing labor market and economic information necessary for state, local, and regional planning; preparing the neediest youth for advanced learning and careers; and encouraging the inclusion of special populations as critical elements of the workforce

### Issue 7: AB 2915 (Caballero), Chapter 722, Statutes of 2018

**Background**

AB 2915 requires CWDB to develop, in conjunction with the Employment Development Department and with input from local workforce development boards, a policy regarding mutual aid agreements between local boards to enable them to effectively respond to disasters.

**Governor's Budget Proposal**

The CWDB requests 0.6 positions and $62,000 General Fund in 2019-20 and 2020-21 to develop a policy regarding mutual aid agreements among Local Workforce Development Boards to enable them to effectively respond to disasters.

This cost estimate is consistent with the Assembly Appropriations Committee Analysis.

**Staff Recommendation. Approve as proposed.**

## 7300 AGRICULTURAL LABOR RELATIONS BOARD

The Agricultural Labor Relations Board (ALRB) is responsible for: (1) carrying out the policy of the state to encourage and protect the associational rights of agricultural employees; (2) conducting secret ballot elections so that farm workers in the state may decide whether to have a union represent them in collective bargaining with their employer; and (3) investigating, prosecuting, and adjudicating unfair labor practice disputes.

### Issue 8: Assembly Bill 2751 (Stone), Chapter 718, Statutes of 2018

**Background**

AB 2751 (Stone), Chapter 718, Statutes of 2018, required ALRB to process findings of liability for monetary amounts due to final order within one year. This significantly shortens the timeline for staff to complete this detailed and time-consuming process, and the timeline required by AB 2751 cannot be met with existing staff.

**Governor's Budget Proposal**

ALRB requests $245,000 General Fund and two Field Examiner II positions to work exclusively on all tasks necessary to complete award calculations to meet the requirements of AB 2751.

This is cost estimate is consistent with the Assembly Appropriations Committee analysis.

**Staff Recommendation. Approve as proposed.**

## 7350 Department of Industrial Relations

The Department of Industrial Relations (DIR) protects the workforce in California, improves working conditions, and advances opportunities for profitable employment. DIR is responsible for enforcing workers' compensation insurance laws, adjudicating workers' compensation claims, and working to prevent industrial injuries and deaths. DIR also promulgates regulations and enforces laws relating to wages, hours, and conditions of employment, promotes apprenticeship and other on-the-job training, and analyzes and disseminates statistics which measure the condition of labor in the state.

### Issue 9: Apprenticeship Standards Federal Grant Funds Extension

**Governor's Budget Proposal**

DIR requests five positions and $859,000 in Federal Trust Fund authority for 2019-20. Funding provided by the federal Apprenticeship USA State Expansion Grant will enable DIR's Division of Apprenticeship Standards to expand its outreach activities to targeted nontraditional industries, while promoting increased apprenticeship opportunities to new and underrepresented demographics such as women, veterans, people with disabilities, disconnected youth and people of color. This is the second round of federal grant funding. The continued support will also enable the division to address additional priorities including: implementing a regional approach when engaging high-demand industry employers, providing internal staff training to effectively work with these same employers, establishing pipelines to connect youth with pre-apprenticeship or apprenticeship programs, and developing funding opportunities to expand apprenticeship into state civil service.

**Staff Recommendation. Approve as proposed.**

**Issue 10: Permanent Authority for Limited-Term Positions**

**Governor's Budget Proposal.** DIR requests 10 positions and $1.6 million ongoing from the Labor Enforcement and Compliance Fund to provide permanent authority for proposals approved only for a limited-term basis in prior fiscal years. In addition to ongoing support for these positions, this proposal also requests six positions and $817,000 for a two-year limited-term from the Labor and Workforce Development Fund to further educate awarding bodies and contractors of their requirements under public works law to maximize compliance with registration requirements. Specifically, this proposal extends positions associated with the following:

- Senate Bill 588 (de León), Chapter 803, Statutes of 2015. This bill allowed the Labor Commissioner to file a lien or levy on an employer's property in order to assist the employee in collecting unpaid wages when there is a judgment against the employer. The budget change proposal (BCP) requests four positions and $768,000 ongoing from the Labor Enforcement and Compliance Fund to make permanent positions previously authorized on a limited-term basis.

- Senate Bill 1001 (Mitchell), Chapter 782, Statutes of 2016. This bill prohibited an employer from requesting more or different employment authorization documents than are required under federal law, refusing to honor documents tendered, refusing to honor documents or work authorization based upon the specific status or the term of status accompanying the authorization, or reinvestigating or reverifying an incumbent employee's authorization to work. Violation of these provisions could result in a civil penalty of not more than $10,000 imposed by the Labor Commissioner. The BCP requests three positions and $461,000 ongoing from the Labor Enforcement and Compliance Fund to make permanent positions previously authorized on a limited-term basis.

- Senate Bill 1063 (Hall), Chapter 866, Statutes of 2016. This bill amended the Equal Pay Act to prohibit employers from paying employees a wage rate less than the rate paid to employees of a different race or ethnicity for substantially similar work. The BCP requests three positions and $390,000 ongoing from the Labor Enforcement and Compliance Fund to make permanent positions previously authorized on a limited-term basis

- Assembly Bill 97 (Committee on Budget) Chapter 14, Statutes of 2017. Extended Support for Public Works Education. The 2017 Budget Act provided six positions on a limited-term basis to provide outreach and education to public works awarding bodies on benefits of the existing pre-qualification guidelines and how to better manage their responsibilities on public works projects. Educating and engaging awarding bodies and providing them with a strong tool to weed out unscrupulous contractors allows the unit to work as partners on the offensive to prevent labor law violations, including non-registration. The BCP requests an extension of the six limited-term positions for an additional two-years and an associated $817,000 from the Labor and Workforce Development Fund.

These costs are consistent with the Senate Appropriations Committee analyses on these proposals.

**Staff Recommendation. Approve as proposed.**

**Issue 11: Implementation of Various Legislation**

**Governor's Proposal**

DIR requests 15.5 positions and $3.1 million in 2019-20 and $2.7 million ongoing to fulfill the provisions of recently chaptered legislation:

- Assembly Bill 2358 (Carrillo), Chapter 675, Statues of 2018. This bill prohibited discrimination in any building and construction trades apprenticeship program on the basis of certain enumerated categories with regards to acceptance into or participation in the program as specified. The BCP requests one position and $161,000 for 2019-20 and $148,000 in 2020-21 and ongoing to provide resources for the Division of Apprenticeship Standards to implement this bill.

- Assembly Bill 3018 (Low), Chapter 882, Statutes of 2018. This bill increased public agency reporting requirements, creating penalties for noncompliance, and providing the Labor Commissioner with the authority to issue a civil wage and penalty assessment against a contractor or subcontractor found in violation of state law. The BCP requests 4.5 positions and $813,000 in 2019-20 and $743,000 ongoing from the Apprenticeship Training Contribution Fund to implement AB 3018.

- Senate Bill 1402 (Lara), Chapter 702, Statutes of 2018. This bill required DIR to post on its website the name and other essential information, regarding any port drayage meter carrier with an unsatisfied judgment finding that the meter carrier failed to fulfill its wage, payroll tax or workers' compensation obligations, or misclassified its employees as independent contractors. DIR is required to remove these postings within 15 business days after the division determines that there has been full payment, or an approved settlement, of the unsatisfied judgment. DIR requests 10 positions and $2.1 million in 2019-20 and $1.8 million ongoing from the Labor Enforcement and Compliance Fund.

These costs are consistent with the Senate and Assembly Appropriations Committee analyses.

**Staff Recommendation. Approve as proposed.**

## 7501 CALIFORNIA DEPARTMENT OF HUMAN RESOURCES

The Department of Human Resources (CalHR) is responsible for managing the state's personnel functions and represents the Governor as the "employer" in all matters concerning state employer-employee relations. CalHR is responsible for issues related to recruitment, selection, salaries, benefits, and position classification, as well as provides a variety of training and consultation services to state departments and local agencies. CalHR's main objectives are to:

- Manage examinations, salaries, benefits, position classification, training, and all other aspects of state employment other than those areas assigned to the State Personnel Board under the civil service provisions of Article VII of the California Constitution.
- Represent the Governor in collective bargaining with unions representing rank and file state employees.
- Set salaries and benefits for employees excluded from collective bargaining and employees exempted from civil service.
- Serve as the sole fiduciary and administrative body for the Savings Plus Program (defined contribution program for full-time and part-time state employees).
- Provide legal representation to state agencies for appeals of disciplinary actions and labor relations matters.
- Hold ex-officio membership to the 13-member Board of Administration of the California Public Employees' Retirement System.

### Issue 12: Statewide Human Resources Workload

**Governor's Proposal**

CalHR requests eight positions and $1.26 million ($603,000 General Fund, $312,000 Central Service Cost Recovery Fund, and $352,000 Reimbursements) for fiscal year 2019-20 and $1.19 million ($569,000 General Fund and $294,000 Central Service Cost Recovery Fund, and $332,000 Reimbursements) in 2020-21 and ongoing for the following:

- Selection Division and Information Technology Division Limited Examination and Appointment Program (LEAP) - $452,000 ($59,000 General Fund, $352,000 Reimbursements, $41,000 Central Service Cost Recovery Fund) for two Staff Personnel Program Analysts and one Information Technology Specialist I.

  The Staff Personnel Program Analysts will serve as consultants over all service-wide LEAP assessments for civil service classifications and will develop online, continuous filing, and open service wide examinations to maximize the availability of LEAP assessments. These positions will review the service-wide classification specifications to determine the minimum qualifications logic for the LEAP assessments, which will be provided to the Information Technology Division for programming.

  The Information Technology Specialist I will program the online continuous filing, open service-wide assessments in compliance with existing departmental standards. This position will conduct quality assurance testing to safeguard that the new online assessments are functioning correctly and make any necessary modifications.

Currently, nine out of the 250 online, service-wide classification are streamlined for LEAP assessments. These LEAP online assessments are for staff services analyst, office assistant typing, office assistant general, program technician, attorney, accountant trainee, custodian, office technician general, and office technician typing. The goal of the BCP is to develop and deploy 40 new LEAP assessments per year; as a result, it will take approximately six years to complete 250 online exams. The goal is to go beyond the current 250 exams, and make more civil service classifications LEAP eligible. There are currently 2,800 civil service classifications.

- Workforce Development Division Workforce Planning - $321,000 ($183,000 General Fund, $138,000 Central Service Cost Recovery) for one Staff Services Manager (SSM) II and one Research Data Specialist II.

  Through these positions CalHR will be able to produce annual statewide workforce and succession plans, conduct a deeper analysis of available workforce data to support statewide recruitment, organizational development, and training functions, provide constructive feedback and consultative services to organizations. Currently, 52 out of the 121 departments, agencies, and commissions have workforce plans, and 38 have succession plans. This proposal will also help CalHR review all plans against the Workforce and Succession Plan Requirements Policy.

- Statewide Recruitment - $161,000 ($92,000 General Fund, $69,000 Central Service Cost Recovery) to support one SSM II.

  The position will allow CalHR to empower departments to implement focused recruitment strategies, adopt a model to conduct both examination assessments and hiring interviews at career events, develop strategies to better compete for candidates in hard-to-recruit classifications, and leverage social media to market examination and job opportunities. It will also allow for the development of methodologies to strategically measure the effectiveness of recruitment efforts with the goal of continual improvement and efficient allocation of resources.

- Personnel Management Division Leadership Performance and Career Development - $149,000 ($85,000 General Fund, $64,000 Central Service Cost Recovery) to support one Personnel Program Advisor.

  CalHR has standard forms for supervisors and managers to use in the performance evaluation process, however most do not use them. Only 30 percent of departments complete probation reviews, which violates Government Code Section 19992.11. The survey also found that only one percent of merit salary adjustments are denied. The position would allow CalHR to establish and lead statewide performance for supervisors and managers and career development for rank-and-file to management. Specifically, the position will help create streamlined, competency-based leadership and rank-and-file evaluation processes.

- Human Resources Management Office of Digital Innovation Human Resources Management - $184,000 General Fund to support one Personnel Program Manager II.

  In addition to its own human resources functions, CalHR manages the human resources functions for various departments including GovOps. Currently, GovOps has roughly 20 permanent positions; however, adding the Office of Digital Innovation more than triples GovOps to almost 70 ongoing permanent positions. To meet the additional workload, CalHR is requesting a

Personnel Program Manager II (PPM II), which provides the high-level oversight necessary to manage the complex and challenging human resources workload generated from an office of 50 civil service employees. This position will manage the onboarding of 50 employees, ongoing position control, discipline, grievances, pay, leave, benefits, and other daily human resources tasks.

**Staff Comments**

The Legislature is currently reviewing the Governor’s proposal to create an Office of Digital Innovation. Given this, it may be premature to approve the human resources Personnel Program Manager II position.

**Staff Recommendation**

Approve all positions except for human resources Personnel Program Manager II position for the Office of Digital Innovation, which will be held open.

**Issue 13: Administrative Funding Realignment**

**Background**

**Reimbursable Programs.** CalHR operates eight reimbursable programs totaling $25 million, which are collected from applicable departments. Specifically, these programs are:

| Reimbursable Program | 2018-19 Budget Act (dollars in millions) |
|---|---|
| Office of Civil Rights (reimbursable July 1, 2019) | $0.5 |
| Selection Division | $5.8 |
| Merit System | $2.8 |
| Legal | $7.7 |
| Training | $5.4 |
| Psychological Screening | $1.9 |
| Medical Office | $0.5 |
| Substance Abuse Testing | $0.9 |

CalHR notes that it experiences delays in collecting reimbursements from departments, and as a result has experiences cash flow issues. For services in 2017-18, CalHR has an outstanding balance of $854,000 from departments. For services in 2016-17, CalHR has an outstanding balance of $60,000 from departments. As a result, CalHR has to take a general fund loan in order to cover costs. CalHR is authorized to request a loan amount up to 35 percent of it reimbursement authority. Since 2012, the loan amount has ranged from $4 million to $7.6 million, or 12 percent to 28 percent each year.

**Alternative Retirement Program.** SB 1105 (Committee on Budget and Fiscal Review), Chapter 214, Statute of 2004, created the Alternative Retirement Program (ARP) under Deferred Compensation. SB 1105 specifies that specified state employees shall not make contributions to CalPERS or receive credit for their service for the first 24 months of their employment. The state shall not make contributions during that period. The bill required these employees, instead, to contribute five percent of their monthly compensation to an alternative retirement system, similar to a 401(k). AB 340 (Furutani), Chapter 296, Statues of 2012, closed ARP to new state employees hired on or after July 1, 2013. Senate Bill 1308 (Committee on Budget), Chapter 665, Statutes of 2012, made ARP inoperative effective January 2013.

**Governor's Proposal.** CalHR requests a reduction of $575,000 in reimbursement authority for the phase-out of the ARP.

CalHR also requests trailer bill language to provide direct transfer authority in 2019-20 and ongoing for services rendered by its various reimbursable programs. Specifically, the trailer bill will authorize direct transfer authority for the following reimbursable programs: office of civil rights, selection division, merit system, legal and training. The other programs would require regulatory changes and collective bargaining to authorize direct transfers. CalHR notes that the Department of General Services, Department of Justice, State Personnel Board and the Department of Technology has this type of authority.

**Staff Recommendation. Approve as proposed.**

**Issue 14: Statewide Medical and Psychological Screening Policy**

**Background**

The Medical Office at CalHR reviews medical evaluations of peace officer candidates in accordance with Peace Officer Standards and Training (POST) regulations and medical evaluations of non-peace officer candidates. The Medical Office determines whether candidates are able to perform the job without risk of safety to themselves or others, or if the candidate can perform the job with a reasonable accommodation. The Medical Office provides the hiring authority a recommendation on each candidate's medical suitability in accordance with the Americans with Disabilities Act (ADA) of 1990, as amended by the ADA Amendment Act of 2008 (ADAA), the California Fair Employment and Housing Act (FEHA) and POST guidelines, as applicable.

Under ADAA and FEHA, job candidates may only be subject to medical screening when required by law or regulation (e.g., peace officers, hospital workers) or when a business necessity requires medical screening. The ADAA and FEHA encompass a complex and evolving body of law and policy that requires employers to stay abreast of and update their medical review policies to ensure that their hiring process remains compliant with federal and state mandates.

The Psychological Screening Program conducts psychological screenings which are intended to identify those individuals who, because of mental/emotional conditions and/or maladaptive personality characteristics, are unable to perform peace officer duties in a safe and effective manner. Upon completion of the interviews, the contract psychologist is required to submit a written report to CalHR with a recommendation to either approve or disqualify the candidate for employment as a peace officer. Based on the oral interview and supporting documentation that is provided to CalHR, psychologists re-evaluate the information to provide the final decision to approve or withhold to the hiring department.

Existing medical review practices and policy guidance provided to state departments are insufficient to ensure consistent application of and compliance with ADAA, FEHA, and other rules governing the hiring process. This creates liability exposure for CalHR and state departments engaged in the hiring process.

In order to mitigate the state's broader liability exposure, the same practices and policies developed at CalHR need to be applied across hiring authorities statewide. This will require CalHR to: 1) develop and provide extensive guidance to hiring departments, 2) provide ongoing training and expert consultation, and 3) promulgate regulations to fully implement these policies.

**Governor’s Budget Proposal**

CalHR requests four permanent positions and $188,000 ($100,000 General Fund and $88,000 Reimbursements) for 2019-20, and $179,000 ($100,000 General Fund and $79,000 Reimbursements) for 2020-21 and ongoing for a new division that provides statewide consultation and direction on medical and psychological pre-employment screening. This proposal supports:

- Career Executive Appointment (CEA) A - (redirection only - no additional funding). CalHR will redirect a vacant CEA position from its Benefit Division to be Chief of the Fre-Employment Services Division. Since this position is being redirected from another reimbursable division, it will not require additional funding. This position will provide Executive Leadership over the Medical Office, the psychological Screening program, and the team providing program administrative support. This position will establish statewide policies regarding medical and psychological screening that ensure ongoing compliance with ADAA and FEHA mandates. This position will provide statewide leadership and facilitate consistent application of medical evaluation and screening policies across state departments

- Legal Contracts ($100,000 General Fund). This funding allows CalHR to contract for legal services to advise the Chief, and staff, of the Preemployment Services Division on matters involving the ADAA and FEHA. The contracted legal services will verify that external communication are in compliance with ADAA and FEHA mandates, will keep up-to-date with the evolving ADAA and FEHA developments, and provide legal advice to ensure that policies remain compliant with ADAA and FEHA mandates.

- Psychologist - two position authority (no additional funding). CalHR requests position authority for two positions (currently in the temporary help blanket). This transitions psychological screening workload from contracted psychologists to civil service staff. These positions perform pre-employment screening evaluations, including review of test data, interpretation of test results, review of background investigative reports, and writing reports.

- Staff Services Analyst – one position authority (no additional funding). This position (currently in the temporary help blanket) provides analytical support for the psychological screening program. Additionally, this position will analyze and interpret psychologists' action log notes to create pertinent treatment record request letters, and review psychological and medical records.

- Office Technician-Typing – one position ($88,000 Reimbursement). This positon is responsible for data entry of candidate information and candidate case file appointments. This position schedules interviews, provides quality control of candidates' psychological material prior to submission to psychologists, redacts and images electronic files, prepares cases for review, and prepares result letters and memoranda to candidates and department staff. This is a long-term solution to ensure consistent and proper application of ADAA and FEHA nondiscrimination mandates.

**Staff Recommendation. Approve as proposed.**

## 7503 STATE PERSONNEL BOARD

The five-member State Personnel Board (SPB), whose members are appointed by the Governor for ten-year terms, was established in the California Constitution in 1934. SPB is responsible for California's civil service system, ensuring it is free from political patronage and that employment decisions are based on merit. The SPB prescribes probationary periods and classifications, adopts other rules authorized by statute, sets merit related policy, reviews disciplinary actions as well as other merit oversight activities, and performs merit system audits to ensure departmental compliance.

### Issue 15: Compliance Review Unit

**Background**

The Compliance Review Unit (CRU) performs compliance reviews of appointing authorities' personnel practices in five areas: examinations, appointments, equal employment opportunity, personal services contracts, and mandated training. CRU also performs special investigations, and manages both SPB's and CalHR's compliance reviews. The purpose of these reviews is to ensure state agencies are in compliance with merit-related laws, rules, and policies and to share best practices identified during the reviews. CalHR's reviews are funded by the General Fund and CSCR, whereas SPB's reviews are funded by reimbursements. There are currently 23 staff in the compliance review division.

**Governor’s Budget Proposal**

The SPB requests a reduction of $1.59 million from reimbursements and an increase of $911,000 from the General Fund and $687,000 from the Central Services Cost Recovery (CSCR) Fund beginning in 2019-20 for the CRU.

This proposal eliminates the need to bill for and collect reimbursements from departments for compliance reviews and special investigations workload. Additionally, departments would no longer have to process payments to the SPB. Instead, funding for CRU would be assessed from departments and allotted directly to the SPB budget based on the Department of Finance's CSCR cost methodology. Funding SPB's compliance reviews through the General Fund and CSCR would be consistent with how CalHR's compliance reviews are funded.

**Staff Recommendation. Approve as proposed.**

## ITEMS PROPOSED FOR DISCUSSION

## 7920 CALIFORNIA STATE TEACHERS RETIREMENT SYSTEM

CalSTRS is governed by the Teachers' Retirement Board, which is composed of eight members and four ex-officio members. The California Constitution provides the Teachers' Retirement Board authority over the administration of the retirement system. CalSTRS provides pension benefits, including disability and survivor benefits, to California's full-time and part-time public school teachers from pre-kindergarten through community college and certain other employees of the public school system. As of June 30, 2018, there are approximately one million members, retirees, and beneficiaries of the State Teachers' Retirement Plan (STRP) Defined Benefit Program.

CalSTRS administers a defined benefit plan, two defined contribution plans, a post-employment benefit plan, and a fund used to account for ancillary activities associated with various deferred compensation plans and programs, including: (1) STRP, (2) CalSTRS Pension Program, (3) Teachers' Health Benefits Fund, and (4) Teachers' Deferred Compensation Fund.

CalSTRS does not provide health or dental insurance coverage as they are collectively bargained at the local school district level. Each district has its own policies. Existing law requires school districts, community colleges and county offices of education to offer retiring CalSTRS members and their spouses or registered domestic partners the opportunity to continue their medical and dental insurance at their own cost.

**CalSTRS Budgeted Expenditures and Positions**
(Dollars in Millions)

| | 2017-18 | 2018-19 | 2019-20 |
|---|---|---|---|
| Service to Members and Employers | $382.0 | $604.8 | $571.6 |
| Corporate Governance | $4.8 | $36.2 | $34.7 |
| Benefit Payments | $14,462.5 | $15,822.7 | $16,759.1 |
| Positions | 1,134 | 1,294 | 1,313 |

**Issue 16: Supplemental Pension Payment**

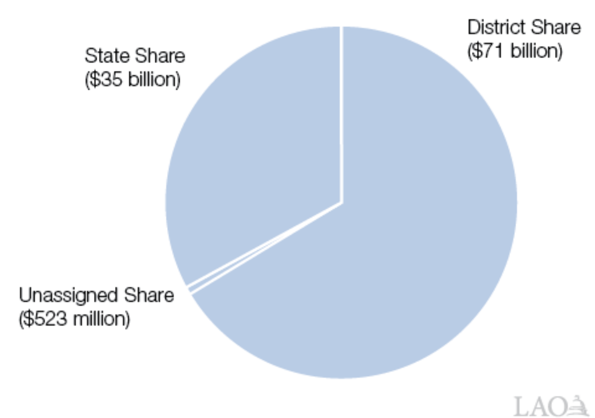
**Background**

Prior to 2014,CalSTRS faced a large unfunded liability with no plan in place to fund teachers pensions, and CalSTRS was expected to exhaust its assets in the mid-2040s. The state adopted a funding plan, described below, to fully fund the system by 2046. Currently, the overall unfunded liability for CalSTRS is $107.3 billion (of which the state's share is $35.3 billion). As of June 30, 2017, the funded status for CalSTRS was 64 percent meaning the retirement systems only have approximately two-thirds of the funds required to make pension payments to retirees.

Figure 2

State and District Share of CalSTRS Unfunded Liability

*As of June 2017*




**Assembly Bill 1469 (Bonta), Chapter 47, Statute of 2014, CalSTRS Funding Plan to Address Large Unfunded Liability.** AB 1469 was adopted as a part of the 2014-15 budget, which set CalSTRS on a path towards full funding by 2046. Specifically, the plan phased in contribution rate increases for the state, employers and employees. The plan gives the board limited authority to adjust the employer and state contribution rates.

- **District Contribution Rate.** AB 1469 set the district contribution rate through 2020-21, which increases the rate from 14.4 percent of salary in 2017-18 to 16.3 percent in 2018-19. This is an increase of 1.9 percentage points. By 2020-21, the district rate is set to reach 19.1 percent. After 2020-21, CalSTRS can increase or decrease the rate by up to one percentage point per year; however, existing law states that the total district rate cannot exceed 20.25 percent.

- **Employee Contribution Rate.** The Public Employees' Pension Reform Act (PEPRA) requires employees hired after January 1, 2013, to pay half of the normal cost of their pension benefits. Due primarily to the assumption of lower investment returns, CalSTRS' estimate of the normal cost has increased. As a result, the contribution rate for PEPRA employees is increasing from 9.2 percent in 2017-18 to 10.2 percent in 2018-19.

Absent future changes in the investment return and other assumptions, PEPRA employees' contribution rates will tend to remain more stable than the district and state rates. Compared to PEPRA employees, existing law specifies the rate for employees hired prior to January 1, 2013, to remain flat at 10.3 percent, rather than being tied to an estimate of normal cost.

- **State Contribution Rate.** The state's share of the unfunded liability has more than doubled in recent years, growing from $15 billion as of June 30, 2015 to over $35 billion as of June 30, 2017. Existing law limits the annual allowable increase in the state rate to 0.5 percentage point. The CalSTRS board approved a 0.5 percentage point increase in the state contribution rate for 2018-19, bringing the total state rate to 9.6 percent. Because of the rate adjustment limit in state law, CalSTRS projects that the state rate will continue increasing by 0.5 percentage point each year through 2023-24.

The Legislative Analyst's Office (LAO) chart below displays the projected CalSTRS contribution rates.

**CalSTRS Projected Contribution Rates**
**(As a Percentage of Payroll, May 2018 Projections)**

| Year | District[a] | State[b] | Employees (Pre-PEPRA)[c] | Employees (PEPRA)[d] |
|---|---|---|---|---|
| 2017-18 | 14.4% | 9.1% | 10.3% | 9.2% |
| 2018-19 | 16.3% | 9.6% | 10.3% | 10.2% |
| 2019-20 | 18.1% | 10.1 | 10.3% | 10.2% |
| 2020-21 | 19.1% | 10.6% | 10.3% | 10.2% |
| 2021-22 | 18.6% | 11.1% | 10.3% | 10.2% |
| 2022-23 | 18.1% | 11.6% | 10.3% | 10.2% |

[a] Reflects statutory rate through 2020-21 and CalSTRS' projections thereafter.
[b] Reflects actual rate through 2018-19 and CalSTRS' projections thereafter. State contribution rate is based on payroll from the second preceding year. For example, the 2018-19 rate is applied to actual 2016-17 payroll. Includes roughly 2.5 percentage points related to a program that protects retirees' pensions from the effects of inflation.
[c] Reflects fixed statutory contribution rate for employees hired before January 1, 2013.
[d] Reflects actual rate through 2018-19 and CalSTRS' projections thereafter.

**CalSTRS Unfunded Liability.** The state is responsible for the share of the unfunded liability that would exist today if no changes had been made to benefits or contributions since 1990, and districts are responsible for the unfunded liability created by changes to pension benefits and contribution rates adopted after 1990, but only for benefits earned through 2013-14.

CalSTRS interprets the law so that district and state shares of the unfunded liability will change annually based on a complex formula. Specifically, the formula is based on hypothetical unfunded liability calculated by estimating what the defined benefit program's assets and liabilities would be today if the benefit improvements had never occurred after July 1, 1990, and if contributions to the pension fund had not been decreased. Under this formula, the calculations show that CalSTRS' unfunded liability would be smaller today. In general, the state will pay for these smaller theoretical unfunded liabilities, while the districts pay for the difference between the real world unfunded liabilities and the state's share. Because districts pay for the balance, the district share will increase when the state share decreases or vice versa. As a result, the state's share of the unfunded liability and the contribution rate is very sensitive to investment volatility.

Responsibility for a small amount of the unfunded liability that is associated with changes made after 1990 for benefits earned after 2013-14 remains unassigned to either the state or districts. As of June 30, 2018, CalSTRS estimates this to be approximately $200 million, and is expected to grow to about $1 billion by 2046. The funding formula does not include a mechanism for funding this unassigned unfunded liability.

**Discount Rate.** In February 2017, the CalSTRS board adopted changes to investment return assumptions over a two-year period. Specifically, for the June 30, 2016 actuarial valuation, the discount rate decreased from 7.50 to 7.25 percent, and for the June 30, 2017 actuarial valuation, the discount rate decreased from 7.25 to 7 percent.

**Reporting Requirement.** AB 1469 also requires CalSTRS to report to the Legislature on or before July 1, 2019, and every five years thereafter, on the fiscal health of the Defined Benefit Program and the unfunded actuarial obligation with respect to service credited to members of the program, before July 1, 2014. The report must identify adjustments required in contribution rates in order to eliminate, by June 30, 2046, the unfunded actuarial obligation of the Defined Benefit Program with respect to service credited to members of the program before July 1, 2014.

**Governor's Budget Proposal**

**District's Share of Unfunded Pension Liabilities.** The Governor proposes for the state to pay CalSTRS an additional $2.3 billion General Fund in 2018-19 to address the district's share of the unfunded liability.

**CalSTRS District Contribution Rates.** The Governor proposes providing $700 million over the next two years ($350 million per year) to provide school and community college districts with immediate budget relief. Specifically, the funds would reduce districts' CalSTRS rates in 2019-20 and 2020-21—freeing up resources for other parts of districts' operating budgets.

**Restructures Proposition 2 Plan to Pay Down State's Share of CalSTRS Unfunded Liability.** Proposition 2, the Rainy Day Budget Stabilization Fund Account (Assembly Constitutional Amendment 1 one the November 2014 ballot), requires specified state revenues to be dedicated to the Budget Stabilization Account (BSA) and partially used to repay state debts and unfunded liabilities. By paying down all remaining special fund loans with discretionary resources, the Administration creates capacity within Proposition 2 requirements for other debt payments. The Governor proposes using this new capacity to reduce the state's share of the CalSTRS unfunded liability.

The Governor proposes to pay $1.1 billion in Proposition 2 to CalSTRS in 2019-20 to address the state's share of the unfunded liability. Moreover, the Administration proposes an additional $1.8 billion in Proposition 2 funds through 2022-23, as follows: $802 million in 2020-21, $615 million in 2021-22, and $345 million in 2022-23, to be paid towards the state's share of the unfunded liability.

The Governor's proposed trailer bill language provides the Department of Finance the authority to determine the schedule and timing of the transfer of funds.

**Estimated Savings from the Proposed Supplemental Payment for the Employer Liability Share to CalSTRS.** The Administration estimates that the proposed $3 billion General Fund ($2.3 billion to address the employer share of the CalSTRS unfunded liability, and $700 million to supplant the required contributions for school employers for 2019-20 and 2020-21) payment in 2018-19 would save school employers $6.9 billion ($3.9 net savings) over the next 30 years under current actuarial assumptions.

The Administration estimates that the $700 million to supplant the school employer contributions would result in a one percent reduction in the employer contribution for 2019-20 and 2020-21. Moreover, the $2.3 billion supplemental payment to the employer share of the unfunded liability would reduce the employer contribution rate by approximately 0.5 percent starting in 2021-22, over the next three decades. The Administration's chart below displays the impact of the supplemental payment towards the employer's contribution rate.

| Supplemental Pension Payments to CalSTRS—School Employer Liability Share Estimated Impact | | | | | |
|---|---|---|---|---|---|
| | Current | | With Supplemental Pension Payment | | |
| Fiscal Year | Employer Contribution Rate | Employer Contribution (in Millions) | Employer Contribution Rate | Employer Contribution (in Millions) | Savings from Supplemental Pension Payment (in Millions) |
| 2019-20 | 18.13% | $ 6,277 | 17.10% | $ 5,927 | $ 350 |
| 2020-21 | 19.10% | $ 6,844 | 18.10% | $ 6,494 | $ 350 |
| 2021-22 | 18.40% | $ 6,837 | 17.90% | $ 6,641 | $ 196 |
| 2022-23 | 18.40% | $ 7,047 | 17.90% | $ 6,883 | $ 164 |
| 2023-24 | 18.40% | $ 7,301 | 17.90% | $ 7,131 | $ 170 |
| Total Savings—2019-20 through 2023-24 | | | | | $ 1,230 |
| Total Savings—2024-25 through 2045-46 | | | | | $ 5,691 |
| Total Savings—2019-20 through 2045-46 | | | | | $ 6,921 |

Note: The employer contribution rate, with and without the impact of the supplemental pension payments, is projected to remain constant from 2023-24 through 2045-46. Unlike the state contribution rate, asset smoothing (smoothing the impact of investment volatility on the rate) does not have a material impact on the employer contribution rate over this period.

**Estimated Savings from Supplemental Payment Proposal to the State Liability Share to CalSTRS.** The Governor proposes a $1.1 billion Proposition 2 funds payment in 2019-20, and $1.8 million Proposition 2 funds payment through 2022-23 to pay down the state's share of the CalSTRS defined benefit unfunded liability. The Administration estimates a gross savings of $7.4 billion ($4.4 billion net), and will reduce the state contribution rates starting in 2022-23 by 0.5 to 0.6 percent over the next 30 years. The Administration notes that the impacts of these savings are contained within the CalSTRS Funding Plan, and will help improve the system's ability to reach fully funded status per the CalSTRS Funding Plan.

According to the Administration, the state's share of the CalSTRS defined benefit program is 85 percent funded as of June 30, 2017. The Administration's chart below displays the impact of the supplemental payment towards the state's contribution rate.

| Supplemental Pension Payments to CalSTRS—State Liability Share Estimated Impact | | | | | |
|---|---|---|---|---|---|
| | Current | | With Supplemental Pension Payments | | |
| Fiscal Year | State Contribution Rate | State Contribution (in Millions) | State Contribution Rate | State Contribution (in Millions) | Savings from Supplemental Pension Payments (in Millions) |
| 2019-20 | 7.83% | $ 2,569 | 7.83% | $ 2,569 | $ - |
| 2020-21 | 8.33% | $ 2,786 | 8.33% | $ 2,786 | $ - |
| 2021-22 | 8.83% | $ 3,057 | 8.83% | $ 3,057 | $ - |
| 2022-23 | 9.30% | $ 3,330 | 8.80% | $ 3,149 | $ 181 |
| 2023-24 | 9.20% | $ 3,395 | 8.60% | $ 3,184 | $ 211 |
| Total Savings—2019-20 through 2023-24 | | | | | $ 392 |
| Total Savings—2024-25 through 2045-46 | | | | | $ 7,057 |
| Total Savings—2019-20 through 2045-46 | | | | | $ 7,449 |

Note: It is projected that with the supplemental pension payments, the state contribution rate will continue to decrease slightly during the period from 2024-25 through 2045-46, to 8.2 percent. Absent the supplemental pension payments, it is projected that the state contribution rate will decrease to 8.8 percent by the end of this same period. The slight decrease in the state contribution rate over this time period can be attributed to asset smoothing (smoothing the impact of investment volatility on the rate).

## Legislative Analyst's Office Comments

**Short- and Long-Term Trade-Off.** The LAO notes that district pension costs typically are covered using Proposition 98 General Fund; however, the Governor proposes using non-Proposition 98 General Fund for this proposal. Whereas this proposal would provide districts with perceptible budget relief over the next two years, the LAO notes that using the $700 million instead to pay down more of the CalSTRS unfunded liability would provide a longer-term benefit. Although over the long-term the districts' CalSTRS rate would be only slightly lower than it would be otherwise, the value of a making a $700 million unfunded liability payment now would grow over time. Such future relief could be important during the next economic downturn.

**State Might Not Achieve Savings From Contribution to CalSTRS Before 2046.** CalSTRS' limited rate setting authority dampens the expected savings to the state compared to what the Administration initially asserted. Using actuarial assumptions about investment returns, which is based on one scenario where precise actuarial assumptions materialize over the next 30 years, CalSTRS estimates that the proposed $1.1 billion payment to the state's share of the unfunded liability would result in $2 billion net savings through 2046. While the LAO does not have stochastic analysis, which examines a range of possible outcomes based on many scenarios, for this particular payment, the LAO notes that there is a roughly 15 percent and 20 percent probability it would show that the state will achieve no savings before 2046. In these scenarios without savings by 2046, CalSTRS actuaries indicate that savings would materialize after 2046. In addition, the average savings ratio under the stochastic analysis is lower than the actuarial estimate.

**School Funding Is at Historically High Level and Growing.** Most districts identify rising pension costs as one of their most significant fiscal challenges. School funding, however, has grown by nearly $22 billion (37 percent) over the past six years, significantly outpacing growth in pension costs. Adjusted for inflation, school and community college funding per student is at its highest level since the passage of Proposition 98. Under the Governor's 2019-20 budget, school and community college funding continues to grow, increasing a projected 3.6 percent. Though districts view rising pension costs as difficult to manage today, these difficulties will be much more pronounced if the state were to enter a recession and Proposition 98 funding were to drop.

**Consider Setting Aside Funding for Future Rate Relief.** Rather than providing districts with budget relief over the next two years, the state could modify the Governor's proposal to provide rate relief during the next economic downturn. Under this alternative, the state would set aside funds for school district retirement costs, but not immediately adjust district contribution rates. Later, during a downturn, the Legislature could choose when to apply the additional funds and reduce district rates. Such an approach is beneficial because it mitigates the need for pension rate increases at a time when districts would have less funding and be facing even more difficult budget choices.

**State's Cash Position Varies Throughout the Fiscal Year.** Cash flows in the General Fund can swing widely throughout the year. In particular, the state usually faces seasonal cash deficits during the early months of the state fiscal year. Cash surpluses are more common during the second half of the fiscal year. This is because state tax collections are concentrated in the second half of the fiscal year, especially in April (the annual income tax payment deadline), January, and June.

**Resources Available Based on Projections.** The current estimate of the surplus available to allocate for the upcoming fiscal year is largely based on projections of revenues for the next 16 months. (Some of this surplus is attributable to actual revenues received through the end of 2018.) These estimates are inherently uncertain. Actual revenues over the next year could be lower or higher than current projections by billions of dollars.

**Governor Proposes Debt Repayments Early in Fiscal Year, Limiting Flexibility.** The Governor proposes making some key debt repayments in the first month of the 2019-20 fiscal year (although the payments would be attributed to 2018-19). Notably, the Governor proposes transferring $7.1 to California Public Employees' Retirement System (CalPERS) and CalSTRS in July 2019. When an employer—including the state—makes a contribution to a pension fund, the employer has no legal right to withdraw the funds at a future date. This means that, once transferred in July 2019, the state would no longer be able to revisit these transfers, even if revenues in 2019-20 end up being significantly below expectations. In this case, the Legislature would only have the option to make adjustments to other parts of the budget (such as by lowering programmatic expenditures).

The proposed state contribution to CalSTRS would make progress toward addressing the system's unfunded liability, but might not achieve as much state savings as other options. The Legislature might want to consider maximizing state savings as the highest priority when considering how to make supplemental payments to retirement benefits. One option for maximizing state savings would be to concentrate pension supplemental payments on behalf of the state to CalPERS

**Staff Comments**

For the year to date, revenues are below projections by a total of $2.2 billion, due to January revenues coming in significantly below projections. The LAO and others believe much of the January shortfall was due to timing of payments and expect that some of shortfall may be made up in April payments. Since this proposal is a part of the overall architecture of the budget, the Legislature may wish to wait until update revenue projections are available before approving this proposal.

**Staff Recommendation. Hold Open.**

## 7900 California Public Employees' Retirement System

The California Public Employees' Retirement System (CalPERS) administers retirement benefits for about two million active employees and retirees of state and local agencies in California as of June 30, 2018. Benefits include retirement, disability, and survivor retirement benefits. CalPERS also provides health benefits for approximately 1.5 million active and retired state, local government, and school employees and their family members as of June 30, 2018. CalPERS develops, negotiates, and administers contracts with health maintenance organizations, group hospitals, and medical insurance plans. In addition, CalPERS administers a long-term care program for members and eligible individuals. CalPERS is governed by a Board of Administration, which is composed of 13 members: six elected members, three appointed members, and four ex-officio members. The California Constitution provides the CalPERS Board of Administration authority over the administration of the retirement system with the exception of the Health Benefits Program. The total fiduciary net position in the Public Employees' Retirement Fund (PERF) was $354 billion as of June 30, 2018.

**CalPERS Budgeted Expenditures and Positions**
(Dollars in Millions)

| | **2017-18** | **2018-19** | **2019-20** |
|---|---|---|---|
| Retirement | $93.5 | $106.3 | $106.3 |
| Health Benefits | $64.8 | $74.4 | $74.4 |
| Investment Operations | $68.7 | $74.1 | $74.1 |
| Administration | $192.7 | $217.3 | $218 |
| Benefit Payments | $27,776 | $29,480 | $31,244 |
| Unscheduled Items of Appropriation | N/A | $3,000* | N/A |
| **Positions** | **2,708** | **3,005** | **3,005** |

*The Administration's 2019-20 budget proposes a supplemental payment of $3 billion General Fund payment in 2018-19 to address the CalPERS unfunded liability.

## Issue 17: Supplemental Pension Payment

**Background**

**State Makes Annual Pension Contributions.** The state provides pension benefits to retired state employees through CalPERS. CalPERS state pensions are funded by three sources: investment gains, employer contributions from the state, and employee contributions. The state's contributions have been rising (due to actuarial assumption changes and lower-than-assumed investment returns) and are expected to continue to rise over the next several years. Specifically, the state's CalPERS pension contributions are expected to increase by more than 25 percent between now and 2023-24.

**Unfunded Liability.** Unfunded liabilities occur when assets on hand are less than the estimated cost of benefits (liabilities) earned to date. According to the Department of Finance, the state's current unfunded pension liability for CalPERS is $58.7 billion. As of June 30, 2017, the funded status for CalPERS was 67 percent.

**Public Employees' Pension Reform Act (PEPRA).** In January 2013, PEPRA modified the way CalPERS retirement and health benefits are applied, placing compensation limits on members, with the greatest impact on new employees hired after January 1, 2013. Below is a brief summary of some of the components of PEPRA.

- Reduced Benefit Formulas and Increased Retirement Ages – PEPRA established retirement benefits of two percent of the employee's final compensation at age 62 for all new miscellaneous (non-public safety) members with an early retirement age of 52, and a maximum benefit factor of 2.5 percent at age 67. PEPRA also created three defined benefit formulas for new safety members. Previously, the benefit formula was two percent of the employees final compensation at age 55 for state employees hired between January 15, 2011 and December 31, 2012, and two percent of the final compensation at age 60 for new employees hired prior to January 11, 2011.

- Capped Pensionable Compensation – Caps the annual salary that can be used to calculate final compensation for new members, excluding judges, at $113,700 for employees that participate in Social Security, or $136,440 for those who do not, which may be adjusted based on changes to the consumer price index. Previously, first-time members hired after January 1, 1996 had a compensation cap, which was set by the Internal Revenue Service and was referred to as the 401(a)(17) limit.

- Equal Sharing for the Normal Costs – For public agencies, schools employers, the California State University, and the judicial branch, a new member's initial contribution rate will be at least 50 percent of the total normal cost rate or the current contribution rate of similarly situated employees, whichever is greater, except as provided in an existing memoranda of understanding.

  Starting January 1, 2018, public agency and school employers that collectively bargained may require classic members to pay up to 50 percent of the total normal cost of their pension benefit after certain conditions are met. However, the employee contribution can only be increased by specified percentages for various classifications.

Additionally, CalPERS has rate setting authority and employer and member rates are examined every year in the fall. Changes are reported through the Annual Valuation Report provided to each employer.

**CalPERS Employer Contribution Rates Are Increasing.** In December 2016, the CalPERS governing board voted to lower its discount rate (investment return assumption) from 7.5 percent to seven percent over three years. In 2019-20, the discount rate will be seven percent for state employers. By assuming less money comes into the system through investment gains, the state will be required to contribute more money to pay for current and future pension costs as well as a larger unfunded liability. As a result of this and other assumption changes, average employer contribution rates are projected to rise over the next few years.

State employee salaries are paid by the General Fund or other funds, depending on the employees' work. Employee benefits—like pensions—are paid by the same fund as the employees' salaries. Employer contributions to CalPERS are based on payroll. Some funds—like the Motor Vehicle Account (MVA)—primarily support operations performed by state employees (such as registering vehicles), and therefore have relatively high associated state pension costs. Other funds primarily pass funding through to local governments and therefore do not support many state employees and as such have low state pension costs. When employer contribution rates rise, the associated costs to each fund also rise. The LAO chart below displays the major funds making contributions to the five state CalPERS plans.

**Major Funds Making Pension Contributions by CalPERS Plan**

| | **Share of Contributions** |
|---|---:|
| **Miscellaneous** | |
| General Fund | 37% |
| Federal Funds | 11 |
| State Highway Account | 8 |
| CSU Trust Fund | 6 |
| Motor Vehicle Account | 5 |
| **Industrial** | |
| General Fund | 97% |
| Prison Industries Revolving Fund | 2 |
| **Safety** | |
| General Fund | 89% |
| Motor Vehicle Account | 4 |
| Prison Industries Revolving Fund | 1 |
| **Peace Officers and Firefighters** | |
| General Fund | 90% |
| State Parks and Recreation | 1 |
| Motor Vehicle Account | 1 |
| **Highway Patrol** | |
| Motor Vehicle Account | 96% |
| State Highway Account | 3 |

**2017-18 Pension Borrowing Plan.** SB 84 (Committee on Budget and Fiscal Review), Chapter 50, Statues of 2017, approved the Governor's May Revision proposal to borrow $6 billion from the state's cash balances in the Pooled Money Investment Account (PMIA) to make a one-time supplemental payment to CalPERS. The Administration estimated gross savings of $11.8 billion ($4.8 million net savings) from this payment. While annual state pension contributions will continue to rise over the next several years, CalPERS estimates this supplemental payment would reduce the required contribution for 2018-19 by approximately $177.3 million. The Administration notes that of the $6 billion principal amount, the remaining balance is about $5.8 billion.

On September 28, 2017, the Department of Finance submitted a letter to the Joint Legislative Budget Committee regarding the supplemental payment, which included various stochastic models. According the analysis, the plan has a 95 percent chance to save the state money. The median scenario from the analysis suggests the plan would save the state $3.1 billion over 20 years. The actual savings associated with the plan may be higher or lower than this amount, potentially by billions of dollars, depending on a variety of factors, most notably CalPERS' future investment performance.

**Governor's Budget Proposal**

**State's CalPERS Unfunded Liability.** The Administration proposes a $3 billion supplemental payment to CalPERS in 2018-19, and payment to each state plan would be a proportionate share of the required General Fund contribution. The proposed trailer bill language provides the Department of Finance the authority to determine the schedule and timing of the fund transfer. Additionally, the trailer bill language specifies that of the funds, up to approximately $1.4 billion would be transferred to the state miscellaneous plan, $81.5 million to the state industrial plan, $178.3 million to safety plan, and $1.4 million to the state peace and firefighter plan. Since the highway patrol plan does not make General Fund contributions, it would not receive a payment under the proposal.

**Savings Would Be Distributed Among All Funds That Make Pension Contributions to Plans.** With the payment, the employer contribution rate is expected to be around one percent of pay lower each year until nearly 2040—representing an average of around $225 million in savings per year. In total, this investment would create net savings of $6.3 billion in net savings over about 30 years.

The savings each plan receives would be distributed proportionally to each fund that pays its pension costs. For the four plans receiving a payment, this means the benefit of the payment would be distributed proportionally across all contributing funds. Consequently, the General Fund would only receive $6 billion of the total $9.3 billion in gross savings. Because the General Fund would pay the full $3 billion supplemental payment, its net savings would be $3 billion. All other funds would receive a respective share of the gross savings. Under the median stochastic scenario, federal funds would receive savings of $500 million, the State Highway Account would save $340 million, the California State University Trust Fund would save $255 million, and the MVA would save $260 million. The LAO chart below displays the anticipated payment and savings by state plan under the Governor's proposal.

**Anticipated Payment and Savings by CalPERS Plan under the Governor's Proposal**
(In Billions)

| Plan | Total Contribution | Gross Savings | Net Savings |
|---|---|---|---|
| Miscellaneous | $1.4 | $4.3 | $2.9 |
| Industrial | 0.1 | 0.3 | 0.2 |
| Safety | 0.2 | 0.6 | 0.4 |
| Peace Officer/Firefighter | 1.4 | 4.1 | 2.7 |
| Highway Patrol | — | — | — |
| **Totals** | **$3.0** | **$9.3** | **$6.3** |

**Other Contributions.** The budget also includes a statutorily required annual contribution of $6.8 billion ($3.9 billion General Fund) to CalPERS for state pension costs, of which $727.5 million General Fund is for California State University retirement costs. The estimated $566 million increase is the net effect of changes in actuarial assumptions, including the lower discount rate adopted by the CalPERS Board in 2016, savings from greater investment returns, and the $6 billion supplemental pension payment the state made to CalPERS in 2017-18.

**2017-18 Loan Repayment.** An additional $390 million in Proposition 2 debt funding is included in the budget to pay down the General Fund's share of the loan that funded the 2017-18 supplemental pension payment.

**<u>Legislative Analyst's Office Comments</u>**

The LAO notes that the Governor's proposal has a few shortcomings. Specifically, the proposal:

- **Does Not Maximize General Fund Benefit.** The major shortcoming associated with the Governor's plan is that it generates much less benefit for the General Fund than it could. That is because the General Fund only would accrue a part of the savings derived from the plan, but it would make the entire supplemental payment.

- **Provides Benefits to Federal Funds Without Reimbursement.** While most of the funds that would benefit from the plan are operated by the state, some are not. In particular, federal funds would benefit by $500 million. Under the Governor's plan, the state would not seek reimbursement for the state payment that results in this federal benefit.

- **Provides Little Benefit to the MVA.** There are concerns about the fiscal condition of the MVA, a major state fund that makes significant pension contributions. In 2018-19, the MVA faces an operational shortfall of almost $400 million. Absent corrective actions, the account likely again would experience an operational shortfall in 2019-20 and potentially become insolvent in the future. Although pension costs only explain a part of the MVA's growing imbalance, addressing rising pension costs in the MVA could play a role in improving the long-term solvency of the fund. The Governor's proposal would result in slightly lower pension costs for the MVA, but because no supplemental payment is made to the Highway Patrol plan, the benefit is much smaller than it could be.

**Alternative Payment Options.** The LAO offers a few alternative strategies for the supplemental payment.

1. **Keep DOF Distribution, but Require Other Funds to Repay General Fund.** A first alternative to the Governor's proposal would be to keep DOF's proposed distribution of payments by plan, but require funds that benefit from this plan to repay the General Fund. Under this alternative, the $3 billion would still be distributed to only four of the five plans, but funds would repay $1 billion, over time, back to the General Fund for their shares of the contribution. (Many funds might not have the resources to repay the General Fund right away, but could use their accrued savings from lower pension payments over time to make these repayments.)

2. **Distribute the Payment Based on Unfunded Liability and Require Repayments.** If the Legislature wanted to make a payment to all CalPERS plans, it could distribute the payment according to each plan's unfunded liability and require the benefiting funds to repay the General Fund in proportion to their benefit. Under this second alternative, the $3 billion would be distributed among all five plans and other funds would repay $1.5 billion to the General Fund.

   In addition to proportionally allocating benefit among all employee types, this alternative would maximize potential savings for the MVA, somewhat reducing the fund's ongoing structural imbalance. Lower pension payments—and a net benefit of roughly $700 million over 30 years—could put the fund in a slightly better condition over the long-term.

3. **Make Full Payment to Peace Officers and Firefighters Plan.** One concern about administering the proposal using repayments is the administrative complexity involved. While the state is already administering repayments for the 2017-18 CalPERS supplemental payment, DOF has noted this is administratively burdensome for them and the State Controller's Office. A third alternative, which would maximize General Fund benefit without a complicated repayment system, would make the entire supplemental payment to Peace Officers and Firefighters plan. This plan is nearly entirely General Fund supported and the vast majority of the benefit would still accrue to the General Fund. The state could generate over $5 billion net savings, which is the most General Fund benefit of the proposals.

**Anticipated Payments and Savings by CalPERS Plan under Alternative Proposals**
(In Billions)

| | Governor's Plan and Alternative 1 (DOF With Repayments) | | Alternative 2 (UFL With Repayments) | | Alternative 3 (POFF) | |
|---|---|---|---|---|---|---|
| **Plan** | **Total Contribution** | **Gross Savings** | **Total Contribution** | **Gross Savings** | **Total Contribution** | **Gross Savings** |
| Miscellaneous | $1.4 | $4.3 | $1.8 | $5.6 | — | — |
| Industrial | 0.1 | 0.3 | 0.1 | 0.2 | — | — |
| Safety | 0.2 | 0.6 | 0.1 | 0.5 | — | — |
| Peace Officer/Firefighter | 1.4 | 4.1 | 0.8 | 2.3 | $3.0 | $9.0 |
| Highway Patrol | — | — | 0.3 | 0.8 | — | — |

| | | | | | | |
|---|---|---|---|---|---|---|
| **Totals** | **$3.0** | **$9.3** | **$3.0** | **$9.3** | **$3.0** | **$9.0** |

**Ensuring Funds Pay Their Shares, Including Federal Funds.** Another key disadvantage of the Governor's plan is that it delivers benefit to the federal government without asking the federal government to pay its proportionate share. All of the other alternatives would involve requesting that the federal government reimburse the state for its share of the initial payment. That said, it is not necessarily guaranteed that the federal government would agree to make these payments. The state is still working with a federal negotiator to request repayments on the federal share of the initial 2017-18 CalPERS supplemental payment and has not yet received a final decision.

**Suggest the Legislature Consider Alternative 2 for Supplemental Payment.** While relatively administratively simple, the Governor's proposal would result in the smallest General Fund savings of the four options. The two alternatives that provide the greatest General Fund benefit—Alternatives 1 and 3—create preferential treatment by not benefitting all employee groups. Also, neither of these alternatives create much benefit (if any) for the MVA—a large fund that faces fiscal pressure as a result of rising pension costs. As such, the Legislature may have a preference for Alternative 2, which would distribute the payment by unfunded liability to the various plans and require each fund that benefits—including federal funds—to repay the General Fund for their shares of the initial payment. As shown in Figure 7, Alternative 2 creates slightly more General Fund benefit than the Governor's proposal, but also ensures all plans and funds, including MVA, derive their proportionate share of benefit from the supplemental payment.

**Summary of Alternative Options**
(In Billions)

| | Net General Fund Benefit | Net MVA Benefit | Provides Benefits to Some or All Plans? | | | | |
|---|---|---|---|---|---|---|---|
| | | | Miscellaneous | Industrial | Safety | POFF | Highway Patrol |
| Governor's Plan | $3.0 | $0.3 | ✓ | ✓ | ✓ | ✓ | |
| Alternative 1—DOF with repayments | 4.1 | 0.2 | ✓ | ✓ | ✓ | ✓ | |
| Alternative 2—UFL with repayments | 3.2 | 0.7 | ✓ | ✓ | ✓ | ✓ | ✓ |
| Alternative 3—POFF | 5.1 | 0.0 | | | | ✓ | |

MVA = Motor Vehicle Account; POFF = Peace Officer/Firefighter; DOF = Department of Finance; and UFL = unfunded liability.

## Staff Comments

The Administration notes that the payment is proposed for 2018-19 due to the estimated availability of General Fund this year, and that there is no long-term savings impact if the payment is applied on June 30, 2019, as compared to January 1, 2020. The proposal also assumes an investment return of 8.6

percent for 2017-18 (which is based on the most recent actuarial report from June 30, 2017), and seven percent for 2018-19 and thereafter.

The Governor's proposal provides significant spending in 2018-19. The Legislature may wish to wait until update revenue projections are available before approving this proposal. As the Legislatures evaluates the Governor's proposal, it may wish to consider what it's priorities are on how the funds (1) maximizes General Fund benefit, (2) provides benefit to the MVA—a large fund that faces fiscal pressure as a result of rising pension costs and other cost pressures, and (3) distributes benefits to all CalPERS plan types.

**CalPERS Amortization Base Period.** As noted previously, the 2017-18 budget provided a $6 billion PMIA loan to pay down the CalPERS unfunded liability. DOF estimated that the $6 billion payment in 2017-18 would result in net savings of $5 billion. For the 2019-20 budget, DOF indicates that the proposed $3 billion supplemental pension payment would result in a net savings of $4.2 billion. The Administration notes that the difference in savings can be explained by how much savings can be achieved by the amortization base to which the payment is applied.

Actuarial gains/losses in each year are amortized over a period of time specified by CalPERS board policies. The gain or loss in each year is called an "amortization base." Previously, actuarial gains/losses were amortized over a 30-year period. However, in February 2018, the CalPERS board adopted a new policy that, beginning with the June 30, 2019 valuation (first affecting the 2020-21 contribution rates), will amortize any new gains/losses over a 20-year period. The 2017-18 $6 billion supplemental payment to CalPERS was amortized over a 20-year period.

The Governor's proposal applies the $3 billion supplemental payment to the 2016 amortization base, which had a 30-year amortization period. This base was chosen because it is the most recent amortization "loss" base. There are 27 years remaining in the amortization schedule to pay down this loss. By applying the payment to this amortization base, the benefit of the $3 billion supplemental payment would be spread out over 27 years to maximize savings.

Similar to the Governor's proposal on CalSTRS, this proposal is a part of the overall architecture of the budget, the Legislature may wish to wait until update revenue projections are available before approving this proposal

**Staff Recommendation. Hold Open.**

## DEFERRALS

### Issue 18: Payroll Deferral Trailer Bill Language and CalPERS Deferral

**Background**

**Payroll Deferral.** The 2009-10 budget package included an ongoing one-month deferral of June state payroll to early July, providing savings for the state. This accounting action did not affect when paychecks were issued to state employees. Because payroll costs grow over time, the deferral continues to provide ongoing savings for the state General Fund. For example, in 2016-17, the associated General Fund benefit was $65 million (savings vary from year to year depending on how payroll costs are growing). Undoing this deferral would eliminate this annual benefit.

**CalPERS Deferral.** The state makes quarterly payments to CalPERS for pension contributions for state employees. The state pays the fourth-quarter contribution to CalPERS in the first quarter of the subsequent fiscal year. This means the state makes the transfer in the first few days of July. This deferral only applies to the state's General Fund pension payments. For cash purposes, the state also defers other payments to CalPERS throughout the fiscal year. For example, a portion of the third-quarter payment is transferred in mid-April, rather than the end of March. Because pension costs grow over time, this deferral provides ongoing savings for the General Fund. For example, in 2016-17, this General Fund benefit was $56 million (savings vary from year to year depending on how pension costs are growing).

**Governor's Proposal**

The Governor proposes trailer bill language to repeal sections of the Government Code to eliminate the state payroll deferral. The Administration estimates the cost to undo this action will be $973 million for the General Fund. The state never recognized the deferral in other funds' budgetary statements and, as a result, undoing it would only have budgetary implications for the General Fund.

There is no trailer bill to undo the CalPERS deferral. This change is reflected in the Department of Finance's summary schedules. Specifically, this is reflected in Schedule 9 regarding comparative statements of expenditures. Undoing the deferral would eliminate these savings. The Administration estimates the cost to undo this action is $707 million General Fund (other funds' fourth quarter CalPERS payments are not deferred).

The Administration notes that the intent of the proposals is to reuse this tool in the future.

**Legislative Analyst's Office Comments**

The LAO notes that the Governor's proposal to end the payroll and pension deferrals has the following implications:

- **Improves the State's Fiscal Position.** The Governor's proposal to undo the payroll and pension deferrals would allow the state to take these actions again in the future (essentially, carrying a reserve-like benefit). However, undoing and redoing deferrals involves more administrative complexity.

- **Moderately Improves the State's Fiscal Transparency and Budgetary Practices.** Undoing the pension and payroll deferrals could moderately improve the state's fiscal transparency and budgetary practices. In particular, the payroll deferral results in an inconsistency between the state's fund condition statements (published on a budgetary basis) and the state's official accounting reports (published consistent with generally accepted accounting principles). Undoing the payroll deferral would reconcile these reports. The Administration has recently indicated that improving the state's budgetary practice is its current rationale for proposing to undo these deferrals.

- **Does Not Reduce Adverse Effects on Other Entities.** Neither the payroll nor the pension deferral carries notable adverse consequences for any nonstate entities. The payroll deferral does not affect when state employees receive their paychecks. The pension system does not experience adverse consequences from receiving funds in early July rather than late June.

The LAO also notes that there are other alternatives that the state could use $1.7 billion, and recommends the Legislature reject the Governor's proposal to undo the payroll and pension deferral because they provide ongoing budgetary savings.

Specifically, the LAO recommends the Legislature instead use $1.7 billion to reverse the fee-for-service (FSS) Medi-Cal deferral ($300 million) and use the remaining $1.4 billion to build more reserves, which could generate investment returns for the state. In FSS, the state makes weekly payments directly to health care providers. Deferred payments in Med-Cal means that managed care plans and some health care providers face a gap in payments at the end of the state fiscal years, and entities must arrange their finances to cover this gap. Entities that receive a high percentage of their total revenue from Medi-Cal, small entities with fewer resources, or entities that receive most of their Medi-Cal payments through the FSS are the most impacted by this deferral. Some specific examples are rural hospitals with a high amount of Medi-Cal patients, and providers of family planning services, such as Planned Parenthood.

**Staff Recommendation. Hold Open.**

## 7350 DEPARTMENT OF INDUSTRIAL RELATIONS

### Issue 19: Domestic Workers Outreach (Informational)

**Background**

In 1938, the U.S. Congress enacted the Fair Labor Standards Act introducing the forty-hour work week and establishing minimum wage and overtime protections for workers, with some exceptions including domestic workers and farmworkers. "Domestic workers" or "household workers" are generally comprised of housekeepers, nannies and caregivers of children and others, including the disabled and elderly, who work in private households to care for the health, safety and well-being of those under their care. According to a University of California, Los Angeles Labor Center report, 16 percent of all households in the state hire for housecleaning, childcare or homecare support, with as many as two million households in California hire domestic workers. About two-thirds reside in Southern California, 26 percent in the Northern California and 11 percent in Central California. Based on labor market information from the EDD, the report finds that by 2022, the number of personal care aides in California will increase by 52 percent to over half a million workers.

**AB 241 (Ammiano), Chapter 374, Statutes of 2013.** Until very recently, domestic workers in California were excluded from the employer requirement of overtime for hours worked beyond the state minimum of eight hours a day or 40 hours a week. AB 241 enacted the Domestic Worker Bill of Rights extending overtime compensation rights to domestic workers who are personal attendants after nine hours of work in one day and 45 hours a week. The provisions of AB 241 included a sunset date of January 1, 2017. SB 1015 (Leyva), Chapter 315, Statutes of 2016 repealed the sunset date making these provisions permanent.

**AB 2314 (Ting, Gonzalez Fletcher).** In 2018, Governor Brown vetoed AB 2314 (Ting, Gonzalez Fletcher), sought to require the Division of Labor Standards Enforcement (DLSE), upon appropriation of funds, to create the Domestic Work Enforcement Pilot Program for the provision of resources, education, and training regarding labor standards in the domestic work industry for both employees and employers. The Assembly Appropriations Committee reported that the bill would have one-time costs of up to $2.6 million and ongoing costs of to $2.2 million for DLSE. Major cost drivers include additional staff for training and outreach, the establishment of an online resources hub and dedicated telephone helpline, additional worksite inspections, and a possible increase in wage and retaliation claims.

The Governor's veto message states, "This bill would create a Domestic Work Enforcement Pilot Program in an effort to provide resources, education and training regarding labor standards in the domestic work industry for both employees and employers.

The author of this measure added a provision to the 2018-19 Budget Act that requires the DLSE to provide a report, by July 1, 2019, on the labor enforcement actions that have been taken by the Division to date, what barriers exist that may prevent greater enforcement, and to provide recommendations on improving employer compliance through outreach and education. Given the wide variety of domestic work and the sparse information available, I believe the legislature should wait for the findings of this report, and then conduct thorough and thoughtful hearings on how families can take care of their loved ones in a fair and affordable manner.

Keeping a family member out of a nursing home and in a place where they have lived for years is a profoundly moral and social good. I urge the legislature to tread carefully when adding more enforcement rules or costly mandates on ordinary families trying to do their best for their infirmed or aging loved ones."

**2018-19 Budget Act.** As noted in Governor Brown's veto message, the 2018-19 require DLSE to submit a report by July 1, 2019, on labor law enforcement in the domestic worker industry, as specified. In preparing the report, the DLSE is required to incorporate expertise, feedback, and comments from domestic workers' employers and from domestic worker employee representatives.

**Partial Preliminary Report.** DIR provided staff with a partial preliminary report. The report notes that there are about 545,940 formal, direct caregivers in 2017, of whom 25,180 were home health aides. DLSE conducted a statewide review of 2016, 2017 and 2018 claims received to date that were attributed to domestic workers. The statewide median annual salary for personal care aides is $26,220 ($11.41 per hour) and $31,610 ($13.06 per hour) for home care aides. Workers reported an average hourly wage of $13.64, and the median was $11.50. Nearly a quarter of claimants who reported their wage received an hourly wage between $10-$11 and one in five claimants were paid less than $10 per hour.

Between 2016 and 2018, there was an increase in the number of wage claims filed with the Labor Commissioner by domestic workers. In total, 798 wage claims met the criteria to be reviewed for purposes of evaluating filings submitted by domestic workers. DIR notes that limited number suggests findings should be interpreted with caution and are not necessarily generalizable to all domestic workers. Over a third of cases with reported outcomes were settled. One in five were abandoned by the claimant and 16 percent failed to appear for their case. An average $4,337 was awarded to claimants who filed wage claims from 2016 to 2018.

DIR notes that there are logistical and jurisdictional barriers for enforcement. For example an employer/client's home is the place of employment. The DLSE Bureau of Field Enforcement (BOFE) would not enter the employer/client's home for investigation, but instead set up an Order to Appear (OTA). Additionally, a worker may fear of loss of job and/or benefits such as room and board. Moreover, there are legal complexities, and case laws that impact this group of workers and employers need to be clarified.

**Budget Request.** The California Domestic Workers Coalition requests $5 million General Fund ongoing to establish the Domestic Work Industry Rights Education and Outreach Program at DLSE to increase awareness and enforcement.

**Staff Recommendation. None. This is an informational item.**

## 7300 AGRICULTURAL LABOR RELATIONS BOARD

### Issue 20: Continued Funding for the Agricultural Labor Relations Board

**Governor's Budget Proposal**

To address workload since fiscal year 2015-16, the ALRB, Office of the Board is requesting $593,000 General Fund to convert 2.5 limited-term positions to permanent. The Office of the Board (Board) requests permanent funding of $593,000 General Fund for existing limited-term positions: 1.5 Hearing Officer II positions and one Attorney IV position. These positions have been limited-term for four years and the workload for these positions has not decreased. ALRB's objective is to resolve legal matters in a proactive and timely manner for our stakeholders and thereby advance the policies of the Agricultural Labor Relations Act. The request for permanent funding will provide the Board with resources to continue to achieve that objective and ALRB's mission.

The 1.5 hearing Officer II positions have allowed the Board to maintain no backlog and continue to schedule hearings within a 60 to 90 day timeframe. Prior to these resources being added in 2015-16, it took between 200 and 600 days to schedule a hearing. The Board requests a permanent augmentation for the Attorney IV position. Permanently augmenting the Attorney IV position will avoid additional legal expenditures and is the most efficient means to meet the Board's workload and provide continuity in case litigation.

**Staff Recommendation. Hold Open.**

## 7120 California Workforce Development Board

**Issue 21: Assembly Bill 1111 (E. Garcia), Chapter 824, Statutes of 2017**

**Background**

AB 1111 established the Breaking Barriers to Employment Initiative for the purpose of assisting individuals who have multiple barriers to employment to receive the remedial education and work readiness skills to help them to successfully participate in training, apprenticeship, or employment opportunities that will lead to self-sufficiency and economic stability.

This grant targets a broad array of populations, which includes: (1) youths who are disconnected from the education system or employment, (2) women seeking training or education to move into nontraditional fields of employment, (3) displaced workers and long-term unemployed, (4) unskilled or under-skilled, low-wage workers, (5) persons for whom English is not their primary language, (6) economically disadvantaged persons, (7) CalWORKs participants, (8) persons who are incarcerated and soon to be released or formerly incarcerated, (9) armed services veterans, (10) Native Americans, (11) migrants or seasonal farmworkers, (12) persons with developmental or other disabilities, (13) immigrants, and (14) persons over 50 years of age who need retraining for in-demand skills, among others.

AB 1111 funds are to supplement and not supplant state or federal funding for programs. This grant is eligible for a broad array of activities, which includes: (1) English language improvement training, (2) basic skills and adult education, (3) high school diploma and General Education Development (GED) acquisition, (4) skills and vocational training that aligns with regional labor market needs identified as part of the California Workforce Innovation and Opportunity Act regional planning process, (5) work experience, (6) on-the-job training, (7) stipends for trainees, (8) earn and learn training, (9) Industry certifications, (10) preapprenticeship, and (11) mentoring, among others.

The Assembly Floor Analysis for the final version of the bill (September 8, 2017), stated that the bill would result in an unknown cost pressure to fund a grant program. State administrative costs would depend upon the size of the grant program. For illustrative purposes, the analysis states that for a future appropriation of $10 million, the grant will incur administrative costs of approximately $430,000. In addition, the EDD generally serves as the fiscal agent for grant programs managed by CWDB. EDD's administrative costs are generally five to ten percent of grant funding. However, its costs can vary considerably depending on 1) the total amount of grant funding available, 2) the number of grants awarded, 3) the number of funding rounds, 4) legal challenges, and 5) the complexity of reporting requirements. Thus, based on a $10 million appropriation, EDD's costs would be up to $1 million.

The Department of Finance legislative analysis for AB 1111 is not publically available.

The 2018-19 budget act provided $15 million one-time General Fund for AB 1111 and funds are available for encumbrance or expenditure until June 30, 2020, and for liquidation until June 30, 2022. The budget bill also capped state operations and administrative expenditures to five percent or $750,000.

**Governor's Budget Proposal**

The Governor requests six positions (one staff services manager I, one research analyst II, and four associate governmental program analysts) and redirection of $914,000 General Fund in 2019-20, and $1.2 million in 2020-21 and 2021-22 to administer and oversee the AB 1111 grant. This results in a total of $3.3 million or 22 percent redirection from the $15 million grant that was approved in the 2018-19 budget.

CWDB notes that they plan to provide assistance to grantees and work closely with grantees through the life of the grant. They plan to provide frequent project check-ins, resolve issues, and offer technical support. Managers and analysts will develop community of practice for each program to build support network for grantees to learn from each other through meetings, webinars, and conference calls. Program managers oversee the development of materials from policy briefs to best practices, highlighting solutions.

**Staff Comments**

The Governor's request for administrative and technical support is significantly larger than what was contemplated in the 2018-19 budget act and the appropriations committee analysis. The Legislature may wish to consider whether or not this is the appropriate amount of funding for this purpose.

**Staff Recommendation. Hold Open**

## 7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

### Issue 22: Paid Family Leave

**Background**

**State Disability Insurance Program.** Established in 1946, the California State Disability Insurance (SDI) program provides short-term Disability Insurance (DI) wage replacement benefits to eligible workers who need time off work. SDI provides California workers, including private sector employees and some specified state employees whose bargaining units have elected to participate in the program, with partial wage replacement benefits in the event they are unable to work due to the employee's own non-work-related illness, injury, or pregnancy, for up to 52 weeks. In 2014, paid family leave (PFL) was added to the SDI program. Approximately 18.7 million California workers are covered by the SDI program.

Existing law requires employers to inform their employees of SDI benefits, and requires coverage for employees working for employers with payrolls in excess of $100 in a calendar year. There are a few exceptions, specifically for some domestic workers, some governmental employees, employees of interstate railroads, employees of some non-profit agencies, and individuals claiming religious exemption.

DI and PFL provide weekly benefit amounts of approximately 60 to 70 percent of wages earned five to 18 months prior to the employee's claim start date. Depending on the employee's salary, they may receive up to a maximum of $1,252 per week for 2019.

The SDI is funded through employee payroll deductions based on a statutory formula. For 2019, the payroll withholding rate for 2019 is one percent with a maximum taxable wage limit of $118,371 per employee, and the maximum to withhold for each employee is $1,183.71. Existing law specifies the maximum payroll withholding rate at 1.5 percent.

In the 1980s, an advisory committee comprised of labor and employer representatives worked with EDD and independent actuaries on recommendations to maintain a stable and prudent reserve for SDI. The committee recommended that a DI fund balance ranging from 25 percent to 50 percent of the prior 12 months of disbursements is generally considered adequate to maintain solvency through typical fluctuations in contributions and disbursements. The adequacy rate is adjusted based on a statutory formula. The DI Fund adequacy rate, which is the end of calendar year fund balance as a percentage of calendar year disbursements, was 49 percent for 2017, and is projected to be 47 percent in 2018, 43 percent for 2019, and 54 percent for 2020.

The EDD's October 2018 DI Fund Forecast notes that, at the end of 2017, the DI Fund balance was $3.1 billion, and it is projected to be $3.4 billion at the end of 2018, $3.4 billion at the end of 2019, and $4.6 billion at the end of 2020 after payment of benefits.

In 2017, the total SDI net benefits, including PFL, were $6 billion, and they are projected to increase to $6.9 billion in 2018, $7.6 billion in 2019, and $8.1 billion in 2020. Net benefits for PFL were $779.1 million in 2017, and they are projected to increase to $1 billion in 2018, $1.1 billion in 2019, and $1.2

billion in 2020. The projected increases in net benefits are primarily due to projected increases in SDI claims paid and the average weekly benefit amount.

Disability Insurance. DI provides eligible workers with benefits for non-work related illness or injury, which includes physical or mental illness, surgery, pregnancy, childbirth or other related medical conditions. In order to be eligible for DI, the employee must: (1) be unable to do their regular or customary work for at least eight days, (2) be under the care and treatment of a licensed physician/practitioner within the first eight days of their disability, (3) have lost wages because of the disability, (4) have a physician complete the medical certification of the disability claim, (5) earned at least $300 from which the SDI deductions were withheld during the base period, and (6) be either working or looking for work at the time the disability begins.

Additionally, a pregnant person may receive disability insurance for a normal pregnancy up to four weeks before the expected delivery date, and up to six weeks for a normal delivery, or eight weeks for cesarean section, after the delivery.

DI benefits are payable for a maximum of 52 weeks. For claims beginning on or after January 1, 2019, weekly benefits range from $50 to a maximum of $1,252. The weekly benefit amount is approximately 60 to 70 percent (depending on income) of wages earned five to 18 months prior to the claim start date. The average weekly benefit amount in 2017, not including PFL, was approximately $540, and in 2018 it was approximately $586. A person may not be eligible to receive DI if they are receiving benefits from another EDD benefit program.

Paid Family Leave (PFL). Senate Bill 1661 (Kuehl), Chapter 901, Statutes of 2002, created PFL, which began on January 1, 2004. Subsequent legislation, SB 727 (Kuehl), Chapter 797, Statutes of 2003, and SB 770 (Jackson), Chapter 350, Statutes of 2013, expanded the program to allow for care of specified relatives.

PFL is a component of the SDI program, which provides eligible employees with up to six weeks of partial wage replacement benefits, approximately 60 to 70 percent of lost wages, to care for a seriously ill child, spouse or registered domestic partner, parent, siblings, grandparents, grandchildren, and parents-in-law, or to bond with a child within one year of birth, adoption or foster care placement. PFL is funded through employee payroll deductions described above. PFL does not provide job protection or return to work rights, nor does it require continued group health coverage during leave. The average weekly benefit amount in 2017 was $599, with approximately 245,000 first claims paid. In 2018 it was $661, with approximately 279,000 first claims paid.

New mothers after their pregnancy-related DI claim ends, new mothers who did not previously have a pregnancy-related DI claim, fathers when their baby enters the household, and new parents of foster or adopted children, are eligible for PFL bonding claims. Additionally, the length of time a claimant worked in their current job does not impact PFL eligibility.

Employers may require that employees take up to two weeks of earned unused vacation when using PFL; however, existing law prohibits employers from requiring employees to use sick leave. Employees may be able to take unused sick leave and receive PFL benefits at the same time, but the combined benefits cannot exceed 100 percent of regular earnings or the PFL benefits will be reduced by the amount of sick leave wages received.

**Other Programs for Family and Medical Leave**

California Family Rights Act (CFRA) and the federal Family and Medical Leave Act (FMLA). CFRA and the federal FMLA provide eligible employees of covered employers (those with 50 or more employees) up to 12 workweeks of unpaid job-protected leave during a 12 month period, for specified family and medical reasons, including time to bond with a new child through birth, adoption or foster care placement, among others. Additionally, the CFRA and FMLA require continued group health insurance coverage under the same terms and conditions as if the employee had not taken leave. CFRA and FMLA are required to be taken concurrently.

New Parent Leave Act (NPLA). Senate Bill 63 (Jackson), Chapter 686, Statutes of 2017, requires employers with 20 or more employees to provide eligible employees with up to 12 weeks of unpaid job-protected parental leave to bond with a new child within one year of the child's birth, adoption, or foster care placement, with continued health coverage during the duration of the parental leave.

Pregnancy Disability Leave (PDL). Under the Fair Employment and Housing Act, PDL requires private employers with five or more employees and public employers to provide up to four months of unpaid, job-protected leave for pregnancy, childbirth or related conditions. Employees may use accrued vacation and paid sick leave during PDL, and are entitled to reasonable accommodations and reinstatement to the job held before PDL began. Employers are required to continue health coverage during PDL.

State Employees. Non-industrial disability leave (NDI) covers state-excluded employees, career executive officers, legislative employees, and specified rank-and-file employees according to their memorandum of understanding (MOUs), who are disabled and unable to work due to a non-work related injury or illness, including disability due to pregnancy or childbirth. There are no employee contributions, enrollment fees, or medical examinations required for coverage. NDI entitles employees to up to twenty-six weeks of leave with partial pay. If an employee is enrolled in the Annual Leave program, which replaces traditional sick and vacation leave with an annual leave pool, up to 50 percent of the employee's gross pay is covered. If the employee is not enrolled in an Annual Leave Program, they may receive up to $135 per week. NDI is paid for by the employer and does not offer a paid family leave program. Bargaining units not covered by the NDI are eligible to receive SDI.

Disability Insurance Elective Coverage Program. Created in 1962, the Disability Insurance Elective Coverage program (DIEC) is a voluntary program that permits small business owners, entrepreneurs, and self-employed individuals who make up a large portion of companies doing business in California, and individuals who are not covered by the SDI program to elect to pay into disability insurance, and requires participants to remain in the program for two complete calendar years unless they meet specified early termination criteria.

Voluntary Plans. Existing law allows an employer or a majority of employees to apply to the EDD for approval of a Voluntary Plan (VP) for the payment of DI and PFL benefits in place of mandatory SDI coverage. A VP must provide all the benefits of SDI, at least one benefit that is better than SDI, and it cannot cost employees more than SDI. To be approved for a VP, the employer must post a security deposit with the EDD to guarantee that it meets all obligations of the VP.

Below is a summary of some of California's leave policies and their requirements.

| | CFRA/FMLA | PFL | DI | NPLA |
|---|---|---|---|---|
| Job Protection | Yes | No | No | Yes |
| Employers Covered | 50 or more employees in 75 mile radius of worksite. | One or more (employee pays, employee receives). | One or more (employee pays, employee receives). | 20 or more employees within 75 miles. |
| Employee Eligibility | Worked 1,250 hours in prior 12 months. | Employee earned $300 in base period for fund contribution, and subject to SDI tax contribution. | Working or looking for work at the time disability begins. Employee earned $300 in base period for fund contribution, and subject to SDI tax contribution. | Worked 1,250 hours in prior 12 months. |
| Reason for Leave | Employee serious health condition; seriously ill family member care; bond with newborn or newly placed adopted or foster child. | Care for seriously ill family member; bond with a child within one year of birth, foster care or adoption placement. | Non-work related illness or injury, including physical or mental illness, surgery, pregnancy, child birth, or other medical related conditions. | Bond with a child within 1 year of birth, adoption or foster care placement. |
| Length of Leave | 12 weeks in 12-month period. | 6 weeks in 12-month period. Employers may require employees take up to two weeks of earned unused vacation leave. | Provides up to 52 weeks of paid benefits when taking time off work for your own non-work-related illness, injury, or pregnancy. DI provides 4 weeks before the expected delivery date, 6 weeks for normal delivery, and 8 weeks for a cesarean section after delivery. | Up to 12 weeks. |
| Paid or Unpaid | Unpaid, may run concurrent with other paid leave. | Partial wage replacement. | Partial wage replacement. | Unpaid, employee can use vacation, paid sick time. |
| Continued Health Coverage | Yes | No | No | Yes |

## Governor's Budget Proposal

The Administration proposes to expand the PFL program to allow a child to receive six months of bonding time to be split between parents or close relative. In the short-term, the Administration proposes to adjust the reserve requirement for the DI fund, which supports the PFL program. The Administration also proposes to convene a task force to consider options to phase-in and expand the program, to increase program participation among eligible workers, and to align with existing worker protections and non-retaliation protections.

As of writing this agenda, staff has not received additional detail or trailer bill language regarding the Governor's proposal.

## Staff Comments

Over the last several years, the state has invested funding to increase outreach and participation in the PFL program. Specifically, the 2014-15 budget provided $1 million from the Unemployment Compensation DI Fund to begin a three-year plan for the EDD to administer a PFL outreach campaign. In addition, the 2014-15 budget included supplemental reporting language requiring the EDD to report on the type of, and effectiveness of, outreach activities. In 2015-16, the budget provided an increase of $2.5 million to administer the PFL outreach campaign. Staff has not received updated information regarding the uses of these funds or their outcomes. In 2016-17, the budget included a one-time augmentation of $5 million from the Unemployment Compensation DI Fund, along with a one-time augmentation of $629,000 in 2017-18, to support the costs incurred as a result of AB 908 (Gomez), Chapter 5, Statutes of 2016. This legislation increased the wage replacement rate for the PFL program from 55 percent to 60 to 70 percent depending on a person's wages, and removes the one week PFL wait time. AB 908 set to sunset on January 1, 2022.

The EDD report, *Paid Family Leave Market Research*, released on December 14, 2015, conducted market research to assess awareness levels and to identify the motivators behind an individual's choice to use the PFL program or not. The report found awareness of the program is generally low across most populations, with users having difficulty ascertaining eligibility, challenges with the application process, and the lack of job protection and full wage replacement as important considerations.

**Program Awareness.** In 2015, the California Center for Research on Women and Families conducted a field poll which found that only 36 percent of voters were aware of the PFL program. Additionally, the US Department of Labor report, *California Paid Family Leave Law: Lessons from the First Decade*, found that individuals who were unaware of the program were most likely to have the greatest need, such as younger parents, people of color, or individuals with less education or low-incomes.

**PFL Program Participation.** In 2014, the EDD released a report, *Paid Family Leave: Ten Years of Assisting Californians in Need*, which found that during 2004-05 to 2012-13, the number of PFL claims increased by 43.4 percent (from approximately 150,500 to 215,800 claims), and claims filed by males increased by 400 percent (from approximately 12,800 to 65,500 claims).

EDD notes that approximately 87 to 89 percent of PFL claims from 2014 to 2018 were for bonding, while 11 to 13 percent were for care claims. In 2014, 99 percent of bonding claims were made by biological parents, and 27 percent of all PFL claims were made by biological fathers. The 2014 report found that while 6,000 to 8,000 children are adopted annually in California, only 548 PFL bonding claims were made in 2014 for adoptions. Participation rates for foster parents were even lower, with 698 bonding claims for approximately 36,000 children entering into foster care (two percent).

Participation by Geography. The *PFL Research* report notes that "biological mothers claiming benefits are focused in densely populated counties, specifically coastal southern California and the Bay Area." These compare to the areas that constituted highest percentage of PFL eligible births, although some substantial gaps emerged. The San Francisco Bay Area, especially the east and south bay, have slightly higher PFL usage than the rest of the state. Los Angeles and Fresno County have the lowest rate of use, with inland southern California also having low use. According to the report, this correlates with awareness levels. The utilization gap for biological fathers shows that Los Angeles, Orange and San Diego counties have the lowest utilization rate.

Participation by Income. The *PFL Market Research* report also notes that in 2014, 47 percent of female bonding claimants earned less than $36,000. Conversely, men tended to be from higher income groups with 60 percent of claimants earning over $36,000.

However, based on 2013 data, among lower income groups for women earning $12,000 to $24,000 and less than $12,000, the participation rate was 55 percent, and less than ten percent, respectively. Additionally, for mothers making $48,001 to $60,000, the participation rate was 50 percent, whereas higher income group participation was 70 to 85 percent.

The Legislature may wish to consider why these geographic disparities exist, and if additional outreach is needed to increase participation in Los Angeles, Fresno and inland southern California. Additionally, the Legislature may wish to consider additional outreach and education to adoptive parents and foster parents, as well as men and lower income groups, to increase participation.

**Other States' Paid Family Leave Programs.** In addition to California, New Jersey, New York, Massachusetts, and Rhode Island currently provide paid family leave. In February 2017, Washington D.C. enacted a paid family leave program that will take effect on July 1, 2020. In July 2017, the State of Washington created a paid family leave program; however, benefit payments will start in 2020. In 2018, Massachusetts created a paid family leave program, with premiums to begin in July 2019, and benefits to begin in January 2021.

Similar to California, the paid leave programs in New Jersey, New York, and Rhode Island are administered through pre-existing temporary disability insurance programs and funded via employee payroll deductions. Washington D.C. created a Universal Paid Leave Implementation Fund that will receive funding from a payroll tax on employees of covered employers and self-employed individuals who opt into the program. Washington created a similar family and medical leave insurance account in the state treasurer's office. The chart on the following page provides a brief summary of paid family leave programs in other states.

| | Reason for Leave | Length of Leave | Weekly Benefit Amount |
|---|---|---|---|
| **Massachusetts** | Bonding with new child, or care for self or family member with serious health condition. | 12 weeks for family leave, 26 weeks for caring for a covered service member, 20 weeks for own serious health condition. No more than 26 weeks total per year for combined family and medical leave. | The maximum weekly benefit is $850 in the program's first year, and will be adjusted annually to an amount equaling 64 percent of the state average weekly wage. |
| **New Jersey** | Disability, or care for new child, or family member with serious health condition. | 26 weeks for disability, or six weeks for family care. | Benefits are 66 percent of a worker's average weekly wage, with a maximum benefit of $637 in 2018. |
| **New York** | Bonding with new child, or care for family member with serious health condition. | For family leave, eight weeks in 2018, increasing to 10 weeks in 2019 and 12 weeks in 2021. | Wage replacement rates are scheduled to be 50 percent in 2018, 55 percent in 2019, 60 percent in 2020, and 67 percent in 2021, up to a specified amount based on a formula. |
| **Rhode Island** | Bonding with new child, or are for family member with serious health condition. | Four weeks for family leave. | Up to $831 per week for claims effective January 1, 2018 or later. |
| **Washington** | Bonding with new child, or are for family member with serious health condition. | 12 weeks for family leave, with a maximum of 16 weeks combined for own serious health condition and family leave. Benefits may be extended by two additional weeks due to pregnancy. | The maximum weekly benefit is $1,000 in the program's first year, and will be adjusted annually to an amount equaling 90 percent of the state average weekly wage. |
| **Washington DC** | Bonding with new child, or are for self or family member with serious health condition. | Eight weeks for parental leave, six weeks for family care, two weeks for own serious health condition. No more than eight weeks total per year combined. | Starting in 2020, the maximum benefit will be $1,000 per week. |

**San Francisco Paid Family Leave Ordinance.** In 2016, the San Francisco Board of Supervisors passed the Paid Parental Leave Ordinance (PPLO), which requires employers to provide supplemental compensation to employees who are receiving PFL for purposes of bonding with a new child through birth, adoption, or foster care placement. Covered employers are required to provide supplemental compensation so that the combined PFL compensation and PPLO supplemental compensation is equal to 100 percent of their gross weekly wage. The 2019 PPLO cap is $2,087 per week for a maximum of six weeks of parental bonding leave.

This program was phased in over a two year period. Specifically, employers with 50 or more employees must comply with the ordinance by January 1, 2017, employers with 35 or more employees by July 1, 2017, and employers with 20 or more employees by January 1, 2018. Employers may require employee to use up to two weeks of accrued, unused vacation to cover supplemental compensation payments.

In order to be eligible for the PPLO, an employee must work at least 180 days prior to the start of a leave period with the specified employer, work at least eight hours of work per week for the employer in San Francisco, and at least 40 percent of those total weekly hours worked for the employer in San Francisco.

**Wage Replacement Rate.** The *PFL Market Research* report found that both low-income and higher income workers cited the wage replacement rate as a key limitation on using PFL. This is particularly pronounced in potential lower income users, who use PFL at lower rates. The contractors who completed the report conducted a survey of workers, and found that low income workers stated that it was difficult to make ends meet with partial wages. Higher income workers felt similar to low income earners; however, they reported that their employers had policies in place, such as use of vacation and sick time, that could provide alternatives to PFL or be used in conjunction to the PFL program.

Assembly Bill 908 increased the wage replacement rate from 55 percent to 60 to 70 percent depending on a person's wages, and removed the one week PFL wait time. AB 908, is however, set to sunset on January 1, 2022. AB 908 requires the EDD to report to the Legislature by March 1, 2021, on the utilization of SDI and PFL benefits based on income categories, the cost of the increased wage replacement rates, and the SDI contribution rates. The Legislature may wish to request a preliminary report on the impact of AB 908, which may help inform budget conversations this year, as the Legislature considers the Administration's proposal.

Additionally, the Legislature may wish to consider if the current wage replacement rate is appropriate to increase participation in the PFL, or if it is an adequate amount for people to make ends meet. Should the Legislature wish to increase the wage replacement rate, it may wish to consider various mechanisms to fund the program. As noted previously, the program is currently funded solely from employee contributions; however, the Legislature may wish to increase the employee contributions or to have employers make contributions, similar to New Jersey.

Lastly, the Administration's proposal provides six months of bonding time per child to be split between parents; however, it is unclear what the wage replacement structure is under the proposal.

**Job Protection.** The focus groups and stakeholders also noted job protection as an important consideration when deciding to take leave. As noted previously, PFL does not provide job protection; however, an employee may be eligible for job protection under the FMLA/CFRA or the NPLA. These various laws may be confusing for a consumer to navigate and to determine under which laws they are protected. Specifically, the CFRA/FMLA is only applicable to employers with 50 or more employees, whereas the NPLA is only applicable to employers of 20 or more employees. However, the PFL is available to workers who pay into the DI system. The Legislature may wish to consider making the system easier for consumers to navigate, and whether the state should expand job protection to all employees who seek to take leave regardless of the number of employees an employer has.

**Task Force.** As noted previously, the Governor's budget proposes to expand the PFL by increasing child bonding leave for a parent or close relative to up to six months. The Administration also proposes to convene a task force to consider options to phase-in and expand the program, to increase program participation among eligible workers, and to align with existing worker protections and non-retaliation protections. As of the writing of this analysis, trailer bill language detailing these changes has not been released, nor are there additional details regarding the proposal.

**Technology Infrastructure.** In 2016-17, the state approved the modernization of EDD's benefit systems, or the Benefits Modernization Project (BSM). Currently, the information technology associated with the unemployment insurance, DI, and PFL programs are independent and not integrated, and rely on an aging main frame that is difficult and expensive to maintain. Additionally, each programs' databases reside in different platforms, and there is inconsistency for EDD customers across programs. EDD notes that the PFL system has not been modernized since being implemented in 2004. The goal of the BSM project is to create one benefit system to automate many UI, DI and PFL claims that are currently handled manually, as well as to make systems easier to update. The project is currently on stage three out of the four stages of the Project Approval Lifecycle (PAL) process, which conducts a procurement analysis and develops solution requirements and a solicitation policy.

The Legislature may wish to consider the impact of the Governor's proposal on the BSM project, and whether or not this would constitute a substantive change that would cause the PAL process to start over. As proposed, a child would receive six months of bonding time split between the parents; however, the current benefit system is not structured based on a child, but instead focused on each parental claim. Additionally, it took 18 months for EDD to implement changes to the benefit system associated with AB 908, which was largely within the existing framework of PFL. Implementing the changes associated with the Governor's proposal could further delay the BSM project.

**Staff Recommendation. Hold Open.**

***Senate Budget and Fiscal Review—Holly J. Mitchell, Chair***

# SUBCOMMITTEE NO. 4 Agenda

**Senator Maria Elena Durazo**
**Senator Jim Nielsen**
**Senator Thomas J. Umberg**

## Thursday, April 4, 2019
## 9:30 a.m. or Upon Adjournment of Session
## State Capitol - Room 2040

Consultant: Yong Salas

### PROPOSED FOR VOTE-ONLY

## PROPOSED FOR DISCUSSION/VOTE



*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.*

**ITEMS PROPOSED FOR VOTE-ONLY**

## 0511 SECRETARY OF THE GOVERNMENT OPERATIONS AGENCY

### Issue 1: Blockchain Working Group (AB 2658)

**Governor's Budget.** The Government Operations Agency (GovOps) requests one-time $241,000 General Fund to administer the provisions of Chapter 875, Statutes of 2018 (AB 2658, Calderon).

**Background.** Chapter 875, Statutes of 2018 (AB 2658, Calderon) requires GovOps to appoint a blockchain working group that will report to the Legislature the potential uses, risks, and benefits of blockchain technology by January 1, 2020. Blockchain is typically used to describe decentralized ledgers and originally developed to accommodate virtual currency technology. The blockchain working group will consider the uses of blockchain technology in state government and California-based businesses.

This request will fund one limited-term staff person as well as a contract with a "content neutral" professional facilitator that can provide structure and process so that the group can function effectively.

**Staff Recommendation.** Approve as budgeted.

### Issue 2: Permanent Establishment of the Director of Performance Improvement

**Governor's Budget.** The GovOps Agency requests ongoing expenditure authority of $200,000 for one position to continue its Performance Improvement and Data-Driven Management Initiatives.

**Background.** The mission of GovOps is to improve management and accountability of government programs, increase efficiency, and promote better and more coordinated operation decisions. The 2017-18 Budget Act provided a two-year, limited-term funding for one position to develop and implement a date-driven management initiative that would help state departments achieve these goals.

Since hired, the director has led development and implementation of programs, and led and coordinated the work of GovOps colleagues and the Department of Human Resources staff. For example, the director developed and delivered the CalHR Workforce Planning Cohorts which engage department executives in assessing their current and future needs, and initiated the development of a Strategic Planning Cohort to build in-house capability to develop, implement, monitor, and measure department goals and objectives. The purpose of this work was to design a framework to develop, deliver, and align tools, training, and techniques that drive improved outcomes, and move state entities away from a compliance-oriented mindset.

**Staff Recommendation.** Approve as budgeted.

## 0845 DEPARTMENT OF INSURANCE

### Issue 3: California Life and Health Insurance Guarantee (AB 2395)

**Governor's Budget.** The California Department of Insurance (CDI) is requesting an increase of $756,000 Insurance Fund in 2019-20 and $720,000 Insurance Fund ongoing thereafter to support three permanent positions to comply with Chapter 651, Statutes of 2018 (Assembly Bill 2395, Calderon).

**Background.** AB 2395 authorized the California Life and Health Insurance Guarantee Association (CLHIGA) to request approval for actuarially justified rate increases for covered policies, and requires reporting by long-term care insurance (LTCI) carriers with more than 10,000 policies to annually report financial information to CDI and the Legislature.

CDI is requesting three positions to evaluate the required reports, of which the analyses are complex and require ongoing continuing education, as required for overall solvency monitoring of these LTCI carriers. CDI reports that there are 175 carriers actively writing LTCI in the state, and are currently carrying 6,543,230 policies for reporting year 2017.

**Recommendation.** Approve as budgeted.

### Issue 4: Workers' Compensation Fraud Program

**Governor's Budget.** The CDI is requesting an ongoing increase of $2.805 million Insurance Fund for local assistance to fund workers' compensation fraud investigation and prosecution workload increases.

**Background.** The Fraud Assessment Commission (FAC), which is comprised of seven members appointed by the Governor, annually determines the level of funding necessary to support investigation and prosecution of workers' compensation insurance fund. The source of funding for these activities comes from insured or self-insured California employers. Existing law states that after incidental expenses, at least 40 percent of the funds are provided to CDI's Fraud Division state operations, and at least 40 percent of the funds are distributed to local District Attorney offices—historically, however, District Attorneys have received 60 percent of the funding. The increase in local assistance for district attorneys is commensurate with the assessment approved by the FAC.

**Staff Recommendation.** Approve as budgeted.

## 0890 SECRETARY OF STATE

### Issue 5: Office of Voting Systems Technology Assessment Staffing

**Governor's Budget.** The Secretary of State requests $165,000 General Fund in 2019-20 and $160,000 ongoing thereafter to serve as lead technology specialist of the unit responsible for oversight and quality assurance in testing, documentation, and certification.

**Background.** The Office of Voting Systems Technology Assessment (OVSTA) under the Secretary of State was created with two main responsibilities: (1) voting system examination, testing, and certification for use in California elections; and (2) overseeing the approval of ballot printers, as well as authorizing and monitoring the manufacture and distribution of ballots for an election. This scope has expanded to voting technologies including electronic poll books, ballot on demand, and remote accessible vote-by-mail systems.

California received $34 million in federal funding for election purposes, including the replacement of voting technologies, as described in the Help America Vote Act spending proposal. Pursuant to state law, the Secretary of State is responsible for review, testing, and certification of voting technology, and this request would provide funding for the position that would be responsible for the oversight and quality assurance for these duties.

**Staff Recommendation.** Approve as budgeted.

### Issue 6: Trailer Bill Language: Full Text of State Bond Measures

**Governor's Budget.** The Secretary of State proposes trailer bill language that would require the full text of measures related to debts and liabilities to be printed in the state voter information guide, consistent with the State Constitution.

**Background.** The proposed trailer bill language will eliminate a conflict created by Chapter 656, Statutes of 2017 (AB 606, Berman), which discontinued the printing of ballot measures in the state voter information guide beginning with the June and November 2018 elections. However, the California Constitution requires ballot pamphlets printed by the Secretary of State to include the complete text of proposed measures that create debts or liabilities of the state. The proposed trailer bill language clarifies the State Constitution requirement that the full text of a state measure relating to debts and liabilities, including a bond measure, be printed in the state voter information guide.

According to SOS, the fiscal impact of this trailer bill language will vary from election to election depending on the number and length of state measures relating to debts and liabilities, including bond measures that are included in the voter information guide. For example, if this clarification had been in place for the November 2018 election it would have increased the printing and mailing of the voter information guide costs by approximately $3.5 million. In the November 2018 election, there were four separate state bond measures on the ballot totaling 54 pages. The actual voter information guide had 96 pages in the November and adding the additional 54 pages would have brought the total to 150 pages, but pages are in multiples of 16, so it would have rounded up to 160 pages. While final costs are not available for the November 2018 election, a prior election with a voter information guide of a similar size came to $56,000 per page to print and mail.

Given the volatility of election-related costs and consistent with past practice, a budget augmentation for the potential additional costs associated with this trailer bill language will not be made at this time. There was no budget reduction with the passage of AB 606. To the extent future voter information guide costs exceed the existing elections appropriation; the Secretary of State will seek a supplemental appropriation. This is consistent with past practice for election-related costs. The proposed language is shown on the next page.

(a) (1) Upon the top portion of the first page, and not exceeding one-third of the page, shall appear:

(A) Identification of the measure by number and title.

(B) The official summary prepared by the Attorney General.

(C) The total number of votes cast for and against the measure in both the State Senate and Assembly, if the measure was passed by the Legislature.

(2) The space in the title and summary that is used for an explanatory table prepared pursuant to paragraph (2) of subdivision (e) of Section 9087 and Section 88003 of the Government Code shall not be included when measuring the amount of space the information described in paragraph (1) has taken for purposes of determining compliance with the restriction prohibiting the information described in paragraph (1) from exceeding one-third of the page.

(b) Beginning at the top of the right page shall appear the analysis prepared by the Legislative Analyst if the analysis fits on a single page. If it does not fit on a single page, the analysis shall begin on the lower portion of the first left page and shall continue on subsequent pages until it is completed.

(c) Immediately below the analysis prepared by the Legislative Analyst shall appear a printed statement that refers voters to the Secretary of State's ~~Internet Web site~~ internet website for a list of committees primarily formed to support or oppose a ballot measure, and information on how to access the committee's top 10 contributors.

(d) Arguments for and against the measure shall be placed on the next left and right pages, respectively, following the final page of the analysis of the Legislative Analyst. The rebuttals shall be placed immediately below the arguments.

(e) If an argument against the measure has not been submitted, the argument for the measure shall appear on the right page facing the analysis.

(f) Before each state measure, a conspicuous notice identifying the location on the Secretary of State's ~~Internet Web site~~ internet website of the complete text of the state measure. The Secretary of State's ~~Internet Web Site~~ internet website shall contain the provisions of the proposed measure and the existing laws repealed or revised by the measure. The provisions of the proposed measure differing from the existing laws affected shall be distinguished in print, so as to facilitate comparison. There shall be printed immediately below each state measure, except for a measure relating to debts and liabilities under Section 1 of Article XVI of the Constitution, including a bond measure, in no less than 10-point bold type, a legend substantially as follows: "If you desire a copy of the full text of the state measure, please call the Secretary of State at (insert toll-free telephone number) and a copy will be mailed at no cost to you."

(g) The following statement shall be printed at the bottom of each page where arguments appear: "Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency."

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 9084 of the Elections Code is amended to read:

9084. The state voter information guide shall contain all of the following:

(a) A complete copy of each state measure.

(b) ~~Before~~ (1) Except as provided in paragraph (2), before each state measure, a conspicuous notice that identifies the location on the Secretary of State's ~~Internet Web site~~ internet website of the specific constitutional or statutory provision that the state measure would repeal or revise.

(2) The text of a measure relating to debts and liabilities, including a bond measure, shall be printed in the state voter information guide as required by Section 1 of Article XVI of the California Constitution.

(c) A copy of the arguments and rebuttals for and against each state measure.

(d) A copy of the analysis of each state measure.

(e) Tables of contents, indexes, art work, graphics, and other materials that the Secretary of State determines will make the state voter information guide easier to understand or more useful for the average voter.

(f) A notice, conspicuously printed on the cover of the state voter information guide, indicating that additional copies of the state voter information guide will be mailed by the county elections official upon request.

(g) A written explanation of the judicial retention procedure as required by Section 9083.

(h) The Voter Bill of Rights pursuant to Section 2300.

(i) If the ballot contains an election for the office of United States Senator, information on candidates for United States Senator. A candidate for United States Senator may purchase the space to place a statement in the state voter information guide that does not exceed 250 words. The statement shall not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state voter information guide.

(j) If the ballot contains a question on the confirmation or retention of a justice of the Supreme Court, information on justices of the Supreme Court who are subject to confirmation or retention.

(k) If the ballot contains an election for the offices of President and Vice President of the United States, a notice that refers voters to the Secretary of State's ~~Internet Web site~~ internet website for information about candidates for the offices of President and Vice President of the United States.

(*l*) A written explanation of the appropriate election procedures for party-nominated, voter-nominated, and nonpartisan offices as required by Section 9083.5.

(m) A written explanation of the top 10 contributor lists required by Section 84223 of the Government Code, including a description of the ~~Internet Web sites~~ internet websites where those lists are available to the public.

SEC. 2. Section 9086 of the Elections Code is amended to read:

9086. The state voter information guide shall contain as to each state measure to be voted upon, the following, in the order set forth in this section:

**Staff Recommendation.** Approve as requested.

## Issue 7: Risk Limiting Audits (AB 2125)

**Governor's Budget.** The Secretary of State requests one-time $305,000 General Fund to assist with the implementation of Chapter 913, Statutes of 2018 (AB 2125, Quirk).

**Background.** The state's post-election audit is currently a manual tally of one percent of precincts that are randomly chosen. Chapter 913, Statutes of 2018, authorizes a risk-limiting audit, which is a statistical method involving a manual tally of randomly selected ballots that stops as soon as it is implausible that a full recount would alter the result, in lieu of the one percent manual tally. This legislation is in effect until January 2021. This request will fund the promulgation of regulations, and testing of potential software solutions for conducting risk-limiting audits.

**Staff Recommendation.** Approve as budgeted.

## Issue 8: Records Management Services

**Governor's Budget.** The Secretary of State requests $660,000 General Fund in 2019-20 and $630,000 ongoing thereafter to support six positions for the State Archives' California Records and Information Management (CalRIM) unit.

**Background.** The CalRIM unit, which is currently staffed with three positions, is responsible for training, reviewing records retention schedules, coordinating transfers of public records with historical value, and ensuring State Records Management Act compliance from 234 state entities in addition to the members of the State Legislature. In the past five years, 1,713 records retention schedules have been filed and approved, many with over 100 entries.

There is currently a backlog of more than 100 records retention schedules. CalRIM is also responsible for administering the Local Government Records Management program, which provides local government entities with records management, historical record preservation, and disaster preparedness guidance and training to local governments; however, CalRIM states that they have insufficient staff to meet this mandate.

CalRIM, as well as three archivists outside of the unit, are currently managing the workload. This request would allow CalRIM to address the backlog, as well as its duties in relation to local government records management.

**Staff Recommendation.** Approve as budgeted.

## Issue 9: Help America Vote Act Spending Plan - VoteCal

**Governor's Budget.** The Secretary of State requests $10.8 million ($10,838,000) federal funds in 2019-20 to cover the maintenance and operations and support for security enhancements for the VoteCal statewide voter registration system.

**Background.** Federal law, the Help America Vote Act (HAVA of 2002) mandates that each state implement, maintain and administer the state-level, uniform, centralized, interactive computerized voter registration database. VoteCal serves as the single system for storing and managing the official list of registered voters in the state, and is jointly supported by the Elections Division under the Secretary of State and county elections officials.

In April 2018, Congress approved and the President signed $380 million in HAVA funding, of which California received $34 million. Of this amount, the Secretary of State is proposing $3 million to fund local assistance support for county efforts associated with cyber security risks and the associated infrastructure needs, $2.3 million for external consulting that includes security training curriculum and training of counties, and $5.5 million for the maintenance and operation of VoteCal.

**Staff Recommendation.** Approve as budgeted.

## Issue 10: Help America Vote Act Spending Plan

**Governor's Budget.** The Secretary of State requests $19.6 million ($19,635,000) federal fund in 2019-20 to continue implementation of the statewide mandates of the Help America Vote Act of 2002.

**Background.** In April 2018, Congress approved and the President signed $380 million in HAVA funding, of which California received $34 million. The Secretary of State is proposing to use $10.8 million of these federal funds for the VoteCal system, as described in the previous item. This request would use approximately $17 million for county assistance for improving voting systems, election assistance for individuals with disabilities, and improving the secure administration of elections, and $2.6 million for voter education, voting system testing and approval, and continued administration of HAVA activities.

**Staff Recommendation.** Approve as budgeted.

## 1111 DEPARTMENT OF CONSUMER AFFAIRS

### Issue 11: Medical Expert Reviewers

**Governor's Budget.** The Medical Board of California (MBC) requests $499,000 Contingent Fund of the Medical Board of California in 2019-20 and ongoing annually to increase the hourly rate for trained Medical Expert Reviewers.

**Background.** The Expert Reviewer Program was established in July 1994, as an impartial and professional means to support the investigation and enforcement functions of the Board. Expert reviewers review the facts of medical cases and determine if the standard of care has been met, and can only be utilized five times per year. Experts also conduct professional competency, physical, and psychiatric examinations.

Since 2009, the MBC has compensated its expert reviewers at the rate of $150 per hour. However, the market rate for comparable experts is much more competitive; MBC estimates the compensation for defense counsel experts can range from $300 to $1,000 per hour. In addition to the pay discrepancy, MBC states that they face a recruitment challenge for physicians in specialized fields, which is further aggravated by the five-per-year limit that each expert may be utilized.

This proposal would accommodate a $50 increase to the hourly salary for the expert reviewers, on the condition that they take the Board's training. This training would provide eight hours of formal, interactive training to experts to improve the quality of the opinions received, testifying skills, and statewide uniformity. It would also educate the Experts in writing a legally sound opinion that cites the issue, the standard of care necessary to address the issue, the Expert analysis of the issue, and whether the expert in his or her opinion feels the quality of care was below the standard and is a departure from the practice of medicine.

**Staff Recommendation.** Approve as budgeted.

## Issue 12: Business Modernization Plans

**Governor's Budget.** The Department of Consumer Affairs (DCA) requests one-year limited-term funding and staffing to allow the Board of Pharmacy and the Board of Accountancy to implement their respective Business Modernization Plans (BMP) and engage in critical planning efforts to transition to new information technology systems. Each board is requesting one-year limited-term funding of $251,000 in 2019-20 and two positions to provide program support during the BMP.

**Background.** DCA oversees 37 boards and bureaus that provide professional licensure and regulatory oversight to their respective professions. In 2009, DCA began adopting the BreEZe IT system, which at that time was envisioned to be able to support the primary functions and responsibilities of all Department regulatory boards. The intent of BreEZe was to better service consumers, licensees, applicants, and other stakeholders with a more robust online presence including online application capabilities, online license maintenance functions, online payments, mobile enforcement capabilities, accessible data, and efficient reporting.

The transition was initially planned with three releases, with a specified number of boards and bureaus with each release. However, significant transition and adoption issues arose, which resulted in delays and increased costs. As a result, boards and bureaus scheduled to transition to BreEZe with the third release (also known as R3) canceled their transition and were directed to conduct BMPs to properly assess their respective IT, programmatic, and resource needs. While some boards and bureaus were able to conduct this workload within existing resources, some of the smaller boards and bureaus require additional resources to do so.

This request will provide the Board of Pharmacy and the Board of Accountancy with one-year, limited-term resources to assist in their respective BMPs.

**Staff Recommendation.** Approve as budgeted.

## 2320 DEPARTMENT OF REAL ESTATE

### Issue 13: Education and Research Account

**Governor's Budget.** The Department of Real Estate requests ongoing $200,000 Education and Research Account to fund real estate related research projects.

**Background.** Existing law establishes the Education and Research Account within the Real Estate Fund, and may collect up to eight percent of license fees. If the account exceeds $400,000, the Real Estate Commissioner may transfer excess funds to the Real Estate Fund.

This request is for ongoing authority of $200,000 from the Education and Research account, and in 2019-20, the Department is proposing to use the funds to conduct research of the Commissioner's regulations to determine if DRE-approved statutory courses completed for licensure are indeed equivalent in nature to those courses offered by colleges. After 2019-20, the Department proposes to use the funds to: (1) update the Real Estate Reference Book, and (2) prepare or revise consumer-protection related pamphlets.

Pre-license education courses are required for a real estate salesperson or broker license. These courses are provided by the University of California, California State University, California Community Colleges, or private vocational schools.

**Staff Recommendation.** Approve as budgeted.

## 8620 FAIR POLITICAL PRACTICES COMMISSION

### Issue 14: Campaign Disclosures on Advertisements (AB 2188)

**Governor's Budget.** The Fair Political Practices Commission (FPPC) requests $200,000 General Fund in 2019-20 and ongoing $193,000 General Fund thereafter for one Senior Commission Counsel position to implement the provisions of Chapter 754, Statutes of 2018 (AB 2188, Mullin).

**Background.** The Political Reform Act requires specified disclosures in advertisements regarding the source of the advertisement. For example, the act requires an electronic media advertisement, other than an Internet Web site, paid for by a committee, other than a political party committee or a candidate controlled committee, to include the text "Who funded this ad?" and a hyperlink to a web site containing specified disclosures regarding who paid for the advertisement.

Chapter 754, Statutes of 2018 (AB 2188, Mullin) made substantial changes to the Act to include disclosure requirements for political advertisements on online social media platforms, which will go into effect beginning January 1, 2020. The FPPC is responsible for implementing and interpreting this legislation, and this request would provide the FPPC with resources to address potential litigation that may be filed as a result. While the FPPC can utilize attorneys at the Attorney General's Office to represent the FPPC, FPPC staff counsel will need to participate in the representation, manage the litigation as the client agency, and be the point of contact for factual and legal questions that arise throughout the litigation.

**Staff Recommendation.** Approve as budgeted.

## ITEMS FOR DISCUSSION/VOTE

## 0511 SECRETARY OF THE GOVERNMENT OPERATIONS AGENCY

### Issue 15: Establish the Office of Digital Innovation

**Governor's Budget.** The Government Operations Agency (GovOps) requests $36.2 million ($33.7 million General Fund and $2.5 million reimbursements) in 2019-20 and $14.6 million ($9.6 million General Fund and $5 million reimbursements) ongoing thereafter, as well as trailer bill language, to establish the Office of Digital Innovation (ODI). This request is for 50 positions, and includes a $20 million Innovation Fund.

**Background.** The Administration states that "establishing the Office will enhance the usability and reliability of our state's most important services by using business process improvement and leveraging digital innovation, as appropriate, to transform government services." The Administration states that it would take a user-centric approach in reviewing government services and research user needs, how they engage with state programs, and then in response, design or redesign how services are delivered. These reviews would be done by an ODI team that would work with a department to review its service delivery model.

In addition to staff that would conduct these reviews, ODI will host an "Innovation Academy" that provides interdisciplinary training to executives, including in areas of continuous process improvement, human-centered design, and change management.

In January 2019, the Governor took a number of actions that performed similar functions as ODI:

- Issued an executive order that required California Department of Forestry and Fire Protection, in coordination with other state entities including GovOps, to make recommendations on a number of items. This list included policy changes to improve bureaucratic processes such as procurement or waivers that would allow for more rapid and effective management of resources.
- Issued an executive order that required state agencies to develop an Innovation Procurement Sprint, or an alternative procurement approach.
- Assembled a Department of Motor Vehicles (DMV) Reinvention Strike Team, which was tasked to lead a comprehensive modernization of the DMV.

In addition, the Governor recently appointed a Special Advisor on Innovation and Digital Services in the Office of the Governor.

Within the last couple of years, other state entities have embarked on similar business modernization paths. For example, approximately 17 boards and bureaus under the Department of Consumer Affairs (DCA) are also undergoing business modernization plans, which review their business processes as well as any technology needs that might arise, which are done in conjunction with the Administration division in DCA and the Department of Technology.

***Innovation Fund.*** The Administration also proposes an Innovation Fund with one-time $20 million General Fund, which will be used for small-scale demonstration projects with various state entities.

**Trailer Bill Language.** GovOps proposes trailer bill language that: (1) Establishes the Office of Digital Innovation; (2) authorizes the Director to change the State Administrative Manual or the State Information Management Manual; (3) requires the Director to train staff in leadership positions, and authorizes the Director to make this training mandatory; (4) establishes the Digital Innovation Services Revolving Fund, which would be able to receive public or private dollars; and (5) would authorize the Department of General Services' negotiation process for information technology and telecommunications goods and services for ODI's purposes.

**Staff Comment.** The trailer bill language and provisional language are unclear with regards to the transparency of the use of public funds for this new office. For example, trailer bill language states:

> "Should the Office's service delivery improvement efforts require a budget augmentation for either the Office or the state entity engaged by the Office, the entity whose budget requires an augmentation shall consult the Department of Finance prior to proceeding with the Office's service delivery improvement effort."

While trailer bill language requires an appropriation from the Legislature to pay for all costs related to the Office of Digital Innovation, this language would allow ODI and/or the department being assisted to move forward with a project requiring a budget augmentation prior to oversight or approval from the Legislature.

Additionally, provisional language regarding the uses for the Innovation Fund, which is being proposed with an initial startup of $20 million General Fund, is broad and unclear, and is as follows:

> Of the amount appropriated in Schedule (3), $20,000,000 is provided for the Office of Digital Innovation to assist state entities and shall be available for encumbrance or expenditure until June 30, 2021.

The subcommittee may wish to seek clarity on how public dollars will be used transparently and effectively for the purposes of the Office of Digital Innovation.

**Staff Recommendation.** Hold open.

## Issue 16: Census Outreach

**Governor's Budget.** The Administration requests $50 million General Fund in 2019-20 to augment current statewide outreach and communication efforts related to the Census 2020, and $4 million General Fund to conduct the California Housing and Population Sample Enumeration (CHPSE).

**Background.** Only once each decade, the U.S. Census Bureau attempts to count every resident in the United States. The next enumeration will be April 1, 2020, and will be the first to rely heavily on online responses. The primary and perpetual problem facing the Census Bureau is the undercount of certain population groups. Foreign-born residents, especially undocumented, non-white residents, children under five years old, especially those younger than one year old, and renters comprise the most undercounted populations. California has more residents in each of these categories than any other state.

The decennial census is one of the main factors that determine how hundreds of billions of dollars of federal assistance are distributed. For instance, the census count is used to determine states' Federal Medical Assistance Percentage (FMAP) for Medicaid, known in California as Medi-Cal, which is based on per-capita income. A lower per-capita income can result in a higher FMAP and more federal funds per Medi-Cal participant. The census is also used to determine each state's per-capita income. Other major federal assistance programs that use census data include highway funding, Section 8 housing vouchers, and special education grants.

California Complete Count effort was established in the 2017-18 fiscal year to encourage and support full participation by all Californians in the upcoming Census 2020, and states that it is focusing on communities historically undercounted in the Census. These hard-to-count (HTC) populations are defined by the federal Census Bureau using several variables, including housing conditions, low-income status, citizen and non-citizen status, English proficiency, mobility, and displacement by disasters.

Many areas that are within the federal Census Bureau's purview are not open to state involvement, and these responsibilities include: (1) designing and conducting the Census; (2) updating the Census addresses; (3) protecting confidential data; and (4) training local Complete Count Committees. The state's Census efforts will backfill any gaps to the federal Census Bureau's outreach, communication and support, including: (1) providing outreach materials in languages not provided by the federal government; (2) publicizing Census enumerator hiring opportunities; and (3) funding outreach to HTC populations.

The 2017 Budget Act provided up to $10 million for initial census preparation activities, of which $7 million was provided for local governments participating in the federal Census Bureau's Local Update of Census Address (LUCA) program. The 2018 Budget Act provided $90.3 million for communications and outreach efforts for this purpose. As part of these outreach efforts, the state Census office is developing language and communication access standards to be used for counties and CBOs when they are putting together their language and communication access plans.

The Administration is proposing $50 million General Fund to augment funding for current efforts in the following ways:

- $10 million for regional community-based organizations, for a total of $32.95 million.
- $5.95 million for statewide community-based organizations, for a total of $10 million.
- $1 million for county offices of education, for a total of $1.75 million. Education outreach will total $2.25 million, and includes K-12 and higher education, as well as programmatic costs.
- $1 million for non-education based sector outreach, for a total of $2 million.
- $30 million for public and media relations contracts, for a total of $46.1 million.
- $2 million for administrative costs, for a total of $14.1 million.

**California Housing and Population Sample Enumeration.** The Administration re-appropriated $1.3 million that was remaining from the LUCA Incentive program, and began initial contracts with the RAND Corporation to conduct the CHPSE. The Administration is requesting $4 million General Fund for this effort, and would bring the total cost to $5.3 million. The Administration states that it will conduct a sample, survey-based enumeration of 20,000 households to (1) gauge the accuracy of the federal Census Bureau's results, and (2) allow the Department of Finance to refine its population estimation techniques and validate its small area modeling that is used to budget for programs based on population estimates. These surveys will take place immediately after the April 1 Census date, during the period known as the Non-Response Follow-Up.

**Stakeholder Funding Request**. The Subcommittee received a stakeholder request from the Census Policy Advocacy Network (CPAN), which is comprised of several statewide organizations in California. CPAN requests $93.4 million General Fund in 2019-20 for CBO outreach. With the $50 million General Fund proposed for 2019-20, the funding for both regional CBOs and statewide CBOs totals $42.95 million. CPAN states that the total resources CBOs would need is $120.4 million to reach an estimated 16.2 million HTC Californians, $77.5 million above what is currently proposed. CPAN states that these costs are derived from a cost-per-person calculation based on specific outreach activities, targeted HTC population strategies, staffing, operating costs, technology, travel, and translation.

**Staff Comment.** The state's Census outreach efforts are currently underway, and have recently announced the 10 regional CBOs for outreach based on census region, as well as 13 statewide CBOs for outreach based on demographic groups, and will announce another round of statewide CBOs after June 2019. While the language and communication access standards are currently in development, they will be used to inform and guide various implementation plans by the counties and the CBOs. The Subcommittee may wish to ask the state Census office the status of these standards, any changes they are planning to make in time for the counties and the CBOs to develop their implementation plans, and how these standards will help CBOs and counties reach HTC populations other than limited-English proficient or persons with disabilities, such as nonfamily households or renters.

**Staff Recommendation.** Hold open.

## 0890 SECRETARY OF STATE

### Issue 17: National Voter Registration Act Maintenance and Expansion

**Governor's Budget.** The Secretary of State requests an increase of $535,000 General Fund in 2019-20 and $520,000 General Fund in 2020-21 to support three additional positions and the translation of educational and training materials for the entities designated as voter registration agencies.

**Background.** Federal law, the National Voter Registration Act (NVRA), requires each state to designate agencies that provide public assistance, and state agencies that primarily serve persons with disabilities, as voter registration agencies. These directives are provided to states with federal funding. In 1994, at least seven NVRA agencies were designated and by 2013, an additional seven NVRA agencies were designated. In 2018, the Secretary of State designated an additional four agencies, which cover more than 100 different locations across the state, bringing the total number of designated agencies to 18.

Chapter 505, Statutes of 2012 (SB 35) placed new requirements in addition to federal law, including requiring the Secretary to coordinate with county elections officials and voter registration agencies, and preparing written training materials that describe the responsibilities under state law and the federal NVRA.

Additionally, Disability Rights California and the American Civil Liberties Union (ACLU) Foundation of Northern California sued the Secretary of State in July 2018, for "failing to provide voter registration services for low-income Californians and Californians with disabilities," and argued that the Secretary "failed to designate state and local offices that serve more than seven million Californians as 'Voter Registration Agencies'," as required under NVRA and state law.

Given that the Secretary of State designated four new agencies as voter registration agencies in 2018, this request would provide three additional positions and the translation of educational and training materials for these new entities.

**Staff Recommendation.** Approve as budgeted.

## 1111 DEPARTMENT OF CONSUMER AFFAIRS

**Overview.** The department seeks to protect Californians by establishing and enforcing licensing standards for approximately 3.5 million professionals across 250 business and professional categories. DCA oversees 38 entities (25 boards, two committees, one commission, nine bureaus, and one certification program). The committees, commission, and boards are semi-autonomous bodies, whose members are appointed by the Governor and the Legislature. In general, the department's boards and bureaus provide exams and licensing, enforcement, complaint resolution, and education for consumers. License fees primarily fund DCA's operations.

**Budget.** The budget includes $699.3 million total expenditures and 3,417.6 positions to support the department, its programs, and its services. The department is supported entirely by fees and other regulatory assessments.

### Issue 18: Board and Bureau, Legislative Workload

**Governor's Budget.** The Department of Consumer Affairs (DCA) requests adjustments to resources for various Boards and Bureaus to provide adequate staffing and funding to meet ongoing permanent workload or other operational needs beginning in 2019-20 and thereafter.

**Background.** DCA states that this proposal more properly aligns staffing resources with actual and projected workloads, and projected workloads to implement legislation. The board and bureau workload adjustments are due to increased workload for administering exams, processing complaints or applications, or other workload as identified. The total cost impacts of the workload requests are an overall reduction of $54,000 in 2019-20 and $217,000 in 2020-21 from various special funds.

Costs related to workload due to legislation passed by the Legislature and chaptered in 2018 alone will cost $2.8 million ($2,826,000) in 2019-20 and $3.6 million ($3,345,000) in 2020-21 from various special funds. The boards and bureaus are also requesting an overall position augmentation of 130.6 positions, which include 80.5 positions that were converted to permanent positions from the temporary help blanket and do not require additional funding authority.

The requests for 2019-20 and ongoing are as follows:

| | Board and Bureau Workload | | | | | Legislative Workload | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Board Name** | **2019-20 Funding Request** | **Ongoing Funding Request** | **Pos. Req.** | **Justification** | **Technical Blanket Conversion** | **2019-20 Funding Request** | **Ongoing Funding Request** | **Pos. Req.** | **Justification** | **2019-20 TOTAL** | **TOTAL POS.** |
| California Board of Accountancy | $568,000 | $568,000 | 10.0 | Align permanent staffing resources with ongoing workload; funding would also ensure the CPA exam is compliant with the Americans with Disability Act. | 2.0 | $0 | $0 | | | $568,000 | **12.0** |
| Board of Behavioral Sciences | $0 | $0 | 2.0 | Align permanent staffing resources with ongoing workload. | 1.5 | $89,000 | $81,000 | 1.0 | Chapter 743, Statutes of 2018 (AB 93, Medina) | $89,000 | **4.5** |
| Board of Barbering and Cosmetology | $0 | $0 | | | 4.0 | $0 | $0 | | | $0 | **4.0** |
| Dental Hygiene Board of California | $99,000 | $91,000 | 1.8 | Align permanent staffing resources with ongoing workload. | | $99,000 | $91,000 | 1.0 | Chapter 858, Statutes of 2018 (SB 1482, Cmte. On BP&ED) | $198,000 | **2.8** |
| Physical Therapy Board of California | $362,000 | $338,000 | 4.0 | Comply with CalHR's manager-to-staffing ratio guidelines, and meet workload demands. | | $0 | $0 | | | $362,000 | **4.0** |
| Physician Assistant Board | $257,000 | $233,000 | 2.5 | Align permanent staffing resources with ongoing workload. | | $0 | $0 | | | $257,000 | **2.5** |
| Board of Psychology | $0 | $0 | 1.0 | Align permanent staffing resources with ongoing workload. | 1.0 | $0 | $0 | | | $0 | **2.0** |
| Osteopathic Medical Board of California | $250,000 | $250,000 | - | $50,000 for expert reviewers and $200,000 for investigation costs. | | $224,000 | $208,000 | 2.0 | Chapter 775, Statutes of 2017 (SB 798, E. Garcia) | $474,000 | **2.0** |

| | Board and Bureau Workload | | | | | Legislative Workload | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Board Name** | **2019-20 Funding Request** | **Ongoing Funding Request** | **Pos. Req.** | **Justification** | **Technical Blanket Conversion** | **2019-20 Funding Request** | **Ongoing Funding Request** | **Pos. Req.** | **Justification** | **2019-20 TOTAL** | **TOTAL POS.** |
| California State Board of Pharmacy | $248,000 | $232,000 | 2.0 | Align permanent staffing resources with ongoing workload. | 3.0 | $946,000 | $1,867,000 | 5.5 | Chapter 647, 666, 1004, Statutes of 2018 (AB 2037 [Bonta], SB 1447 [Hernandez], SB 212 [Jackson]) | $1,194,000 | **10.5** |
| Dental Board of California | $0 | $ - | 0.7 | Align permanent staffing resources with ongoing workload. | 2.0 | $547,000 | $465,000 | 4.0 | Chapter 929, Statutes of 2018, (SB 501, [Glazer]) | $547,000 | **6.7** |
| State Dental Assistant Program | $0 | $ - | 2.0 | Comply with CalHR's manager-to-staffing ratio guidelines, and align permanent staffing resources with ongoing workload. | | $0 | $0 | | | $0 | **2.0** |
| Medical Board of California (three-year request) | ($1,575,000) | ($1,579,000) | 1.1 | Implement the Licensed Physicians from Mexico Pilot Program, and align budget authority to reflect the abolishment of the vertical enforcement model for the Medical Board. | 12.0 | $0 | $0 | | | ($1,575,000) | **13.1** |
| Registered Dispensing Opticians | $87,000 | $ - | - | Conduct an occupational analysis of the RDO's national examination. | | $0 | $0 | | | $87,000 | **-** |
| Bureau of Security and Investigative Services & Private Security Services | $0 | $ - | 4.0 | Align permanent staffing resources with ongoing workload. | 2.5 | $0 | $0 | | | $0 | **6.5** |

| | Board and Bureau Workload | | | | | Legislative Workload | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Board Name** | **2019-20 Funding Request** | **Ongoing Funding Request** | **Pos. Req.** | **Justification** | **Technical Blanket Conversion** | **2019-20 Funding Request** | **Ongoing Funding Request** | **Pos. Req.** | **Justification** | **2019-20 TOTAL** | **TOTAL POS.** |
| Bureau of Real Estate Appraisers | ($350,000) | ($350,000) | (3.0) | Align resources with ongoing workload. | z | $0 | $0 | | | ($350,000) | **(3.0)** |
| Cemetery and Funeral Bureau | $0 | $0 | | | 1.0 | $69,000 | $61,000 | 0.5 | Chapter 750, Statutes of 2018 (AB 926, Irwin) | $69,000 | **1.5** |
| Bureau of Household Goods and Services | $0 | $0 | | | | $299,000 | $305,000 | 3.0 | Chapter 924, Statues of 2018 (AB 2998, Bloom) | $299,000 | **3.0** |
| Contractor State License Board | $0 | $0 | | | 19.0 | $217,000 | $201,000 | 2.0 | Chapter 514, Statutes of 2018 (SB 1465, Hill) | $217,000 | **21.0** |
| Veterinary Medical Board | $0 | $0 | | | | $336,000 | $312,000 | 3.0 | Chapter 571, Statutes of 2018 (SB 1480, Hill) | $336,000 | **3.0** |
| Board of Registered Nursing | | | | | 7.0 | | | | | | **7.0** |
| Board of Vocational Nursing and Psychiatric Technicians | $0 | $0 | | | 3.5 | $0 | $0 | | | $0 | **3.5** |
| Bureau of Private Postsecondary Education | $0 | $0 | | | 2.0 | $0 | $0 | | | $0 | **2.0** |
| Bureau of Automotive Repair | $0 | $0 | | | 20.0 | $0 | $0 | | | $0 | **20.0** |
| **TOTAL** | **($54,000)** | **($217,000)** | **28.1** | | **80.5** | **$2,826,000** | **$3,591,000** | **22.0** | | **$2,772,000** | **130.6** |

**Staff Recommendation.** Approve as budgeted.

**Issue 19: Consumer Affairs Administration Workload**

**Governor's Budget.** DCA requests $5.2 million in 2019-20 and 24.5 positions, $4.5 million in 2020-21, $3.6 million in 2021-22, and $2.1 million ongoing to address increased workload in DCA's Business Services Office, Fiscal Operations Office, Office of Legal Affairs, Division of Investigation, Office of Human Resources, and the Office of Professional Examination Services. Of the amount requested, $2.9 million is funded by DCA's boards and bureaus via prorate while costs for the Office of Examination Services and Division of Investigation is funded by boards and bureaus based on workload.

**Background.** DCA provides administrative oversight to 37 boards and bureaus, which regulate and provide licensure to more than 100 business types, 200 professional categories, and 3 million licensees in the state. DCA provides various administrative support to these boards and bureaus, including, legal, communications, budgeting, investigations, and strategic planning. DCA is a non-General Fund department, and is supported by the various special funds under its purview. Some of the services within DCA Administration are funded through proportional shares, or pro rata assessments, by the boards and bureaus, such as legal affairs, business and fiscal services, and human services. Other services are funded as direct costs of the services, such as printing services or investigative and enforcement work.

The request is as follows:

| Consumer Affairs Administration Workload | 2019-20 | 2020-21 | Positions | Comments | Justification |
|---|---|---|---|---|---|
| Business Services and Fiscal Operations | $ 1,200,000 | $ 943,000 | 7 | Funded through pro rata; 2 year limited terms. In 2017-18, BSO&FO had 165.1 positions. | Address significant workload increases due to FI$Cal implementation. |
| Regulatory Unit within Legal Affairs | $ 1,670,000 | $ 1,470,000 | 8 | Funded through pro rata; 3 year limited terms. Legal Affairs Division is currently authorized for 25 positions. | Address backlog of regulation package review, and review regulations packages as a result of Chapter 995, Statutes of 2018 (AB 2138, Chiu). Current regulations packages are reviewed by the Legal Affairs Division, which are also tasked with drafting legal opinions, disciplinary actions against licensees, labor and employment law, among others. |
| Division of Investigations | $ 1,980,000 | $ 1,790,000 | 4.5 | Funded through direct costs; ongoing request. The DOI currently is authorized for 248.6 positions. | Division of Investigation is budgeted on a two-year roll forward basis. DCA states that the additional workload is mostly generated by the Board of Registered Nursing. This request will also fund medical consultants in the Health Quality Investigation Unit. |
| Office of Human Resources | $ 46,000 | $ 46,000 | 3 | Funded through pro-rata; ongoing. In 2017-18, OHR had 66.1 positions. | Allow the Office of Human Resources to meet the increasing workload due to new software and to provide internal administrative support. |
| Office of Professional Examination Services | $ 287,000 | $ 271,000 | 2 | Funded through direct costs; ongoing request. | Staffing will meet increased workload needs to ensure licensing exams are fair, valid, and legally defensible. |
| **TOTAL** | **$ 5,183,000** | **$ 4,520,000** | **24.50** | | |

**Staff Recommendation.** Hold open.

**Issue 20: Board of Registered Nursing – Staffing Augmentation**

**Governor's Budget.** The Board of Registered Nursing (BRN) requests $7.1 million in 2019-20, $6.5 million in 2020-21 and 2021-22, and $3.3 million ongoing to the Board of Registered Nursing Fund, Professions and Vocations Fund to fund 67 positions to address deficiencies within the Board's Licensing Division, Administration & Public Information Unit, and Enforcement Division.

**Background.** The BRN has historically experienced severe delays in processing applications for registered nurses, as well as processing complaints of misconduct by registered nurses. BRN states that the implementation of the BreEZe system resulted in a shift of processing application times from 4-6 weeks to 12-20 weeks, despite regulatory requirements that the initial evaluation of a licensing application must be completed within 90 days.

Additionally, in 2016, the California State Auditor conducted an audit of BRN's complaint resolution process and issued findings that the BRN there were significant delays and inadequate oversight, which have allowed some nurses who may pose a risk to patient safety to continue practicing. In response, the BRN changed the internal structure and process of its Enforcement Division and has collaborated with Department of Consumer Affairs (DCA) as well as the Attorney General's Office, the Division of Investigation (within the administration of DCA), and the Office of Administrative Hearings to create efficiencies with existing resources. As a result, the BRN has reduced the discipline case processing timeline, on average, from 40 months at the end of 2009-10 to approximately 22 months at the midpoint of 2017-18. DCA developed the Consumer Protection Enforcement Initiative, which issued guidance to complete discipline cases within 12-18 months. Despite these efficiencies, the BRN states that they cannot meet this goal without sufficient staffing.

The BRN requests 67 positions, of which 31 positions are three-year limited term, and $7.1 million in 2019-20, $6.5 million in 2020-21 and 2021-22, and $3.3 million ongoing thereafter. This request will bring the Board's total budget to $54.6 million, which is fully funded from its licensing fees. According to the Department of Finance, the fees that were increased last year will provide sufficient funding for this request and will not require an additional fee increase.

These positions will be spread throughout the Licensing Division, the Administration and Public Information Unit, and the Enforcement Division, with the highest concentration of positions augmenting the BRN's consumer assistance call center, which currently consists of 12 positions, with an additional 23 three-year limited term positions (five of which are continuations of current limited-term positions that are expiring on June 30, 2019), and the Licensing Division with an additional 19 positions, of which five are three-year limited term (ten of which are continuations of current limited-term positions that are expiring on June 30, 2019). The Enforcement Division will receive an additional 8 ongoing positions to timely respond to and monitor disciplinary cases.

Below is the distribution of the 67 positions:

| ADMINISTRATION AND PUBLIC INFORMATION UNIT | |
|---|---|
| | **Positions** |
| Call Center & Correspondence | 23 |
| Continuing Education Providers | 6 |
| Registered Nurse- Continuing Education Audits | 2 |
| Fingerprint Requests | 3 |
| Administration/Information Technology | 4 |
| Executive Management | 2 |
| **TOTAL REQUEST** | **40** |

| LICENSING DIVISION | |
|---|---|
| U.S. Evaluations | 11 |
| International Evaluations | 3 |
| Advanced Practice Evaluations | 1 |
| Technical Services | 4 |
| **TOTAL REQUEST** | **19** |

| ENFORCEMENT DIVISION | |
|---|---|
| Complaint Intake Unit | 4 |
| Nursing Education Consultant | 1 |
| Probation Program | 3 |
| **TOTAL REQUEST** | **8** |

**Staff Recommendation.** Hold open.

## 8260 CALIFORNIA ARTS COUNCIL

### Issue 21: Arts Programming Grants

**Governor's Budget.** The California Arts Council (CAC) requests $10 million General Fund to expand and develop its grant programs that support public access to the arts, arts education, and the state's cultural infrastructure. Of this $10 million, the CAC requests $500,000 be transferred for operational support.

**Background.** The CAC is California's state arts agency and is mandated to invest in nonprofit organizations and local government, via competitive grant programs, to ensure that arts and culture are accessed throughout California.

In the 2018 Budget Act, CAC was given a one-time $8.8 million General Fund augmentation, and to thoroughly evaluate its grant program portfolio. The CAC projects that it may fund approximately 57 percent of all grant requests. CAC states that they are currently underway with the Request-For-Proposal process to secure a consultant for the evaluation work, and anticipate that they will begin evaluation activities in Fall 2019. In the 2017 Budget Act, CAC was given an ongoing $7.5 million General Fund augmentation, of which $1.5 million was provided for rehabilitative arts and anti-recidivism support. Of this amount, CAC funded approximately 75 percent of grant requests.

CAC receives state General Fund, federal funds, proceeds from sales and renewals of the California's Arts Plate, and donations from the Keep Arts in Schools voluntary contribution fund. In 2017-18, CAC had $16 million available for grants, and in 2018-19, CAC had $24.9 million available for grants. Absent this request, the CAC has a baseline of $16 million to award grants. This request will bring that amount to $26 million.

**Staff Recommendation.** Approve as budgeted.

*Senate Budget and Fiscal Review—Holly J. Mitchell, Chair*

# SUBCOMMITTEE NO. 4 Agenda

**Senator Maria Elena Durazo**
**Senator Jim Nielsen**
**Senator Thomas J. Umberg**

## Thursday, April 11, 2019
## 9:30 a.m. or Upon Adjournment of Session
## State Capitol - Room 2040

Consultant: Joe Stephenshaw



**PROPOSED FOR VOTE-ONLY**



**PROPOSED FOR DISCUSSION/VOTE**

*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.*

# LEGISLATIVE PROPOSAL

## LEGISLATIVE PROPOSALS

### Issue 1: Targeted Child Tax Credit

The Subcommittee has received a request that funding for a Targeted Child Tax Credit (TCTC) be included in the budget.

According to the request, there are still nearly one-half a million children who remain in deep poverty in California. These include children living with a parent or a child disability that makes work difficult, parents that are unauthorized immigrants, or parents that face obstacles to work, such as unstable housing, unreliable child care, lack of education, a criminal record, or mental and physical health problems that aren't severe enough to qualify for disability benefits.

The TCTC would supplement the income of the poorest families with children up to the deep poverty threshold. The credit would be administered by the Franchise Tax Board (FTB) and claimed on personal income tax returns. Calculation of the credit would involve two key steps: 1) calculating the net resources of a family, which is based on income from earnings (subject to certain disregards to maintain work incentives) and federal, state, and local public benefits; offset by expenses for such items as out-of-pocket- health care, childcare, and work related commuting expenses, and 2) comparing the net resources total 50 percent of the appropriate California Poverty Measure for the child's family size. The credit is equal to the difference between the two.

The following resources are being requested:

- $290 million for the first-year costs for the credit, which would be phased in starting with families with children under three years of age.
- $3 million for the FTB to administer the program.
- $20 million for outreach.
- $1 million to the Department of Social Services for development, maintenance and publication of the California Poverty Measure.

# ISSUES PROPOSED FOR VOTE-ONLY

## 7600 DEPARTMENT OF TAX AND FEE ADMINISTRATION (CDTFA)

### Issue 2: Information Technology Classification Consolidation

**Governor's Budget.** The Governor's budget requests $1.4 million in 2019-20 and ongoing to implement the State Personnel Board's Information Technology (IT) Classification Plan, which consolidated 36 IT classifications into nine.

**Background.** In January 2018, the State Personnel Board approved the IT Classification Plan, leading to the consolidation of 36 IT classifications into broader, usable occupational categories. It abolished and transitioned 36 IT classifications into five rank and file IT classes and four IT supervisory/managerial classifications. The new, classifications have alternate ranges that provide for employee retention by increasing levels of work experience and compensation without requiring repetitive examinations. In developing the new IT classifications, the statewide team grouped classifications which have similar functions and/or salaries into one new classification. The consolidation of the classifications results in a salary increase to a little over one-third of the CDTFA staff impacted by this change. The changes to the current classifications took effect on January 31, 2018.

**Staff Recommendation.** Approve as budgeted.

### Issue 3: Settlement and Taxpayers Services Bureau

**Governor's Budget.** The Governor's budget requests $1.02 million ($643,000 General Fund and $374,000 reimbursements) to convert six limited-term positions, set to expire on June 30, 2019, to permanent in order to continue to address the workload demand within the Settlement Program.

**Background.** The Settlement Bureau administers the CDTFA's Settlement Program. The Settlement Program conducts administrative settlement negotiations on disputed tax liabilities in the administrative appeals process based on the risks and costs of litigation. Taxpayers are eligible to request settlement consideration at the time they submit a petition for redetermination. Because taxpayers are not required to pay their disputed liabilities in order to file a petition for redetermination, it is critical that settlement cases are accelerated as much as possible to maximize the potential for collecting funds due while businesses are viable and able to pay. Taxpayers who have reached settlement pay the agreed settlement amount either within 30 days of approval of the settlement, or within 12 to 24 months, as needed. The Settlement Program is a streamlined, efficient process for reaching agreement with taxpayers based on the risks and costs of litigation and accelerating voluntary payment of agreed settlement amounts.

In 2016-17, nine Settlement Program positions were made permanent and an additional six positions were approved on a three-year limited-term basis to address the continued taxpayer demand for administrative settlements of civil tax matters in dispute and continue the success of the program in accelerating revenue and completing cases. According to the department, the Settlement Program exceeded estimated accelerated revenue in each year for which the positions were established, and has accelerated an average of more than $134.6 million in revenue annually over the last three fiscal years by reaching settlement agreements with taxpayers based on the risks and costs of litigation on approximately 600 cases per year

**Staff Recommendation.** Approve as budgeted.

## Issue 4: Tax Appeals Assistance Program

**Governor's Budget.** The Governor's budget requests the reduction of $215,000 General Fund and the transfer of one position to the Franchise Tax Board (FTB) to reflect the transfer of the franchise and income tax component of the Taxpayer Appeals Assistance Program (TAAP) from CDTFA to FTB.

**Background.** The Board of Equalization (BOE) established the TAAP where participating law schools and law students assist taxpayers with state tax appeals under the supervision of a BOE (now CDTFA) attorney reporting to the Taxpayer's Rights Advocate Office (TRAO). The CDTFA has one Tax Counsel III attorney exclusively assigned to franchise and income tax appeals. The TAAP is an independent program housed within the TRAO which offers free legal assistance to people who cannot afford to pay for legal or tax assistance through law students attending various law schools across California; educating and assisting those taxpayers in voluntarily complying with California's tax laws while minimizing their compliance burden. To accomplish this, participating law schools work with the program to allow law students to assist taxpayers with their state tax appeals under the supervision of an experienced tax attorney. With the restructuring of the BOE and the transfer of the appeals process to the OTA, this workload was initially moved to the CDTFA and currently the CDTFA is transitioning these responsibilities to the FTB to align them with the agency that has jurisdictional responsibility.

**Staff Recommendation.** Approve as budgeted.

## Issue 5: Implementation of Cannabis Tax Regulation

**Governor's Budget.** The Governor's budget requests $2.9 million from the Cannabis Tax Fund and 13.9 positions in 2019-20 to address workload associated with the Control, Regulate, and Tax Adult Use of Marijuana Act and subsequent implementing legislation.

**Background.** On June 27, 2017, the Governor and California Legislature approved the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), Chapter 27, Statutes of 2017, which established a single system of administration for cannabis laws in California. This legislation contained changes necessary for state licensing entities to implement a regulatory framework, defined a method for collecting and remitting taxes, and addressed consumer and public safety, tax compliance, and cash collection.

On December 21, 2017, the Office of Administrative Law approved the adoption of Cannabis Regulation 3700, *Cannabis Excise and Cultivation Taxes* and Cannabis Regulation 3701, *Collection and Remittance of the Cannabis Excise Tax*. These regulations further defined terms within the law, clarified provisions of the excise tax, established a separate cultivation tax for fresh cannabis plants, and provided guidance on how to collect and remit the excise tax.

To comply with the mandates of the new cannabis tax law and address the additional workload generated from essential enforcement activities, the CDTFA is requesting funding for inspections, legal support, program-related settlement positions, and data collection and analysis of program activity. The increase in staff will ensure CDTFA conducts a sufficient number of field compliance inspections, investigations, and follow up activities needed to deter illegal activity, avoid revenue loss, and provide resources to better facilitate a platform for the exchange of data between other state regulatory agencies.

**Staff Recommendation.** Approve as budgeted.

## 7730 FRANCHISE TAX BOARD (FTB)

### Issue 6: Administrative Dissolution (AB 2503)

**Governor's Budget.** The Governor's budget requests $330,000 General Fund ($311,000 ongoing) and five positions to administer the provisions of AB 2503 (Irwin), Chapter 679, Statutes of 2018, which provides for administrative dissolution for certain domestic corporations and domestic limited liability companies.

**Background.** Prior to the enactment of AB 2503, FTB lacked statutory authority to administratively dissolve business entities that failed to complete the process required to legally dissolve; thus these entities remain on the department's accounting system, continuing to accrue taxes, interest, and penalties. AB 2503 provides two options (FTB-initiated or taxpayer-initiated) for administrative dissolution of qualified entities when there is unpaid minimum franchise or annual tax.

In order to comply with this legislative mandate, FTB is requesting five permanent positions. One position will work the FTB-initiated administrative dissolution workload and three positions will work the taxpayer-initiated administrative dissolution workload. An additional position will provide business entities support.

**Staff Recommendation.** Approve as budgeted.

### Issue 7: Technical Adjustment

**Governor's Budget.** The Governor's budget requests $378,000 General Fund and two new positions for the Tax Appeals Assistance Program (TAAP) responsibilities that are being transferred from CDTFA.

**Background.** The TAAP program was originally established by the Board of Equalization (BOE) and with the restructuring of BOE and the transfer of the appeals process to the new California Office of Tax Appeals, this workload moved to the CDTFA. There is not an appropriate alignment for Franchise and Income Tax (FIT) appeal cases to be handled by CDTFA. This proposal requests to transfer the FIT component of the program from CDTFA to FTB.

**Staff Recommendation.** Approve as budgeted.

## Issue 8: HR Discipline

**Governor's Budget.** The Governor's budget requests $1.4 million ($1.3 million General Fund) and 14 positions in 2019-20 and ongoing to conduct human resource functions and serve as FTB's foundation to allowing FTB to hire, train, and retain staff.

**Background.** FTB is responsible for administering the income and franchise tax laws for the State of California. Staff process tax returns and payments, issue refunds to Californians, conduct audits and filing enforcement actions, collect debts owed the state and support numerous service functions allowing for each of these compliance activities to occur. As a result of FTB's efforts, FTB programs oversee the administration and collection of over $103 billion (2017-18) in General Fund revenues - over 78 percent of the General Fund account.

FTB has over 6,500 permanent and temporary staff positions to perform FTB administrative functions. In recent years, FTB staff has grown and workloads administered by Human Resources (HR) have increased in both number and duration of tasks as well as increased complexity of tasks, processes, and procedures. HR staffing levels are insufficient to maintain necessary and mandated processes on a timely basis to ensure that FTB can hire staff when needed, timely address staff issues, and that FTB conforms to the extensive body of laws and processes governing HR processes. Over the last five years, FTB has increased temporary help in this business area and while that has reduced some impact, this is not a temporary need and trained PI employee retention is causing detrimental impacts to the program. When HR functions are inadequately staffed, negative business impacts will follow whether impact is related to depressed operations, untimely actions jeopardizing due process, inadequate meeting of mandated actions, or increased litigation hazards for the state.

Over the last 25 years, FTB's business operations and staffing levels have increased significantly. FTB's growth in HR staff has not. In the most recent years with new or expanded mandates related to HR functions, FTB's prior strategy of streamlining, automating, and using temporary help is no longer a viable strategy. Additional staff are needed to support FTB's business operations and the work FTB does for Californians.

Due to staffing shortages, FTB has experienced:

- Lengthier hiring processes impacting the ability to timely fill vacancies.
- Inability to timely complete existing or expected future increases in personnel actions.
- Inability to timely complete performance reviews and address employee performance issues which leads to substandard performance in business areas.
- Inability to timely complete mandated reviews of allegations of misconduct as required under federal and state mandates.
- Inability to develop robust employee training programs leading to empowered employees and which support CalHR's statewide competency initiatives.
- Inability to align CalHR competencies to classifications used at FTB and appropriately train staff on these competencies.
- Inability to adequately engage in succession planning as up to 70 percent of FTB's most senior staff is eligible to retire in the next five years.

**Staff Recommendation.** Approve as budgeted.

# ISSUES PROPOSED FOR DISCUSSION/VOTE

## 7600 DEPARTMENT OF TAX AND FEE ADMINISTRATION (CDTFA)

**Overview.** The Taxpayer Transparency and Fairness Act of 2017 established the CDTFA in the Government Operations Agency and shifted most of the tax and fee programs previously administered by the Board of Equalization (BOE) to the CDTFA. CDTFA administers numerous tax and fee programs, including the Sales and Use Tax, the Cigarette and Tobacco Products Tax Program, and the excise and cultivation taxes for medicinal and recreational cannabis. The CDTFA also administers the alcohol excise tax and the insurance tax pursuant to agreements with the BOE. Following are the programs within CDTFA's budget:

**COUNTY ASSESSMENT STANDARDS PROGRAM.** The CDTFA provides administrative services including accounting, budgeting, business services, health and safety, human resources, information technology, labor relations, training, procurement, and contracting to support the BOE's County Assessment Standards program. This program ensures that taxable properties are enrolled and assessed, and that the 58 county assessors assess all properties.

**STATE-ASSESSED PROPERTY PROGRAM.** The CDTFA provides administrative services including accounting, budgeting, business services, health and safety, human resources, information technology, labor relations, training, procurement, and contracting to support the BOE's State-Assessed Property program. This program is responsible for valuing and assessing inter-county pipelines and properties owned or used by railroads, regulated telephone companies, companies transmitting or selling gas or electricity, and private railroad car companies. Local jurisdictions use the established values for the levy and collection of local property taxes.

**TIMBER TAX PROGRAM.** This program provides revenue for the Timber Tax Fund. The revenue, less administrative costs, is allocated to the counties where the timber was harvested. The CDTFA administers and collects the Timber Yield Tax, a property tax paid by timber owners when they harvest trees or timber. The CDTFA determines the harvest values of timber and timberland production zone values.

**SALES AND USE TAX PROGRAM.** This program ensures that all sales and use tax revenues are collected in an equitable and effective manner through accurate reporting of tax liability. This is accomplished by detecting and correcting errors in self-assessments, and promptly collecting amounts determined to be due and economically recoverable. Under this program, the CDTFA administers the following taxes: State Sales and Use Tax, Bradley-Burns Uniform Local Sales and Use Tax, and District Transactions and Use Tax (cities/ counties).

**HAZARDOUS SUBSTANCES TAX PROGRAM.** These programs provide revenue for the Hazardous Waste Control Account (HWCA) and the Toxic Substances Control Account (TSCA). The fees provide funding to the Department of Toxic Substances (DTS) to regulate hazardous waste in California. Generators of hazardous waste, hazardous waste facilities and certain business organizations, as identified by statute, are subject to the fees. The CDTFA administers the following fee programs in partnership with the DTS: Disposal Fee (HWCA), Generator Fee (HWCA), Transportable Treatment Unit Fee (HWCA), Facility Fee (HWCA), and Environmental Fee (TSCA).

**ALCOHOLIC BEVERAGE TAX PROGRAM.** This program provides revenue for the Alcohol Beverage Control Fund. The CDTFA collects the excise tax imposed on the sale, distribution, or importation of alcoholic beverages in California. The BOE contracts with the CDTFA to administer this program.

**TIRE RECYCLING FEE PROGRAM.** This program provides revenue for the California Tire Recycling Account in the California Tire Recycling Management Fund and Air Pollution Control Fund. The fee provides funding to reduce air pollution, landfill disposal, and stockpiling of used tires. The CDTFA administers the program in partnership with the California Department of Resources Recycling and Recovery, and the Air Resources Board.

**CIGARETTE AND TOBACCO PRODUCTS TAX PROGRAM.** This program provides revenue for the Cigarette Tax Fund, Cigarette and Tobacco Products Surtax Fund, the Breast Cancer Fund, and the California Children and Families First Trust Fund. The program objective is to ensure that all cigarette and tobacco products tax revenues are collected equitably and effectively by ensuring timely reporting and payment of tax liabilities, detecting and correcting errors in reporting, and promptly collecting amounts determined to be due and economically recoverable.

**CIGARETTE AND TOBACCO PRODUCTS LICENSING PROGRAM.** This program provides revenue for the Cigarette and Tobacco Products Compliance Fund, which is used to implement, enforce, and administer the provisions of the California Cigarette and Tobacco Licensing Act. The purpose of the Act is to reduce tax evasion, smuggling, and counterfeiting of cigarette and tobacco products and stamps. It requires statewide licensing of all distributors, wholesalers, importers, manufacturers, and retailers of cigarette and tobacco products.

**TRANSPORTATION FUND TAX PROGRAM.** This program provides revenue for the Transportation Tax Fund. Allocations are made from the fund to the Aeronautics Account, Harbors and Watercraft Revolving Fund, Off-Highway Vehicle Trust Fund, Highway Users Tax Fund, and Department of Food and Agriculture Fund. The objective of this program is to ensure that the motor vehicle fuel, jet fuel, various use fuel, and diesel fuel taxes are administered equitably and effectively. Pursuant to the International Fuel Tax Agreement (IFTA), the CDTFA registers interstate truckers whose base state is California. Revenues from this program are used to construct and maintain public roads and mass transit systems, airports and waterways.

**OCCUPATIONAL LEAD POISONING PREVENTION FEE PROGRAM.** This program provides revenue for the Occupational Lead Poisoning Prevention Account in the General Fund. The funds are used to establish and maintain occupational health and disease prevention programs. Employers in specified Standard Industrial Classification codes with evidence of lead poisoning and who employ 10 or more qualifying employees are subject to the fee. The CDTFA administers the program in partnership with the California Department of Public Health.

**INTEGRATED WASTE MANAGEMENT PROGRAM.** This program provides revenue for the Integrated Waste Management Account in the Integrated Waste Management Fund. The fees provide funding to respond to potential health and environmental problems at on-site and off-site solid waste landfills, and supports state and local landfill permit enforcement programs. Operators of solid waste disposal facilities that include nonhazardous wood waste facilities are subject to the fee. The CDTFA administers the program in partnership with CalRecycle.

**UNDERGROUND STORAGE TANK FEE PROGRAM.** This program provides revenue for the Underground Storage Tank (UST) Cleanup Fund in the State Treasury which provides a means for petroleum UST owners and operators to meet the federal and state requirements of maintaining financial responsibility to pay for any damages arising from their tank operations. The Fund also provides money to the Regional Water Boards and local regulatory agencies to abate emergency situations or to cleanup abandoned sites that pose a threat to human health, safety, and the environment, as a result of a UST petroleum release. Revenue is generated by a per gallon fee paid by UST owners who are required to have a permit to own a UST. The fee is collected by the CDTFA.

**OIL SPILL PREVENTION PROGRAM.** This program provides revenue to the Department of Fish and Wildlife, which is deposited into the Oil Spill Prevention and Administration Fund. Fees are collected on crude oil and petroleum products received in California refineries and marine terminals. The prevention and administration fees provide funding to implement oil spill prevention programs to implement, install, and maintain emergency programs, equipment, and facilities to respond to, contain, and cleanup oil spills, and to fund the Oiled Wildlife Care Network.

**ENERGY RESOURCES SURCHARGE PROGRAM.** This program provides revenue for the Energy Resource Surcharge Fund and is used to support the State Energy Resources Conservation and Development Commission. The revenue is generated by administering a surcharge on the consumption of electrical energy purchased from an electrical utility. The Energy Resource Surcharge Fund is ultimately transferred into the State Energy Resources and Development Special Account in the General Fund.

**ANNUAL WATER RIGHTS FEE PROGRAM.** This program provides revenue for the Water Rights Fund. The fees provide funding to the State Water Resources Control Board to support the activities of its Division of Water Rights. The annual fee is collected from water right permit holders based on a schedule of fees adopted each fiscal year by the State Water Resources Control Board.

**CHILDHOOD LEAD POISONING PREVENTION FEE PROGRAM.** This program provides revenue for the Childhood Lead Poisoning Prevention Fund. The fee funds the Childhood Lead Poisoning Prevention Program, administered by the California Department of Public Health (CDPH), Childhood Lead Poisoning Prevention Branch, which include services such as health care referrals, environmental assessments, and educational activities necessary to reduce a child's exposure to lead and the consequences of the exposure. The CDTFA administers the Childhood Lead Poisoning Prevention Fee on behalf of the CDPH. The CDTFA collects an annual fee from architectural coatings distributors, motor vehicle fuel distributors, and facilities currently reporting releases of lead into ambient air in California. The fee is determined by the CDPH based on the fee payers' market share responsibility for environmental lead contamination.

**MARINE INVASIVE SPECIES PROGRAM.** This program provides revenue for the Marine Invasive Species Control Fund and was previously referred to as the Ballast Water Management Program. The fees provide funding to the California State Lands Commission (SLC) Marine Invasive Species Program established to prevent or minimize the introduction and spread of non-indigenous aquatic species into California waters. Owners or operators of qualifying vessels carrying, or capable of carrying, ballast water arriving in a California port from outside California are subject to the fee for each voyage. The CDTFA administers the program in partnership with the SLC.

**EMERGENCY TELEPHONE USERS SURCHARGE PROGRAM.** This program provides revenue for the State Emergency Telephone Number Account. Revenue generated by this program funds the State's "911" emergency telephone system by administering a surcharge on customers of intrastate telephone and Voice over Internet Protocol (VoIP) communication services.

**E-WASTE RECYCLING FEE PROGRAM.** This program provides revenue for the Electronic Waste Recovery and Recycling Account in the Integrated Waste Management Fund. The fees collected provide funding for CalRecycle by imposing a recycling fee upon the retail sale or lease of new or refurbished video display devices identified by the Department of Toxic Substances Control (DTSC) as containing hazardous materials. The CDTFA administers the program in partnership with CalRecycle and the DTSC.

**LUMBER FEE PROGRAM.** This program provides revenue for the Timber Regulation and Forest Restoration Fund. A one percent assessment is imposed on purchases of lumber products and engineered wood products for use in California based on the selling price of the products. The lumber products assessment supports the activities of CALFIRE and helps protect California's forests.

**INSURANCE TAX PROGRAM.** This program provides revenue to the Insurance Tax Fund. Revenue is generated from taxes assessed on insurance premiums, underwriting profits from ocean marine insurance, and retaliatory assessments levied on out-of-state insurers. The taxes collected are used to pay refunds or transferred to the General Fund. The BOE contracts with the CDTFA to administer this program.

**NATURAL GAS SURCHARGE PROGRAM.** This program provides revenue for the Gas Consumption Surcharge Fund to fund low-income assistance programs, cost effective energy efficiency programs, conservation activities, and public interest research and development. The revenue is generated by administering a surcharge on the consumption of all natural gas in California.

**PREPAID MOBILE TELEPHONY SERVICES PROGRAM.** Operative January 1, 2016, this program provides revenue for the Prepaid Mobile Telephony Services (MTS) Surcharge Fund and the Local Charges for the Prepaid MTS Fund. The revenue funds the State Emergency Telephone Number Account, universal service funds, and local funds. A surcharge is imposed on each consumer of prepaid mobile telephony services at the retail level.

**REGIONAL RAILROAD ACCIDENT PREPAREDNESS AND IMMEDIATE RESPONSE PROGRAM.** This program would provide revenue to the Governor's Office of Emergency Services, to prepare for and provide immediate onsite response related to a large-scale release of hazardous materials from a rail car or a railroad accident involving a rail car. The revenues are to be deposited into the Regional Railroad Accident Preparedness and Immediate Response Fund. Fees are to be collected from owners of the top 25 most hazardous material commodities transported by rail car within California. The fee would provide funding to pay for the planning, developing, support, and maintenance of various aspects of regional, state, and local emergency response programs, teams, specialized equipment, supplies, and training to prepare for such an occurrence. This program has not started due to litigation.

**LEAD-ACID BATTERY RECYCLING FEE PROGRAM.** This program provides revenue for the Lead-Acid Battery Cleanup Fund. The fee provides funding for investigation, site evaluation, cleanup, remediation, removal, monitoring, and other response actions at areas within California contaminated due to lead-acid battery recycling facility operations, as well as refund payments, loan repayments, and administrative costs. Lead acid battery manufacturers and consumers are subject to the fees. The CDTFA administers the program in partnership with the California Department of Toxic Substances Control.

**CANNABIS TAXES PROGRAM.** This program administers the cannabis excise tax and cannabis cultivation tax. The program provides revenue for the California Cannabis Tax Fund, the revenues from which carry out the purpose of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Act). The purpose of the Act is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of all cannabis and cannabis products. The cannabis taxes provide funding for youth education and prevention programs, medical research, environmental mitigation efforts, law enforcement, and administration costs for numerous state agencies charged with licensing, regulating, and taxing the cultivation and sale of cannabis.

**ADMINISTRATION.** This program provides leadership, legal, planning, policy, research, communication, internal audit, equal employment opportunity, and other essential services necessary to support the Department's programmatic goals and objectives. This support includes central administrative services in accounting, budgeting, business services, health and safety, human resources, information technology, labor relations, training, procurement, and contracting. This program also provides administrative and personnel services for the BOE.

**Budget.** The budget includes $682 million ($361.1 million General Fund) and 4,264.8 positions in 2019-20 to support the department and its programs. The following chart from the Governor’s budget displays prior year, current year, and budget year positions and expenditures.

### 3-YEAR EXPENDITURES AND POSITIONS †

| | | Positions | | | Expenditures | | |
|---|---|---|---|---|---|---|---|
| | | 2017-18 | 2018-19 | 2019-20 | 2017-18* | 2018-19* | 2019-20* |
| 6275025 | County Assessment Standards Program | 14.9 | 4.8 | 5.7 | $2,784 | $2,631 | $2,751 |
| 6275050 | State-Assessed Property Program | 17.0 | 3.3 | 3.7 | 3,051 | 4,513 | 4,666 |
| 6275075 | Timber Tax Program | 12.7 | 11.0 | 11.0 | 1,556 | 2,038 | 2,265 |
| 6275100 | Sales and Use Tax Program | 3,370.0 | 3,312.1 | 3,303.1 | 465,148 | 567,991 | 556,267 |
| 6275125 | Hazardous Substances Tax Program | 36.7 | 39.6 | 39.6 | 4,580 | 5,908 | 5,913 |
| 6275150 | Alcoholic Beverage Tax Program | 21.1 | 18.9 | 18.9 | 2,845 | 3,391 | 3,316 |
| 6275175 | Tire Recycling Fee Program | 16.3 | 15.3 | 15.3 | 1,902 | 2,129 | 2,119 |
| 6275200 | Cigarette and Tobacco Products Tax Program | 88.5 | 128.0 | 125.3 | 21,496 | 31,440 | 31,206 |
| 6275225 | Cigarette and Tobacco Products Licensing Program | 70.7 | 65.7 | 65.7 | 9,532 | 10,981 | 10,994 |
| 6275250 | Transportation Fund Tax Program | 177.0 | 140.1 | 140.0 | 27,561 | 34,635 | 33,000 |
| 6275275 | Occupational Lead Poisoning Prevention Fee Program | 7.6 | 7.0 | 7.0 | 872 | 930 | 932 |
| 6275300 | Integrated Waste Management Program | 2.7 | 4.3 | 4.3 | 400 | 632 | 621 |
| 6275325 | Underground Storage Tank Fee Program | 31.5 | 24.9 | 25.0 | 4,264 | 4,288 | 4,304 |
| 6275350 | Oil Spill Prevention Program | 1.8 | 1.3 | 1.3 | 291 | 382 | 368 |
| 6275375 | Energy Resources Surcharge Program | 2.2 | 2.0 | 2.0 | 317 | 393 | 377 |
| 6275400 | Annual Water Rights Fee Program | 4.8 | 4.1 | 4.1 | 540 | 539 | 535 |
| 6275425 | Childhood Lead Poisoning Prevention Fee Program | 1.2 | 4.3 | 4.3 | 197 | 581 | 574 |
| 6275450 | Marine Invasive Species Program | 2.6 | 3.3 | 3.3 | 347 | 545 | 542 |
| 6275475 | Fire Prevention Fee Program | 20.9 | - | - | 2,322 | - | - |
| 6275500 | Emergency Telephone Users Surcharge Program | 7.1 | 11.1 | 11.0 | 1,069 | 1,743 | 1,718 |
| 6275525 | E-Waste Recycling Fee Program | 26.9 | 30.5 | 30.6 | 3,867 | 5,237 | 5,216 |
| 6275550 | Lumber Fee Program | 2.8 | 12.3 | 12.5 | 856 | 1,279 | 1,285 |
| 6275575 | Insurance Tax Program | 1.6 | 1.8 | 1.8 | 266 | 354 | 355 |
| 6275600 | Natural Gas Surcharge Program | 4.1 | 3.8 | 3.7 | 692 | 1,166 | 1,245 |
| 6275625 | Appeals from Other Governmental Programs | 12.3 | - | - | 2,406 | - | - |
| 6275650 | Prepaid Mobile Telephony Program | 2.8 | 15.8 | 13.3 | 1,261 | 2,285 | 2,051 |
| 6275675 | Regional Railroad Accident Preparedness and Immediate Response Program | 0.9 | - | - | 123 | - | - |
| 6275700 | Lead-Acid Battery Cleanup Fee Program | 5.3 | 8.4 | 9.8 | 627 | 1,447 | 1,438 |
| 6275725 | Cannabis Taxes Program | 10.4 | 15.8 | 29.6 | 3,284 | 5,019 | 7,557 |
| 9900100 | Administration | 0.1 | 373.9 | 372.9 | 57,055 | 66,265 | 65,925 |
| 9900200 | Administration - Distributed | - | - | - | -56,950 | -65,848 | -65,508 |
| **TOTALS, POSITIONS AND EXPENDITURES (All Programs)** | | **3,974.5** | **4,263.4** | **4,264.8** | **$564,561** | **$692,894** | **$682,032** |

**Issue 9: Centralized Revenue Opportunity System (CROS) Project Implementation**

**Governor's Budget.** The Governor's budget requests $24.5 million to continue implementation of the CROS Project in 2019-20. The CROS Project is an information technology modernization effort designed to enable the CDTFA to expand tax and fee payer services, to improve the efficiency and effectiveness of its operations, and to enhance its ability to generate increased revenues reducing the tax gap. This proposal also reflects:

- Reduction of 5.0 permanent positions authorized in the 2012-13 Budget Act.
- Reduction of 2.0 permanent positions authorized in the 2016-17 Budget Act.
- Continuation of year to year funding authorized in the CDTFA's approved FY 2018-19 BCP, including reclassification of select, prior approved permanent positions.

Although this BCP requests funding only for 2019-20, the CDTFA anticipates following future CROS Project related requests:

- 2020-21: $26.0 million
- 2021-22: $18.6 million
- 2022-23: $15.2 million

**Background**. Over one million discrete businesses currently interact annually with the CDTFA, many involved with multiple tax and fee programs. The CROS Project's objective is to establish an integrated, responsive, and effective tax and fee payer centric solution that will use up-to-date tax collection, storage, account management, and data retrieval technologies to maximize effectiveness of CDTFA's operations through the following activities:

- Replacing legacy mainframe-based revenue and collection information systems with an integrated and automated tax and fee system.
- Providing an enterprise data warehouse.
- Enhancing online services available to tax and fee payers and other stakeholders improving case and contact management reengineering and improving program processes Improving data sharing capability and real-time data access, especially to field staff.
- Enhancing CDTFA's ability to quickly implement legislative, judicial, or electoral changes to tax/revenue codes.

The Project Scope includes:

- Integrating registration, reporting obligations, cashiering, refunds, collection, audit, appeal, accounting and General Ledger functions for all sales and use, special tax and fee programs, and timber tax functional areas into the CRCS Solution;
- Replacing the Integrated Revenue Information System (IRIS), and Automated Compliance Management System (ACMS), as well as Timber Tax legacy systems; integrating enterprise software including Avaya (call center) and Documentum (enterprise content management) software.

On August 30, 2016, the department completed the CROS Project's procurement phase and signed an agreement with FAST Enterprises (FAST) to implement their commercial off-the-shelf software solution, GenTax, as the CROS Solution. GenTax is specifically designed for integrated tax administration and provides full functionality for processes such as registration, returns, payments, refunds, collections, revenue accounting, audit, correspondence, imaging, analytics, and workflow. GenTax meets the CROS Project's objectives to replace the legacy mainframe-based revenue and collection management systems with an integrated tax system that will streamline business processes, improve and expand online services to customers, and use business intelligence to increase revenue opportunities. The agreement is a fixed price contract using a benefits-based compensation model that provides payment to the vendor based on revenue generated by the CROS solution as system components are phased into production. This contract requires FAST to provide the initial funding for:

- The purchase of software, hardware, and contractor resources to configure the software according to CDTFA's needs
- Data center hosting setup and configuration
- Resources to assist with organizational change management activities
- System integration with internal and external systems
- Resources to complete all project plans and deliverables

There are potentially two contracts: the Base Period contract of 65 months (a 53-month implementation period and a 12-month warranty period), and an optional Maintenance and Operations (M&C) contract for 24 months that has an optional 24-month extension. The M&C contract will be exercised at the sole discretion of the CDTFA. Based on analysis that included review of FAST's proposed schedule and deliverables, the department's Integrated Master Schedule, existing project management plans and technical capabilities, CDTFA prepared SPR 4 which planned to implement the CROS Solution with four rollouts, the first to initiate revenue-generating capabilities; the remainder to deploy tax program functionality into production:

- **Rollout 1 -** Data Warehouse and Discovery Programs - Establishes the data warehouse, assesses CDTFA's revenue generating programs, and works to define and implement revenue generating opportunities. (Implemented March 2017)
- **Rollout 2 -** Tax Program Implementation - Implements Sales and Use Tax, Cigarette Retailer License Fee, Covered Electronic Waste Recycling Fee, Lumber Products Assessment, California Tire Fee, Prepaid MTS Surcharge programs. (Implemented May 2018)
- **Rollout 3 -** Tax Program Implementation - implements Alcoholic Beverage Tax, Motor Vehicle Fuel Tax, Underground Storage Tank, Cigarette & Tobacco Products Tax, IFTA, Timber Yield Tax, Jet Fuel Tax, Oil Spill Prevention, Cigarette & Tobacco Products Licensing, Diesel Fuel Tax, Diesel Fuel Tax (exempt bus ops and government entities). Use Fuel Tax programs. (Go Live Date: August 2019)
- **Rollout 4 -** Tax Program Implementation - implements Fire Prevention Fee, Childhood Lead Poisoning Prevention Fee, Natural Gas Surcharge, Hazardous Waste Disposal Fee, Hazardous Waste Generator Fee, Hazardous Substances Tax - RRAPIR, Tax on Insurers, Occupational Telephone Users Surcharge, Marine Invasive Species (Ballast Water) Fee, Hazardous Waste Environmental Fee, Integrated Waste Management Fee, Energy Resources (electrical) Surcharge, Emergency Telephone Users Surcharge (including MTS Direct Sellers), Hazardous Activity Fee, Hazardous Waste Facility Fee, Water Rights Fee programs. (Go Live Date: May 2020)

SPR 4 was approved by the Department of Technology in February 2017. Consistent with SPR 4, the CDTFA submitted and received approval of a 2018-19 BCP that provided funding and temporary help resources needed for the ongoing implementation of the CROS Solution.

**Staff Recommendation.** Approve as budgeted.

**Issue 10: Tax and Fee Program Bureau's Office of Tax Appeals Workload**

**Governor's Budget.** The Governor's budget requests $1.04 million and six permanent positions (five redirected and upgraded vacancies and one new) in 2019-20 ($876,000 ongoing). The CDTFA requests these resources to address the increase in workload for the Legal Division's Tax and Fee Programs Bureau (TFPB) resulting from the new administrative hearing process facilitated by the newly created Office of Tax Appeals (OTA).

**Background.** The TFPB within the Legal Division is responsible for advising on all of the tax and fee programs administered by the CDTFA. Many of the TFPB's functions involve a high degree of complexity, are time sensitive, are of critical importance to the CDTFA management, and are essential to CDTFA operations. The TFPB's primary functions include the following:

- providing responses to informal and formal legal opinions to tax and feepayers, their representatives, the CDTFA staff and management, and other governmental entities;
- representing the CDTFA in administrative hearings;
- assisting staff with drafting new regulations or amendments to existing regulations;
- assisting staff in the review of legislation;
- providing legal consult on CDTFA forms, publications, manuals, and miscellaneous documents; and,
- Providing legal oversight and support to investigations on matters involving tax evasion and fraud, including criminal tax law matters and implementation of the Cigarette and Tobacco Products Licensing Act of 2003.

The TFPB currently has 14 attorney positions to handle all of these functions related to all of the tax and fee programs administered by the CDTFA. The TFPB currently has a backlog of approximately 40 opinion requests.

With respect to administrative hearings, the TFPB previously represented the CDTFA in oral hearings before the Board Members of the Board of Equalization (BOE). However, the Taxpayer Transparency and Fairness Act of 2017 established the OTA and transferred to the OTA the various duties, powers, and responsibilities of the BOE with respect to appeals hearings, except for those duties, powers, and responsibilities imposed or conferred upon the BOE by the California Constitution. The Act established tax appeals panels and requires each panel to consist of three administrative law judges. Beginning January 1, 2018, the Act requires the panels to conduct the appeals hearings for those duties, powers, and responsibilities transferred to the OTA. As such, beginning January 1, 2018, the TFPB has been representing the CDTFA in all aspects of the administrative hearing process before the OTA.

**Administrative Hearings before the BOE.** With respect to cases involving legal issues, the TFPB attorneys reviewed the tax and fee payer's files, performed any required legal research, and prepared persuasive oral arguments that advocated the agency's position before the Board members. The total amount of hours that TFPB spent on preparing and presenting a legal case for a hearing was 24 to 40 hours, depending on the complexity of the case. Approximately one-third of the legal cases scheduled for a hearing required the TFPB to draft a reply brief, and the TFPB spent 24 to 40 hours on the reply brief.

With respect to cases involving mostly audit issues, the TFPB provided the required legal support during the hearing, which required a total of three hours for preparation and support. TFPB generally did not prepare or review a response brief for a case that involved mostly audit issues.

In terms of the volume of the TFPB workload related to BOE oral hearings for cases involving legal issues, in FY 2016-2017, the TFPB's internal records provide that 105 oral hearings involving legal issues were completed by TFPB. A significant portion of these cases never actually had an oral hearing due to the tax or fee payer waiving appearance, requesting a postponement, or requesting settlement. The TFPB's internal records also provide that 35 response briefs were completed for cases involving legal issues in FY 2016-2017.

In terms of the volume of the TFPB workload related to BOE oral hearings for cases involving audit issues, the BOE's Public Agenda Notices for FY 2016-2017 provide that approximately 51 Board hearings involving audit issues were scheduled for an oral hearing (in which the TFPB provided legal support). A portion of the cases involving audit cases never actually had an oral hearing due to the tax or fee payer waiving appearance, requesting a postponement, or requesting settlement.

**Administrative Hearings before the OTA.** Beginning January 1, 2018, oral hearings that were previously heard by the Board members of the BOE are now heard before the OTA. Due to this new administrative hearing process, the total amount of hours that TFPB will spend on a legal case in the OTA administrative hearings process will increase due to the additional tasks and steps associated with the OTA administrative hearings process. Unlike the administrative hearing process with the BOE, due to the proposed OTA regulations incorporating the Administrative Procedures Act, the new process with the OTA is much more formal and requires significantly more time and effort to complete. An opening brief is required of the CDTFA for all cases that are before the OTA, and the TFPB will also participate in all OTA pre-hearing conferences in addition to providing legal representation at all OTA hearings. Further, the proposed OTA regulations lay out a framework that includes the need for the TFPB to prepare declarations, exhibits, and witnesses as well as object to evidence.

- For legal cases, review of the tax and fee payer files, performing any required legal research, and preparation of the opening brief for OTA requires 40 hours; additional briefing (reply brief or supplemental briefing) and responses to OTA requests for additional information requires 16-30 hours; preparation for and participation in the prehearing conference including preparing declarations, witnesses, exhibits, etc. requires 40 hours; and preparation for and participation in the hearing requires 40 hours. Thus, the total hours spent on a legal case in the OTA process will be approximately 150 hours, a significant increase in the hours worked per case.
- For audit cases, in which the TFPB provides all required legal support, review of briefs prepared by the department requires four hours; participation in the prehearing conferences requires eight hours; and participation in the hearings requires eight hours. Again, since the OTA process has more steps, the TFPB will spend more hours providing legal support on audit cases.

Additionally, the volume of the workload related to administrative hearings that the TFPB will handle each year will increase under the OTA administrative hearings process. From February 2018 through June 2018, the TFPB completed an average of 10 legal opening briefs per month and reviewed an average of eight audit opening briefs per month. Once OTA begins asking for additional briefing, the TFPB will also complete 10 additional legal briefs (this is assuming that OTA will request additional briefing for all cases for which TFPB filed an opening brief). Also, once OTA begins scheduling pre-hearing conferences and hearings, the TFPB will also prepare for and participate in nine pre-hearing conferences and nine hearings per month, five of which will be legal cases and four of which will be audit cases (this is conservatively assuming that only 50 percent of the cases briefed will have conferences and hearings). Based on these numbers, each year, the TFPB will prepare 120 legal opening briefs, prepare 120 additional legal briefs, review 96 audit briefs, prepare for and participate in 60 pre-hearing conferences for legal cases, prepare for and participate in 48 pre-hearing conferences for audit cases, prepare for and participate in 60 hearings for legal cases, and prepare for and participate in 48 hearings for audit cases.

**Staff Recommendation.** Approve as budgeted.

## 7730 FRANCHISE TAX BOARD (FTB)

**Overview.** The FTB is responsible for collecting personal income tax and corporation tax revenue; operating various collection programs; and conducting field audits for the Fair Political Practices Commission. The FTB's budget includes the following programs:

**TAX PROGRAMS.** This program administers the Revenue and Taxation Code by reasonably interpreting and impartially applying the legislatively enacted laws that provide a significant portion of General Fund revenue. The Franchise Tax Board is responsible for administering the personal income tax and the corporation tax. Tax program activities include taxpayer assistance and tax return processing, filing enforcement, audits, and tax collection functions. The program also includes the collection and distribution of voluntary contributions to, and on behalf of, certain non-profit charitable organizations.

**POLITICAL REFORM AUDIT.** This program determines the accuracy and completeness of political statements and reports filed with the Secretary of State, and compliance with disclosures and record keeping requirements. On behalf of the Fair Political Practices Commission (FPPC), and in compliance with the Political Reform Act of 1974, the Franchise Tax Board conducts field audits of state and local candidates, measures committees, lobbying entities, committees supporting and opposing political candidates and statewide measures. These entities are randomly selected by the FPPC and/or meet dollar thresholds.

**DEPARTMENT OF MOTOR VEHICLES COLLECTIONS PROGRAM.** This program's objective is to increase collections of delinquent motor vehicle license fees, taxes, and penalties on behalf of the Department of Motor Vehicles by utilizing the same collection capabilities that are used to collect the personal income tax.

**COURT COLLECTION PROGRAM.** This program's objective is to increase collections of delinquent fines, penalties, and orders imposed by, and on behalf of, superior, municipal, and justice courts by utilizing the same automated collection capabilities that are used to collect the personal income tax.

**LEGAL SERVICES PROGRAM.** This program reimburses the Department of Justice for legal services provided in support of Franchise Tax Board functions.

**CONTRACT WORK.** This program provides cost-effective goods and services to other governmental entities through contractual agreements. Such goods and services include rental space to on-site childcare and cafeteria entities, data processing services for other governmental entities, and delinquent debt collection services.

**ADMINISTRATION.** This program provides executive leadership under the general direction of the Franchise Tax Board by directing departmental operations, developing and executing policies, making decisions concerning program operations, and ensuring that the Board's programs and services are carried out in accordance with Government Code Sections 15701 and 15702. This program also provides the Board with the personnel, administration, training, budgeting, and accounting services necessary to ensure that these functions are performed with integrity, efficiency, and fairness.

**Budget.** The Governor's budget includes $838 million ($802.5 million General Fund) and 5,694.8 positions in 2019-20 to support the department and its various programs. The following chart from the Governor's budget displays prior year, current year, and budget year positions and expenditures.

**3-YEAR EXPENDITURES AND POSITIONS**

| | | Positions | | | Expenditures | | |
|---|---|---|---|---|---|---|---|
| | | **2017-18** | **2018-19** | **2019-20** | **2017-18*** | **2018-19*** | **2019-20*** |
| 6280 | Tax Programs | 5,352.7 | 5,189.7 | 5,127.7 | $752,122 | $803,904 | $800,355 |
| 6285 | Political Reform Audit | 11.6 | 13.0 | 13.0 | 1,719 | 2,035 | - |
| 6290 | Department of Motor Vehicles Collections Program | 65.8 | 81.1 | 81.1 | 7,611 | 9,439 | 9,734 |
| 6295 | Court Collection Program | 119.8 | 112.2 | 112.2 | 12,002 | 13,467 | 13,747 |
| 6300 | Legal Services Program | - | - | - | 1,898 | 2,489 | 2,489 |
| 6305 | Contract Work | 77.9 | 62.2 | 62.2 | 9,633 | 11,633 | 11,651 |
| 9900100 | Administration | 271.9 | 284.6 | 298.6 | 29,311 | 31,892 | 33,287 |
| 9900200 | Administration - Distributed | - | - | - | -29,311 | -31,892 | -33,287 |
| **TOTALS, POSITIONS AND EXPENDITURES (All Programs)** | | **5,899.7** | **5,742.8** | **5,694.8** | **$784,985** | **$842,967** | **$837,976** |

## Issue 11: Local Area Network (LAN) Infrastructure Refresh Project

**Governor's Budget.** The Governor's budget requests $5.7 million General Fund and $235,000 special funds in 2019-20 and $12,000 General Fund ongoing to refresh aging equipment and software that is reaching End-of-Life (EOL) and approaching End-of-Service (EOS) within the LAN infrastructure. FTB is also proposing to upgrade throughput (speed) to and from the network core.

**Background.** Each year, FTB processes more than 19.2 million Personal Income Tax (PIT) returns and 1.9 million Business Entity returns, responds to more than 2.8 million telephone calls, handles over 18 million Internet contacts, and administers the income tax programs that fund approximately 78 percent of the state's general fund revenue each year. To a large extent, FTB's LAN supports many of these transactions and services.

The LAN infrastructure is the heart of the enterprise network supporting FTB's mission critical operations. The LAN infrastructure provides reliability, network security, and scalability throughout FTB. There are approximately 6,000 FTB staff supported on this network. FTB's LAN supports on average 48 million online transactions conducted by taxpayers and 219,000 batch processes per month which uploads taxpayer specific transactional data to FTB's accounting and compliance systems. Batch processes are large numbers of data transactions that run in "batches" without human interaction.

This project seeks funding to replace aging equipment and software that is EOL and approaching EOS and/or hampered by old, inadequate technologies, to reduce the risk that these items will fail and impact FTB's operations. The programs administered by FTB rely heavily on network, and automated systems.

The LAN Infrastructure Refresh Project objective is to refresh the existing EOL and EOS network backbone hardware infrastructure, as well as, upgrade throughput. The overall result of this refresh will reduce the risk that these items will fail or be compromised and impact FTB's processing and compliance activities. The project seeks funding for the following:

- Replace six Distribution Core Layer Switches within each FTB central campus building with Cisco Nexus 7706 (or latest available).
- Replace 90 Access Layer Switches with Cisco Nexus 9400 (or latest available) series for both central campus and field offices.
- Upgrade FTB's network backbone-throughput from 10Gbps to at least 40Gbps.

**Staff Recommendation.** Approve as budgeted.

## Issue 12: Mainframe Enterprise Tape Library Refresh

**Governor's Budget.** The Governor's budget requests $7.2 million ($6.9 million General Fund and $308,000 special funds) in 2019-20 to purchase the following information technology components: 1) Mainframe Enterprise Tape Library (MF ETL) and Direct Access Storage Devise (DASD) for the central office, and 2) Mainframe Business Class Server (MF CPU) MF ETL and DASD for a secondary off-site location.

**Background.** FTB's Tier III equivalent Data Center provides mainframe and distributed systems access and the operating storage capacity for FTB to administer its programs successfully. During April 2018 (FTB's individual tax filing deadline), FTB's data center processed approximately 104.2 million online transactions and roughly 250,000 batch processes. Batch processes are large numbers of data transactions that run in batches without human interaction.

The MF ETL and DASD provide the storage infrastructure that is essential to FTB's multiple mission-critical tax and non-tax applications. These applications have a substantial dependency on the data that resides within the MF ETL and DASD and, therefore, rely on the storage environment having sufficient capacity to support the efficient, effective, and secure operations of those applications.

FTB's Central Office Data Center houses a MF ETL that combines virtual and magnetic (physical) tape systems. All applications, business programs, and processes which access mainframe batch and online data (files, catalogs and databases) utilize the MF ETL as a repository for storage, backup and recovery. The ETL tape system has an annual growth rate of approximately 23 percent - the industry standard for mainframe storage is approximately 20 percent annually.

Internally, all system and application data residing on the DASD is backed up to a Virtual Tape Library (VTL), a data storage virtualization technology which represents storage components as tape libraries or tape drives for use with existing backup software. Data in the VTL is subsequently duplicated onto magnetic (physical) tape. These physical tapes are used for long-term data retention and technology recovery purposes. The physical tapes are manually ejected, packed and shipped to a local off-site storage location. As new tapes are shipped off-site the old tapes are returned to FTB to be cleansed and reused. This cycle occurs five days per week. FTB's current technical recovery process can take up to a week compared to the desired recovery period of one to two days.

FTB's MF ETL system consists of two components: virtual tape and magnetic (physical) tape processing. During June 2016, the manufacturer removed FTB's virtual tape library system from the market and support services will be discontinued by December 2019.

In September 2017, an 81BA was approved identifying the need to replace FTB's current ETL system. Since that time, the manufacturer for FTB's DASD hardware has also announced the EOM for the type/model currently in production at FTB and support services will be discontinued in three to four years from the EOM announced date of January 2017.

By replacing the MF ETL, FTB's mission critical systems and applications dependent on mainframe storage processing resources can avoid the following risks:

- Failures in systems that house vital sensitive and confidential taxpayer information, such as the Taxpayer Information System, which is FTB's Personal Income Tax accounting system.
- Inability to recover data after a disaster.
- Inability to timely process tax returns and payments and issue tax refunds, all of which are dependent on accessing system data timely.
- Failure to provide long-term data retention.

**Staff Recommendation.** Approve as budgeted.

## Issue 13: CA Earned Income Tax Credit (CalEITC) Expansion

**Governor's Budget.** The Governor's budget proposes to more than double the size of the CalEITC program through the following changes:

1. Providing an additional $500 credit for families with children under the age of six.

2. Increasing the maximum eligible earned income so that workers working up to full-time at the 2022 minimum wage of $15 per hour will be eligible for the credit.

3. Changing the phase-out formula so that taxpayers earning income at the upper end of the credit structure will receive significantly higher credit amounts.

4. Exploring how to allow workers to receive a portion of their credit in monthly payments, as opposed to receiving the credit in one lump sum at the end of the year.

5. $5 million one-time through the Office of Planning and Research to provide matching funds to nonprofits, community-based organizations, or governmental entities that provide increase awareness of the state's CalEITC and free tax preparation assistance to eligible families and individuals.

The Governor's budget estimates that these changes are expected to provide $600 million in additional benefits and to allow 400,000 additional families to benefit from the credit. In total, the expanded program is expected to provide $1 billion in credits to 2.4 million families.

**Background.** According to research by the California Budget and Policy Center, state Earned Income Tax Credits (EITCs), like California's, are important tools for boosting economic security among working families. By piggybacking on the federal EITC, these state credits further boost families' incomes, helping them to better make ends meet. In addition, state EITCs may enhance the federal EITC's well-documented benefits to children, families, and communities. Research shows that the federal EITC reduces poverty, encourages work, may improve families' health, boost children's school achievement, increase children's future earnings, and boosts California-based businesses and the state's economy.

In SB 80 (Committee on Budget and Fiscal Review), Chapter 21, Statutes of 2015, the Legislature created the CalEITC, a state refundable tax credit for wage income that is intended to benefit very low-income households. Specifically, the program builds off the federal EITC and established a refundable credit for tax years beginning on or after January 1, 2015. The credit is applied to personal income tax liabilities associated with earned wage income. The program provides for a credit amount during a phase-in range of earned wage income according to specified percentages based on the number of qualifying children.

SB 106 (Committee on Budget and Fiscal Review), Chapter 96, Statutes of 2017, expanded CalEITC. This legislation expanded the state EITC to allow previously ineligible self-employed workers to qualify for the state EITC, and raised the credit's income eligibility limits so that workers higher up the income scale would qualify. This legislation better aligned CalEITC with the federal EITC and ensured that the state credit incentivizes all types of paid work.

SB 855 (Committee on Budget and Fiscal Review), Chapter 52, Statute of 2018, expanded the CalEITC to working individuals who are aged 18 to 24 or over age 65, by revising the age range for the definition of an "eligible individual." Additionally, SB 855, expanded the qualifying income range for the EITC so that employees who have one or more dependents, and who are working up to full-time at the 2019 minimum wage of $12 per hour, would qualify for the credit. Approximately $420 million in EITC is expected to be granted to over two million households this year. The following chart shows state EITC claims and aggregate credits for each year that the credit has been available.

| EITC Claims and Amounts | | |
|---|---|---|
| **Tax Year** | **Claims** | **Amount** |
| 2015 | 386,000 | $200 million |
| 2016 | 386,000 | $205 million |
| 2017 | 1.5 million | $348 million |
| 2018 (estimated) | 2.2 million | $420 million |

As displayed on the chart below, for the 2018 tax year, the credit is available to California households with adjusted gross incomes of up to $16,750 if there are no qualifying children, and up to $24,950 if there is one or more qualifying children.

| Number of Qualifying Children | CA Maximum Income | CalEITC (up to) | IRS EITC (up to) |
|---|---|---|---|
| None | $16,750 | $232 | $519 |
| 1 | $24,950 | $1,554 | $3,461 |
| 2 | $24,950 | $2,559 | $5,716 |
| 3 or more | $24,950 | $2,879 | $6,431 |

[1]

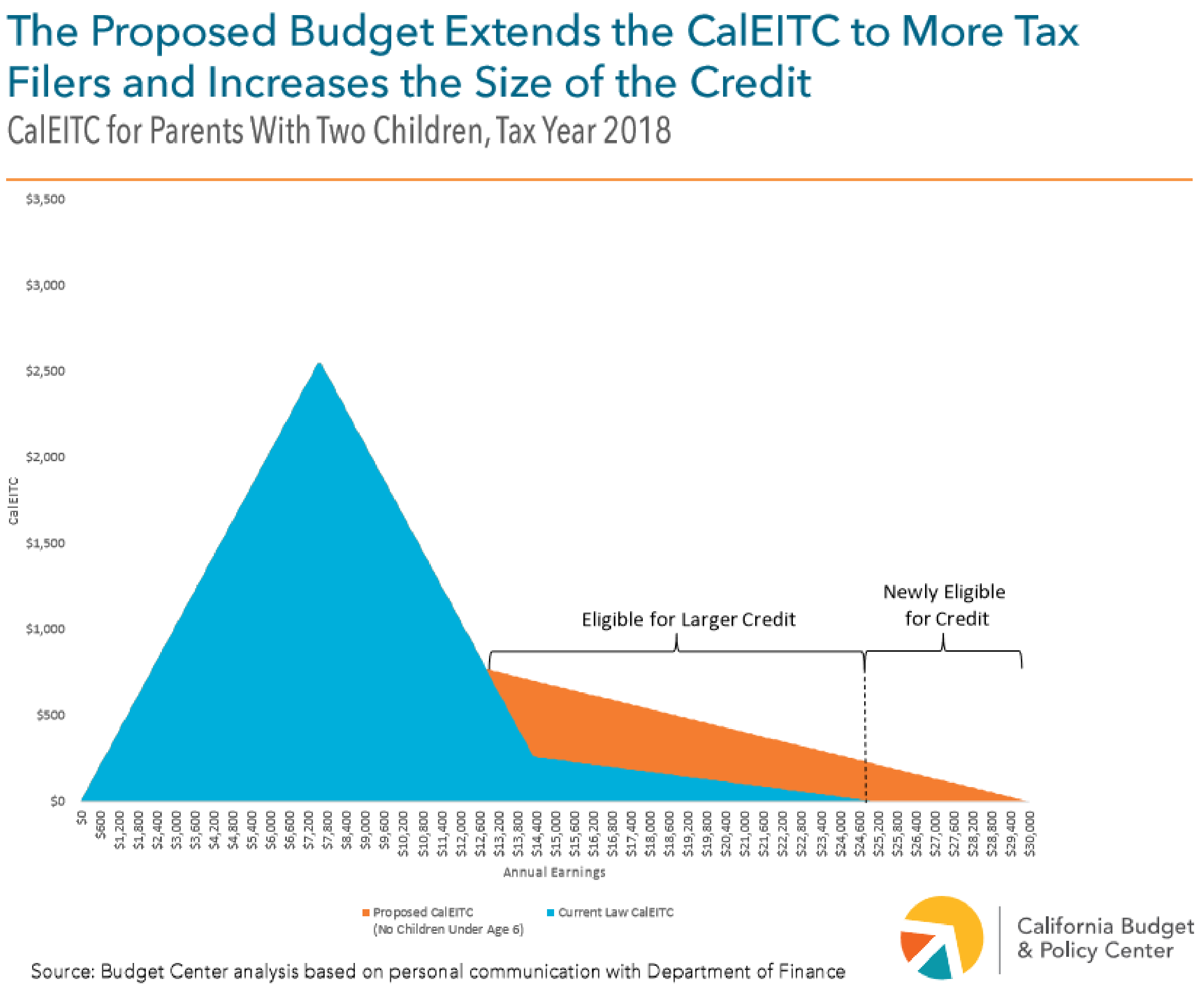
You qualify for the CalEITC for the 2018 tax year if you meet all of the following requirements:

- You have wages, self-employment income and adjusted gross income within certain limits.
- You, your spouse, and any qualifying children each have a Social Security Number issued by the Social Security Administration that is valid for employment.
- You do not use the "married/RDP filing separately" filing status.
- You lived in California for more than half the tax year.

The following charts from the California Budget and Policy Center show how the CalEITC is expanded by the Governor's proposal. The first chart gives the example of the increase to the base credit for

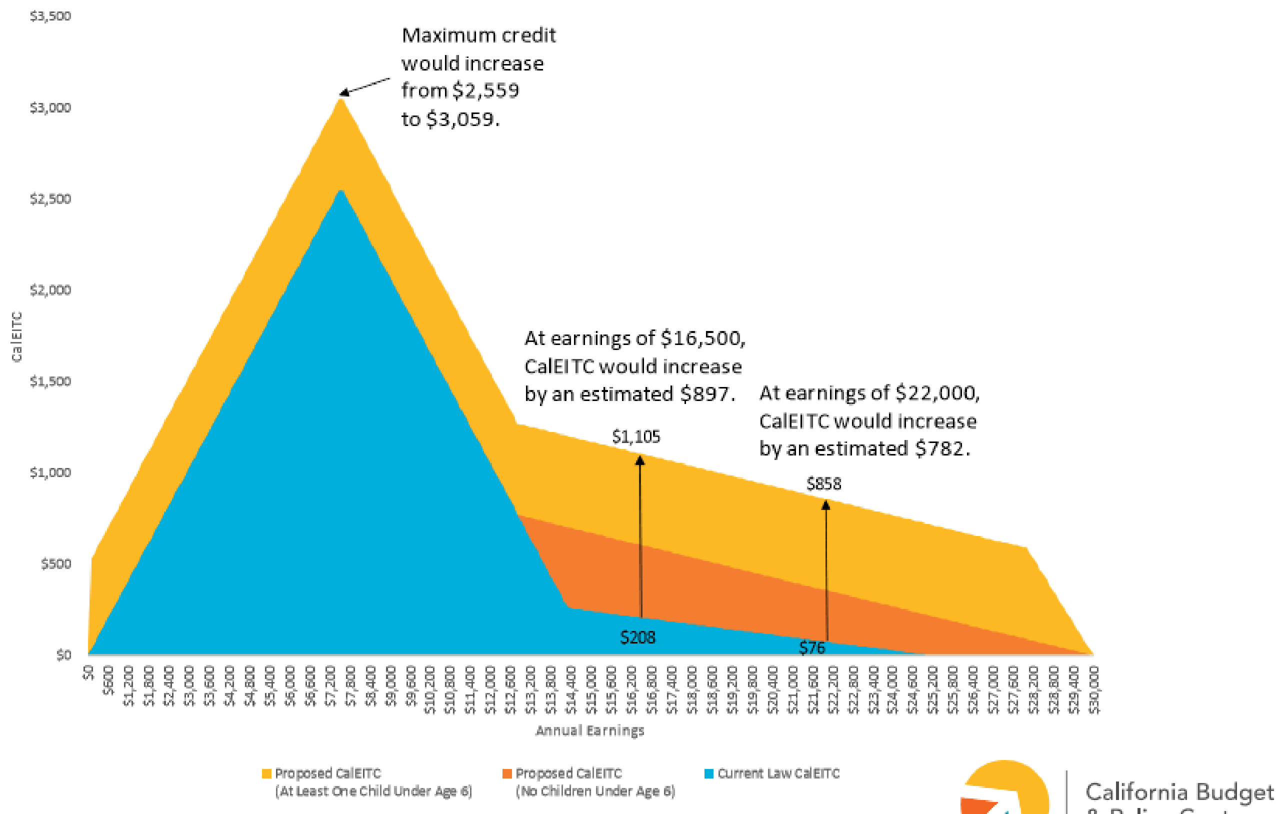
[1] https://www.ftb.ca.gov/individuals/faq/net/900.shtml

families with two children and the second chart shows the impact of the additional $500 for families with at least one child under the age of six.



## The Proposed Budget Provides an Additional $500 to Families With At Least One Child Under Age 6

CalEITC for Parents With Two Children, Tax Year 2018




Source: Budget Center analysis based on personal communication with Department of Finance

**Outreach and Tax Preparation Efforts.** EITC outreach has been an increasing focus of the program. Some reasons for this include that: 1) estimates have shown that every year California leaves $2 billion of unclaimed EITC money on the table; 2) research suggests that outreach around state-level EITCs increases uptake of the Federal EITC; 3) about one-third of the EITC eligible population turns over each year; 4) workers move into and out of eligibility based on changes in their marital, parental and financial status; 5) three out of five who receive the credit use it temporarily, for one or two years; and 6) you must claim the credit to receive it. Over 50,000 working people filed California taxes in 2017 and failed to claim the credit. Many people who qualify for the credit and are eligible for up to $6,000 fail to simply file taxes because they make below the required income threshold.[2]

Additionally, data has shown that the majority of families who've claimed the CalEITC have not received the full benefit of the credit because they've paid commercial tax preparers to file their taxes. In 2017, 56 percent of families claiming the CalEITC paid a preparer (not including families who purchased software to file), according to the FTB. CalEITC recipients' high reliance on

[2] https://caleitc4me.org/eitc-facts/

commercial preparers is not surprising considering that nearly two-thirds of Californians who claim the federal EITC pay to file — the second-highest share in the nation, according to the Brookings Institution. Expanding free tax preparation services would allow more families to receive their full tax refunds and better target California's investment in the CalEITC to the families it's intended to reach.[3]

The Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) volunteer programs provide free assistance to individuals who need help completing federal and state income tax returns. Assistance is limited to full-year residents because nonresident and part-year resident returns can be complex. Assistance is generally available from February 1 through April 15th. The VITA program specializes in assisting taxpayers with disabilities, those with low to limited income, and non-English speaking taxpayers. The TCE program provides free income tax assistance for middle- or low-income taxpayers, giving special attention to those aged 60 and older.

In recognition of the need for outreach efforts, the Legislature and the Governor provided $2 million in 2016-17 and 2017-18, for a CalEITC outreach grant program to reach the 10 target counties with the estimated highest potentially eligible number of households, as well as one small rural and one statewide grant pool. In total, there were 15 grantees with grants ranging from $55,000 to $300,000.

In order to increase outreach capabilities, the 2018-19 budget included $5 million for increased awareness, $4.9 million for free tax preparation assistance to eligible families and individuals, and $100,000 for evaluation of the most effective outreach strategies.

In its outreach efforts, FTB has collaborated with a wide breadth of government and nongovernmental agencies to develop a detailed communication plan to reach California taxpayers who might qualify for both the federal and state credits. Efforts included compilation and analysis of demographic information regarding the targeted population, web support activities, a direct mailer campaign to California taxpayers who did not have a state filing requirement but may qualify for the new CalEITC credit, and educational outreach to taxpayers, tax professionals, legislative staff, and other groups.

**Legislative Analyst's Office (LAO).** In their analysis of the Governor's proposal, the LAO suggests that there are three basic criteria that can be used to evaluate proposals to modify the CalEITC. First, how does the proposal affect poverty in the state? Does the proposal target those in deep poverty (those with income less than half of the poverty level)? Second, how does it affect work incentives, both for people who have to decide whether to enter the formal labor market and for people who are already working but are considering switching from part time to full time or vice versa? Third, what does the proposal cost, in terms of both revenue and additional compliance and administration? With these questions in mind, following are a couple of the alternatives that the LAO has suggested:

- Target Benefits to Those in Deep Poverty and Encourage More People to Enter Workforce. Rather than focusing on encouraging those already in the labor force to work more hours, the Legislature may wish to expand the EITC to create a stronger incentive for people to enter the workforce and provide larger benefits to those in deep poverty. The Legislature could do this by

[3] California Budget and Policy Center, Expanding Access to Free Tax Preparation Services Is Essential to Making the CalEITC a Success, Alissa Anderson, May 3, 2018

extending the credit's phase-in range at the current credit percentages. This would both (1) increase the maximum benefit and (2) increase the income at which workers qualify for the maximum benefit. For example; assuming the Legislature wanted to expand the EITC by $600 million—as in the Governor's proposal—it could increase both the peak EITC benefit and the income at which the maximum benefit is reached by 42 percent. Almost the entire benefit of this proposal would go to workers currently below the poverty line and provide larger benefits to those near deep poverty.

- Expanded Child Care Tax Credit Could Be an Alternative to Proposed $500 Credit. Rather than providing a $500 credit for workers with at least one dependent under the age of six, the Legislature could consider expanding the existing tax credit for child care expenses. Currently, the state credit is modeled on the federal credit, which reduces workers' taxes up to a certain amount based on child care costs. Prior to 2010, the state credit was refundable. At the time, the average credit amount for filers making less than $40,000 a year was $368. Today, workers with less than $40,000 of income receive very little benefit because these workers typically do not owe state taxes and the credit is not refundable.

**Staff Comment. Further Expansion to the State EITC to Working Immigrants.** The Governor's budget proposal will provide a significant boost to low-income working Californians and should be given strong consideration by the Legislature. However, advocates continue to point out that there remains a group of working Californians that do not have access to the credit — immigrants who file taxes with a Social Security Number or Individual Taxpayer Identification Number (ITIN). Numerous advocacy groups have pointed out that immigrants contribute about one third of California's gross domestic product and are vital to California's economy, yet many low-income working immigrant families who are struggling to make ends meet are excluded from the state EITC. Immigrants who use a federally assigned ITIN to file their tax returns are not currently eligible. Additionally, those who lose immigration relief, such as Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status, due to federal action against immigrants will no longer qualify for the EITC. This exclusion can negatively impact adults and children alike, as many immigrants live in mixed-status households with U.S. citizen children who may not benefit from the CalEITC because of their parents' immigration status. According to the California Budget and Policy Center, the poverty rate for children of immigrants in working families is more than twice the rate for other kids in working families (24 percent vs 11 percent). The center also presents the following points related to working immigrants in California:

- Like other California residents, undocumented immigrants pay taxes that support state and local services. The state's undocumented immigrants are estimated to pay more than $3 billion annually in state and local taxes.

- Undocumented immigrants pay income taxes in addition to sales and excise taxes and local property taxes. Many undocumented immigrant households file income tax returns using ITINs, and many others have income taxes withheld from their wages.

- Policymakers can reduce poverty and economic hardship for immigrants and their children by allowing income-eligible immigrants who file income taxes using ITINs or any federally assigned Social Security Number to claim the CalEITC.

**Periodic Payments.** Periodic payments, such as monthly, would smooth payments and help recipients cover ongoing expenses such as food and housing. However, periodic payment methods come with more complexities. An overarching issue regarding periodic payments is which entity would best be in a position to effectively administer a periodic payment program. This could be the FTB but could equally be assigned to an agency with more specific knowledge of the identified population. An effective periodic payment system would require addressing the following administrative components:

- **Enrollment.** Enrollment entails identifying and recruiting potential participants in an EITC periodic payment program and then verifying their eligibility to participate based on a set of objective factors.

- **Disbursement.** Disbursement involves identifying the entity responsible for the disbursement (e.g. financial institution or tax agency) as well as the frequency of the payments to the participating individual.

- **Communication.** Communication ensures that inaccuracies inherent in an income supplement program (such as income changes or "life" changes) can be corrected midstream, thus minimizing the monetization of these errors.

- **Reconciliation.** Reconciliation involves the year comparison of advanced payments and final credit amount eligibility, which could occur in conjunction with the filing of the annual tax return with the FTB.

One of the primary questions regarding a periodic payment structure is whether the payments are deferred or advanced. The California Budget and Policy Center points out that a deferred payment, which allows filers to receive their credit as monthly payments after filing their taxes, presents no financial risk. This could function as a savings tool for filers who are financially stable enough to defer their refunds. However, they suggest that deferring payments should be optional because some filers may need or prefer a lump-sum payment. In contrast, an advanced payment, which allows filers to receive their credit as monthly payments before filing their taxes, presents significant financial risk. Filers eligible for credits large enough to justify advanced payments work part-time and/or part-year, making it difficult to predict their income in advance. This could lead to a large overpayment of the credit, which filers would then have to pay back, because small changes in income can cause large changes in credit.

The LAO made similar observations in regards to whether periodic payments could made in advance or deferred. Specifically, the LAO observed that providing the payments in advance compared to a deferred payment likely would be more helpful to the recipients. Advance payments would create some challenges, however. In particular, workers receiving the EITC have incomes that often vary from one year to another. Accurately estimating the amount of the EITC in advance is difficult and in many instances, the state may either under- or overestimate the correct amount to provide workers in a given year. Consequently, a method to true-up the difference—potentially by adjusting the following year's credit—could be necessary. Attempts by the state to recoup over payments could create hardships for those affected. Program design should balance the benefit amounts with avoiding inaccuracies and large overpayments.

These Administrative issues notwithstanding, some advocates have pointed to the outcomes of an EITC Periodic Payment Pilot in Chicago in which participants were given most of their EITC quarterly through a mailed check or direct deposit. A 2015 Center for Economic Progress report detailing the pilot concluded that:

- The monthly injections of cash were used mainly on necessities.
- Periodic payments helped people save money.
- Nearly all participants preferred regular payments.

**Continued Outreach and Free Tax Preparation.** While the Governor's proposal includes a $5 million investment for increased EITC awareness and Free Tax Preparation Services, moving these resources to the OPR as the Governor has proposed could set back the progress made in this area as the FTB has Administered this part of the program for since inception and developed a level of expertise and experience that would likely be lost in such a transition. Alternatively, the Legislature should consider ways to strengthen education and outreach, such as ongoing funding in lieu of one-time commitments, which would maximize the benefit of resources in these areas by allowing the programs that deliver these services to plan for and sustain the desired level of services. Additionally, it is of note that FTB is evaluating efforts to increase program take-up. Given the funding that has been added by the Legislature the last few years and the FTB's efforts, the Legislature may wish to continue the focus on outreach and tax preparation as part of this year's budget deliberations to ensure that program goals are being realized.

**Staff Recommendation.** Hold open.

## Issue 14: Tax Conformity

**Governor's Budget.** To pay for the expanded CalEITC program, the Administration is proposing conformity to several federal tax law changes mainly impacting business income. In 2017, the federal government adopted sweeping changes to the tax code for corporations and individuals. The Administration proposes taking into consideration federal law changes and how differences between California law and federal law may create unnecessary administrative burdens to both taxpayers and the FTB. Differences between federal and state systems can be especially difficult for individuals and small businesses. The Governor's budget proposes conformity to several key provisions that on either administrative burden or policy grounds are beneficial to California. These provisions include flexibility for small businesses, capital gains deferrals and exclusions for Opportunity Zones, and limitations on fringe benefit deductions, like-kind exchanges, and losses for non-corporate taxpayers, among others. These conformity provisions are expected to generate approximately $1.7 billion in 2019-20.

**Background.** At the end of 2017, President Trump signed into law the Tax Cuts and Jobs Act (TCJA), passed with solely Republican support in Congress. The TCJA — the most extensive revision of the tax code since 1986 — primarily cuts taxes for the wealthy and corporations while increasing the federal deficit by $1.9 trillion over 10 years, putting at risk funding for services that support low- and middle-income families. There is much in the TCJA for advocates of tax fairness to dislike, including the large cut in the corporate tax rate (from 35 percent to 21 percent), the new deduction for income from "pass-through businesses," and the reduction in the top personal income tax rate. All of these changes will lead to massive federal revenue losses. However, the new law also includes some reasonable changes that raise federal tax revenue in order to partially offset these losses, including limiting federal tax breaks that are costly, unfair, or economically inefficient. California now has the opportunity to increase state revenue by adopting (or "conforming to") some of these provisions.[4]

In their review of the Governor's proposal, the LAO points out that many states' income tax laws refer to or otherwise incorporate federal tax laws. When federal tax laws change, the tax laws of some states automatically conform to the change (this is sometimes called "rolling conformity"). Other states reference the federal law as of a particular date. If such states wish to conform to subsequent changes in federal law, their Legislatures must update the "static conformity" date in their tax laws. PIT laws in 19 states conform automatically and 23 must act to conform their PIT laws (nine states do not have a PIT). If a state with rolling conformity does not want to conform to any particular provision, their Legislatures must pass laws to specify the difference.

In 2018, most states that levy a state PIT took some legislative action to conform to the federal changes made in December 2017. While some states adopted most of the changes, other states updated their conformity dates in state law—for example, New York on a rolling basis and Virginia on a static basis—but decoupled from many of the major federal changes. Only Arizona, California, and Minnesota have not acted in response to the federal changes.

The LAO further points out that states conform to the federal tax code for several reasons. By using the federal definition of income as a starting point to calculate state tax liability, states may reduce the compliance burden on tax filers and reduce errors. Additionally, referring to federal tax laws allows state administrators and filers alike to rely on federal regulations, judicial rulings, and tax filer guidance from the Internal Revenue Service. The federal interpretations generally are more detailed and extensive than what any individual state could produce. Furthermore, conformity provides consistency among states' tax laws. This benefits those filers who pay taxes in multiple states and reduces the effects of tax policy on taxpayer behavior. Lastly, conformity enhances state compliance activities by allowing states to benefit from federal tax filer audits and use federal tax data.

Following the last major overhaul of the federal tax laws in 1986, California passed legislation in 1987 to selectively conform to federal changes by changing the specified date of conformity, affirmatively conforming or partially conforming to some provisions, and specifically not conforming to certain other federal changes. In addition, this legislation also reduced state tax rates, increased the personal exemption credit, and increased the standard deduction. The state Legislature has sometimes passed conformity legislation several years after changes in federal law. For example, the most recent major tax conformity change was AB 154 (Ting), Chapter 359, Statutes of 2015, which changed the specified date of conformity from January 1, 2009 to January 1, 2015.

The following chart from the LAO displays the components of the Governor's conformity proposal and the estimated revenue impact.

[4] California Budget and Policy Center, California Can Raise Revenue for New Investments in an Unexpected Way — By Adopting Parts of Last Year's Federal Tax Giveaway, Kayla Kitson, February 19, 2019

## Assessment of Governor's Conformity Proposal as of March 1, 2019

| Conformity Provision | Effects of Change | LAO Assessment | Estimated Revenue Effect[a] (In Millions) 2019-20 | 2020-21 |
|---|---|---|---|---|
| Limits Non-Corporate Business Losses | Business owners with a loss over $250,000 would be unable to deduct the entire amount in the current year. For fewer than 100,000 filers, conforming would increase tax payments in the current year and reduce payments in future years. | + | $1,200 | $850 |
| Eliminates NOL Carrybacks | Eliminates NOL carrybacks—which currently allow a filer to claim a refund of taxes paid for up to two years prior. Conforming may increase state fiscal certainty. | + | $200 | $210 |
| Changes Like-Kind Exchange Rules | Eliminates like-kind exchanges of personal property. Conforming would mean that filers could no longer defer capital gains on personal property. | +/- | 260 | 200 |
| Limits Deductions for Fringe Benefits | Changes rules regarding business deductions for entertainment, food, and transportation expenses. Conforming would somewhat increase business taxes. | + | 200 | 160 |
| Increases Flexibility for Small Business Accounting | Increases to $25 million the annual revenue threshold for certain tax accounting rules. Conforming would eliminate differences between state and federal law that increase tax compliance costs for some small businesses. | + | -$220 | -$100 |
| Opportunity Zones | Allows filers to defer capital gains if those profits are reinvested in "green technology" or "affordable housing" investments in Opportunity Zones. | N/A | -80 | -80 |
| Eliminates Separate Section 338 Election | Eliminates differences between state and federal law regarding the tax treatment of corporate mergers and acquisitions. | N/A | 70 | 65 |
| Limits Deductions of FDIC Premiums | Limits the deduction of deposit insurance premiums paid by banks. | N/A | 65 | 55 |
| Expands limits on excess employee compensation. | Eliminates the performance-based compensation exception from limits on excessive employee compensation and expands the number of employees affected. | N/A | 43 | 37 |
| Repeals "Technical Termination" of Partnerships | Changes tax rules that apply when there is a significant change (more than 50 percent) in the ownership of a partnership. | N/A | 10 | 5 |
| Treatment of Student Loans Discharged on Account of Death or Disability | Excludes the discharge of student loan debt in case of death or disability from income. | N/A | -1 | -1 |
| Allows Increased Contributions to ABLE Accounts | Changes some rules regarding contributions to an ABLE account. The maximum total contribution of $14,000 per year remains unchanged. | N/A | — | — |
| Allows Rollovers to ABLE Accounts | Allows an individual with a disability to convert a "Section 529" educational savings account to an ABLE account without penalty. | N/A | — | — |
| **Estimated Net Change in Revenue** | | | **$1,746** | **$1,401** |

[a] We use estimates provided to us by the Franchise Tax Board. In some cases, the estimates differ by the low tens of millions of dollars from those cited by the Department of Finance. There may be minor differences in assumptions.

ABLE = Achieving Better Life Experiences; FDIC = Federal Deposit Insurance Corporation; and NOL = Net Operating Loss.

**Legend**

| | |
|---|---|
| + | The arguments in favor of conforming are somewhat stronger than those against. |
| +/- | There are good arguments both in favor and against conforming. |
| - | The arguments against conforming are somewhat stronger than those in favor. |
| N/A | Not applicable. Not included in Legislative Analyst's Office analysis. |

**Staff Comment.** The Governor should be commended for prioritizing such a significant increase to the state's EITC program in his budget proposal. As conforming to changes in federal tax law is a common practice, utilizing revenue gains from conformity to allow for the expansion is a reasonable approach. However, as the LAO points out, estimates of the revenue impacts of expanding the state EITC and possible conformity actions are subject to significant uncertainty. In addition, the impacts of these different changes likely would deviate from each other over time. For example, the cost of the EITC could vary based on the economy. Additionally, the LAO suggests that revenues raised by conformity actions could change as taxpayers respond to any new incentives. The Legislature should ensure that, in tying expansion of the state EITC to tax conformity, the program isn't harshly impacted by future variations in the realization of revenue from any of the conformity changes.

**Staff Recommendation.** Hold open.

***Senate Budget and Fiscal Review—Holly J. Mitchell, Chair***

**SUBCOMMITTEE NO. 4** **Agenda**

**Senator Maria Elena Durazo, Chair**
**Senator Jim Nielsen**
**Senator Tom Umberg**

**Thursday, May 2, 2019**
**9:30 a.m. or upon adjournment of session**
**State Capitol – Room 2040**

Consultants: James Hacker, Joe Stephenshaw, Yong Salas

*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.*

# VOTE-ONLY CALENDAR

## 0650 GOVERNOR'S OFFICE OF PLANNING AND RESEARCH

### Issue 1: CalVolunteers

**Governor's Proposal.** The budget requests $20 million General Fund in fiscal year 2019-20, to be spent over two years, for CaliforniaVolunteers to begin the expansion of the state's AmeriCorps members and to supplement the federal education award to reach a combined total of $10,000. It is anticipated that private funds will supplement the state's investment. This item was first heard in Subcommittee No. 4 on March 14th, 2019.

**Staff Recommendation:** Approve as Budgeted.

### Issue 2: Earned Income Tax Credit

**Governor's Proposal.** The budget requests $5 million General Fund in fiscal year 2019-20 in grant funding for organizations that provide taxpayer outreach and free tax preparation. The 2018-19 budget included $10 million at the Franchise Tax Board for this purpose. It is unclear why this work should be moved from FTB to OPR.

**Staff Recommendation:** Reject the proposal and provide $5 million to FTB for taxpayer outreach.

### Issue 3: Fi$Cal Staffing

**Governor's Proposal.** The budget requests $334,000 General Fund in 2019-20 and $329,000 General Fund in 2020-21 and ongoing to establish three positions to assist with the implementation of the Financial Information System of California (FI$Cal). This item was first heard by Subcommittee No. 4 on March 14, 2019.

**Staff Recommendation:** Approve as Budgeted.

### Issue 4: SB 1072 Implementation

**Governor's Budget.** The budget requests three positions and $392,000 General Fund in 2019-20 until 2028-29 to implement SB 1072 (Leyva, Chapter 377, Statutes of 2018).

White the requested positions are broadly reasonable, and in-line with the estimated cost of implementing SB 1072, the first year of implementation requires OPR to develop technical assistance guidelines and establish the outlines of the grant program. However, the grant program would not begin issuing grants until 2020-21. This suggests that the out-year workload is subject to considerable uncertainty. Limited-term funding is therefore appropriate to evaluate workload once the grant program begins issuing awards in the out years.

**Staff Recommendation:** Approve three positions and $392,000 per year for two years.

## 0840 STATE CONTROLLER'S OFFICE (SCO)

### Issue 5: Unclaimed Property Fraudulent Claims Prevention and Detection Program

**Governor's Budget.** The Governor's budget requests $1.5 million in 2019-20, ongoing, from the Unclaimed Property Fund (UPF) to support nine permanent positions for the Unclaimed Property Fraudulent Claims Prevention and Detection Program.

**Background.** In 2010-11, the Unclaimed Property Division (UPD) identified fraudulent claims (paid erroneously) totaling $2.8 million, which indicated that more fraudulent claims were being paid out than UPD was able to identify. SCO received the following resources and established the Fraudulent Claims Prevention and Detection Program:

- 2012-13: 17.9 two-year limited-term (LT) positions to address the increase in fraudulent claims received by UPD.
- 2014-15: 16.0 two-year LT positions to continue the development of electronic fraud detection methods via database system reports.
- 2016-17: 8.0 permanent positions and 9.0 three-year LT positions, which have been successful in identifying and preventing fraudulent claim submissions.

With the approved proposals, UPD has prevented an average of $7.6 million annually in fraudulent claims from being paid out over the past six years. This request will make the nine LT positions from 2016-17 permanent to ensure the SCO maintains these resources.

**Staff Recommendation.** Approve as budgeted.

### Issue 6: Unclaimed Property (UCP) Holder Compliance Audits

**Governor's Budget.** The Governor's budget requests $1.6 million from the Unclaimed Property Fund in 2019-20 and ongoing and 11 positions to perform audits of holders to ensure compliance with the California Unclaimed Property Law (UPL), reunite unclaimed property with its rightful owners or heirs, and provide administrative support.

**Background.** In 2007, Senate Bill 86 (Committee on Budget and Fiscal Review), Chapter 179, Statutes of 2007, modified Code of Civil Procedure Section 1501.5, requiring SCO to improve the reporting procedures for unclaimed property holders in California. This process requires holders of unclaimed property to submit Holder Notice Reports before remitting property to SCO; SCO uses the Holder Notice Reports to send Pre-Escheat Notices to rightful owners. The notices advise owners to contact holders directly to retrieve the reported property, giving the holders an opportunity to reestablish contact with the owners and return their property. After filing the Holder Notice Reports, holders are required to submit Holder Remit Reports to SCO, providing information about property that was not returned. When the Holder Remit Report is filed, holders are required to remit the property to SCO.

The trend in compliance with the Unclaimed Property Law is declining among holders. An SCO analysis identified 16,555 unclaimed property reports were received out of the 1,319,928 active California-based businesses in 2016. This reveals a minimum compliance rate of 1.25 percent. In comparison with prior fiscal years, 2.3 percent in 2013 and 2.2 percent in 2015, the trend in compliance is declining. Without the requested resources, the trend in compliance with the UPL will continue to decline, which will result in more Californians losing their properties, and reduced revenues to the State's General Fund in the form of penalty interest.

**Legislative Analyst's Office (LAO).** The LAO agrees with the Governor's goal to increase holder compliance. They cite that, compliance with unclaimed property law is very low. The state has the incentive to increase holder compliance for two main reasons: (1) to result in more property being reunited with owners (both directly by holders as well as by the state), and (2) to increase a source of state revenue. The LAO presents the following options to further increase compliance:

1. **Include an Unclaimed Property Question on Businesses' Tax Forms.** Most California businesses file income tax returns with the Franchise Tax Board (FTB) each year. Under one option, the Legislature could amend tax law to require businesses to respond to a question about unclaimed property as part of their tax filings. This addition to tax forms could be relatively simple with a single question. For example, the tax form could ask: "Did your business submit a holder notice report to the California State Controller's Office last year?" and indicate that the business could be out of compliance with existing law if it responds "no." Alternatively, the tax form could include a few different questions that ask about different property types and length of time since owner contact. The adoption of this question in tax software would be critical to its effectiveness in improving compliance because so many businesses file their taxes electronically.

2. **Provide a One-Time Amnesty for Noncompliant Holders.** Another option is to provide a one-time amnesty for holders who voluntarily report past-due unclaimed property. Under current law, these holders owe an interest penalty of 12 percent per year for past-due unclaimed property. This may deter some holders from becoming fully compliant, particularly because the probability of being audited is relatively low. The Legislature could temporarily waive this penalty for a certain period for holders who voluntarily report past-due unclaimed property.

**Staff Comments.** The Subcommittee heard this proposal on March 21$^{st}$ and help it open.

**Staff Recommendation.** Approve the Governor's budget proposal and adopt budget bill language requiring the Franchise Tax Board to report on plans for including an unclaimed property question on business tax forms and the SCO to report on plans to provide for a one-time amnesty or other options to increase compliance in lieu of an amnesty program.

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## 0968 TAX CREDIT ALLOCATION COMMITTEE (CTCAC)

### Issue 7: Development and Compliance Monitoring

**Governor's Budget.** The budget requests $458,000 in 2019-20 and $428,000 ongoing for one position for performing IRS Code Compliance Section monitoring services and two Associate Governmental Program Analyst (AGPA) positions for the Development Section to carry out core functions and to administer the federal and state mandates of the Low Income Housing Tax Credit (LIHTC) program.

CTCAC administers both federal and state low-income housing tax credit programs. California is the largest user nationwide of the LIHTC program. Developers rely on federal, state, and local funding sources to build affordable housing as evidenced by the receipt of approximately 300 applications annually. To ensure federal compliance and properly maintained properties, CTCAC must perform federally-mandated compliance monitoring functions. As the workload has continued to increase, CTCAC contracted with an outside consulting firm in 2007 to produce a workload analysis of all compliance functions and staffing requirements. The study documented the need for one additional position every other year to adequately address the increasing workload. CTCAC has continued to use the workload analysis tool developed by the contractor to quantify staffing needs.

Government Health and Safety Code, Section 50199.9(d), allows CTCAC to establish and collect fees for necessary administrative costs and for the purpose of paying the costs of monitoring projects with allocations of tax credits for compliance with federal and state law.

**Staff Recommendation:** Approve as Budgeted.

## 760 DEPARTMENT OF TAX AND FEE ADMINISTRATION (CDTFA)

### Issue 8: Accounting Branch Positions Augmentation

**Governor's Budget.** The Governor's budget requests the redirection of five vacant Provision 1 positions to the Accounting Branch, and $95,000 to fund the salary difference between the current and proposed classifications of redirected positions.

**Background.** The CDTFA was established as a result of the Taxpayer Transparency and Fairness Act of 2017 (Act). This Act referenced various audits and evaluations. Audit issues include inadequate internal controls in the Accounting Branch. To address the audit findings as well as other critical unmet workload needs, an internal analysis indicated that 10 additional positions were needed in Accounting. Of the 10 positions, five have already been redirected from other areas within the CDTFA. The five remaining positions are identified but cannot be redirected without Department of Finance (DOF) approval because the positions are designated as Provision 1 (revenue generating).

Provision 1 requires any redirections of resources appropriated for audits, collections, or return processing to be approved by DOF with a 30-day Joint Legislative Budget Committee notification.

**Staff Recommendation.** Approve as budgeted.

### Issue 9: Prepaid Mobile Telephony Services (MTS) Surcharges

**Governor's Budget.** The Governor's budget requests a reduction in resources to efficiently conclude the Prepaid MTS Surcharge Collection Act program as follows:

- A reduction of $1.0 million and 8.4 positions in 2019-20,
- A reduction of $1.7 million and 13.6 positions in 2020-21,
- A reduction of $1.7 million and 13.6 positions in 2021-22,
- A reduction of $1.8 million and 14.1 positions in 2022-23,
- A reduction of $1.8 million and 14.6 positions in 2023-24 and ongoing.

**Background.** On November 15, 2018, the United States District Court, Northern District of California (Metro PCS California, LLC v. Michael Picker), enjoined state agencies from enforcing the provisions of the Prepaid MTS Surcharge Collection Act because it conflicts with federal law. A notice of appeal of the court's decision was filed on December 14, 2018, but a judicial stay of the injunction was not requested, thereby ending CDTFA's enforcement of the Prepaid MTS Surcharge Collection Act.

The local charges are administered under a separate act, the Local Prepaid MTS Collection Act. CDTFA will continue to collect the local portion until its sunset on December 31, 2019.

**Staff Recommendation.** Approve as budgeted.

## 2240 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

### Issue 10: Housing Element Workload Adjustment

**Governor's Budget.** The budget requests $1,361,000 in 2019-20 and $1,241,000 ongoing General Fund for eight positions to expand and enhance its housing element review and enforcement functions. HCD currently has seven staff devoted to housing element workload. In 2013-14, HCD had 12.0 staff available for housing element review, including five limited-term positions provided for the peak of fifth cycle review workload. The Administration has indicated that this request would lead to a total of 16.0 positions devoted to housing element workload. This includes seven currently filled housing element positions, one authorized housing element position associated with the implementation of AB 1397 (Low), Chapter 375, Statutes of 2017, and the eight positions requested in this proposal. This item was first heard in Budget Subcommittee No. 4 on March 14, 2019.

**Staff Recommendation:** Approve as Budgeted.

### Issue 11: Community Development Block Grant (CDBG) Disaster Recovery Program

**Governor's Budget.** The budget requests $108,825,000 in 2019-20 and $2,555,000 ongoing Federal Trust Fund for 10 positions to design and implement the CDBG-Disaster Recovery Program focused on recovery from the 2017 Northern and Southern California wildfires. This item was first heard in Budget Subcommittee No. 4 on March 14, 2019.

**Staff Recommendation:** Approve as Budgeted.

### Issue 12: CalHome Program Changes

**Governor's Budget.** The Administration has propoased trailer bill language to allow the program to include auxiliary dwelling units (ADUs) and junior accessory dwelling units, and to authorize the program to make grants for housing purposes in declared disaster areas. This proposal was first heard in Budget Subcommittee No. 4 on March 14, 2019.

**Staff Recommendation:** Approve as Proposed.

### Issue 13: Local Housing Trust Fund

**Governor's Budget.** The Administration has proposed trailer bill language to allow the Local housing Trust Fund to make matching grants to Native American Tribes, and to increase the minimum size of awards to various local trusts. This item was first heard in Budget Subcommittee No. 4 on March 14, 2019.
**Staff Recommendation:** Approve as Proposed.

## Issue 14: Other Trailer Bill Language Proposals

**Governor's Budget.** The Administration has proposed trailer bill language removing the 55 percent voter threshold and making conforming changes in Enhanced Infrastructure Financing District (EIFD) law. This proposal was first heard in Budget Subcommittee No. 4 on March 14, 2019. Additional trailer bill language has been proposed to streamline the California Environmental Quality Act (CEQA) process for homeless shelters and navigation centers. While there are merits to both proposals, they represent statewide policy changes that should be considered as part of the policy process.

**Staff Recommendation:** Reject without prejudice.

## Issue 15: Organizational Development and Strategic Planning Unit

**Governor's Budget.** The budget requests $565,000 in 2019-20 and $505,000 annually through 2022-23 from administrative budget authority for four positions to permanently establish the Organizational Development and Strategic Planning (ODSP) unit. The department has indicated that ongoing resources for the requested positions will be available from operational efficiencies created as a result of the BPI process once the requested funding expires in 2022-23. This item was first heard in Budget Subcommittee No. 4 on March 14, 2019.

**Staff Recommendation:** Approve as Budgeted. Adopt Supplemental Reporting Language requiring HCD to report on annual savings created by the Unit's work for each funded year of work.

# ITEMS PROPOSED FOR DISCUSSION/VOTE

## 7730 FRANCHISE TAX BOARD (FTB)

### Issue 16: FI$Cal

**Governor's Budget.** The Governor's budget requests $1.4 million from various funds for nine permanent positions and three permanent intermittent positions in 2019-20 and 2020-21. These resources will conduct accounting and procurement functions and serve as FTB's foundation to allow the department to fully adopt Financial Information System for California (FI$Cal) implementation and comply with statewide accounting policies.

**Background.** FTB is responsible for administering the income and franchise tax laws for the State of California. Each year, FTB processes more than 21.1 million tax returns, 13.3 million payments, issues 13.2 million refunds to California's residents, and conducts compliance activities to collect the proper amount owed the state. As a result of these efforts, the department is responsible for administering programs bringing in approximately 78 percent of the General Fund revenue.

In compliance with accounting policies and regulations, FTB's Accounting Section maintains accounting records of the revenue, expenditures, cash, receipts, disbursements, and property for the department. For decades, FTB performed the accounting responsibilities through the state provided accounting system, California State Accounting & Reporting System (CALSTARS). In July 2018, FTB implemented the new statewide accounting system, FI$Cal. FI$Cal combines the State's accounting, budgeting, cash management, and procurement operation into a single, transparent, and unified financial management system that is intended to be used by most state entities. FI$Cal also changed and implemented new, required accounting features, processes and requirements.

While FI$Cal brings transparency and consistency for statewide accounting, it introduced additional complexity to FTB's already complex accounting and procurement needs due to the volume and diversity of accounting transactions that FTB administers. These increased complexities have resulted in an increase in volume, and the requirement of additional tasks to complete a transaction. In addition, increased levels of review are now required. All of these together have resulted in increased timeframes to complete transactions and reconciliations. As a result of this new and increased workload, FTB needs additional resources to carry out its fiduciary responsibilities within mandated timeframes. Specifically, FTB has experienced the following:

- Lengthier accounts payable processes to issue vendor payments and run pay cycles, which leads to prompt payment penalties.
- Lengthier processes in handling purchase orders for the department causing lapsed services.
- Inability to timely post accounting entries and maintain accounting records which will lead to inaccurate financial reports and/or estimated financial statements, uninformed decisions, cash flow concerns, inappropriate fund distributions, loss of public confidence and audit findings.
- Inability to timely complete existing or expected future accounting assignments.
- Inability to timely perform mandated review and reconciliation of state funds monthly, which will lead to inaccurate, late, or estimated and late financial statements and other financial reports. Inability to timely and accurately remit and report revenue deposits.

**Staff Recommendation.** Approve as budgeted.

## 0650 Office of Planning and Research

### Issue 17: Health in All Policies (HiAP)

**Governor's Proposal.** The budget requests three positions and $430,000 General Fund in 2019-20 and ongoing to continue the existing Health in All Policies (HiAP) program at the Strategic Growth Council (SGC).

**Background.** Executive Order S-04-10 (2010) established the Health in All Policies Task Force to advance public health and equity through SGC's programs and throughout State government. The Task Force was directed to "...collaborate with existing SGC working groups to identify priority programs, policies, and strategies to improve the health of Californians..." The Task Force has a wide reach across government, and is comprised of members from 22 California state agencies. HiAP was conceived as a proof of concept initiative through a public-private partnership between the state, the Public Health Institute, and foundation partners.

SGC's HiAP staffing has been fully funded by philanthropic partners and current HiAP staff are employees of the Public Health Institute (PHI), the non-profit partner to the state. State funds have not been allocated to support HiAP staff. However, philanthropic support has amounted to over $4 million since 2010, which has paid staff salaries and benefits.

HiAP staff were initially housed at the California Department of Public Health (CDPH) from 2010 to 2016 because at that time SGC was new, with only one staff, and limited organizational infrastructure or physical space to host the entire program. In August of 2016, with support from CDPH's Director and SGC's Executive Director and Chair, the SGC voted to move the foundation-funded PHI staff from CDPH's building to SGC's location.

**Staff Comments.** HiAP currently supports three broad efforts. The Government Alliance for Race and Equity (GARE) Capitol Cohort is the country's first-ever state-level multiagency learning and action cohort focused on addressing institutionalized racism across government agencies. Developed through the HiAP Task Force, multi-agency Action Plans outline opportunities and concrete steps to integrate health and equity into government programs and practices. Lastly, the HiAP team has provided support across state government to foster the integration of health and equity into planning guidance and policy documents.

HiAP currently supports four positions at SGC, fully funded by PHI. SGC provides in-kind support to house staff. The philanthropic funding for these positions will expire in July 2019, and SGC has indicated that PHI does not intend to extend it. OPR has indicated that HiAP would move from four to three positions once funding is brought in-house. All three current work streams would continue, with work focusing on state and interagency issues. Workload related to interstate or international efforts would be absorbed or expire.

**Staff Recommendation:** Hold Open.

## 2240 CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

### Issue 18: No Place Like Home

**Governor's Proposal.** The budget requests a $7 million General Fund loan for cash needs of the No Place Like Home Program (NPLH) until the No Place Like Home bonds are issued in Fall of 2019.

**Background.** Chapter 43, Statutes of 2016, and Chapter 322, Statutes of 2016, established the NPLH program, which develops permanent supportive housing for individuals who are in need of mental health services and are experiencing homelessness or are at risk of chronic homelessness. The NPLH program allows funds to be provided directly to counties with at least five percent of the state's homeless population as demonstrated in the 2015 or later sheltered and unsheltered homeless point-in-time count. HCD developed the NPLH program and adopted program guidelines in July 2017. In August 2017, the California Health Facilities Financing Authority authorized the issuance of up to $2 billion in revenue bonds and the state filed the bond validation action in September 2017. In order to expedite the implementation of the NPLH program, a measure was placed on the 2018 November General Election ballot - No Place Like Home Act of 2018 (Proposition 2), and was subsequently approved by the voters.

**Staff Comments.** Welfare and Institutions Code (WIC) Section 5849.8(b) sets the criteria for Alternative Process (AP) counties: "The department may establish an alternative process for allocating funds directly to counties, as calculated in Section 5849.6, with at least five percent of the state's homeless population and that demonstrate the capacity to directly administer loan funds for permanent supportive housing serving the target population and the ability to prioritize individuals with mental health supportive needs who are homeless or at risk of chronic homelessness, consistent with this part and as determined by the department." HCD evaluated the AP counties capacity to administer a housing program as part of the designation process. Only four counties meet the five percent threshold, and all will be AP counties by May. It will not be reassessed unless the statute is amended.

Based on the 2017 point-in-time results, the HCD designated the eligible AP Counties are Los Angeles, Santa Clara, San Diego, and San Francisco. Los Angeles County indicated a cash flow need of $3,000,000 and Santa Clara a cash flow need of $4 million before October for projects they intend to provide construction lending to, although awards have not formally been made at this time. The Administration has indicated that the requested $7 million will be repaid to the General Fund once bonds have been sold in the fall of 2019.

**Staff Recommendation.** Hold Open.

## 8880 FINANCIAL INFORMATION SYSTEM FOR CALIFORNIA (FI$CAL)

### Issue 19: Special Project Report 8: Departmental Training and Project Funding

**Budget.** The Department of FI$Cal requests funding of $31 million (of which is $17.7 million General Fund) in 2019-20, $24.7 million ($14.1 million General Fund) in 2020-21, and $2.4 million ($1.4 million General Fund) in 2021-22 to provide support for state departments utilizing the FI$Cal implemented functionality. Remaining costs will be funded through the Central Cost Services Recovery Fund. FI$Cal also requests $6 million General Fund in 2019-20 for additional resources that will enable the project to complete the implementation of the planned cash management functionality and Consolidated Annual Financial Report (CAFR) reporting.

**Background.** The subcommittee heard an informational item on a FI$Cal project update at its March 7, 2019 hearing.

Many departments continue to struggle with moving from their legacy and department-specific applications to the integrated financial platform. FI$Cal states that 152 departments are now transacting in the system, and 64 departments completed year-end close activities for the first time in the system during 2018-19. As of April 2019, 13 departments have yet to close 2017-18 year-end reports.

Accenture, LLP is the contracted FI$Cal System Integrator, and assisted the state in heavily configuring software developed by Oracle and used in FI$Cal, and in deploying the software for department usage. This included departmental trainings to use the software, solving complaint tickets, and providing enhancements to the software based on feedback.

This request would allow FI$Cal to contract for additional resources to provide departmental support, deploy tools to help departments create reports, improve performance in system use, and improve training for departments. A portion of these costs are provided through a combination of General Fund and the Central Cost Services Recovery Fund, which recovers costs from special and non-governmental funds. FI$Cal states that the main reasons for the delays in closing out month and year-end reports are: 1) the time it takes for a department to be proficient in FI$Cal; 2) training that has not been completed by end-users; 3) staff turnover; and 4) the challenges that come with changing the internal business processes of a department. FI$Cal states that historically, it takes one to three years before a department consistently completes their month and year-end reports in a timely manner.

The funding request is broken down as follows (in thousands):

| **FI$Cal** | **2019-20** | **2020-21** | **2021-22** |
|---|---|---|---|
| General Fund | $ 17,656 | $ 14,097 | $ 1,359 |
| Central Service Cost Recovery Fund | $ 13,320 | $ 10,634 | $ 1,025 |

| **FI$Cal - SCO Functionality** | **2019-20** | **2020-21** | **2021-22** |
|---|---|---|---|
| General Fund | $ 6,000 | | |

| | | | |
|---|---|---|---|
| **TOTAL** | **$ 36,976** | **$ 24,731** | **$ 2,384** |

The project is expected to operate under Special Project Report #8 by mid-May 2019, and full implementation is expected to be complete by July 2020.

**Staff Recommendation.** Hold open.

*Senate Budget and Fiscal Review—Holly J. Mitchell, Chair*

# SUBCOMMITTEE NO. 4 Agenda

**Senator Maria Elena Durazo**
**Senator Jim Nielsen**
**Senator Thomas J. Umberg**

**Thursday, May 9, 2019**
**9:30 a.m. or Upon Adjournment of Session**
**State Capitol - Room 2040**

Consultant: Yong Salas, Anita Lee, James Hacker

**PROPOSED FOR VOTE-ONLY**

**ITEMS PROPOSED FOR DISCUSSION**

### ITEMS PROPOSED FOR DISCUSSION/VOTE



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**ITEMS PROPOSED FOR VOTE-ONLY**

## 0845 Department of Insurance

### Issue 1: Climate and Sustainability

**Budget.** The California Department of Insurance (CDI) requests $404,000 Insurance Fund in 2019-20 and $384,000 Insurance Fund ongoing thereafter to support two positions to address climate impacts on insurance.

**Background.** CDI previously established the Office of Climate Risk Initiatives, which has implemented a fossil fuel database with the aid of outside contracts, supported efforts to address climate issues through the National Association of Insurance Commissioners, and facilitated scenario analyses of financial information through non-governmental organization partnerships. CDI is seeking to expand the scope of climate work at the department, which would include the development of strategies that incentivize investments in natural infrastructure adjacent to communities to reduce risks of climate change-related catastrophes and property losses.

Currently, the Office of Climate Risk Initiatives is staffed with 2.5 positions that were redirected from within existing resources. This request would create the Climate and Sustainability Branch and provide an additional two positions.

**Staff Recommendation.** Approve as budgeted.

## 1111 Department of Consumer Affairs

### Issue 2: Budget Bill Language for Anticipated Facilities Costs

**Budget.** The Department of Consumer Affairs (DCA) requests budget bill language to augment, after notification to the Legislature, the Department's special fund appropriations in 2019-20 to address increased facilities costs related to active lease negotiations for various Department locations.

**Background.** The budget bill language is as follows:

> 1111-402—It is recognized that various boards and bureaus within the Department of Consumer Affairs may incur increased facility costs in 2019-20 for various locations statewide that could have a fiscal impact beyond the amounts appropriated in their respective Budget Act items. Therefore, notwithstanding any other provision of law, upon the request of the Department of Consumer Affairs, the Department of Finance may augment the appropriations of various boards and bureaus within the Department of Consumer Affairs, after review of a request submitted by the Department of Consumer Affairs that demonstrates a need for additional resources for facilities costs based on executed lease contracts. Any augmentation shall be authorized not sooner than 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine.

DCA oversees 37 entities that regulate and licenses more than 200 professional categories, and has mutliple facility locations in Sacramento that house more than 20 programs with leases that are set to expire in 2019:

| Location | Expiration Date |
|---|---|
| Capital Oaks (2 leases) | June 2019 and September 2019 |
| Evergreen | March 2019 |
| Del Paso | April 2019 |

DCA has been working with its programs, in coordination with the Department of General Services, to negotiate lease extensions, office relocations, and address space configuration needs. As a result of the lease negotiations, it is anticipated that rent rates will increase and some programs may incur one-time reconfiguration expenses.

DCA states that since facility planning timelines and budget building timelines may not always align, the proposed budget bill language provides the flexibility for the Department to request additional appropriations based on fully executed leases.

**Staff Recommendation.** Approve as requested.

### Issue 3: Trailer Bill Language: Bureau of Household Goods and Services

**Budget.** DCA requests trailer bill language to restore the fee authority for the Bureau of Household Goods.

**Background.** The Bureau of Household Goods and Services (formerly known as the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation) has jurisdictional authority over various service industries, such as household movers, appliance service dealers, and furniture and bedding wholesalers and retailers. In 2018, the Bureau was reviewed through the Legislature's sunset review process, and its authority was extended; however, its fee authority was inadvertently allowed to sunset. This language will restore its fee authority.

**Trailer Bill Language.** The language is proposed as follows:

**Add Section 9873.**

*The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:*

*(a) (1) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than two hundred five dollars ($205) for each place of business in this state. The initial registration fee for a service contractor is not more than ninety-five dollars ($95) for each place of business in this state.*

*(2) The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than four hundred five dollars ($405) for each place of business in this state. The initial registration fee for a person who is a service contractor and engages in business as either an electronic repair industry service dealer or an appliance repair industry service dealer is not more than three hundred dollars ($300) for each place of business in this state.*

*(3) The initial registration fee for a person who engages in both the electronic repair industry and the appliance repair industry as a service dealer and is a service contractor is not more than five hundred dollars ($500) for each place of business in this state.*

*(4) A service dealer or service contractor who does not operate a place of business in this state, but engages in the electronic repair industry, the appliance repair industry, or sells, issues, or administers service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.*

*(b) (1) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than two hundred five dollars ($205) for each place of business in this state, if renewed prior to its expiration date. The annual registration renewal fee for a service contractor is ninety-five dollars ($95) for each place of business in this state, if renewed prior to its expiration date.*

*(2) The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than four hundred dollars ($400) for each place of business in this state.*

*(3) The annual renewal fee for a service dealer who engages in the electronic repair industry and the appliance repair industry and is a service contractor is not more than four hundred seventy-five dollars ($475) for each place of business in this state.*

*(4) A service dealer or service contractor who does not operate a place of business in this state, but who engages in the electronic repair industry, the appliance repair industry, or sells or issues service contracts in this state shall pay the registration fee specified herein as if he or she had a place of business in this state.*

*(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for a license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.*

*(d) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2023, deletes or extends that date.*

**Amend 9873.**

*The fees prescribed by this chapter shall be set by the director by regulation, according to the following schedule:*

*(a) The initial registration fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than two hundred five dollars ($205) for each place of business in this state. The initial registration fee for a person who engages in business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than four hundred five dollars ($405).*

*(b) The annual registration renewal fee for an electronic repair industry service dealer or for an appliance repair industry service dealer is not more than two hundred five dollars ($205) for each place of business in this state, if renewed prior to its expiration date. The annual renewal fee for a service dealer who engages in the business as both an electronic repair industry service dealer and an appliance repair industry service dealer is not more than four hundred dollars ($400).*

*(c) The delinquency fee is an amount equal to 50 percent of the renewal fee for a license in effect on the date of renewal of the license, except as otherwise provided in Section 163.5.*

*(d) This section shall become operative on January 1, ~~2019~~**2023**.*

**Staff Recommendation.** Approve as requested.

**Issue 4: Board of Registered Nursing – Staffing Augmentations**

**Budget.** The Board of Registered Nursing (BRN) requests $7.1 million in 2019-20, $6.5 million in 2020-21 and 2021-22, and $3.3 million ongoing to the Board of Registered Nursing Fund, Professions and Vocations Fund to fund 67 positions to address deficiencies within the Board's Licensing Division, Administration & Public Information Unit, and Enforcement Division.

The subcommittee heard this item at its April 4, 2019 hearing.

**Staff Recommendation.** Approve as requested.

## 7760 DEPARTMENT OF GENERAL SERVICES

### Issue 5: Authority Increase for Statewide Travel Program

**Budget.** The Department of General Services (DGS) requests a permanent increase in expenditure authority of $1.5 million ($1,523,000) in Service Revolving Fund authority to offset transaction fees on behalf of the Statewide Travel Program (STP) client agencies.

The subcommittee heard this item at its March 7, 2019 hearing.

**Staff Recommendation.** Approve as requested.

### Issue 6: Electric Vehicle Service Equipment Infrastructure Assessment and Facility Development

**Budget.** The Department of General Services (DGS) requests a one-time augmentation of $18.6 million ($9.3 million General Fund and $9.3 million Service Revolving Fund) in 2019-20 to continue activities related to the installation of Electric Vehicle Service Equipment (EVSE) at state facilities.

The subcommittee heard this item at its March 7, 2019 hearing.

**Staff Recommendation.** Approve as requested.

### Issue 7: Office of Sustainability Energy Resources Program Account Funding Replacement

**Budget.** DGS requests a permanent augmentation of $2 million in Service Revolving Fund authority to support the Office of Sustainability Energy Resource Program.

**Background.** DGS has received approximately $2 million annually from the Energy Resource Program Account (ERPA) to cover statewide sustainability efforts for more than two decades. The Office of Sustainability receives approximately $1.6 million of these funds to cover the development costs associated with potential solar and wind energy generation and efficiency projects. The Procurement Division received the remaining $450,000 to enhance statewide environmentally preferable purchasing. The ERPA's revenue source is a surcharge on statewide electricity consumption, which funds certain state entities who administer a variety of statewide energy programs. However, revenues generated by the ERPA surcharge have leveled off.

This request will add to the statewide surcharge and provide permanent funding beginning in 2019-20 to continue these activities.

**Staff Recommendation.** Approve as requested.

## Issue 8: Division of State Architect Increased Workload

**Governor's Budget.** The Department of General Services, Division of the State Architect (DSA), requests a two-year budget authority increase of $9.6 million ($8.1 million Public School Planning, Design, and Construction Review Revolving Fund and $1.5 million Disability Access Account) to support increased public school construction workload.

**Background.** The Kindergarten through Community College Public Education Facilities Bond Act of 2016 (Proposition 51) authorized $9 billion in bonds to fund the construction and improvement of K-12 and community college facilities. In addition, there is an estimated $59 billion in local school district bond funds available that were approved through local elections, and DGS states that they are aware of approximately $15 billion in new local bond authority passed in the November 2018 elections.

While the Office of Public School Construction implements and administers the state's school facilities program, existing law requires that the DSA must review plans for all school construction projects that result from the school facilities program, projects funded through local school district bond measures, and any other funding source. DSA states that they plan to use blanket positions, overtime, and contracted staff to expedite review of school plans, especially given the wild swings in which the workload fluctuates.

**Staff Recommendation.** Approve as requested.

## Issue 9: Statewide Parking Program

**Budget.** The Department of General Services (DGS) requests ongoing increase in expenditure authority of $2.345 million in the Motor Vehicle Parking Facilities Account, for a total of $4.545 million, to support the transition of nine parking facilities from the Facilities Management Division (FMD) to the Office of Fleet and Asset Management (OFAM).

**Background.** DGS is consolidating its parking management under one unit to ensure the application of consistent parking polices, establish standard waitlist and lottery processes, improve inadequate revenue collection procedures, coordinate building maintenance, and establish technology upgrades.

Originally, OFAM operated and managed 14 parking facilities statewide. In 2018, DGS began transitioning the operations and management of nine FMD parking facilities to OFAM. As part of the transition, OFAM identified the maintenance needs of each structure and also identified opportunities to increase parking utilization and revenue generation. With the additional management of nine parking facilities, the annual expenditures for OFAM will increase. All revenue from the parking lots will be distributed between FMD and OFAM based on FMD's current contractual obligations, which will gradually transition to OFAM as those agreements expire.

**Staff Recommendation.** Approve as requested.

**Issue 10: Facilities Management Division Increased Operational Costs**

**Budget.** DGS requests permanent budget authority augmentation of $30.2 million Service Revolving Fund in 2019-20 to reflect the true costs of operations that have increased over time.

**Background.** DGS states that they can no longer absorb significant cost increases related to statewide surcharge services. This request will provide a permanent augmentation to cover costs for partial services for clients in non-DGS owned buildings, workers' compensation and insurance costs, as well as inflation and cost-of-living adjustments for maintenance, security, and contract costs.

The statewide surcharge, which is deposited into the Service Revolving Fund, is intended to provide an equitable method for DGS to recover costs that are not connected to specific services received by individual client departments. The surcharge is assessed on all state departments based on their staffing levels.

The $30.2 million augmentation is comprised of the following components:

***Security contract cost increases***. DGS requests an augmentation of $2.4 million to account for increases in security contract costs due to general salary increases.

***Workers' compensation increases.*** DGS requests $4 million to account for true costs of workers compensation and State Compensation Insurance Fund expenses.

***Recurring maintenance.*** DGS requests $5 million to address increased costs related to recurring maintenance service contracts, which are increasing due to labor and material increases, as well as aging buildings and systems.

***Partial services.*** DGS requests $7 million to reflect increases in partial services, which are maintenance services in non-DGS-owned or managed buildings. DGS states that client agency requests to cover maintenance contract costs have increased, jumping from $2.9 million in 2015-16 to $10 million in 2016-17, of which a majority of services were requested by Caltrans.

***Statewide Surcharge.*** DGS requests an augmentation in $10.8 million related to services for the State Capitol and other statewide surcharge programs. These services include maintenance and operation of the State Capitol, capitol grounds, legislative office building, state burial grounds, governor's office space, legislator's office space, capitol grounds, security, legislative work orders, Governor's work orders and legislative printing. This adjustment will align the spending authority with the income generated for services provided, and will have no impact on rates collected through the Statewide Surcharge.

**Staff Recommendation.** Approve as requested.

## 0511 GOVERNMENT OPERATIONS AGENCY

### Issue 11: Office of Digital Innovation

**Budget.** The Government Operations Agency (GovOps) requests $36.2 million ($33.7 million General Fund and $2.5 million reimbursements) in 2019-20 and $14.6 million ($9.6 million General Fund and $5 million reimbursements) ongoing thereafter, as well as trailer bill language, to establish the Office of Digital Innovation (ODI). This request is for 50 positions, and includes a $20 million Innovation Fund.

The subcommittee heard this item at its April 4, 2019 hearing.

**Staff Comment.** The proposal would provide ODI procurement authority consistent with authority provided to the Department of General Services and the Department of Technology, which are both under the purview of the Government Operations Agency, in which ODI will be established. ODI and the Agency can work with the respective departments for any procurement needs that may come up. The subcommittee's discussion also raised questions around the practicality of standing up an office of 50 new staff in the first year and becoming operational and effective. Staff believes that approving a a narrower scope of the request and evaluating the workload and its outcomes at a later date before considering the expansion of the office would be a more prudent approach.

**Staff Recommendation.** Approve 20 exempted positions for the Office of Digital Innovation, with $10 million General Fund to begin the Innovation Revolving Fund. Additionally, adopt placeholder trailer bill language to establish the Office of Digital Innovation, but do not include language allowing the office to have stand-alone procurement authority, and include reporting requirements for outcomes of efforts to innovate state entities.

## 2100 Department of Alcoholic Beverage Control

### Issue 12: Business Modernization and Responsible Beverage Service

**Budget.** The Department of Alcoholic Beverage Control (ABC) requests $2.9 million ($2,922,000) in 2019-20 for 5.5 positions and trailer bill language to provide capacity and resources to fulfill the requirements for the Responsible Beverage Server (RBS) Training Program Act pursuant to AB 1221, (Gonzalez Fletcher), Chapter 487, Statutes of 2017, and to provide eServices for ABC licensees.

The subcommittee heard this item at its April 25, 2019 hearing.

**Staff Comment.** Staff did not have concerns with the proposal to modernize the Department's IT capabilities to include electronic payment or online applications, while also implementing the RBS program.

The subcommittee's discussion touched on concerns that the proposal would allow the department to charge prospective alcohol servers a fee to cover the administration costs of the program. Staff recommended at the time that the subcommittee consider adopting language that places a cap on what the department can charge RBS training participants as a fee.

**Staff Recommendation.** Approve the requested funding and positions, and adopt placeholder trailer bill language placing a cap on the fees charged to prospective servers for the administrative costs of the program.

### Issue 13: Program Performance Improvement Initiative

**Budget.** ABC requests 34 positions and $5.2 million ($5,249,000) in funding from the Alcohol Beverage Control Fund in 2019-20 and increases to a total of 51 positions and $7.5 million ($7,469,000) in 2022-23. This proposal also includes trailer bill language to adjust fees to address the existing annual operating deficit and the additional revenue required to support proposed program performance improvements.

The subcommittee heard this item at its April 25, 2019 hearing.

**Staff Recommendation.** Approve the requested funding, fee adjustments, and positions, and adopt placeholder trailer bill language implementing the proposal and require the department to report on performance measures.

## 8940 CALIFORNIA MILITARY DEPARTMENT (CMD)

### Issue 14: State Active Duty Compensation Adjustment

**Budget.** The CMD proposes a net reduction of $82,000 (an increase of $8,000 General Fund, reduction in $87,000 federal funds, $2,000 in reimbursements, and $1,000 in Mental Health Services Fund) to align the pay of the department's state active duty employees to the pay of service members of similar grade in the United States Army, United States Air Force, and United States Navy.

**Background.** Compensation for service members of the United States Army, United States Air Force, and United States Navy is set forth annually by the federal government in the National Defense Authorization Act (NDAA). The NDAA is usually signed into law in late December. Military and Veterans Code sections 320 and 321 provide that the CMD must pay its state active duty employees at the same rate as service members of similar grade in the federal armed forces. Due to the timing of the NDAA, CMD had to wait until the spring to request funding to match the service member compensation codified in the NDAA.

**Staff Recommendation.** Approve as requested.

### Issue 15: Work for Warriors

**Budget.** The California Military Department requests five permanent positions and $670,000 General Fund for the Work for Warriors employment assistance program.

**Background.** This subcommittee heard an informational item on this issue during its March 7, 2019 hearing. From 2012 to 2015, the program was funded through a grant from the Speaker of the Assembly. In 2015-16, the program was funded with a $670,000 Workforce Innovation and Opportunity grant from the Employment Development Department. Since 2016-17, the program has received annual one-time General Fund augmentations to complement the $1.1 million federal funds it receives for the program.

This request would provide ongoing funding for the Work for Warriors program.

**Staff Recommendation.** Approve as requested.

### Issue 16: Capital Outlay: Los Alamitos STARBASE Classroom Building

**Budget.** CMD requests a reappropriation of $1.7 million General Fund for the preliminary plans, working drawings, and construction phases of the Los Alamitos: STARBASE Classroom Building project. This request will allow the CMD to complete the design phase of the project and proceed to construction in 2019-20.

**Background.** STARBASE is a Department of Defense program that encourages fifth grade students to pursue careers in science, technology, engineering and math. While attending the week-long program, students receive 25 hours of hands-on instruction and activities. STARBASE teaches students to complete simulated missions using skills and principles from physics, computer science, chemistry and statistics. Students program a robot to complete a Mars Rover mission, design prototypes on Computer Aided Design, test experiments to learn the unique characteristics of elements and conduct their own experiments.

There are STARBASE sites in Sacramento and Los Alamitos. STARBASE Los Alamitos runs a competitive rocket team every year in which students participate in the Team America Rocket Challenge while learning the basics of rocket science. All students are given an online interactive posttest as they leave; with over 90 percent of students scoring at 80 percent or higher for comprehension of the science standards they learned at STARBASE (up from average scores of 52 percent before they attended the program). All STARBASE missions are aligned to the Next Generation Science Standards, and offer extension materials to teachers. While the federal government pays for all operating costs associated with STARBASE, California must provide classrooms for the program.

Total project costs are $1.7 million ($68,000 for preliminary plans, $102,000 for working drawings, and $1,530,000 for construction). The working drawings are estimated to begin in April 2019 and completed in September 2019, and construction will begin in November 2019 and completed in April 2020. Funds were initially provided in the 2018 Budget Act, but design delays and contracting issues will prevent the working drawings phase from being completed before June 2019.

**Staff Recommendation.** Approve as requested.

## Issue 17: Capital Outlay: Los Alamitos National Guard Readiness Center

**Budget.** The CMD requests $200,000 General Fund for the acquisition phase of the Los Alamitos National Guard Readiness Center project, and a reappropriation of $24.7 million General Fund for the construction phase of the project. Additionally, CMD requests an additional $2.2 million General Fund for the construction phase.

**Background.** This project was originally approved in the Budget Act of 2015 to replace the current Southern Region Emergency Operation Center (REOC), located on federally-owned real property used by the CMD. The existing facility is undersized and cannot accommodate required staff. It was originally designed to be temporary, until a permanent building was constructed. The new 30,000 square foot, joint-use Southern REOC will house the Governor's Office of Emergency Services and serve as the California National Guard Command and Control Headquarters. The facility will allow for coordinated response efforts between federal agencies, state agencies, and local partners in the Southern California region.

Construction funding for the Los Alamitos Readiness Center project was approved in 2017-18 in the amount of $24.7 million lease revenue bond financing. However, it has been determined that this project is not a good candidate for lease revenue bond funding, and General Fund is a more appropriate fund source for the following reasons:

- The project site is a portion of a larger property, owned by the U.S. Department of the Army. The CMD's current use of the project site is from a license which is terminable at the will of the

U.S. Department of the Army, and only provides a personal property right and not a real estate right (which is a requirement of lease revenue bond financing).

- Additionally, the proposed project is to include joint use with the U.S. Department of the Army, such joint use with the federal government is considered private use under the limitations of tax-exempt bonds and highly problematic for lease revenue bond financing.
- Lastly, the current license agreement (and possible other land-use grants) restrict the usage of the project site by the CMD, which is also problematic for lease revenue bond financing.

Since then, the project has experienced delays related to securing appropriate real property rights, as the project site is located on a larger property that is owned by the U.S. Department of the Army. CMD's current use of the project site is from a license which is terminable at the will of the U.S. Department of the Army, and only provides a personal property right as opposed to a real property right. This request will provide CMD with the authority necessary to secure real property rights to complete the design phase of the project and proceed to construction in November 2019.

Total project costs are estimated at $28,906,000 ($200,000 for acquisition, $570,000 for preliminary plans, $1.3 million for working drawings, and $26.9 million for construction). Preliminary plans were completed in March 2018, working drawings will be completed in July 2019, and construction is scheduled to begin in November 2019 and will be completed in June 2021.

**Staff Recommendation.** Approve as requested.

## 9860 CAPITAL OUTLAY

### Issue 18: Trailer Bill: Capital Outlay Planning and Studies Funding

**Budget.** The Administration requests trailer bill language to amend Government Code Section 16351.5 and repeal Sections 16408 and 16409 to clean up outdated references to an abolished fund and remove duplicative and conflicting language related to the authority to revert unexpended capital appropriations.

**Trailer Bill Language.** The Capital Outlay and Savings Fund was abolished by statute, but references to it are still included in Government Code Section 16351.5, 16408 and 16409. The proposed trailer bill language is as follows:

SECTION 1. Section 16351.5 of the Government Code is amended to read:

16351.5. The unexpended balance in any appropriation for capital outlay ~~heretofore or hereafter made payable from each special fund~~ which the Director of Finance, with the approval of the State Public Works Board, determines not to be required for expenditure pursuant to the appropriation, may be transferred on order of the Director of Finance to the unappropriated surplus of the ~~special~~ fund from which the appropriation was originally made.

SEC. 2. Section 16408 of the Government Code is repealed.

~~16408. The unexpended balance in any appropriation heretofore made payable from the Capital Outlay and Savings Fund, or hereafter made from the General Fund for capital outlay purposes, which the Director of Finance, with the approval of the State Public Works Board, determines not to be required for expenditure pursuant to the appropriation, may be transferred on order of the Director of Finance to and in augmentation of the appropriation made by Section 16409.~~

SEC. 3. Section 16409 of the Government Code is repealed.

~~16409. There is hereby appropriated from the General Fund, without regard to fiscal years, any amounts transferred to this appropriation in accordance with the provisions of Section 16408, and such amounts may be expended for acquisition of real property or for construction and equipment of state public works projects for which an appropriation has been made from the Capital Outlay and Savings Fund or the General Fund. Expenditures shall be made pursuant to allocations made by the Director of Finance upon approval of the State Public Works Board.~~

~~Allocations may be made for expenditure upon any state public works project in augmentation of appropriations made from the Capital Outlay and Savings Fund or the General Fund, where such project cannot be undertaken because the estimate exceeds the amount available for such construction or bids received are in excess of the estimate, and upon such augmentation, contracts may be awarded therefor, notwithstanding the provisions of Section 14275 or of Section 25235 of the Education Code.~~

~~Allocations may be made for acquisition of real property in augmentation of appropriations made from the Capital Outlay and Savings Fund or the General Fund for acquisition of real property and which cannot be acquired because acquisition costs are in excess of the amounts provided in the appropriation.~~

~~Allocations may be made for purchase of equipment in augmentation of appropriations made from the Capital Outlay and Savings Fund or the General Fund from which purchase of equipment is authorized.~~

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**Staff Recommendation.** Approve as requested.

## 9210 LOCAL GOVERNMENT FINANCING

### Issue 19: Community-Based Transitional Housing Program Audit Timeline

**Budget.** The Administration proposes trailer bill language that modifies existing parameters for the Office of State Audits and Evaluations (OSAE) in the Department of Finance to conduct an audit instead of a review of Community-Based Transitional Housing Program, which provide services to ex-offenders, and delays the deadline that OSAE should provide the audit report to the Joint Legislative Budget Committee from May 1, 2019 to May 1, 2020.

**Background**. Current law requires OSAE to complete a review of the Community-Based Transitional Housing program by May 1, 2019. The Department of Finance states that deadline has become untenable due to other workload demands. The proposal would also require OSAE to conduct an audit instead of a review – an audit has more specific parameters than a review, and is conducted according to Government Auditing Standards. This, for example, will allow OSAE to make corrective action recommendations if they identify issues, and to then follow up to ensure those recommendations are carried out.

**Trailer Bill Language.** The proposed trailer bill is as follows:

SECTION 1. Section 30035.7 of the Government Code is amended to read:

30035.7. (a) Of the amount appropriated in the annual Budget Act or other measure for the program, the department's Office of State Audits and Evaluations may use up to five hundred thousand dollars ($500,000) to conduct ~~a review~~ an audit of the program to determine its effectiveness in providing services to ~~offenders released from state prison or county jail.~~ ex-offenders.

(b) The department's Office of State Audits and Evaluations shall ~~initiate its review~~ conduct an audit of the ~~program on July 1, 2018.~~ program. The department shall provide a copy of the ~~review~~ audit to the Joint Legislative Budget Committee no later than May 1, ~~2019.~~ 2020. The copy of the ~~review~~ audit shall be submitted in compliance with Section 9795.

(c) Cities, counties, cities and counties, and facility operators that receive program funds shall agree, as a condition of receiving program funds, to cooperate fully with the ~~review~~ audit conducted pursuant to this section by the department's Office of State Audits and Evaluations.

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**Staff Recommendation.** Approve as requested.

## 8885 COMMISSION ON STATE MANDATES

### Issue 20: Funded and Suspended Mandates

**Budget.** The proposed funding for non-education mandate payments to local governments is included in the Commission's budget. The Governor's mandate proposal is largely a continuation of the status quo in terms of mandates in effect (funded) and mandates not in effect (suspended). The budget proposes expenditures of $39 million related to funding non-education mandates. Most mandates funded in the budget concern public safety or property taxes. Funded mandates are listed in the following table.

**Mandate Funding in Governor's Budget**
**General Fund**

| 2019-20 Funded Local Government Mandates for Governor's Budget | Proposed Funding Levels |
|---|---|
| **General Fund** | |
| Allocation of Property Tax Revenues | 622,000 |
| Crime Victims' Domestic Violence Incident Reports | 168,000 |
| Custody of Minors-Child Abduction and Recovery | 12,730,000 |
| Domestic Violence Arrest Policies | 9,141,000 |
| Domestic Violence Arrests and Victims Assistance | 2,210,000 |
| Domestic Violence Treatment Services | 3,474,000 |
| Health Benefits for Survivors of Peace Officers and Firefighters | 2,606,000 |
| Local Agency Ethics | 5,000 |
| Medi-Cal Beneficiary Death Notices | 8,000 |
| Medi-Cal Eligibility of Juvenile Offenders | 4,000 |
| Peace Officer Personnel Records: Unfounded Complaints and Discovery | 822,000 |
| Rape Victim Counseling | 529,000 |
| Sexually Violent Predators | 3,184,000 |
| State Authorized Risk Assessment Tool | 789,000 |
| Threats Against Peace Officers | 0 |
| Tuberculosis Control | 94,000 |
| Unitary Countywide Tax Rates | 351,000 |
| **Total General Fund** | **36,737,000** |
| **Fund 0044** | |
| Administrative License Suspension | **2,275,000** |
| **Fund 0106** | |
| Pesticide Use Reports | **65,000** |
| **TOTALS** | **39,077,000** |

Consistent with previous years, the budget includes the suspension of 35 mandates totaling $543 million.

**Staff Recommendation.** Approve as requested.

## Issue 21: Funding Pre-2004 Expired and Repealed Mandate Claims

**Governor's Budget.** The Administration proposes to fund claims of expired and repealed mandates that are dated prior to 2004 with $15.1 million General Fund. This proposal includes approximately $3.8 million in interest that was built into the $15.1 million estimate to satisfy outstanding claims. The proposed funding will pay off the remaining pre-2004 claims for mandates that are expired or repealed. Funded mandates are listed in the following table:

| Mandate | Counties Pre-2004 Claims | Cities Pre-2004 Claims | Special Districts Pre-2004 Claims | Grand Total |
|---|---|---|---|---|
| Binding Arbitration | $ 206,003 | $ 122,267 | $ - | $ 328,270 |
| Fire Safety Inspections of Care Facilities | $ 19,832 | $ 215,497 | $ 24,398 | $ 259,727 |
| Local Recreational Areas: Background Screenings | $ 22,238 | $ 911,744 | $ 25,257 | $ 959,239 |
| Racial Profiling: Law Enforcement Training | $ 2,815,711 | $ 6,917,773 | $ - | $ 9,733,484 |
| **Pre-2004 Mandate Claims Total** | **$ 3,063,784** | **$ 8,167,281** | **$ 49,655** | **$ 11,280,720** |

**Staff Recommendation.** Approve as requested.

## 0890 SECRETARY OF STATE

### Issue 22: FI$Cal Workload

**Budget.** The Secretary of State (SOS) requests $1.5 million ($1,063,000 Business Fees Fund and $395,000 General Fund) for 2019-20 and $1.4 million ongoing thereafter for 11 positions in support of FI$Cal implementation.

**Background.** SOS implemented FI$Cal in July 2018, and has since experienced significant delays. SOS states that they have insufficient staffing levels to reduce ongoing backlogs that cause exorbitant staff overtime, employee retention problems, and delays in payment. SOS states that it has dedicated more than 1,000 hours in staff overtime to transfer data from its legacy system to FI$Cal, and submitted complaint tickets, which have taken up to three months to resolve.

**Staff Recommendation.** Approve the requested positions for two year limited terms.

### Issue 23: Cal-ACCESS Replacement Project

**Budget.** SOS requests a one-time augmentation of $7.7 million ($6,992,000 General Fund and $700,000 Political Disclosure, Accountability, Transparency, and Access Fund) in 2019-20 to continue funding for seven positions and contracted services.

**Background.** SB 1349 (Hertzberg), Chapter 845, Statutes of 2016, established new functional requirements for the California Automated Lobbying and Campaign Contribution and Expenditure Search System (CAL-ACCESS), and the existing system could not meet these new requirements. The current system is a conglomeration of applications that were developed at different times using multiple, now-obsolete coding languages and technologies. The current campaign finance and lobbying activity process is an inefficient process that does not meet the needs of many stakeholders. SB 1349 requires the development of a new, automated campaign and lobbying reporting and disclosure system.

The requested resources will allow the SOS to maintain staff and consulting services necessary to continue designing and implementing a CAL-ACCESS replacement system. The SOS anticipates making future funding requests in 2020-21 to transition to maintenance and operations.

**Staff Recommendation.** Approve as requested.

### Issue 24: California Business Connect (CBC)

**Budget.** The Secretary of State (SOS) requests one-time expenditure authority of $12.63 million ($10.63 million Business Fees Fund and $2 million Business Programs Modernization Fund) in 2019-20 to continue implementation of the California Business Connect project.

**Background.** The SOS has the responsibility for processing and filing commerce and trade documents including business formations, changes, and terminations. Most business entity documents and information requests are submitted to the SOS via mail or in-person in Sacramento and Los Angeles. The office currently relies on several antiquated electronic and paper database (including 3" x 5" index cards) systems in order to process more than two million business filings and requests for information submitted on an annual basis.

Funding for the CBC project began in 2011-12, and the funding history is as follows:

| | 2011-12 | 2012-13 | 2013-14 | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 |
|---|---|---|---|---|---|---|---|---|
| Business Fees Fund | $1,160,000 | $2,400,000 | $3,721,000 | $4,092,000 | $6,800,000 | $5,500,000 | | $15,000,000 |
| Business Programs Mod. Fund | | | | $500,000 | $1,000,000 | | $2,400,000 | $3,500,000 |
| TOTAL | $1,160,000 | $2,400,000 | $3,721,000 | $4,592,000 | $7,800,000 | $5,500,000 | $2,400,000 | $18,500,000 |

The CBC project is intended to automate paper-based processes, allowing businesses to file and request copies of records online and to process fee payments within one business day. Total costs of the CBC project is $63.4 million, and is expected to be completed in November 2020.

**Staff Recommendation.** Approve as requested.

## Issue 25: Cybersecurity Remediation and Enhancements

**Budget.** The SOS requests an ongoing augmentation of $2.8 million in 2019-20 ($742,000 General Fund and $2 million Business Fees Fund) and $1.673 million ongoing thereafter ($453,000 General Fund and $1.220 million Business Fees Fund) and four positions to provide additional resources to the cybersecurity program.

**Background.** The SOS maintains multiple cloud environments and physical locations including its own data center. Its security responsibilities include protecting the security of information relating to the areas of voting, business registrations, archives, notary, campaign and lobbyist financial information, among others. In 2016, federal intelligence officials were unanimous in their conclusion that foreign actors interfered in the presidential election.

In 2018-19, the SOS received an augmentation to the Cyber Security Program Enhancement which included the addition of a Chief Risk Officer. The SOS states that the requested positions and additional funds are needed to address and mitigate security findings, replace antiquated and obsolete technology, enhance and/or replace inadequate security tools/solutions, and procure additional security control services to improve the security and protection of data.

**Staff Recommendation.** Approve as budgeted.

## Issue 26: Voter Information Website – AB 2707

**Budget.** The SOS requests $250,000 General Fund, of which $150,000 will be ongoing, to provide voters access to information regarding their elected federal, state, local, and special district officials as required by Chapter 920, Statutes of 2018 (AB 2707, Mullin).

**Background.** AB 2707 requires the SOS to provide a list of elected office holders and their contact information in one search. This work would consolidate existing information found on the SOS website. This request would fund contacted services to consolidate this data and publish it on the SOS website.

**Staff Recommendation.** Approve as requested.

## ITEMS PROPOSED FOR DISCUSSION

## LEGISLATIVE PROPOSALS

### Issue 27: Latino Arts Theater Arts Education Programs

The subcommittee received a request for one-time $2 million to support the Latino Theater Company's education programs and operations. The Latino Theater Company operates Play at Work and Summer Youth Conservancy, which annually provides 75-90 underserved urban youth with a free education in theater operations.

### Issue 28: Self Help Graphic and Art Capital Funding

The subcommittee received a request for $2 million to support Self Help Graphic and Art, a community arts center, to renovate and upgrade the facility. Self Help Graphic and Art provides arts education, artist professional development, workshops, and art exhibitions annually.

### Issue 29: Korean American National Museum

The subcommittee received a request for $4 million for the construction of the Korean American National Museum, which is proposed to be built in Koreatown in Los Angeles. The museum is currently finalizing the lease agreement with the City of Los Angeles. The public private partnership includes the development of 100,000 square feet of multi-use space.

### Issue 30: National LGBTQ Center for the Arts

The subcommittee received a request for one-time $500,000 General Fund to support the National LGBTQ Center for the Arts in San Francisco. This funding will allow for the renovation of the center, and allow for arts facility and public space for the general public.

### Issue 31: Glendale Tech Accelerator Project

The subcommittee received a request for $200,000 for the City of Glendale's Tech Accelerator project. Since 2016, the city has hosted an annual Tech Week comprised of discussions, panels, workshops, coding and networking events that encourage innovation and provide opportunities for promising tech professionals. This funding would be used by the City to attract qualified firms that can support the establishment and operation of accelerator programs, which would provide cohort based mentorship and educational programs for start-ups looking to expand.

**Issue 32: Funding for the Commission on Asian and Pacific Islander American Affairs**

The subcommittee received a request for $500,000 ongoing for the California Commission on Asian and Pacific Islander American Affairs to fund its operations, including the establishment of staff. This funding will allow the Commission to execute its statutory responsibilities.

**Issue 33: Transcript Reimbursement Fund**

The subcommittee received a request for one-time $750,000 to the Transcript Reimbursement Fund (TRF) for the purpose of erasing a backlog of requests. The TRF is derived from licensing fees paid by court reporters and is used to provide access to transcripts for the adjudication of active litigation. The fund became insolvent in 2017, and a recent increase is expected to operationalize the fund in July 2020.

**Issue 34: Property Tax Backfill**

The subcommittee received a request for $12.6 million to backfill property tax losses due to the North Bay Firestorm in 2017. This funding would provide backfill funding for Sonoma County, Napa County, and Mendocino County.

**Issue 35: Local Agency Formation Commissions**

The subcommittee received a request for $1.5 million to support California's 58 local agency formation commissions (LAFCos). The Legislature established LAFCos in 1963 to encourage the orderly formation of local government agencies. The proposed funding would include specific eligible activities in disadvantaged communities and a requirement to report to the Strategic Growth Council on the use of the funds.

**Issue 36: Open-Source Paper Ballot Voting Systems**

The subcommittee received a request for $16 million in matching funds for counties to develop, certify and share publicly owned open-source paper ballot voting systems. The $16 million request would allow the Secretary of State's office to administer a matching fund program with two or more counties to speed their development, certification, governance, and distribution of open-source voting systems licensed to ensure they are freely available to any county to use and modify based on their needs.

**Issue 37: Funding for Voter's Choice Act**

The subcommittee received a request for $3.8 million to fund outreach and voter education efforts for the 2020 Voter's Choice Act counties. The Voter's Choice Act was chaptered in 2016 and allowed counties to conduct elections under a new model that provides greater flexibility and convenience, including expanding in-person early voting, allowing voters to cast ballots at vote centers, and mailing every voter a ballot.

### Issue 38: Payment In-Lieu of Taxes Backfill

The subcommittee received a request for ongoing $644,000 General Fund for annual Payment In-Lieu of Taxes (PILT) obligations to counties. PILT is a process to offset adverse impacts to county property tax revenues that result when the state acquires private property for state controlled wildlife management areas.

### Issue 39: Veteran Career Pathways Workshop

The subcommittee received a request for $400,000 for Veteran Career Pathways Workshop in the greater Los Angeles area to provide employment assistance for veterans.

### Issue 40: Homeless Funding

The subcommittee received a request for an additional $250 million to be provided to the state's Homeless Emergency Aid Program (HEAP) for support of local efforts to address homelessness.

### Issue 41: Funding for Housing Development

The subcommittee received a request to direct $400 million of the governor's proposed Housing Planning and Production grant incentive funds to support the development of affordable housing.

### Issue 42: California Emergency Solutions and Housing (CESH) Program

The subcommittee received a request for $150 million to fund the CESH program at HCD. Specifically, the funds would support an increase in emergency rental assistance for individuals at risk of falling into homelessness.

### Issue 43: Homeless Youth

The subcommittee has received a request for $100 million to establish a grant program to support at-risk and homeless youth.

**Issue 44: YouthWORKS and RichmondBUILD Programs**

The subcommittee received a request for $250,000 to support the YouthWORKS and RichmondBUILD programs. These programs offer training and education help both youth and adults development employment readiness skills.

**Issue 45: Los Angeles Museum of the Holocaust**

The subcommittee has received a request for $8.5 million for the Los Angeles Museum of the Holocaust. This funding will assist with the museum's expansion, including the addition of a pavilion.

**Issue 46: California Care Corps**

The subcommittee has received a request for $5 million per year for five years for CalVolunteer to establish the California Care Corps, which is aimed at incentivizing youth to work in respite care.

**Issue 47: San Gabriel Valley Homelessness Programs**

The subcommittee has received a request to fund a variety of homelessness programs in the San Gabriel Valley. Specifically, this request includes:

- $400,000 for landlord education and support to rent to homeless individuals
- $1.5 million per year for two years for homeless workforce development
- $425,000 for regional collaboratives, advocacy, nonprofit capacity building, and regional data and communication projects that target specific populations
- $3.3 million for two years for the San Gabriel Valley Homeless Plan

**Issue 48: Both Ends of the Leash**

The subcommittee has received a request for $5 million for HCD to develop a grant program for homeless shelters to provide shelter, food, and a variety of basic veterinary services for pets of the homeless.

**Issue 49: Child and Dependent Care Expenses Credit**

The subcommittee has received a request for the Child and Dependent Care Expense Credit refundable at an estimated cost of $80 million. From 2000-2010, the state credit was refundable, which provided an income boost to low-income working households. Now that the credit is no longer refundable, the majority of the benefit goes to families with income between $50,000 and $100,000 (90 percent in 2014). In comparison, in 2010, when the credit was refundable, 67 percent of the credit was claimed by families earning less than $50,000.

**Issue 50: County Independent Redistricting Commissions**

The subcommittee has received a request for $5 million to require counties with more than 250,000 residents to establish an independent redistricting commission.

**Issue 51: Renter's Tax Credit**

The subcommittee has received a request to increase and reform the Renter's Tax Credit, more than doubling the credit, which currently is $60 for a single filer and $120 for joint or head of household filers. The estimated cost of this proposal is $550 million in 2019-20.

**Issue 52: Orange County Veterans Cemetery**

The subcommittee has received a request for $10 million for a Southern California Veterans Memorial Park and Cemetery in the City of Irvine. The two existing State Veterans Cemeteries are far distances from Orange County (Shasta County and Monterey County). In 2018, the number of military veterans living in Orange and Los Angeles Counties was over 348,000.

**Issue 53: Orange County Housing Trust Fund**

The subcommittee has received a request for $40 million for the Orange County Housing Finance Trust, which is a public/private effort to reduce homelessness through the development of permanent supportive housing.

**Issue 54: Local Cannabis Equity Programs**

The subcommittee has received a request for $30 million to support local jurisdictions that have established social equity programs to reduce barriers to entry, to the legal marketplace, for individuals who have been the most harmed by cannabis prohibition.

**Issue 55: Southern Valley Investments**

The subcommittee has received a request for $17.1 million for multiple community and public safety infrastructure investments in the Southern Central Valley. These include the Sanger Veteran's Park, the Rockwood Pond Park in the City of Selma, and the Reedley Sports Park.

**Issue 56: New Teacher Induction Tax Deduction**

The subcommittee has received a request for $200,000 for the next five years to allow teachers to claim a $2,500 tax deduction for fees incurred toward the completion of an induction approved by the Commission on Teacher Credentialing.

**Issue 57: Cannabis Limited Charter Bank**

The subcommittee has received a request for $2 million for the Department of Business Oversight to begin implementing the Cannabis Limited Charter Banking and Credit Union Law.

**Issue 58: Community Beautification Grant**

The subcommittee has received a request for $1 million for the California Workforce Development Board to develop a grant program to assist communities with graffiti abatement and bulky item removal.

**Issue 59: Reedley Armory Veterans Services**

The subcommittee has received a request for $50,000 to assist the City of Reedley in retaining an armory that will help provide veteran's services in the region.

**Issue 60: Jackie Robinson Family YMCA Aquatic Center**

The subcommittee has received a request for $5 million for construction of a pool, splash pad, and mechanical needs as part of the new aquatic center at the Jackie Robinson Family YMCA in San Diego.

**Issue 61: Excess Property Tax Shift**

The subcommittee has received a request for $70 million to undo a 2013-14 shift of property tax revenue from County Offices of Education to the trial courts.

**Issue 62: Expand Access to Affordable Capital**

The subcommittee has received a request for $20 million to expand access to capital in underserved communities by providing: 1) $5 million to expand the number of affordable small business loans made through the California Capital Access Program, and 2) $15 million to provide a tax credit to incentivize investments in non-predatory loans to underbanked Californians.

**Issue 63: Franchise Tax Board Filing Fee for Tax-Exempt Organizations**

The subcommittee has received a request to eliminate the $25 filing fees charged by the Franchise Tax Board to tax-exempt organizations for submitting an application and annual information.

**Issue 64: Paid Family Leave Outreach**

The subcommittee has received a request for $5 million to the Employment Development Department to fund Paid Family Leave outreach, specifically targeting baby bonding, care giver and military exigency leave, with priority given to communities with low Paid Family Leave utilization.

**Issue 65: Community Beautification Grant**

The subcommittee has received a request to appropriate $1 million to the California Workforce Development Board to develop a competitive grant program that would assist communities with graffiti abatement and bulky item removal. Grants would be awarded to community-based organizations that contracts with a city with a bona fide pre-apprenticeship training program for graffiti abatement.

**Issue 66: GenerationGo! Work-Based Learning**

The subcommittee has received a request to appropriate $10 million to Generation Go! at the San Bernardino County Workforce Development Board. This is a county program that provides work-based learning opportunities to high school students.

**Issue 67: Judicial Retirement System**

The subcommittee has received a request to appropriate $2.4 million General Fund to the Judicial Retirement System and to consider additional appropriations as estimated by the Department of Finance in future years. This appropriation would be pursuant to SB 184, which authorizes a “deferred” retirement option under the Judges Retirement System (JRS) II to permit a judge to leave judicial office and receive a retirement allowance at a later date upon reaching the prescribed JRS II retirement age in order to provide relief to judges who are ill, who become caretakers of ill relatives, or who otherwise can no longer fulfill their judicial duties.

**Issue 68: Film and TV Tax Credit Carryforward**

The subcommittee has received a request to extend the 2.0 Film and Television Tax Credit carryforward period from five to eight years, aligning it with the carryforward provisions of the 3.0 credit.

**Issue 69: Boys and Girls Club, Santa Paula**

The subcommittee received a request for $150,000 to improve the Boys & Girls Club in the City of Santa Paula in Ventura County. The building is over 50 years old and in need of significant upgrades and repairs, including a new roof and skylights, restroom remodels, and other interior improvements.

The club serves between 70 and 90 youth each day during the school year and 180-200 per day during the summer.

### Issue 70: Property Exemption

The subcommittee received a request for trailer bill language to bring California's homestead exemption threshold in line with other states.

**Staff Recommendation.** Hold open all legislative proposals.

## ITEMS PROPOSED FOR DISCUSSION/VOTE

## 2240 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

### Issue 71: Senate Housing and Homelessness Framework

**Governor's Budget.** The Administration has proposed a $2.25 billion package of proposals to address affordable housing and homelessness. This includes:

- $750 million for planning and production grants
- $500 million homelessness planning and milestones
- $500 million in additional low-income housing tax credits
- $500 million in moderate income loans through CalHFA

**Senate Proposal - Housing and Homelessness Framework**

The Senate's framework provides $2.5 billion across three major policy areas:

- Providing ongoing assistance for housing development and related infrastructure, with support for housing-related infrastructure provided in 2019-20
- Increased support for homelessness efforts, informed by a best-practices framework focused on moving homeless individuals from shelter to permanent housing
- Seeding a variety of innovative financing pilot programs for affordable housing

**Area 1: Housing Planning and Production**

**$250 million in Local and Regional Housing Planning Assistance.** AB 1771 (Bloom), Chapter 989, Statutes of 2018, and SB 828 (Wiener), Chapter 974, Statutes of 2018, both made major reforms to the regional housing needs allocation process last year. The California Association of Councils of Governments estimates that regions could receive up to double the housing allocation for the 6$^{th}$ RHNA Cycle as they did in the 5$^{th}$ RHNA Cycle which, if planned for correctly, could create many more development opportunities to address the state's housing crisis. At the same time, developers and local governments alike have identified the need for funding to create general plans and Environmental Impact Reports (EIRs) at the local level to streamline development.

The Senate's framework provides $250 million in planning assistance funding to be shared equally amongst the Councils of Government (COGs) and local jurisdictions for the 6$^{th}$ RHNA Cycle implementation and planning for increased housing at the local and regional level. This will be provided through an expanded version of the existing SB 2 (Atkins), Chapter 364, Statutes of 2017, Planning Grant Program at the Department of Housing and Community Development.

**$500 Million Ongoing for Affordable Housing Development.** In recognition of the fact that local governments have lost one of the primary mechanisms they had to fund not just affordable housing but housing-related infrastructure when redevelopment was dissolved in 2011, the Senate's proposal provides $500 million ongoing for housing and housing-related infrastructure. In 2019-20, this will be provided through an expanded Infill Infrastructure Grant Program at the Department of Housing and Community Development for housing-related infrastructure, with future years' funding to be provided through a new statutory structure agreed upon by the Legislature and Governor.

Paired with SB 2 and new bond proceeds from Prop 1 (Veterans and Affordable Housing Bond Act of 2018), this funding will help local jurisdictions finance the community upgrades (such as water, sewer, roads, and public parks) needed to accommodate the corresponding increase in new housing each jurisdiction will see in the coming years.

**Long-Term Adjustments to Statewide Planning**. The Senate believes that the Administration's proposal to develop a state working group to examine the state's regional housing need allocation process has merit. This group should be led by HCD, and include the Governor's Office of Planning and Research (OPR) and the Strategic Growth Council (SGC).

The Senate rejects the language tying housing element compliance to Local Streets and Roads funding provided by SB 1 (Beall), Chapter 5, Statutes of 2017.

**Area 2: Homelessness**

**$600 Million for Flexible, Outcome-Informed Local Homeless Solutions.** The Senate's proposal recognizes the continuing need in this area and provides $600 million for direct assistance for homelessness, to be split $400 million to Continuums of Care (CoCs) and $200 million to the 13 largest cities in the state. 10 percent of this funding will be directed to homeless youth.

The framework provides funding through an expanded Homeless Emergency Aid Program (HEAP), in order to ensure rapid turn-around and flexibility to meet the unique needs of each community. The Senate framework includes statutory changes to ensure that local jurisdictions are adequately addressing the full spectrum of services required along the homeless-to-housed continuum, and that state spending is therefore used in the most effective way possible.

**Statewide homelessness strategy**. Given the state's sizable investments to address homelessness, it makes sense to centralize the state's efforts on this issue. The Senate proposes to convene a stakeholder process through the Homeless Coordinating and Financing Council (HCFC) to develop a statewide policy framework for addressing homelessness, including: 1) a list of local best practices, 2) highest-impact areas for state investment, and 3) additional suggestions to decrease the state's homeless population.

**Area 3: Financing Affordable Housing Production**

**$500 Million in Low-Income Housing Tax Credits**. The low-income housing tax credit program is one of the most successful programs the State has to support affordable housing construction. Prior legislative attempts have attempted to expand the program by $300 million, modify the state credit percentages augmenting the federal four percent credit, and create a larger credit for older affordable housing projects with limited equity to allow for the preservation of those units. In particular, greater utilization of the four percent credit (which is unlimited at the federal level but under-utilized at the state level) would provide greater options to leverage additional federal funds.

The Senate framework includes an additional $500 million in state low-income housing tax credits to spur greater uptake of the federal four percent credit and reduce pressure on the highly-competitive nine percent tax credit. Of this, up to $200 million is to be reserved to finance low-income units within mixed-income developments.

**$500 Million for CalHFA's Mixed-Income Loan Program**. The Mixed-Income Loan Program was created by SB 2, which allocates 15 percent of ongoing real estate transaction fee revenues to creating mixed-income housing for low- to moderate-income households. This program provides competitive long-term financing for newly constructed multifamily housing projects restricting units between 30 percent and 120 percent of county Area Median Income (AMI).

The Senate framework provides $500 million in General Fund resources for this program.

**$115 Million for Innovative Financing Pilot Programs.** SB 1069 (Wieckowski), Chapter 720, Statutes of 2016, created a statewide standard to allow accessory dwelling units (ADUs). Since then, interest has skyrocketed among homeowners, with some jurisdictions experiencing a four- to five-fold increase in permit applications. The Legislature has repeatedly recognized the value of ADUs since then, as they provide naturally-affordable housing in a way that integrates into existing communities at no cost to the state. Yet, up-front costs are frequently cited by would-be ADU homeowners as one of the main barriers to constructing their own ADU.

The Senate framework provides $50 million to CalHFA to expand an existing pilot program that partners with cities and community development organizations to provide construction financing and loan service to homeowners interested in developing an ADU. Additionally, the Senate proposes providing $5 million to CalHFA to provide downpayment assistance for eligible homebuyers purchasing properties related to the SR 710 project.

The Senate framework also provides $60 million to the California Pollution Control Financing Authority for the California Recycle Underutilized Sites Program (CALReUSE). This is an assessment and remediation program with proven success in transforming brownfields into successful community developments.

**Staff Comments.** The Senate framework is summarized below:

- $250 million for local governments to support the RHNA 6$^{th}$ cycle
- $500 million ongoing for housing development
    - Targeted at housing-related infrastructure in 2019-20
- $600 million to support cities and Continuums of Care in their response to homelessness
- $500 million in additional low-income housing tax credits
- $500 million in moderate income housing support
- $115 million in innovative financing tools, including $50 million for ADUs

This framework is intended to codify the Senate's priorities in developing a statewide housing and homelessness package as part of the 2019-20 budget, and to allow stakeholders to give feedback on those priorities. This framework will be refined as the 2019-20 budget is developed. The Administration has indicated that modifications to their January proposal are forthcoming as part of the May Revision.

**Staff Recommendation:** Approve the Senate framework. Adopt placeholder trailer bill language to implement the framework.

## 8940 California Military Department

### Issue 72: Discovery ChalleNGe Academy Expansion

**Budget.** CMD requests 15 permanent positions and $2.2 million in 2019-20 ($1.65 million federal fund and $550,000 General Fund), and $2.2 million in 2020-21 and ongoing ($1.6 million federal fund and $545,000 General Fund) to expand California's Discovery ChalleNGe Academy in Lathrop, California to serve an additional 50 students per class cycle and 100 students annually.

**Background.** The Discovery ChalleNGe Academy is a partnership between CMD and San Joaquin County Office of Education, and is 75 percent funded by the federal government and 25 percent funded by the state, and is part of CMD's Youth ChalleNGe program. The Youth ChalleNGe Program was created in 1993 and tasked the National Guard Bureau with assisting in efforts to address the needs of the thousands of youth that were at-risk of dropping out of high school. The program consists of a five and a half month in-residence phase, followed by a one-year mentoring phase where mentors provide guidance and support. The Youth ChalleNGe program includes the Grizzly Youth ChalleNGe Academy (which operates as a charter school), the Sunburst Youth ChalleNGe Academy, and the Discovery ChalleNGe Academy (which operates as a community school).

Discovery ChalleNGe Academy currently serves 150 cadets per cycle (3 platoons of 50 students), 2 cycles per year, reaching a total of 300 at-risk students. The program is free to participants. This request will add 50 more students per cycle, and allow the program to reach a total of 400 at-risk students per year.

According to the California Department of Education, in 2018-19, there are 1,085 students in grades 9 through 12 enrolled in San Joaquin County Office of Education's (SJCOE) County-Operated Schools and Programs (COSP), which includes operating Discovery ChalleNGe Academy as a county community school. County community schools are public schools run by county offices of education, and serve students in kindergarten through grade twelve who are expelled from school or who are referred because of attendance or behavioral issues. They also serve students who are homeless, on probation or parole, and who are not attending any school, or may be requested by a parent or guardian.

Discovery ChalleNGe Academy is located in Manteca Unified School District boundaries. Students enrolled at Discovery ChalleNGe Academy become San Joaquin County Office of Education students until they graduate from the Academy. Approximately 50 percent of the students reside outside of San Joaquin County. While enrolled, students can earn credits, and in some cases receive a high school diploma. For students who do not complete the program with a high school diploma, they can return to a school option within their home district, or enroll in a county school program if they are within San Joaquin County.

SJCOE provides $1.84 million from their Local Control Funding Formula (LCFF) apportionment, which is the state's allocation method for local educational agencies and counted towards the state's Proposition 98 obligations, and three staff members. CMD states that Discovery ChalleNGe Academy is currently funded and staffed to serve 150 students per class, but receives more than 250 applications per class and must turn away eligible candidates due to the lack of available funding.

This request is for 15 ongoing positions and $2.2 million ($1.65 million federal fund and $550,000 non-Proposition 98 General Fund), and $2.181 million ($1.636 million federal fund and $545,000 non-Proposition 98 General Fund). These positions include: a training non-commissioned officer, administrative personnel specialist, logistics specialist, squad leader and assistant squad leaders, a medical assistant, a case manager, a counselor, a platoon sergeant, and a recruiter.

**Staff Recommendation.** Approve as requested.

**Issue 73: California Job ChalleNGe Academy**

**Budget.** CMD requests 27 ongoing positions and $1 million General Fund and $3 million federal fund to establish the California Job ChalleNGe Academy at Joint Force Training Base, Los Alamitos.

**Background.** The Department of Defense in partnership with the Department of Labor established the Job ChalleNGe program in 2015. In 2018, Congress provided $30 million in additional funding to continue the three existing Job ChalleNGe programs and start five new Job ChalleNGe programs. This request will locate the California Job ChalleNGe Academy immediately adjacent to the existing Sunburst Youth Academy at Los Alamitos. CMD will partner with Cypress Community College and Long Beach City College, which will provide classrooms, teachers, accredited curriculum options, and career counselors. Students will earn either college credits or adult education, all leading to a service industry certificate in a field that provides a living wage. California Job ChalleNGe Academy will serve 75 participants per class, 150 per year, in this residential program.

Eligibility for the California Job ChalleNGe Academy will only be open to students who completed the Youth ChalleNGe Academy programs, have either a high school diploma or other high school equivalency certificates, and be between the ages of 17 and a half and 20 years old. Statewide employment data was researched and analyzed to identify high-demand employment areas that are similar throughout the state. Cyber security, automotive technology and construction skilled trades are in high demand in each of the three regions where students will ultimately reside and be employed. CMD states that the programs being offered will be analyzed annually, and curriculums will be adjusted based on employee demand.

The 27 positions will include: a deputy director that will serve as the program manager, administrative support personnel, squad leaders and assistant squad leaders, personnel specializing in operations and training, placement coordinators, and a recruiter. Placement coordinators will be located at each of the Youth ChalleNGe Academy locations, and CMD states that this is necessary because placement coordinators will serve as case managers, ensuring student success from the application process to placement in a living wage job. They are also responsible for performing outreach to potential employers in the areas where the students resided prior to attending the Job ChalleNGe Academy in Los Alamitos/Southern California, and they state that it is critical that the placement coordinators reside in the areas where both the students and future employers are located.

The program at Cypress Community College will be funded through federal and state grants through the Free Application for Federal Student Aid and the California College Promise Grant, and the program at Long Beach City College will be funded through workforce development funds.

**Staff Recommendation.** Hold open.

## 1111 DEPARTMENT OF CONSUMER AFFAIRS

### Issue 74: Business Modernization Project Implementation

**Budget.** DCA requests one-time $5 million ($4,966,000) and five positions to allow the Acupuncture Board, Board of Chiropractic Examiners, Board for Professional Engineers Land Surveyors and Geologists, and the Bureau for Private Postsecondary Education to begin implementing their selected Business Modernization software alternative consistent with DCA's Business Modernization Plan. This funding will fund system integration, software licensing, project management, project oversight costs, and staffing.

**Background.** DCA oversees 37 boards and bureaus that provide professional licensure and regulatory oversight to their respective professions. In 2009, DCA began adopting the BreEZe IT system, which at that time was envisioned to be able to support the primary functions and responsibilities of all Department regulatory boards. The intent of BreEZe was to better service consumers, licensees, applicants, and other stakeholders with a more robust online presence including online application capabilities, online license maintenance functions, online payments, mobile enforcement capabilities, accessible data, and efficient reporting.

The transition was initially planned with three releases, with a specified number of boards and bureaus with each release. However, significant transition and adoption issues arose, which resulted in delays and increased costs. As a result, boards and bureaus scheduled to transition to BreEZe with the third release (also known as R3) canceled their transition and were directed to conduct BMPs to properly assess their respective IT, programmatic, and resource needs. While some boards and bureaus were able to conduct this workload within existing resources, some of the smaller boards and bureaus require additional resources to do so.

Below is a summary table of the request, broken down by board or bureau:

| | |
|---|---|
| Acupuncture Board | $ 1,147,000 |
| Board of Chiropractic Examiners | $ 540,000 |
| Board for Professional Engineers Land Surveyors and Geologists | $ 1,250,000 |
| Bureau for Private Postsecondary Education | $ 2,029,000 |
| DCA Admin - Distributed (Office of Information Services) | $ 500,000 |
| TOTAL | $ 4,966,000 |

DCA states that it partnered with the boards and bureaus to conduct extensive market research on licensing and enforcement systems, which included an evaluation of existing systems in DCA's portfolio, discussions with comparable regulatory organizations in other states, and two formal Requests for Information from the vendor community. The project length is anticipated to be 18 months, and currently progressing through the Department of Technology's Project Approval Lifecycle (PAL) process.

**Staff Recommendation.** Approve as requested.

## 7760 DEPARTMENT OF GENERAL SERVICES

### Issue 75: Sonoma Developmental Center

**Budget.** DGS requests $43.7 million over three fiscal years for operations, maintenance, initial partial decommissioning, and land use planning costs related to the closure of the Sonoma Developmental Center (SDC).

**Background**. The Department of Developmental Services (DDS) closed SDC on December 31, 2018, and the transfer of jurisdiction of SDC from DDS to DGS is expected to be effective on July 1, 2019. DGS requests $21.1 million in 2019-20, of which $17.6 million is requested for property management, utilities, security, fire protection, grounds keeping, repairs, initial decommissioning activities, and other activities. The remaining $3.5 million is requested for Sonoma County to conduct one-time land use planning. The remaining requests are for $11.2 million in 2020-21, and $11.4 million in 2021-22.

This request will allow DGS to continue operations of SDC in a warm shutdown mode appropriate for the age and condition of the infrastructure on the site. Staffing for this effort will be retained through an interagency agreement between DDS and DGS, and DGS states that they are working with local and private partners for grounds and trail maintenance, as well as fire prevention and suppression. Additionally, DGS states they will need to retain outside counsel with expertise in water rights law due to the State's extensive water rights at SDC.

Sonoma County will facilitate the planning process for this property, and DGS anticipates a three-year expedited planning and disposition process. The funds for Sonoma County will help cover the costs and fees to ensure priority planning and entitlement and provides more certainty about future permitted land uses for the property, and DGS will require that the county prioritize affordable housing in the planning process. DGS expects the sale and disposition of the property will recover costs associated with the warm shutdown.

The Sonoma County Board of Supervisors submitted a letter of support to this subcommittee for this request, stating that the proposal will "ensure that there is a robust local process that affords ample opportunity for the voices of the community to be heard, and the proposal includes a firm deadline for the County and its consultants to complete this planning process, which will then afford far more reliability and assurance when the property is disposed of through a process managed by DGS."

**Staff Recommendation.** Hold open.

## 8955 CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

### Issue 76: Care Staffing and Operations

**Budget.** The California Department of Veterans Affairs (CalVet) requests four permanent positions and an augmentation of $829,000 General Fund (of which $21,000 General Fund is one-time) to comply with new federal requirements for pharmacy services and compliance oversight. CalVet also requests a one-time augmentation of $6.3 million General Fund to address challenges in the Veterans Homes of California, consisting of rising operational costs that directly impact the health and welfare of residents including maintenance, medical contracts, utilities, and dietary and pharmaceutical supplies.

**Background.** In 2016, the federal Centers for Medicare and Medicaid Services (CMS) finalized changes to the requirements for ensuring care and safety of residents in long-term care facilities. Failure to meet these new requirements may result in tens to hundreds of thousands of dollars in fines, loss of millions of dollars in revenue, and/or revocation of certification. As part of this change, pharmacy services were especially impacted, and were allowed to delay implementation until November 2019.

The new CMS requirements affect the pharmacy operations and significantly increase the scope of tasks for which CalVet's pharmacists are responsible, including that all psychotropic medications be monitored more closely and frequently. Currently, CalVet pharmacists are responsible for reviewing anti-psychotic medication. Under the new requirements, they will be required to extensively review and monitor all psychoactive medications, which include anti-psychotics, antidepressants, hypnotics, and anti-anxiety medications. These new requirements outpace current staffing.

Additionally, CMS has mandated a new corporate compliance program structure, which will go into effect in November 2019. The new standard requires all nursing home organizations adopt a compliance and ethics program that can prevent and detect any criminal, civil, or administrative violations of CMS requirements or best care practices. This request will add an executive officer who can satisfy the compliance and ethics requirements.

Finally, the three oldest Veterans Homes in the CalVet system (Yountville, Barstow, and Chula Vista) have seen costs rise beyond the capacity of the operating expenses and equipment budget, which have not increased since 2009-10. At the same time, costs of maintaining operations have increased beyond CalVet's existing authority. This funding request would provide:

- $4,199,000 General Fund to VHC-Yountville;
- $962,000 General Fund to VHC-Barstow; and,
- $1,107,000 General Fund to VHC-Chula Vista.

CalVet is preparing a needs assessment/master plan report for the Veterans Homes which is due December 31, 2019. This request is a one-time augmentation and consideration for further appropriations will be pending the outcome of the report.

**Staff Recommendation.** Approve as requested.

**Issue 77: Capital Outlay: California Central Coast Veterans Cemetery, City of Seaside**

**Budget.** CalVet requests a re-appropriation of $238,000 General Fund for the construction phase of the California Central Coast Cemetery, City of Seaside project, which will expand the existing cemetery constructed at the former Fort Ord Army base by 3.3 acres. Additionally, CalVet requests $7.2 million ($268,000 California Central Coast Cemetery at Fort Ord Operations Fund and $6,878,000 federal funds) for the construction phase of this project.

**Background.** The California Central Coast Veterans Cemetery is located on approximately 12 acres at the former Fort Ord Army base in the City of Seaside, and serves the interment needs of California veterans in the counties of Alameda, Monterey, San Mateo, Santa Cruz, San Benito and Santa Clara.

Total project costs are $9,217,000, which include $1,212,000 for preliminary plans, $621,000 for working drawings, and $7,384,000 for construction. The 2017 Budget Act provided $1.5 million General Fund. Of the remaining costs, $839,000 are from private donations, and $6,878,000 are from federal funds. Since the 2017 appropriation, $1,262,000 has been spent on preliminary plans and working drawings. This request will re-appropriate $238,000 from the $1.5 million General Fund that was provided in 2017 for the construction phase.

Preliminary plans were completed in March 2019, and working drawings are estimated to begin March 2019 and completed in July 2019. Construction is scheduled to begin in October 2019 and will be completed in January 2021. The first phase of the California Central Coast Veterans Cemetery was completed in October 2016; the second phase was approved in 2017.

**Staff Recommendation.** Approve as requested.

## 7350 Department of Industrial Relations

**Issue 78: Subsequent Injury Benefit Trust Fund (SIBTF)**

**Background**

Many states, including California, enacted SIBTF statutory schemes as a post-war program to encourage the employment of disabled veterans returning from World War II. Labor Code Section 4751 provides that if an employee who is already permanently partially disabled, in a manner that is actually labor disabling at the time, suffers a subsequent industrial injury that is compensable through the workers' compensation system, and if the employee's resulting total permanent disability is greater than the disability caused solely by the subsequent injury itself, the employee is entitled to special additional compensation, to be paid from the Subsequent Injuries Benefits Trust Fund (the "Fund"), to compensate for that degree of additional permanent disability caused by the combination of the prior partial permanent disability and the subsequent industrial injury.

An example would be a worker who had previously lost an arm and who then suffers a subsequent industrial injury to the other arm. The total resulting permanent disability for this worker would be much greater than would otherwise have been caused solely by an injury to one arm. The underlying purpose of the SIBTF, which is apparent both from the timing of its original enactment in 1945 and from the statutory provisions themselves, is to encourage the employment of disabled workers by relieving employers of liability for the greater levels of permanent disability that may result if an already-disabled worker later suffers an industrial injury. Rather than incurring workers' compensation liability for the entirety of the worker's resulting total permanent disability, the employer is responsible only for the disability that results directly from the subsequent industrial injury.

A special fund, the SIBTF, created by assessments on all employers, pays special additional compensation as necessary to make up the increment and to compensate the worker for his or her total resulting permanent disability. SIBTF cases are limited to those in which the injured worker has total permanent disability of at least 70 percent, reflecting the original intent that the Fund is available only for those workers who have suffered significant injuries and disability.

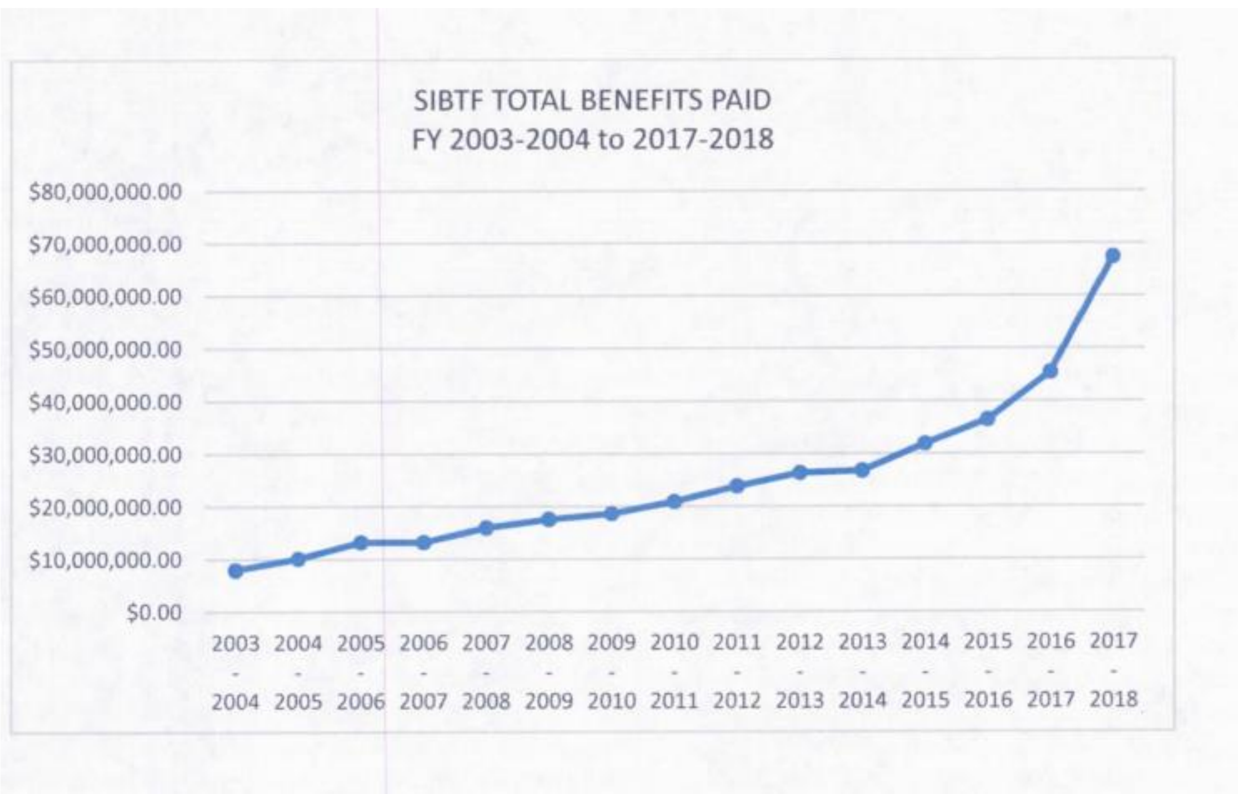
**SIBTF and State's Workers' Compensation System.** The condition of the SIBTF program has critical implications on the state's workers' compensation system and employers. The state's workers' compensation system is funded by employers to provide benefits to employees who sustain a work-related injury or illness. The SIBTF program is a component of the state's workers' compensation system, and increases to the cost of the SIBTF program impacts costs to the broader system. As a result, cost increases to the broader system increases employer contributions thereby impacting California businesses statewide.

**SIBTF Unit.** The SIBTF unit currently has 15 authorized positions, including nine Workers' Compensation Consultants (WCC). The WCCs are responsible for the calendaring, preparation, medical referral, investigation, liability analysis, and settlement negotiation of all SIBTF claims. The preparation of each case requires the claims examiner (WCC) to obtain the entire court file, review that file and determine the relevant medical and factual issues, arrange appropriate medical examination investigative services, analyze all investigative and medical reports and determine the extent of SIBTF liability. In addition, they investigate and calculate available statutory credits to the State and conduct settlement negotiations with applicant attorneys.

**Unit Experiencing Increased Caseload and Benefit Payouts.** As of November 30, 2018, the WCCs had an average caseload of approximately 1,000 cases per examiner. The examiners (WCC) are unable to adequately review files, provide defense analysis, and often in a rush to prepare their settlement workups to determine the value of a case. This is also affecting Office of the Director-Legal attorneys who have to attend multiple hearings at the Workers' Compensation Appeals Board (WCAB) on a daily basis. As a result of this inability to perform due diligence, the aggregate amount per claim has increased from approximately $3,900 per claim at the end of 2013-14 to $6,800 per claim by the end of 2017-18.Applications for SIBTF benefits and SIBTF benefit payouts increased from $8 million in 2003-04, the last fiscal year before the 2004 reforms, to $67.4 million in 2017-18.

The charts on below show changes in the annual case load and benefits paid.

| Workload Measure | 2013 | 2014 | 2015 | 2016 | 2017 |
|---|---|---|---|---|---|
| Beginning Case Load | 6,284 | 6,796 | 7,417 | 8,461 | 9,832 |
| New Cases | 755 | 1,011 | 1,409 | 1,656 | 1,880 |
| Cases Closed[1] | 276 | 405 | 398 | 314 | 1,702 |
| Ending Case Load[2] | 6,796 | 7,417 | 8,461 | 9,832 | 10,030 |
| Annual Case Load Change | 512 | 621 | 1,044 | 1,371 | 1,569 |



**Governor's Budget Proposal**

The Governor proposes an increase of 30 positions and $4.8 million in 2019-20, 30 positions and $4.4 million in 2020-21 and 2021-22, 23.0 positions and $3.4 million in 2022-23, with 14 positions and $2.0 million in 2023-24 and ongoing from the Workers' Compensation Administration Revolving Fund to: 1) reduce caseload per claims examiner to a manageable level; and 2) provide sufficient claims examiners and attorneys to perform due diligence investigations and reduce the State's long-term liability from SIBTF claims. The resources requested by this proposal will reduce the caseload from 1,000 to 360 per examiner.

Earlier this spring, the Administration proposed trailer bill language that would have made significant changes to the SIBTF, which could have impacted the fund's participants. The Administration is no longer pursuing the trailer bill language. However, this language would:

1. Require SIBTF claimants to prove that the initial disability was actually labor disabling,
2. Require claimants to provide evidence that predate the subsequent injury,
3. Prohibit claimants from using medical legal evidence from more than one evaluator, and does not allow such costs to be reimbursable,
4. Specify that these changes would not apply to pending claim, and
5. Allow for the Director of DIR to issue regulations related to these changes, among others.

**Staff Comments**

Staff agrees that additional positions may be warranted to reduce the average case load and to provide WCC staff the ability to thoroughly vet cases and applications. However, an additional 30 positions in 2019-20 and 14 positions ongoing in 2023-24 is a significant increase since the unit currently has 15 positions.

**Staff Recommendation. Hold Open.**

**Issue 79: Sexual Harassment Training for the Janitorial Industry**

## Background

Assembly Bill 1978 (Gonzalez), Chapter 373, Statues of 2016, required every employer that employs at least one employee for janitorial services, effective July 1, 2018, to register annually with the Labor Commissioner. The bill prohibited an employer from conducting any business without registration and would authorize the commissioner to revoke a registration under certain circumstances. AB 1978 required DIR to establish a biennial in-person sexual violence and harassment prevention training requirement for all employees and employers of janitorial services by January 1, 2019. Additionally, by January 1, 2020, all new applications for registration and renewal of registration must complete the sexual violence and harassment prevention training requirements.

Senate Bill 1343 (Mitchell), Chapter 956, Statutes of 2018, required all employers with five or more employees, including temporary or seasonal employees, to provide at least two hours of sexual harassment training to all supervisory employees and at least one hour of sexual harassment training to all nonsupervisory employees by January 1, 2020, and once every two years thereafter. SB 1343 requires the Department of Fair Employment and Housing (DFEH) to develop or obtain one-hour and two-hour online training courses on the prevention of sexual harassment in the workplace, as specified, and to post the courses on the department's Internet Web site.

In order to ensure that the janitorial training mandated by AB 1978 remains compliant with the new requirements of SB 1343, and to eliminate the need for employers to complete two similar, but not identical trainings, the Administration is proposing trailer bill language to ensure that janitorial language is consistent with the Fair Employment and Housing Act (FEHA) training on an ongoing basis.

## Governor's Budget Proposal

On April 25th, the Administration released trailer bill language regarding sexual harassment training for the janitorial industry. The trailer bill proposal:

- Amends the definition of a covered janitorial "employer" to close a loophole that excludes from the registration requirement janitorial contractors who provide janitorial services through independent contractors or franchisees, but do not have any employees.

- Requires employers to ensure sexual harassment training is provided to all covered workers (meaning janitorial employees, franchisees, and independent contractors), not just employees.

- Requires, effective January 1, 2020, that new applicants for registration and renewal submit a written attestation to the Labor Commissioner stating that the training has been provided.

- Specifies that employers must keep records for janitorial employees and other covered workers, rather than all of a covered employer's employees.

- Amends the successor liability provision to provide that a successor employer is liable for any wages and penalties its predecessor employer owes to any of the predecessor employer's former workforce, not just to the predecessor employer's former employees.

- Allows the use of a Taxpayer Identification Number where a Social Security Number is required for registration purposes, including for all individuals associated with the business, because inability to provide this number may have the unintended consequence of forcing these businesses further into the underground economy because they are unable to meet the registration requirements.

- Requires that janitorial businesses with unsatisfied judgments under the FEHA or for failure to secure adequate workers' compensation coverage are not eligible to register or renew their registration.

- Specifies that a successor employer is liable for damages its processor employer owes to its former workforce.

- Clarifies that sexual violence and harassment prevention training requirements for workers and employers is consistent with Section 12950.1 of the Government Code, as prescribed under SB 1343.

These updates will allow the Labor Commissioner's Office to implement and enforce the janitorial registration and training program in a manner that is consistent with legislative intent and not unduly burdensome to employers who are now required to comply with both the DIR and the DFEH training requirements.

**Staff Recommendation. Hold Open.**

**Issue 80: Garment Manufacturer's Special Account (Informational)**

## Background

**Unpaid Wage Fund**. In 1975, the Unpaid Wage Fund (UWF) was established for all wages or benefits collected by the Labor Commissioner, to be remitted to the worker or the worker's lawful representative. At the end of each fiscal year, the unencumbered balance remaining in the Unpaid Wage Fund is transferred to the General Fund. The practice of depositing the remaining unencumbered balance into the General Fund began in 2005-06 as a result of concerns over General Fund solvency. The UWF transfers between $2 million to $6 million of unencumbered funds to the General Fund every year.

**The Garment Manufacturers Special Account.** The Garment Manufacturers Special Account (GMSA) is administered by the Labor Commissioner and funds from this account are dispersed to persons to have been damaged by the failure of a garment manufacturer to pay wages and benefits. California Code of Regulations Section 13635 sets the fee structure for the GMSA, applicable to garment contractors and garment manufacturers based on their gross sales receipts. Fees for garment contractors range from $250 for contractors with $100,000 or less in gross sales to $1,000 for contractors who earn over $1 million in gross sales. In addition, $75 of each registration is deposited into the GMSA. This account has been insolvent since 2015-16 because the amount of new claims is greater than the account's annual revenue. In 2017-18, this resulted in over $4.5 million of claims that cannot be paid. The GMSA receives an average of $300,000 each year from fees but in recent years expends $800,000 to $1.5 million to unpaid wage claims annually, as a result, the GMSA is short $500,000 to $1.2 million to meet the needs of all wage claims each year.

**2018-19 Budget Act.** The 2018-19 budget included budget bill language to authorize the transfer of any remaining unencumbered balance of the UWF into the GMSA, the Farmworker Remedial Account, or the Car Wash Worker Restitution Fund for the 2018-19 fiscal year only. The Administration did not anticipate an additional need in the Car Wash Fund or the Farmworker Account and included them in the budget bill as a precautionary measure in case there was a need. In 2018-19, the Administration anticipated a $4.3 million transfer from the UWF to the Garment Fund.

**Update on the GMSA.** Since the enactment of the 2018-19 budget, the Administration estimates that the number of unpaid claims has increased from approximately 260 to 473, and the aggregate amount of unpaid claims has grown from $4.5 million (as reflected in the BCP) to over $11.2 million. According to the Administration, the oldest outstanding garment claim is from 2013.

The Administration notes that the increase in the number and costs of the claims may be attributable to more effective targeting in labor law enforcement over the last several years funds. The Division of Labor Standards and Enforcement (DLSE) notes in its 2016-17 Report on the Effectiveness of the Bureau of Field Enforcement that through its strategic enforcement and high-quality, in-depth investigations the division has assessed more wages due to workers than at any other time in the history of the division.

DIR is working with Department of Finance to determine the best package of options which can be implemented in the most expeditious manner to provide the means to effectively address any remaining unpaid claims, and help ensure the future solvency of the GMSA.

On April 24, 2019, the Administration processed and approved an Executive Order to transfer $3.9 million from the UWF to the GMSA to pay unpaid garment wage claims. While individual claims can vary significantly depending on the underlying factors, the Administration estimates that the cost of claims covered by this transfer is approximately $24,000 each, impacting 162 workers. However, this leaves approximately 311 workers with $7.3 million in unpaid wage claims.

While the 2018-19 budget bill language appears to have provided a short-term solution to the fund imbalance, the subcommittee may wish to consider whether a long-term solution is needed. Specifically, the subcommittee may wish to ask whether the current fee structure of the GMSA is appropriate in meeting the needs of the millions of dollars in unpaid wage claims, or if there are other reforms or changes to ensure that workers receive their owed back wages. The subcommittee may wish to ask the Administration if they have a plan to address this issue, and when they plan to execute this plan.

**Staff Recommendation. None. This item is informational.**

**Issue 81: Lead Exposure Levels (Informational)**

## Background

Existing law authorizes the Occupational Safety and Health Standards Board (OSH Board) to adopt, amend, or repeal occupational safety and health standards and orders, as prescribed. Additionally, existing law requires Cal/OSHA to propose to the OSH Board for its review and adoption, a standard that protects the health and safety of employees who engage in lead-related construction work and meets all requirements imposed by the federal Occupational Safety and Health Administration.

Existing law requires an employer, in accordance with safety orders promulgated by Cal/OSHA, to ensure that an employee is not exposed to lead at concentrations greater than 50 micrograms per cubic meter of air averaged over an 8-hour period.

**Status of Cal/OSHA's Occupational Lead Exposure Standards.** Since 2011, Cal/OSHA has been working on revisions to the lead standards in the safety orders pertaining to construction and general industry. According to DIR, there were six advisory meetings with stakeholders, which resulted in six versions of draft regulations. Revisions to the lead standard were completed in 2016 but they have yet to be finalized.

According to Cal/OSHA "the revised standards are undergoing a standardized regulatory impact analysis (SRIA), as required by Government Code Sections 11346.3(c) and 11346.36. SRIAs are required for any regulations with an economic impact of $50 million or more.

DIR notes that the SRIA was informally submitted to DOF for input. The SRIA is currently undergoing a final internal review at DIR, and will be formally submitted to DOF for approval in early summer. The review will be included in the Initial Statement of Reasons, along with a summary and analysis of DOF's comments, as part of the package that will be submitted to the Office of Administrative Law to commence rulemaking.

Formal rulemaking can take up to one year from the date that the OSHSB is ready to issue the notice of proposed rulemaking. The Administration estimates that rules will be complete by mid-2020.

There is currently pending legislation, Assembly Bill 457 (Quirk), which requires the department to complete formal rulemaking for lead exposure limits by February 1, 2020.

**Staff Recommendation. None. This item is informational.**

*Senate Budget and Fiscal Review—Holly J. Mitchell, Chair*

# SUBCOMMITTEE NO. 4 Agenda

**Senator Maria Elena Durazo, Chair**
**Senator Jim Nielsen**
**Senator Thomas J. Umberg**

**Tuesday, May 14, 2019**
**1:30 p.m.**
**State Capitol - Room 2040**

Consultant: Yong Salas

## PROPOSED FOR VOTE-ONLY



## PROPOSED FOR DISCUSSION/VOTE

*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.*

## 2100 DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

### Issue 1: Program Performance Improvement Initiative

**Budget.** The Department of Alcoholic Beverage Control (ABC) requests 34 positions and $5.2 million ($5,249,000) in funding from the Alcohol Beverage Control Fund in 2019-20 and increases to a total of 51 positions and $7.5 million ($7,469,000) in 2022-23. This proposal also includes trailer bill language to adjust fees to address the existing annual operating deficit and the additional revenue required to support proposed program performance improvements.

The subcommittee heard this item at its April 25, 2019 hearing.

**Staff Recommendation.** Approve the requested funding, fee adjustments, and positions, and adopt placeholder trailer bill language implementing the proposal and require the department to report on performance measures.

## 1111 DEPARTMENT OF CONSUMER AFFAIRS

### Issue 2: Consumer Affairs Administration Workload

**Budget.** DCA requests $5.2 million in 2019-20 and 24.5 positions, $4.5 million in 2020-21, $3.6 million in 2021-22, and $2.1 million ongoing to address increased workload in DCA's Business Services Office, Fiscal Operations Office, Office of Legal Affairs, Division of Investigation, Office of Human Resources, and the Office of Professional Examination Services. Of the amount requested, $2.9 million is funded by DCA's boards and bureaus via prorate while costs for the Office of Examination Services and Division of Investigation is funded by boards and bureaus based on workload.

The subcommittee heard this item at its April 4, 2019 hearing.

**Staff Recommendation.** Staff recommends taking the following actions:

- Approve as requested the positions for Business Services and Fiscal Operations, Division of Investigation, and the Office of Professional Examination Services.

- Approve two-year limited-term funding of $1.67 million 2019-20 and $1.47 million in 2020-21 to establish a Regulations Unit, with budget bill language as follows:

  X. Of the funds appropriated in Schedule (3), $1,670,000 is available for the Department of Consumer Affairs to establish a regulations unit in 2019-20 and 2020-21. The Department of Consumer Affairs shall provide workload data including a specific update on processing regulations consistent with AB 2138 (Chiu, Chapter 995, Statutes of 2018) to the fiscal committees of the Legislature on March 1, 2020 and March 1, 2021.

- Deny the request to convert three permanent intermittent Office Technician positions into permanent full-time positions, and maintain the three permanent intermittent positions.

## 8940 CALIFORNIA MILITARY DEPARTMENT (CMD)

### Issue 3: California Job ChalleNGe Academy

**Budget.** CMD requests 27 positions ongoing, and $1 million General Fund and $3 million federal fund to establish the California Job ChalleNGe Academy at Joint Force Training Base, Los Alamitos.

**Background.** The Department of Defense in partnership with the Department of Labor established the Job ChalleNGe program in 2015. In 2018, Congress provided $30 million in additional funding to continue the three existing Job ChalleNGe programs and start five new Job ChalleNGe programs. This request will locate the California Job ChalleNGe Academy immediately adjacent to the existing Sunburst Youth Academy at Los Alamitos. CMD will partner with Cypress Community College and Long Beach City College, which will provide classrooms, teachers, accredited curriculum options, and career counselors. Students will earn either college credits or adult education, all leading to a service industry certificate in a field that provides a living wage. California Job ChalleNGe Academy will serve 75 participants per class, 150 per year, in this residential program.

Eligibility for the California Job ChalleNGe Academy will only be open to students who completed the Youth ChalleNGe Academy programs, have either a high school diploma or other high school equivalency certificates, and be between the ages of 17 and a half and 20 years old. Statewide employment data was researched and analyzed to identify high-demand employment areas that are similar throughout the state. Cyber security, automotive technology and construction skilled trades are in high demand in each of the three regions where students will ultimately reside and be employed. CMD states that the programs being offered will be analyzed annually, and curriculums will be adjusted based on employee demand.

The 27 positions will include: a deputy director that will serve as the program manager, administrative support personnel, squad leaders and assistant squad leaders, personnel specializing in operations and training, placement coordinators, and a recruiter. Placement coordinators will be located at each of the Youth ChalleNGe Academy locations, and CMD states that this is necessary because placement coordinators will serve as case managers, ensuring student success from the application process to placement in a living wage job. They are also responsible for performing outreach to potential employers in the areas where the students resided prior to attending the Job ChalleNGe Academy in Los Alamitos/Southern California, and they state that it is critical that the placement coordinators reside in the areas where both the students and future employers are located.

The program at Cypress Community College will be funded through federal and state grants through the Free Application for Federal Student Aid and the California College Promise Grant, and the program at Long Beach City College will be funded through workforce development funds.

**Staff Recommendation.** Approve funding as requested, but reclassify the recruiter position, and adopt placeholder budget bill reporting language that captures: (1) job placement in the field of study; (2) program completion rate; (3) rate on continued employment.

**Issue 4: Lathrop-Roth Training Complex: Utilities**

**May Revision.** CMD requests $6.8 million one-time General Fund to connect and upgrade utility systems at the Lathrop-Roth Training Complex.

**Background.** In 2016, as part of the closure of the Sharpe Army Depot in Lathrop, California, the California Army National Guard acquired a 64-acre piece of the base that is now the Lathrop-Roth Training Complex. The site has been indefinitely licensed at no cost to California and currently houses the CMD's Discovery ChalleNGe Academy and units of the California Army National Guard. As part of the base closure process, however, the U.S. Army must stop providing utilities to tenants of the base from federally owned utilities infrastructure. The U.S. Army established a deadline for the California Army National Guard to switch from base utilities to city utilities by January 2020. Without access to public utilities, the Discovery ChalleNGe Academy will not be able to operate.

Upon completion of the connections proposed in this request, the City of Lathrop will be the new provider of the utilities for the Lathrop-Roth Training Complex. This request will connect the site's existing sewer system to the City of Lathrop's municipal sewer infrastructure and will connect water and electricity to city municipal utilities as well. This request includes $250,000 to complete design of the water and electric utility projects.

**Staff Recommendation**. Approve as budgeted.

## 7760 DEPARTMENT OF GENERAL SERVICES

### Issue 5: Contracted Fiscal Services Workload Increases

**May Revision.** The Department of General Services (DGS) requests $1 million from the Central Service Cost Recovery Fund and eight positions to support increased workload for its Contracted Fiscal Services (CFS) unit.

**Background.** DGS' Contracted Fiscal Services unit provides budgeting and accounting services to other state departments, boards, and commissions that do not have the staff or expertise necessary to perform budget and/or accounting functions. This subcommittee previously approved its request to establish 23 positions with no additional funding authority to meet its workload at its March 7, 2019 hearing. At the time, DGS stated that CFS provides accounting services to 44 state entities and budgeting services to 21 state entities using FI$Cal.

This request will provides the positions and the resources to provide accounting functions for three new client agencies: the California State Library, the California Horse Racing Board, and the Commission on Peace Officer Standards and Training.

**Staff Recommendation.** Approve as requested.

**PROPOSED FOR DISCUSSION/VOTE**

## 8820 COMMISSION ON THE STATUS OF WOMEN AND GIRLS

### Issue 6: Pay Equity Program

**May Revision**. The California Commission on the Status of Women and Girls requests two permanent positions and $269,000 ongoing General Fund to implement the Equal Pay CA program.

**Background.** The Commission convened a 17-member volunteer workgroup called the California Pay Equity Task Force to plan for the implementation of the California Fair Pay Act (Chapter 546, Statutes of 2015 [SB 358, Jackson]). The Pay Equity Task Force created the Pay Equity Tool Kit, which is an educational resource guide and implementation strategy for compensation evaluation in California, and will be implemented by the Commission. This request provides the Commission staff to do so.

The Commission's budget has stayed relatively flat for the last several years. The total General Fund budget for Commission in 2019-20 is $519,000. They are also authorized for $372,000 in expenditure authority for the Women and Girls Fund, which is supported through private donations; however, the fund balance as of July 1, 2018 was $10,191.

**Staff Recommendation**. Approve as requested, and augment this funding by $620,000 General Fund in 2019-20, with $220,000 General Fund ongoing thereafter.

## 7760 DEPARTMENT OF GENERAL SERVICES

### Issue 7: Fairview Developmental Center

**May Revision.** DGS requests $2.2 million one-time General Fund to complete a site evaluation of disposition options for the Fairview Developmental Center located in Costa Mesa, California.

**Background.** The 2017 Budget Act provided DGS with one-time Property Acquisition Law Money Account expenditure authority and a commensurate General Fund loan of $2.2 million to complete a site evaluation of disposition options for Fairview. However, the authority for the General Fund loan was never exercised because Fairview was not designated as surplus property, which is a requirement for exercising the loan. DGS states that this was done after conferring with stakeholders on the Sonoma Developmental Center closure.

The Department of Developmental Services (DDS) plans to operate the Fairview campus in warm shutdown through June 30, 2020, while DDS winds down its closure activities including removal or disposition of personal property and relocation of records. External consultants will be hired to provide expertise not currently available in state service to conduct assessments of the existing conditions of Fairview for reuse or disposition.

The property is located on approximately 110 acres, including 116 buildings totaling approximately 1.1 million square feet.

**Staff Recommendation.** Approve as requested.

## 8260 California Arts Council

### Issue 8: Administration Positions and Museum Funding

**May Revision.** The California Arts Council (CAC) requests 6.3 positions to support the administration of the arts programming grants. Additionally, CAC requests $5 million to support the development of the Armenian American Museum and Cultural Center of California, and $5 million to support the expansion of the Los Angeles Museum of the Holocaust.

**Background.** The Governor's Budget provided $10 million General Fund in ongoing arts programming grants, of which $500,000 was reserved for administrative costs. However, position authority was not provided, and this request provides that authority.

The Armenian American Museum and Cultural Center of California will be located in Glendale, California. The mission of the Armenian American Museum and Cultural Center of California is to promote understanding and appreciation of America's ethnic and cultural diversity by sharing the Armenian American experience.

The Los Angeles Museum of the Holocaust's mission is to commemorate, educate, and inspire through preserving Holocaust survivor testimony for educational purposes and presenting survivors' stories in meaningful, innovative, and interactive ways to engage students and the public. This request is to support the physical expansion of the Museum.

**Staff Comment.** This request shifts funding for museums from the Natural Resources Agency to the California Arts Council, which is more appropriate, and allows California to invest more in our state's rich and culturally diverse heritage.

**Staff Recommendation.** Approve as requested.

## 8955 CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

### Issue 9: Amendment to Outdated Budgetary Statutes

**May Revision.** The Administration requests trailer bill language that updates statutory language to reflect current budgetary structures of the CalVet.

**Background.** Prior to 2008-09, the veterans' homes budgets were funded by General Fund, reimbursements (via member fees, Medicare, Medi-Cal, among others), and federal funds. However, beginning with 2008-09, as a result of delayed reimbursement and federal fund cash flow, the homes were fully funded by the General Fund, and reimbursements and federal fund revenues collected were returned to the General Fund. The Administration states that the proposed changes align statute with how CalVet's budget is currently structured.

In January 2019, the California State Auditor released a report on how CalVet's mismanagement of the veterans home properties did not serve in the veterans' best interest and was detrimental to the state. Specifically, it found that the current practice of depositing revenues into the General Fund was in violation of existing state law, which requires proceeds from most leases veterans home properties be deposited into the General Fund to augment the appropriation that the homes receive. This proposal would change existing state law to conform to its budget practices.

**Trailer Bill Language.** The proposed statutory changes are on the following page:

SECTION 1. The Legislature finds and declares all of the following:

(a) Prior to the 2008–09 fiscal year, the veterans' homes budget included General Fund, reimbursements, and federal trust fund authority.

(b) The reimbursements included member fees paid by residents of the veterans' homes, Medicare, and Medi-Cal, among other sources.

(c) The federal trust fund included per diem payments from the United States Department of Veterans Affairs.

(d) Because the reimbursements and federal fund cash flow was variable and subject to delays, the prior budget structure required loans from the General Fund to cover the gap between cash receipts and payments owed to staff and vendors.

(e) Beginning with the 2008–09 fiscal year, the veterans' homes have instead been fully funded by the General Fund, and reimbursement and federal fund revenue collected is returned to the General Fund to offset the Department of Veterans Affairs' costs.

(f) The changes included in this bill update outdated statutory language that refer to the department's previous budgetary structure and are not intended to reduce the amount of expenditure authority the department is provided by the current budget methodology.

SEC. 2. Section 1012.2 of the Military and Veterans Code is amended to read:

1012.2. (a) ~~(1)~~ Notwithstanding any other law, any member of the home who is receiving an aid and attendance allowance from the United States Department of Veterans Affairs for ~~his or her~~ the member's own care shall pay to the home an amount equal to that allowance in all levels of care excluding domiciliary.

~~(2) Paragraph (1)~~

(b) Subdivision (a) shall not apply to a member of a home who is in intermediate care or skilled nursing care and has a disability that has been rated by the United States Department of Veterans Affairs as being 70 percent or more service-connected, as determined under Part 4 of Title 38 of the Code of Federal Regulations.

~~(b) One hundred percent of the moneys received by a home under this section shall be placed to the credit of the home and shall augment the current appropriation for the support of the home.~~

SEC. 3. Section 1023 of the Military and Veterans Code is amended to read:

1023. (a) The department may sue and be sued in any of the courts of this state. All property held by the department for a home shall be held in trust for the state and for the use and benefit of the home. The department shall manage the homes and administer their affairs, and, subject to the direction of the secretary, adopt rules and regulations for the government of the homes in conformity, as nearly as possible, to the rules and regulations of the United States Department of Veterans Affairs for their facilities.

(b) The Director of General Services may lease or let any real property held by the department for a home, and not needed for any direct or immediate purpose of the home, to any entity or person upon terms and conditions determined to be in the best interests of the home. In any leasing or letting, ~~primary consideration shall be given to the use of real property for agricultural purposes, and~~ except as provided in Section ~~1048,~~ 1049, all moneys received in connection therewith shall be deposited in the

General ~~Fund to the credit of, and shall augment the current appropriation for the support of, the home.~~ Fund.

SEC. 4. Section 1031 of the Military and Veterans Code is repealed.

~~1031. All moneys received by the state from the United States for the use of a home shall be placed to the credit of and shall augment the current appropriation for the support of the home.~~

SEC. 5. Section 1034 of the Military and Veterans Code is amended to read:

1034. Except money received from this state for disbursement, all moneys received by a home, or by an officer of a home, including pension and other moneys belonging to members and other trust moneys, shall be immediately paid to the administrator of the home. ~~On or before the tenth day of each month the~~ The administrator of each home shall forward to the State Treasurer all moneys in ~~his or her~~ the administrator's possession, except pension and other moneys belonging to members, trust moneys, and donations made to each ~~home, and the emergency fund, hereinafter mentioned,~~ home, together with a statement of the sources from which the moneys have been received. The moneys shall be deposited by the State Treasurer to the credit of the General Fund; provided, however, that abatements of support expenditures shall be credited to the support appropriation current at the time of collection.

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**Staff Recommendation.** Adopt placeholder trailer bill language.

## 0890 SECRETARY OF STATE

### Issue 10: Voting Systems Replacement for Counties

**May Revision.** The Secretary of State (SOS) requests $87.3 million one-time General Fund to cover the costs for the replacement of voting systems, including all tabulation equipment, accessible equipment, election management system software and hardware, electronic poll books, and ballot on demand printers.

**Background.** The 2018 Budget Act provides $134.4 million General Fund for the replacement of county voting systems, and required a 50/50 match from counties. However, the 50/50 match is too much for most counties, and the $87.3 million one-time General Fund request will increase the state contribution and allow a 75/25 match for counties.

The Department states that more than one-half of counties either need to or are in the process of replacing their voting systems, and 25 counties will have new voting systems in place before the March 2020 primaries. Nine counties are uncertain whether they will have systems in place by March 2020, and two counties will have plans to phase-in systems after March 2020.

**Staff Recommendation.** Approve as requested.

### Issue 11: New Motor Voter Costs

**May Revision.** The SOS requests $3 million one-time General Fund to allow the Department to continue providing accurate voter registration data to counties.

**Background.** New Motor Voter was signed into law in 2015, and required the Department of Motor Vehicles (DMV) to electronically transfer its customers' registration information to the California Secretary of State. The Secretary of State then adds all customers to the voter rolls who attest to being eligible and do not opt out.

Since the program's implementation, additional resources have been needed that were beyond the scope planned for and to implement the New Motor Voter Program and also beyond the scope of the regular VoteCal maintenance and operations activities. SOS has used its system integrator review and correct voter registration data received from DMV before it is processed into VoteCal and transmitted to counties.

This request is intended to pay the system integrator for prior workload and estimated upcoming workload, as well as $300,000 to allow additional data fields to be transmitted from the DMV to the Secretary of State, which will aid in creating more accurate voter information for counties.

**Staff Recommendation.** Approve as requested.

*Senate Budget and Fiscal Review—Holly J. Mitchell, Chair*

# SUBCOMMITTEE NO. 4 Agenda

**Senator Maria Elena Durazo, Chair**
**Senator Jim Nielsen**
**Senator Thomas J. Umberg**

**Wednesday, May 15, 2019**
**1:30**
**State Capitol - Room 2040**

Consultant: Joe Stephenshaw, Yong Salas

**PROPOSED FOR VOTE-ONLY**

**PROPOSED FOR DISCUSSION/VOTE**

**PROPOSED FOR DISCUSSION/VOTE**



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# PROPOSED FOR VOTE-ONLY

## 9210 LOCAL GOVERNMENT FINANCING

### Issue 1: Property Tax Backfill

**Budget**. The May Revision augments the property tax backfill funding provided in the 2018 Budget Act by Chapter 1, Statutes of 2019 (AB 72) by $518,000 General Fund.

**Background**. Chapter 1, Statutes of 2019 (AB 72) provided $31.3 million to backfill property tax losses suffered by the counties of Butte, Lake, Orange, Riverside, Shasta, Siskiyou, and Los Angeles as a result of the 2018 wildfires. The May Revision includes funding to backfill property tax losses from the 2018 wildfires based on new or updated information received from eight counties (Los Angeles, Mendocino, Napa, Orange, San Diego, Solano, Tuolumne, and Ventura).

**Staff Recommendation.** Approve as requested.

### Issue 2: Camp Fire Support

**Budget.** The May Revision includes $10 million to support communities in their recovery from the 2018 Camp Fire.

**Background.** The intent of this funding is to support Camp Fire recovery efforts in the following communities:

- Paradise Irrigation District (PID) requests funding to support operations for three years. The Administration will work with PID to determine immediate funding gaps as a result of the Camp Fire and wants to help support the PID maintain core services during the recovery period, contingent on PID providing a long-term plan for a sustainable water system that is consistent with state and local policies/priorities.
- City of Chico and City of Oroville request funding to address the Camp Fire’s impacts to housing, public infrastructure, and public safety. The Administration will work collaboratively with the City of Chico and City of Oroville to determine funding gaps and needs as a result of the Camp Fire.

**Staff Recommendation.** Approve as requested.

## 8880 FINANCIAL INFORMATION SYSTEM FOR CALIFORNIA (FI$CAL)

### Issue 3: Special Project Report 8: Departmental Training and Project Funding

**Budget.** The Department of FI$Cal requests funding of $31 million (of which is $17.7 million General Fund) in 2019-20, $24.7 million ($14.1 million General Fund) in 2020-21, and $2.4 million ($1.4 million General Fund) in 2021-22 to provide support for state departments utilizing the FI$Cal implemented functionality. Remaining costs will be funded through the Central Cost Services Recovery Fund. FI$Cal also requests $6 million General Fund in 2019-20 for additional resources that will enable the project to complete the implementation of the planned cash management functionality and Consolidated Annual Financial Report (CAFR) reporting.

**Background.** The subcommittee heard an informational item on a FI$Cal project update at its March 7, 2019 hearing.

Many departments continue to struggle with moving from their legacy and department-specific applications to the integrated financial platform. FI$Cal states that 152 departments are now transacting in the system, and 64 departments completed year-end close activities for the first time in the system during 2018-19. As of April 2019, 13 departments have yet to close 2017-18 year-end reports.

Accenture, LLP is the contracted FI$Cal System Integrator, and assisted the state in heavily configuring software developed by Oracle and used in FI$Cal, and in deploying the software for department usage. This included departmental trainings to use the software, solving complaint tickets, and providing enhancements to the software based on feedback.

This request would allow FI$Cal to contract for additional resources to provide departmental support, deploy tools to help departments create reports, improve performance in system use, and improve training for departments. A portion of these costs are provided through a combination of General Fund and the Central Cost Services Recovery Fund, which recovers costs from special and non-governmental funds.

**Staff Recommendation.** Approve as requested, with placeholder trailer bill language that requires reporting on: (1) scope of services provided by the contractor and the cost of those services; (2) the number of staff the contractor used in deploying these services, and the cost of these staff; (3) the date on which each department or agency closed month-end reports and year-end reports; (4) the attendance or participation of trainings by department or agency; and (5) a summary of the implementation activities for the cash management functionality. These reports shall be due on October 1, 2020, October 1, 2021, and October 1, 2022.

**Issue 4: Special Project 4 – FI$Cal**

**May Revision.** The Administration requests to reduce the amount from $4,510,000 to $2,116,000 that would be transferred from General Fund to various special and nongovernmental funds.

**Background.** This request amends Budget Control Section 8.88 and aligns the FI$Cal project's funding with the project's Interim Cost Allocation Plan. This funding will align the FI$Cal funding provided in Special Project Report 8 for design, development, and implementation costs with its funding formula.

**Staff Recommendation.** Approve as requested.

## 0509 GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT

### Issue 5: CA Infrastructure and Economic Development Bank (IBank) Credit Officer

**Governor's Proposal.** The May Revision includes $263,000 General Fund and one position to establish a credit officer to manage, organize, and lead the efforts of all IBank programs within the Bond Financing Units.

**Background.** IBank was created in 1994 to finance public infrastructure and private development that promote economic revitalization and public improvements necessary to maintain and create employment within the State of California.

IBank is located within GO-Biz and governed by a five-member Board of Directors, consisting of the Director of GO-Biz, the State Treasurer, the Secretary of Transportation, the Director of the Department of Finance, and an appointee of the Governor.

Since 1995-96, IBank has exercised its statutory authority to offer: 1) direct financings to local governments and public benefit tax-exempt nonprofit entities for infrastructure and economic expansion projects; 2) tax-exempt and taxable revenue bond financings for manufacturing businesses, nonprofit entities, and public entities; and 3) other financing transactions important to the state.

This one position requested was previously filled with an appointee position borrowed from the California State Lottery Commission. The Deputy Director of Credit held the position with IBank from June 16, 2014 to October 31, 2017. When that appointee retired, the position was no longer available to IBank.

**Staff Recommendation.** Approve as budgeted

### Issue 7: Governor's Office of Economic Impact

**Governor's Proposal.** The May Revision includes trailer bill language to change the name of the Governor's Office of Economic Development (GO-Biz) to the Governor's Office of Economic Impact (GOEI).

**Background.** The Administration suggests that this change is necessary to reduce confusion and make clear that the organization is the economic development office for the state that helps business identify the advantages of considering California locations for business relocation and expansion, versus being a business regulatory and oversight entity.

**Staff Recommendation.** Approve as budgeted

## CONTROL SECTION 12.00 (STATE APPROPRIATIONS LIMIT)

**Issue 6: 2019-20 State Appropriations Limit**

**Governor's Proposal.** The May Revision proposes that Control Section 12.00 be amended to revise the State Appropriations Limit (SAL). Pursuant to Article XIIIB of the California Constitution, the fiscal year 2019-20 SAL is estimated to be $112.1 billion at the May Revision. The revised limit is the result of applying the growth factor of 4.18 percent. The revised 2019-20 limit is $1.5 billion below the Governor's budget estimate.

**Staff Recommendation.** Approve as budgeted.

## 0110/0120 STATE LEGISLATURE

### Issue 8: Constitutional Adjustment (May Revision)

**Governor's Proposal.** The Legislature's budget for 2019-20 was proposed in January to be $147.4 million for the Senate and $194.2 million for the Assembly. Under the terms of Proposition 140, the growth in the Legislature's budget is constitutionally limited to the growth in the state's appropriation limit (SAL). The year-to-year SAL increase is calculated to be 4.18 percent in the Governor's May Revision, which is below the Governor's budget assumption of 5.5 percent. Applying the May Revision SAL rate to the legislative budget would result in funding of $145.5 million for the Senate and $191.7 million for the Assembly.

**Background.** The Senate's budget was held constant from 2008-09 to 2009-10, reduced by a negative SAL of -1.77 percent in 2010-11, received no increase in the subsequent two years (2011-12 and 2012-13), then received increases of 5.8 percent in 2013-14, 0.48 percent in 2014-15, 4.55 in 2015-16, 5.96 in 2016-17, 4.22 in 2017-18, and 4.03 in in 2018-19. Senate increases were forgone because of the state's budget constraints during the previous recession. Funds from the Senate and Assembly appropriations are also used to fund the Legislative Analyst's Office, which, adjusted for SAL, amounts to $9.8 million in 2019-20.

**Staff Recommendation.** Staff recommends that the Legislature's (Senate and Assembly) budget be adjusted as provided in the State Constitution, resulting in a total increase for the Legislature of $13.5 million over the 2018-19 budget, and that the Legislative Analyst's Office receive its SAL-adjusted share of $9.8 million from the Senate and the Assembly.

## CONTROL SECTION 35.5

### Issue 9: Budget Stabilization Account Adjustment

**Governor's Proposal.** The May Revision proposes that Control Section 35.50 be amended to reflect updated calculations, as follows:

- Update General Fund revenues pursuant to this section from $149.6 billion to $152.2 billion.
- Update the sum of 1.5 percent of General Fund revenues for the 2019-20 fiscal year to reflect $2.2 billion (an increase of $24 million from the Governor's budget).
- Update the sum of capital gain revenues that exceed 8 percent of General Fund proceeds of taxes for the 2019-20 fiscal year to reflect $3.4 billion (an increase of $1.2 billion from the Governor's budget).
- Update the amount of transfer to the Budget Stabilization Account (BSA) in the 2019-20 fiscal year to reflect $2.2 billion (an increase of $390 million from the Governor's budget).
- Makes true-up adjustments to the 2017-18 and 2018-19 fiscal years.

**Staff Recommendation.** Approve as budgeted.

## 0954 SCHOLARSHARE INVESTMENT BOARD

### Issue 10: Memorial Scholarship Revenue Shift

**Governor's Proposal.** The May Revision includes trailer bill language to require all of the California License Plate Revenue be deposited into the Antiterrorism Fund.

**Background.** Currently, 85 percent of the revenue is deposited in the Antiterrorism Fund while 15 percent of the revenue is deposited in the California Memorial Scholarship Fund. The Memorial Scholarship Fund supports $5,000 scholarships for dependents of California residents killed in the September 11, 2001 terrorist attacks. Beginning in the 2016-17 fiscal year, all eligible scholarships have been fully funded. The proposed trailer bill language eliminates the revenue deposits into the Memorial Scholarship Fund, which are no longer needed.

**Staff Recommendation:** Approve as Budgeted.

## 0984 California Secure Choice Retirement Savings Board

### Issue 11: Trailer Bill Language

**Proposal.** The May Revision includes trailer bill language to: 1) shift the responsibility for disseminating employee information packets for the CalSavers Retirement Savings Program (CalSavers) from the Employment Development Department (EDD) to CalSavers, 2) provide EDD with more flexibility in the timeline to begin enforcing employer compliance, and 3) allow EDD to share data with CalSavers.

**Background.** CalSavers was established pursuant to SB 1234 (De Leon), Chapter, Statute of 2016. SB 1234 required all California employers with at least five employees to either sponsor a retirement plan or participate in CalSavers. CalSavers was implemented November 19, 2018 when its first eligible employer registered. By June 30, 2020, all eligible employers with over 100 employees will be required to register; by June 30, 2021, all eligible employers with over 50 employees will be required to register; and by June 30, 2022, all eligible employers with five or more employees will be required to register.

Without the requested changes to allow CalSavers to receive employer data from EDD, EDD would have to perform more of the programs duties. This would result in a significantly greater administrative burden for participating employers, restrict options available to participating employers, create a time lag between contributions and deposits, and significantly increase costs.

**Staff Recommendation.** Approved as budgeted.

## 7600 CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION (CDTFA)

### Issue 12: Technical Adjustments

**Proposal.** The May Revision includes the following technical adjustments to CDTFA's budget:

- **Technical Adjustments for Centralized Revenue Opportunity System** - Decreases of $17 million General Fund, $9.6 million in Reimbursements, and $3.4 million in special funds to reflect a technical correction to the Centralized Revenue Opportunity System.

- **Technical Adjustment to Proposition 56 Expenditures –** Increase of $6 million in expenditure authority for tobacco enforcement to reflect carryover amounts from previous fiscal years.

- **Technical Adjustment to the Cannabis Tax Fund –** Transfer of $7.3 million and 29.6 positions from the Cannabis Tax Fund to the Cannabis Tax Fund – Department of Tax and Fee Administration to reflect a new method for tracking cannabis-related expenditures.

**Background.** These are all technical adjustments to appropriately align the department's expenditure authority.

**Staff Recommendation.** Approved as budgeted.

### Issue 13: Prepaid Mobile Telephony Services (MTS) Surcharges

**Governor's Budget.** The Governor's budget requests a reduction in resources to efficiently conclude the Prepaid MTS Surcharge Collection Act program as follows:

- A reduction of $1.0 million and 8.4 positions in 2019-20,
- A reduction of $1.7 million and 13.6 positions in 2020-21,
- A reduction of $1.7 million and 13.6 positions in 2021-22,
- A reduction of $1.8 million and 14.1 positions in 2022-23,
- A reduction of $1.8 million and 14.6 positions in 2023-24 and ongoing.

**Background.** On November 15, 2018, the United States District Court, Northern District of California (Metro PCS California, LLC v. Michael Picker), enjoined state agencies from enforcing the provisions of the Prepaid MTS Surcharge Collection Act because it conflicts with federal law. A notice of appeal of the court's decision was filed on December 14, 2018, but a judicial stay of the injunction was not requested, thereby ending CDTFA's enforcement of the Prepaid MTS Surcharge Collection Act.

The local charges are administered under a separate act, the Local Prepaid MTS Collection Act. CDTFA will continue to collect the local portion until its sunset on December 31, 2019.

**Staff Recommendation.** Approve as budgeted.

## 0870 Office of Tax Appeals (OTA)

### Issue 14: Small Business Tax Code Streamlining

**Proposal.** The May Revision includes trailer bill language to help business and individuals by expediting certain tax appeals.

**Background.** Current law requires the OTA to decide appeals using panels of three Administrative Law Judges. The proposed statutory changes allow tax appeals to be decided by one judge, if the appellants opt-in. The appeals must involve franchise income tax matters of less than $5,000, or business tax matters of less than $50,000. The business tax appellant must also have less than $20 million in gross annual sales.

**Staff Recommendation.** Approved as budgeted.

## 0750 Office of the Lieutenant Governor

### Issue 15: Lieutenant Governor Support Staffing

**Proposal.** The May Revision includes $500,000 and four positions to support the Office of the Lieutenant Governor. The positions are a Communications Director, Environmental Analyst, Higher Education Analyst, and Constituent Support Services Specialist.

**Background.** Over the last ten years the Lieutenant Governor's budget and staffing levels have been significantly reduced while the duties of the office have remained the same. In 2009-10, the budget for the Lieutenant Governor was reduced from $2.8 million and 30 positions to $1 million and 9 positions.

The Lieutenant Governor continues to serve on, and rotates with the State Controller, as chair of the three-member State Lands Commission which oversees the control and leasing of over five million of acres of state-owned land, including offshore oil resources, mineral leases, as well as use and permitting for all navigable waterways in California. As the chair of the State Lands Commission, the Lieutenant Governor serves on the Ocean Protection Council which is responsible for improving the effectiveness of state efforts to protect ocean resources, and on the California Coastal Commission statutorily required under the California Coastal Act of 1976 to plan and regulate the use of land and water in the coastal zone. The Lieutenant Governor also serves as a voting member on the University of California Board of Regents and California State University Board of Trustees, and serves as Governor when the Governor is out of the state.

Additionally, as a constitutional officer representing the entire state of California, the Lieutenant Governor receives approximately 80 phone calls and 70 emails daily, as well as social media messaging, from constituents seeking assistance. These requests range in issue areas, from accessing the Affordable Care Act or Cal-Fresh, to discussing proposals around higher education, requesting consideration for various proposals that will come before the state lands commission, or requesting guidance on accessing foreign markets. Currently, the existing staff does not have the capacity to respond to all constituent inquiries, and these incoming requests wait a few weeks before a response and several go unanswered.

**Staff Recommendation.** Approved as budgeted.

# ITEMS FOR DISCUSSION/VOTE

## 0950 STATE TREASURER'S OFFICE (STO)

### Issue 19: Funding Realignment

**Proposal.** The May Revision includes $7 million General Fund (GF) and a decrease in reimbursements by a like amount. This adjustment realigns the funding structure of the STO to better reflect the services provided to state agencies.

**Background.** Over the past two decades, the STO has experienced a significant shift in its primary funding sources, transitioning from the GF to Reimbursements. As the State endured GF budget deficits, the STO's funding structure shifted to a greater reliance on Reimbursements to fund its key programs - cash and securities management, public finance, and investment services. The STO's budget increased 55 percent while funding from the GF and Central Cost Services Recovery Fund (CSCRF) declined from 46 percent to 20 percent. During the past 18 years, staffing levels have remained relatively unchanged, with 244.3 full time equivalents (FTEs) in 2001-02 and 246.4 FTEs in FY 2018-19. The STO's considerable reliance on Reimbursements poses risks to the STO's budget. Given these risks, the STO's asserts that it's current funding structure is not sustainable.

With the goal of reducing these risks to the STO's budget funding structure, the STO contracted with Crowe LLP (Crowe) to conduct an analysis of its budget structure and funding sources to determine the appropriate funding allocation for the workload responsibilities assigned to, and completed by, the department. Crowe met with key STO staff between July 2018 and December 2018 to obtain a baseline for STO's current and future workload responsibilities. Crowe then performed workload and funding allocation analyses to identify and support specific changes the STO should consider in realigning its budget funding structure.

Based on Crowe's analyses and recommendations, the STO is requesting a funding shift of $7.0 million, increasing its GF allocation and decreasing its Reimbursements funding correspondingly. These proposed funding source modifications would ultimately result in an overall funding allocation of 58 percent from Reimbursements, 33 percent from the General Fund, and the remaining nine percent from the CSCRF.

Additionally, it is significant to note that in the current fiscal year, 2018-19, the STO is budgeted to receive approximately 20 percent of its funding from the GF and CSCRF, and the remaining 80 percent from Reimbursements. As a comparison to other control agencies, the State Controllers' Office receives approximately 46 percent of its funding from the General Fund and CSCRF, 28 percent from Reimbursements, and the remaining 26 percent from other sources; the Department of Finance receives approximately 80 percent of its funding from the General Fund and CSCRF and the remaining 20 percent from Reimbursements.

**Legislative Analyst's Office (LAO).** The LAO notes that this proposal is technically complex. They very recently received portions of the consultant's assessment. However, even those portions are lengthy and they expect it would take considerable time to fully review them to ensure that they support the requested realignment of resources. Accordingly, it is difficult to evaluate the proposal in the short period provided in the May Revision. The LAO further notes that it is unclear at this time what specific steps the department is taking to reevaluate its staffing levels and seek efficiencies, which makes it difficult to assess what an appropriate level of General Fund resources should be provided. However, they suggest that the Legislature could consider providing STO with some or all of the requested General Fund support on a one-time basis in 2019-20 (offset by a commensurate reduction in reimbursements). This would allow the department to return to the Legislature to request an ongoing realignment of funding sources in January. Receiving a proposal in January will provide the Legislature with additional time to analyze and consider this technically complex request. In the meantime, this approach will provide limited-term support to the department to limit the amount of potential reimbursement rate increases prior to the completion of the Legislature's evaluation in the 2020-21 budget process.

**Staff Recommendation.** Approved the request as budgeted and adopt budget bill language to require the Treasurer's Office to report to the Legislature by March 1, 2020 on an assessment of the office's overall resource requirements, including the impact of any recent or pending changes in responsibilities, such as no longer processing Women, Infants, and Children (WIC) vouchers, and efforts to achieve efficiencies.

## CANNABIS-RELATED ISSUES

### Issue 16: May Revision Cannabis Proposal

**May Revision.** The Administration proposes trailer bill language that does the following:

- Allows licensing authorities to issues citations for violations by licensed and unlicensed activities.
- Removes the sunset date for granting provisional licenses.
- Allows licensing authorities to revoke or cancel provisional licenses.
- Encourage jurisdictions to create local equity programs by expanding the definition of "Eligible local jurisdiction" to include jurisdictions that demonstrate an intent to develop a local equity program, and allow a portion of grant funds to be used to assist with the development of such equity programs.
- Provide a definition of "Equity Assessment" and require such local assessment to identify the populations negatively impacted by the War on Drugs and to inform local jurisdiction's the creation of its equity program. Elaborate on and expand the evaluation factors used when reviewing applications from local jurisdictions for equity grants, including whether the local jurisdiction has demonstrated a financial commitment to the implementation and administration of its equity program, and whether the local jurisdiction has committed to implement, or has implemented provisions to remove local barriers to entering the legal cannabis market for local equity applicants and licensees.

- Expedite the allocation of local equity grants to local jurisdictions by providing the Bureau of Cannabis Control an exemption to the rulemaking provisions of the Administrative Procedures Act.
- Allow the Bureau of Cannabis Control to enter into an interagency agreement with the Governor's Office of Economic Impact (previously the Governor's Office of Business and Economic Development) to administer the local equity grant program on its behalf, allowing the Bureau of Cannabis Control to focus on regulating the transportation, distribution, testing and sale of cannabis in California.
- Make other non-substantive technical changes.

**Background.** Within the last 25 years, both the voters and the Legislature created a myriad of cannabis-related policies. For example:

- In 1996, California voters approved Proposition 215, known as the Compassionate Use Act, which statutorily authorized the use of medical cannabis, and provided protections for physicians who made medical cannabis recommendations.

- In 2003, Senate Bill 420 (Vasconcellos), Chapter 875, Statutes of 2003, established the voluntary Medical Marijuana Program under the California Department of Public Health, which provided access to medical cannabis for qualified patients and primary caregivers and created a medical marijuana identification card and registry database.

- Nearly two decades later, in June 2015, Governor Jerry Brown signed the Medical Marijuana Regulation and Safety Act, comprised of Assembly Bill 243 (Wood), Chapter 688, Statutes of 2015; Assembly Bill 266 (Bonta), Chapter 689, Statutes of 2015; and Senate Bill 643 (McGuire), Chapter 719, Statutes of 2015. Together, these bills established the oversight and regulatory framework for the cultivation, manufacture, transportation, storage, and distribution of medical cannabis in California.

- In 2016, California voters approved Proposition 64, the Control, Regulation and Tax Adult Use of Marijuana Act, which authorized adults aged 21 years or older to legally grow, possess, and use marijuana for non-medical purposes, under specified restrictions. Proposition 64 also provides that revenue from cannabis taxes would support youth programs, environmental protection, and law enforcement.

- In 2017, the Legislature passed the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) that harmonized these bills and created a single-comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing and sale of both medicinal and adult-use cannabis.

**State and local governance.** The Bureau of Cannabis Control under the Department of Consumer Affairs and other state entities are responsible for regulating cannabis standards for labelling, testing, and packaging products and to develop a system to track such products from production to sale. Local governments continue to have the ability to regulate where and how cannabis businesses operate.

| Cannabis Industry Regulated by Multiple State Agencies | |
|---|---|
| **Regulatory Agency** | **Primary Responsibilities** |
| Bureau of Cannabis Control | License cannabis distributors, transporters, testing facilities, and retailers. |
| Department of Food and Agriculture | License and regulate cannabis growers. |
| Department of Public Health | License and regulate producers of edible cannabis products. |
| State Water Resources Control Board | Regulate the environmental impacts of cannabis growing on water quality. |
| Department of Fish and Wildlife | Regulate environmental impacts of cannabis growing. |
| Department of Pesticide Regulation | Regulate pesticide use for growing cannabis. |

**Proposition 64.** Excise taxes are levied on the cultivation and retail sale of both adult-use and medicinal cannabis with tax revenues being deposited into the Cannabis Tax Fund. The cannabis excise tax is forecast to generate $288 million in 2018-19 and $359 million in 2019-20, a reduction of $67 million and $156 million, respectively, from the Governor's Budget forecast. The forecast assumes continued growth of more than 15 percent a year as new businesses continue to enter the marketplace and local jurisdictions adjust to the state's legal framework. It is important to note that for the near term, revenue estimates will be subject to significant uncertainty because the market has only recently been established.

Proposition 64 specified the allocation of resources in the Cannabis Tax Fund, which are continuously appropriated. Pursuant to Proposition 64, expenditures are prioritized as follows:

| | DESCRIPTION/PURPOSE | AMOUNT |
|---|---|---|
| **Allocation 1** | **Regulatory and administrative costs necessary to implement, administer, and enforce the Cannabis Act.** | |
| Grants to local governments to assist in the creation and administration of equity programs, and to support equitable access to the regulated market for individuals through financial and technical assistance. The Governor's Office of Business and Economic Development will administer the grant program on behalf of the Bureau of Cannabis Control. | | $ 15,000,000 |
| **Allocation 2** | **Research and activities related to the legalization of cannabis, and the past effects of its criminalization.** | |
| No changes. | | $ - |
| **Allocation 3** | **As described below.** | **$ 198,900,000** |
| ***60%*** | ***Education, prevention, and treatment of youth substance use disorders and school retention.*** | ***$ 119,300,000*** |
| Department of Public Health for cannabis surveillance and education activities. | | $ 12,000,000 |
| Department of Education to subsidize child care for school-aged children. | | $ 80,500,000 |

| | | |
|---|---|---|
| Department of Health Care Services for competitive grants to develop and implement new youth programs in the areas of education, prevention, and treatment of substance use disorders. | | $ 21,500,000 |
| Natural Resources Agency to support youth community access grants. | | $ 5,300,000 |
| ***20%*** | ***Clean-up, remediation, and enforcement of environmental impacts created by illegal cannabis cultivation.*** | ***$ 39,800,000*** |
| Department of Fish and Wildlife for clean-up, remediation and restoration of damage in watersheds affected by illegal cannabis cultivation, and for enforcement activities. | | $ 23,900,000 |
| Department of Parks and Recreation for identify unknown areas of cannabis cultivation to assist with prioritizing resources for effective enforcement, remediation and restoration of illegal cultivation activities on state park land, and to make roads and trails accessible for peace office patrol and program assessment and development. | | $ 15,900,000 |
| ***20%*** | ***Public safety-related activities.*** | ***$ 39,800,000*** |
| California Highway Patrol for training, research, and policy development related to impaired driving and for administrative support. | | $ 2,600,000 |
| California Highway Patrol's impaired driving and traffic safety grant program for non-profits and local governments. | | $ 11,200,000 |
| Board of State and Community Corrections for a competitive grant program for local governments that have not banned cannabis cultivation or retail activities that will prioritize various public health and safety programs. | | $ 26,000,000 |

**Staff Recommendation.** Adopt placeholder trailer bill language.

## 0509 GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT

### Issue 17: Office of Small Business Advocate – Central Valley and Grant Programs

**Governor's Proposal.** The May Revision includes $806,000 General Fund and three positions to provide resources to support the core duties of the Office of the Small Business Advocate, which serves as the lead office in providing small businesses in California with the information and resources necessary to operate and serve as the principal advocate in the state on behalf of small businesses.

**Background.** OSBA serves as the lead office in providing small businesses in the state with the information and resources needed to survive in the marketplace and serves as the principal advocate in the state on behalf of small businesses. OSBA's core duties include:

- Receiving and responding to inquiries and complaints from small businesses concerning the actions of state agencies and the operative effects of state laws and regulations.
- Dissemination of information about programs and services provided by state government.
- Advisory participation in the consideration of all legislation and administrative regulations that impact small businesses.
- Administration of the Small Business Technical Assistance Expansion Program (SB TAEP), Small Business Technical Assistance Program (SB TAP), and Capital Infusion Program (CIP) grants totaling $23 million.
- Consulting with experts and authorities in small business capital markets, and individuals with regulatory, legal, economic or financial expertise, including experts representative of the state's geographic and demographic diversity.

To support its core duties, OSBA conducts or provides representation at multiple outreach events to connect with small business owners across multiple geographies, sectors and demographics to disseminate information about state programs, services and new regulations that may impact their business. These events include workshops, webinars, joint events with other public and private agencies, businesses and other organizations, and other community sponsored events.

In addition to the OSBA's responsibilities above, the office also serves as a liaison for small businesses during state-declared states of emergencies, and assists in the recovery, response and preparedness efforts of small businesses and microenterprises.

Without the additional resources and staffing for OSBA, the program will be unable to provide the level of support and services to small businesses in the Central Valley and monitor the grant programs to ensure success. The additional funding requested is necessary to fund the current positions in OSBA since salary savings in other programs will not be available in future years.

**Staff Recommendation.** Approve as budgeted.

## Issue 18: International Trade Specialist Program

**Governor's Proposal.** The May Revision includes $592,000 General Fund and three positions to support workload within the International Affairs and Business Unit.

**Background.** The California Technology, Trade and Commerce Agency (TTC) was charged with promoting California exports and bringing foreign investment into the state. At the time the agency sunset in 2003-04, the state had 85 international positions and 12 foreign trade offices which provided business outreach to Argentina, Hong Kong, China-Shanghai, Germany, Israel, Japan, Mexico, Singapore, South Africa, South Korea, Taiwan and the United Kingdom.

After the sunset of the TTC, the state had no international affairs and trade development staffing until 2010 as part of Executive Order S-05-10, which created the Governor's Office of Economic Development (GOED). GOED was tasked with serving as the single statewide point of contact for business development concerns, a function that was originally recommended in the Governor's 2004 California Performance Review and in a February 2010 Little Hoover Commission report. The executive order emphasized the importance of international trade and investment based economic growth by "fostering relationships with international counterparts to help address barriers to trade, find business partners, and promote California's strengths abroad."

A subsequent government re-organization effort expanded the duties of the International Affairs and Business Development unit and increased dedicated staff support. Legislation in 2011 established the Governor's Office of Business and Economic Development (GO-Biz) in statute. After the codification of GO-Biz, staff support for the International Affairs & Business Development unit increased from one employee to three employees. Although the International Affairs and Business Development program had been a part of GOED, the program was formally codified in Government Code Section 13996.41.

The International Affairs and Business Development unit is the State's primary point of contact for expanding California's two-way international trade and investment relations. The unit works to drive business for California and to address barriers to the State's continued global economic strength. The unit provides critical support on issues relating to international trade and investment opportunities, foreign relations, international agreements and partnerships with the countries that have a friendly relationship with California. GO-Biz has one trade office in China that is maintained by a regional organization through an agreement with the department but has no dedicated state staffing resource.

The addition of three Staff Services Manager II positions (SSM II) (International Trade Specialists) to the International Affairs and Business Development unit will provide the support necessary to carry out engagement in international trade, including export promotion and foreign direct investment with three global regions; Americas, Europe, and Asia The three international trade specialists will work directly with U.S. Commercial Services in U.S. embassies of California's largest trading partners, provide training and export development assistance for small and medium businesses, lead trade missions to develop new export markets, collaborate with regional economic development organizations to attract foreign investment into the various regions of California, and receive missions from California's trading partners for investment in California.

**Staff Recommendation.** Approve as budgeted.

## 0870 OFFICE OF TAX APPEALS (OTA)

### Issue 20: Additional Staffing Resources

**Proposal.** The May Revision includes $2.8 million General Fund and 13 positions to provide additional staffing to support appeal process workload.

**Background.** OTA was established in 2017 and started conducting business January 2018. The Office is responsible for hearing and deciding tax appeals arising from taxpayer disputes of actions taken by the Franchise Tax Board (FTB) and the California Department of Tax and Fee Administration (CDTFA). During its initial year, as OTA established its processes and procedures, it determined that current staffing levels were not sufficient to address ongoing workload. OTA was established based on Board of Equalization's (BOE) staffing model; however, OTA's adjudication process is quite different, and calls for different modeling and level of resources.

As an independent adjudicatory body, OTA's core mission is to issue fair and objective decisions on tax appeals from taxpayers who disagree with determinations made by FTB or CDTFA. To carry out this charge, OTA has offices and hearing facilities in Sacramento, Fresno, and Los Angeles, staffed by ALJs with significant experience in tax law. The headquarters office in Sacramento is currently staffed with 12 ALJs and a Presiding ALJ. The office in Los Angeles has 6 ALJs and a Presiding ALJ. The Fresno hearing facility is staffed by Sacramento and Los Angeles employees.

OTA was initially staffed with newly established positions, as well as positions transferred from CDTFA. The staffing model was designed prior to the opening of OTA and was necessarily derived from estimated workload. These estimates were generally based on the experience of BOE as the previous appeals body. Based on a year's worth of actual data at OTA, it is now apparent that these initial workload forecasts underestimated the actual workload of the Office. Each appeal at OTA receives a written opinion and is considered by a panel of three ALJs, which creates a substantial workload that did not occur at BOE.

**Staff Recommendation.** Approved as budgeted.

*Senate Budget and Fiscal Review—Holly J. Mitchell, Chair*

# SUBCOMMITTEE NO. 4 Agenda

**Senator Maria Elena Durazo**
**Senator Jim Nielsen**
**Senator Thomas J. Umberg**

**Thursday May 16, 2019**
**9:30 a.m. or upon adjournment of session**
**State Capitol - Room 2040**

Consultants: Yong Salas, James Hacker, Anita Lee, Joe Stephenshaw

**Item** **Department** **Page**

**ITEMS PROPOSED FOR VOTE ONLY**

## ITEMS PROPOSED FOR DISCUSSION/VOTE

*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.*

## ITEMS PROPOSED FOR VOTE-ONLY

## 0840 STATE CONTROLLER'S OFFICE

### Issue 1: California State Payroll System Project

**Proposal.** The May Revision includes $1.3 million General Fund ($471,000 ongoing) and $961,000 special funds ($355,000 ongoing) to support six positions and contracted service costs during the Project Approval Lifecycle process.

**Background.** Beginning in 2016, SCO began to assess current information technology and the latest industry standards, and initiated the re-engineering of a new human resource management and payroll system. This new initiative is named the California State Payroll System Project (CSPS).

Over the last few years, SCO received resources for CSPS to support the following:

- Perform business process documentation of human resource management and payroll processing practices to refine the scope of the future project.
- Contract with a vendor to provide IT consulting business process documentation and reengineering services.
- Complete CDT's PAL Stage 1 Business Analysis.
- Contract with a procurement support vendor to create new, or refine existing, mid-level solution requirements, assist with the performance of a market survey, conduct the final alternative analysis, prepare financial analysis worksheets, and aid in the development of a procurement strategy to be included in the CDT PAL Stage 2.
- Complete the CDT PAL Stage 2 Alternatives Analysis.

The CSPS Project intends to modernize and improve the efficiency of the current Uniform State Payroll System (USPS) or replace it entirely. Since the state continues to rely on its 1970s-era legacy systems, the CSPS Project is intended to develop a comprehensive approach to satisfy all stakeholders' concerns, meet the best interests of the State, and follow the PAL process to develop plans that align with SCO's strategic goals. A modern payroll system will allow SCO to meet its strategic objectives to promote financial integrity and accountability; provide excellent customer service; deliver core services more effectively through innovative business processes and technology solutions, invest in its employees to create a skilled, motivated, and diverse workforce; and enhance communications and information sharing.

SCO requests funding to support six permanent positions in 2019-20 and ongoing to continue work on the project activities that will drive the process of assessing options and designing a new statewide payroll approach.

**Staff Recommendation.** Approved as budgeted.

## Issue 2: Personnel Cost Adjustments

**Proposal.** The May Revision includes $1.1 million ($589,000 General Fund) to support increased personnel costs as a result of the Financial Accountant (FA) series reclassification in 2017-18 and statewide Information Technology class consolidation reclassifications.

**Background.** In May 2014, the California State Auditor (CSA) issued an internal control finding on SCO regarding the preparation of the Comprehensive Annual Financial Report (CAFR). In that finding, CSA acknowledged the significant turnover rate experienced by the State Accounting and Reporting Division's (SARD) State Government Reporting Bureau, likely contributed to the issues that led to the finding. In response to the finding, SCO, among other corrective actions, would continue to pursue an SCO specific accounting classification with appropriate compensation that is commensurate with the work being performed.

SCO's 2015 State Leadership Accountability Act Biennial Report stated that current pay scales may not be competitive with local government and private sector wages; and as such, poses a risk to achieving the operational objective of maintaining an effective, efficient, knowledgeable and productive workforce. The solution was to consult with CalHR to ensure current classifications are appropriate for the work being performed.

In 2015, CalHR established the FA series for use by CalPERS and CalSTRS. SCO petitioned CalHR for use of the FA series, and in September 2016, CalHR determined that the complexity and sensitivity of the work being performed in SCO's SARD aligned with the FA series duties.

CalHR approved SCO's use of the FA series within SARD, resulting in SCO submitting a 2017-18 Accounting Administrator Reclassification May Revise Budget Change Proposal (BCP). This BCP requested funding in the amount of $600,000 and was approved in 2017-18 and 2018-19 to fund the reclassification of 38.0 Accounting Administrator positions to the FA series. SCO is now requesting $774,000 in 2019-20 and ongoing to permanently fund the 38.0 FA series positions.

**Staff Recommendation.** Approved as budgeted.

## Issue 3: Statewide Retirement Reconciliation Program

**Proposal.** The May Revision includes $2.1 million ($1.2 million General Fund) to support 15 continuing positions to address ongoing workload, and resources to work with CalPERS to resolve data translation errors between the legacy systems and the myCalPERS system.

**Background.** Electronic interfaces between SCO and CalPERS communicate complex personnel and payroll information for retirement calculation for future compensation and benefits purposes for over 286,000 active members. The transaction volume often reaches over six million records annually.

To ensure a long-term business solution, SCO and CalPERS determined that the best resolution would be to create new interfaces that would extract CalPERS membership enrollment and payroll contribution data and convert the data to the XML file format that myCalPERS requires to bridge the translation gap between the two systems. In November 2013, SCO initiated the my|CalPERS File Readiness (MCFR) project to replace the translation process. The long-term objective of the project is to ensure the accurate reporting of CalPERS retirement contributions and service credit information for members.

Through a 2014-15 Budget Change Proposal (BCP), SCO received 15.0 five-year LT positions to address the increased workload of incoming errors created by the continued reporting issues and to clear the growing backlog of myCalPERS errors. SCO and CalPERS established mutual responsibility over myCalPERS error resolution, with SCO clearing retirement contribution-related errors, and CalPERS clearing retirement enrollment-related errors.

SCO is requesting 15.0 permanent positions to work with CalPERS to finalize implementation of Phase 2 of the MCFR project, complete Phase 3 of the MCFR project, support future maintenance and enhancements to these files on an ongoing basis, and provide ongoing support of the remaining manual workload.

**Staff Recommendation.** Approved as budgeted.

**Issue 4: Settlement Claims**

**Proposal.** The May Revision includes $9.5 million General Fund in to pay the class action settlements of *Nancy Baird, et al. v. Betty T. Yee, et al (2016) and Janis McLean v. State of California (2016).*

**Background.** *Nancy Baird, et al. v. Betty T. Yee, et al (2016)* concerned registered warrants the State Controller issued to members of a class of vendors in the summer of 2009, during the height of the State's fiscal crisis, in response to claims for payment for goods and services the class members provided to the State. The dispute centered on whether these registered warrants constitute "payment" under the California Prompt Payment Act.

*Janis McLean v. State of California (2016)* concerned Labor Code sections 202 and 203, which specify an employer must make prompt payment of the final wages owed to an employee who “quits” his or her employment, or else pay statutory penalties. In this case, plaintiff Janis S. McLean, a retired deputy attorney general, filed suit against the State of California on behalf of herself and a class of former state employees who, having resigned or retired, did not receive their final wages within the time periods set out in the statute.

**Staff Recommendation.** Approved as budgeted.

**Issue 5: CalATERS**

**Proposal.** The May Revision includes a decrease of $704,000 General Fund in 2019-20 through 2021-22 to reflect adjusted project cost.

**Background.** The California Automated Travel Expense Reimbursement System (CalATERS) provides a web-based solution for travel advance and expense reimbursement processing that, among other things, includes automated audits of statewide travel rules, form tracking, and management reporting capabilities. The CalATERS project is being paused beginning in 2019-20 to ensure the successful integration with FI$Cal.

**Staff Recommendation.** Approved as budgeted.

## 1111 Department of Consumer Affairs

### Issue 6: Re-Appropriation of Equity Program Funding

**Background.** The 2018 Budget Act provided a one-time $10 million General Fund augmentation for the Bureau of Cannabis Control to provide grants to local equity programs and $483,000 (Cannabis Control Fund) to provide technical assistance to local equity applicants and licensees. However, funding to recipients have been delayed, and the reappropriation is needed to ensure they are distributed as intended.

**Staff Recommendation.** Re-appropriate this funding to provide grants to local equity programs.

## 7760 DEPARTMENT OF GENERAL SERVICES

### Issue 7: Office of Public School Construction Personal Services

**Governor's Budget.** The Office of Public School Construction requests $1.2 million and 10 positions.

**Staff Comment.** These positions will support workload at the Office of Public School Construction related to processing applications for funding in the School Facilities Grant Program made available through Proposition 51 bond funding. This issue was heard in Subcommittee #1 on Education.

**Recommendation.** Approve the Governor's Budget proposal, add reporting language related to volume of applications processed over the 2019-20 year. This conforms to an action taken in Subcommittee #1 on Education.

## 0650 GOVERNOR'S OFFICE OF PLANNING AND RESEARCH (OPR)

### Issue 8: Health in All Policies

**Governor's Budget.** The budget requests three positions and $430,000 General Fund in 2019-20 and ongoing to continue the existing Health in All Policies (HiAP) program at the Strategic Growth Council (SGC).

SGC's HiAP staffing has been fully funded by philanthropic partners and current HiAP staff are employees of the Public Health Institute (PHI), the non-profit partner to the state. State funds have not been allocated to support HiAP staff. However, philanthropic support has amounted to over $4 million since 2010, which has paid staff salaries and benefits.

HiAP currently supports four positions at SGC, fully funded by PHI. SGC provides in-kind support to house staff. The philanthropic funding for these positions will expire in July 2019, and SGC has indicated that PHI does not intend to extend it. OPR has indicated that HiAP would move from four to three positions once funding is brought in-house. All three current work streams would continue, with work focusing on state and interagency issues. Workload related to interstate or international efforts would be absorbed or expire.

**Staff Recommendation.** Approve as Budgeted.

### Issue 9: Precision Medicine

**Governor's Budget.** The Administration has requested trailer bill language the extend the statutory authority for the California Initiative for Precision Medicine until 2026. The Institute was provided $30 million in the 2018-19 budget, which is available for encumbrance until 2022 and liquidation until 2025. However the statutory authority for the Initiative currently sunsets in 2020.

The requested trailer bill language would align the Initiative's statutory with available funding. It would also require the Initiative to report annually to the Legislature on the progress and outcomes of funded projects.

**Staff Recommendation.** Approve as Proposed.

### Issue 10: Administration Resources

**Governor's Budget.** The Administration has requested provisional language to enable OPR to utilize up to five percent of local assistance funding provided to the office for grant programs for program administration. While it is reasonable to expect OPR to require administrative resources for the variety of grant making programs it oversees, those administrative resources should be provided on a case by case basis. Providing blanket authority to OPR to use five percent of any program placed at the office for administrative purposes is an inappropriate ceding of legislative authority over the budget to the administration.

**Staff Recommendation:** Reject the requested provisional language.

## 2240 Department of Housing and Community Development

### Issue 11: No Place Like Home

**Governor's Budget.** The budget requests a $7 million General Fund loan for cash needs of the No Place Like Home Program (NPLH) until the No Place Like Home bonds are issued in Fall of 2019.

Welfare and Institutions Code (WIC) Section 5849.8(b) sets the criteria for Alternative Process (AP) counties: "The department may establish an alternative process for allocating funds directly to counties, as calculated in Section 5849.6, with at least five percent of the state's homeless population and that demonstrate the capacity to directly administer loan funds for permanent supportive housing serving the target population and the ability to prioritize individuals with mental health supportive needs who are homeless or at risk of chronic homelessness, consistent with this part and as determined by the department." HCD evaluated the AP counties capacity to administer a housing program as part of the designation process. Only four counties meet the five percent threshold, and all will be AP counties by May. It will not be reassessed unless the statute is amended.

Based on the 2017 point-in-time results, the HCD designated the eligible AP Counties are Los Angeles, Santa Clara, San Diego, and San Francisco. Los Angeles County indicated a cash flow need of $3,000,000 and Santa Clara a cash flow need of $4 million before October for projects they intend to provide construction lending to, although awards have not formally been made at this time. The Administration has indicated that the requested $7 million will be repaid to the General Fund once bonds have been sold in the fall of 2019.

**Staff Recommendation.** Approve as Budgeted.

### Issue 12: Regional Housing Needs Allocation Process (AB 1771 and SB 829)

**Governor's Budget.** The budget requests $638,000 in 2019-20 and $543,000 ongoing General Fund for 3.0 positions to implement AB 1771 (Bloom), Chapter 989, Statutes of 2018 SB 828 (Wiener), and Chapter 974, Statutes of 2018, which added methodology review requirements for HCD in the Regional Housing Needs Allocation (RHNA) process.

AB 1771 and SB 828 collectively revise the process and criteria for developing local housing goals in regional needs allocation plans. SB 828 incorporates additional data into regional methodologies and specifies that prior underproduction does not justify a reduction on housing goals while AB 1771 allows HCD to verify the methodology used to develop these plans is consistent with state law. It is reasonable to believe that this additional workload will require additional resources, particularly given the timing of much of the workload.

The Administration, Senate, and Assembly have all proposed potential long-term changes, developed in a process involving consultation with relevant stakeholders, to the methodology for allocating housing needs to regions and jurisdictions. Because changes to the RHNA process may impact the workload required by AB 1771 and SB 828, limited term funding is appropriate for these resources.

**Staff Recommendation.** Approve $638,000 in 2019-20 and $543,000 in 2020-21

**Issue 13: Mixed Income Allocation Provisional Language**

**Governor's Budget.** The May Revision includes budget bill language that allows additional flexibility in the use of funds for mixed income projects, and clarifies that the funds are specifically for the California Housing Finance Agency (CalHFA). This is a technical adjustment that clarifies the uses of specific funds for the CalHFA Mixed Income Loan Program, which the Senate has provided $500 million for in its housing and homelessness framework adopted on May 9, 2019.

**Staff Recommendation.** Approve as Budgeted.

**Issue 14: Serna Program Trailer Bill Language**

**Governor's Budget.** The Administration has proposed trailer bill language to make several changes to the Joe Serna Jr. Farmworker Housing Grant Program, which provides grants to finance the new construction, rehabilitation, and acquisition of owner-occupied and rental units for agricultural workers, with a priority for lower income households.

The proposed language would allow the program to charge an annual monitoring fee, not to exceed 0.42 percent of annual loan payment amounts, to fund ongoing monitoring and compliance work. It would also remove a requirement for matching funds, and lower the amount of funding required to be set aside in case of loan defaults to 1.5 percent. These changes would align the Serna Program with other multifamily housing programs at HCD.

**Staff Recommendation.** Approve as Proposed.

## 5225 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

### Issue 15: Housing First – Parolee Programs Cleanup

**Governor's Budget.** The Administration has requested trailer bill language to allow recovery housing, defined as sober living facilities and programs that provide housing in an abstinence-focused and peer-supported community, to count as a "housing first" program under current law if it also meets certain other criteria.

Most CDCR housing programs currently support recovery housing, which is not compatible with Housing First principles required for state housing programs under SB 1380 (Mitchell), Chapter 847, Statutes of 2016. This bill would effectively exempt those programs from those Housing First principles, provided they also meet certain other requirements.

**Staff Recommendation:** Reject the proposed trailer bill language.

## DEFERRALS

### Issue 16: Payroll Deferral Trailer Bill Language and CalPERS Deferral

**Background.** The subcommittee heard this issue on April 25. The Governor proposes trailer bill language to repeal sections of the Government Code to eliminate the state payroll deferral. The Administration estimates the cost to undo this action will be $973 million for the General Fund. The state never recognized the deferral in other funds' budgetary statements and, as a result, undoing it would only have budgetary implications for the General Fund.

There is no trailer bill to undo the CalPERS deferral. This change is reflected in the Department of Finance's summary schedules. Specifically, this is reflected in Schedule 9 regarding comparative statements of expenditures. Undoing the deferral would eliminate these savings. The Administration estimates the cost to undo this action is $707 million General Fund (other funds' fourth quarter CalPERS payments are not deferred).

The Administration notes that the intent of the proposals is to reuse this tool in the future.

**Staff Recommendation. Reject the Governor's proposal. Instead redirect funds to provide:**

1. An additional $130 million in 2019-20, and $298 million in 2020-21 to reduce district contribution rates to CalSTRS, above the Governor's proposal;

2. $257 million in 2019-20 and $264 million in 2020-21 to reduce districts CalPERS contribution rates for classified employees;

   The actions above will provide school districts with approximately $1 billion in additional relief.

3. An additional $600 million payment to the Safety Net Reserve in 2019-20.

## 7910 CALIFORNIA STATE TEACHERS RETIREMENT SYSTEM (CALSTRS)

### Issue 17: CalSTRS Supplemental Pension Payment and Contribution Rates

**Background**

On April 25th, the subcommittee heard the Governor's January budget proposal to provide a supplemental pension payment to address the CalSTRS unfunded liability and to reduce school employer contribution rates.

**District's Share of Unfunded Pension Liabilities.** The Governor proposes for the state to pay CalSTRS an additional $2.3 billion General Fund in 2018-19 to address the district's share of the unfunded liability.

**CalSTRS District Contribution Rates.** The Governor proposes providing $700 million over the next two years ($350 million per year) to provide school and community college districts with immediate budget relief. Specifically, the funds would reduce districts' CalSTRS rates in 2019-20 and 2020-21—freeing up resources for other parts of districts' operating budgets.

**State Share of the Unfunded Pension Liability.** The Governor proposes to pay $1.1 billion in Proposition 2 to CalSTRS in 2019-20 to address the state's share of the unfunded liability. Moreover, the Administration proposes an additional $1.8 billion in Proposition 2 funds through 2022-23, as follows: $802 million in 2020-21, $615 million in 2021-22, and $345 million in 2022-23, to be paid towards the state's share of the unfunded liability.

The Governor's proposed trailer bill language provides the Department of Finance the authority to determine the schedule and timing of the transfer of funds.

**Estimated Savings from the Proposed Supplemental Payment for the Employer Liability Share to CalSTRS.** The Administration estimates that the proposed investments would save school employers $6.9 billion ($3.9 net savings) over the next 30 years under current actuarial assumptions.

The Administration estimates that the $700 million to supplant the school employer contributions would result in a one percent reduction in the employer contribution for 2019-20 and 2020-21.

Moreover, the $2.3 billion supplemental payment to the employer share of the unfunded liability would reduce the employer contribution rate by approximately 0.5 percent starting in 2021-22, over the next three decades. The Administration's chart below displays the impact of the supplemental payment towards the employer's contribution rate.

| Supplemental Pension Payments to CalSTRS—School Employer Liability Share Estimated Impact | | | | | |
|---|---|---|---|---|---|
| | Current | | With Supplemental Pension Payment | | |
| Fiscal Year | Employer Contribution Rate | Employer Contribution (in Millions) | Employer Contribution Rate | Employer Contribution (in Millions) | Savings from Supplemental Pension Payment (in Millions) |
| 2019-20 | 18.13% | $ 6,277 | 17.10% | $ 5,927 | $ 350 |
| 2020-21 | 19.10% | $ 6,844 | 18.10% | $ 6,494 | $ 350 |
| 2021-22 | 18.40% | $ 6,837 | 17.90% | $ 6,641 | $ 196 |
| 2022-23 | 18.40% | $ 7,047 | 17.90% | $ 6,883 | $ 164 |
| 2023-24 | 18.40% | $ 7,301 | 17.90% | $ 7,131 | $ 170 |
| Total Savings—2019-20 through 2023-24 | | | | | $ 1,230 |
| Total Savings—2024-25 through 2045-46 | | | | | $ 5,691 |
| Total Savings—2019-20 through 2045-46 | | | | | $ 6,921 |

Note: The employer contribution rate, with and without the impact of the supplemental pension payments, is projected to remain constant from 2023-24 through 2045-46. Unlike the state contribution rate, asset smoothing (smoothing the impact of investment volatility on the rate) does not have a material impact on the employer contribution rate over this period.

**Estimated Savings from Supplemental Payment Proposal to the State Liability Share to CalSTRS.** The Administration estimates a gross savings of $7.4 billion ($4.4 billion net), and will reduce the state contribution rates starting in 2022-23 by 0.5 to 0.6 percent over the next 30 years.

According to the Administration, the state's share of the CalSTRS defined benefit program is 85 percent funded as of June 30, 2017. The Administration's chart below displays the impact of the supplemental payment towards the state's contribution rate.

| Supplemental Pension Payments to CalSTRS—State Liability Share Estimated Impact | | | | | |
|---|---|---|---|---|---|
| | Current | | With Supplemental Pension Payments | | |
| Fiscal Year | State Contribution Rate | State Contribution (in Millions) | State Contribution Rate | State Contribution (in Millions) | Savings from Supplemental Pension Payments (in Millions) |
| 2019-20 | 7.83% | $ 2,569 | 7.83% | $ 2,569 | $ - |
| 2020-21 | 8.33% | $ 2,786 | 8.33% | $ 2,786 | $ - |
| 2021-22 | 8.83% | $ 3,057 | 8.83% | $ 3,057 | $ - |
| 2022-23 | 9.30% | $ 3,330 | 8.80% | $ 3,149 | $ 181 |
| 2023-24 | 9.20% | $ 3,395 | 8.60% | $ 3,184 | $ 211 |
| Total Savings—2019-20 through 2023-24 | | | | | $ 392 |
| Total Savings—2024-25 through 2045-46 | | | | | $ 7,057 |
| Total Savings—2019-20 through 2045-46 | | | | | $ 7,449 |

Note: It is projected that with the supplemental pension payments, the state contribution rate will continue to decrease slightly during the period from 2024-25 through 2045-46, to 8.2 percent. Absent the supplemental pension payments, it is projected that the state contribution rate will decrease to 8.8 percent by the end of this same period. The slight decrease in the state contribution rate over this time period can be attributed to asset smoothing (smoothing the impact of investment volatility on the rate).

## 2019-20 May Revision

The May Revision proposes an additional investment of $150 million General Fund to further reduce the school district employer contribution rates by an additional 0.43 percent. Under the administration's proposal, the state's total supplanting payment in 2019-20 would equal 1.43 percent of pay.

**Legislative Analyst's Office Comments**

**Payment Has No Effect on CalSTRS Unfunded Liability.** Under the administration's proposal, the state would assume responsibility for contributions to CalSTRS that the CalSTRS funding plan otherwise would require school districts to pay for two years. While providing school districts rate relief in 2019-20 and 2020-21 provides school districts greater flexibility to spend money on other one-time priorities, it has no effect on the CalSTRS unfunded liability. Using money to pay down the unfunded liability could have larger savings for school districts over the long-term.

**Consider Setting Aside Funding For Future Rate Relief.** The Governor proposes providing rate relief to school districts at a time when school district funding is at historic highs. Rather than providing districts' budget relief over the next two years, the Legislature could modify the Governor's proposal to provide rate relief during the next economic downturn. Under this alternative, the state would set aside funds for school district retirement costs, but not immediately adjust district contribution rates. Later, during a downturn, the Legislature could choose when to apply the additional funds and reduce district rates. Such an approach is beneficial because it mitigates the need for pension rate increases at a time when districts would have less funding and be facing even more difficult budget choices.

**Staff Recommendation. Approve the Governor's January and May Revise budget proposal as well as take conforming action to the previous issue to:**

Reduce District Contribution Rates

1. Provide an additional $130 million above the Governor's proposed $500 million, for total of $630 million in 2019-20 to reduce the district contribution rates for CalSTRS from 18.13 percent as specified in current law, to 16.33 percent;

2. Provide an additional $298 million above the Governor's proposed $350 million, for a total of $648 million in 2020-21 to reduce district contribution rates for CalSTRS from 23.60 percent as specified in current law, to 21.80 percent;

3. Provide $257 million in 2019-20 to reduce district contribution rates for CalPERS to reduce district contribution rates from 20.73 percent to 18.93 percent;

4. Provide $264 million in 2020-21 to reduce district contribution rates for CalPERS from 23.60 percent to 21.80 percent.

**Comparing School District Rate Relief**

| | **2019-20** | | | **2020-21** | | |
|---|---|---|---|---|---|---|
| | Current Law | Governor | Senate | Current Law | Governor | Senate |
| CalSTRS | 18.13% | 16.70% | 16.33% | 19.10% | 18.10% | 17.30% |
| CalPERS | 20.73% | 20.73% | 18.93% | 23.60% | 23.60% | 21.80% |

**State Costs Based on Actuarial Assumptions Regarding Payroll Growth**
(Dollars in Millions)

| | **2019-20** | | **2020-21** | | **Total** | |
|---|---|---|---|---|---|---|
| | Governor | Senate | Governor | Senate | Governor | Senate |
| CalSTRS | $500 | $630 | $350 | $648 | $850 | $1,278 |
| CalPERS | | $257 | | $264 | | $521 |
| Total | $500 | $887 | $350 | $912 | $850 | $1,799 |

Address the District's Share of the CalSTRS Unfunded Liability

5. Approve the Governor's proposal to provide $2.3 billion General Fund in 2018-19 to address the district's share of the unfunded liability.

Address the State's Share of the CalSTRS Unfunded Liability

6. Approve the Governor's proposal to provide $1.1 billion in Proposition 2 to CalSTRS in 2019-20 to address the state's share of the unfunded liability,

7. Approve the Governor's proposal to provide $1.8 billion in Proposition 2 funds through 2022-23, as follows: $802 million in 2020-21, $615 million in 2021-22, and $345 million in 2022-23, to be paid towards the state's share of the unfunded liability, and

**Issue 18: CalSTRS Creditable Compensation**

**Background.** The May Revision requests that Item 7920-011-0001 be increased by $5.7 million to reflect an increase in the state's contributions to the CalSTRS Defined Benefit (DB) Program and Supplemental Benefit Maintenance Account (SBMA), as required in statute. The state's contributions to the DB program and SBMA are calculated using creditable compensation provided by the Teachers' Retirement Board (Board) for the fiscal year immediately preceding June 30; the report is published annually by the Board by October 25, and a subsequent report is due by April 15, that displays necessary revisions to creditable compensation. Based on the Board's April 8, 2019 creditable compensation report, the DB contribution will be increased by $4.3 million and the SBMA contribution will be increased by $1.4 million, as compared to the Governor's Budget.

**Staff Recommendation. Approve the Governor's budget proposal.**

## 7900 California Public Employees Retirement System (CalPERS)

### Issue 19: CalPERS Supplemental Pension Payment

**Governor's Budget Proposal**

**State's CalPERS Unfunded Liability.** The Administration proposes a $3 billion supplemental payment to CalPERS in 201819, and payment to each state plan would be a proportionate share of the required General Fund contribution. The proposed trailer bill language provides the Department of Finance the authority to determine the schedule and timing of the fund transfer. Additionally, the trailer bill language specifies that of the funds, up to approximately $1.4 billion would be transferred to the state miscellaneous plan, $81.5 million to the state industrial plan, $178.3 million to safety plan, and $1.4 million to the state peace and firefighter plan. Since the highway patrol plan does not make General Fund contributions, it would not receive a payment under the proposal.

**Savings Would Be Distributed Among All Funds That Make Pension Contributions to Plans.** With the payment, the employer contribution rate is expected to be around one percent of pay lower each year until nearly 2040—representing an average of around $225 million in savings per year. In total, this investment would create net savings of $6.3 billion in net savings over about 30 years.

**Legislative Analyst's Office Comments**

**Alternative Payment Options.** The LAO offers a few alternative strategies for the supplemental payment.

1. **Keep DOF Distribution, but Require Other Funds to Repay General Fund.** Under this alternative, the $3 billion would still be distributed to only four of the five plans, but funds would repay $1 billion, over time, back to the General Fund for their shares of the contribution. (Many funds might not have the resources to repay the General Fund right away, but could use their accrued savings from lower pension payments over time to make these repayments.)

2. **Distribute the Payment Based on Unfunded Liability and Require Repayments.** To make a payment to all CalPERS plans, the Legislature could distribute the payment according to each plan's unfunded liability and require the benefiting funds to repay the General Fund in proportion to their benefit. Under this alternative, the $3 billion would be distributed among all five plans and other funds would repay $1.5 billion to the General Fund.

   In addition to proportionally allocating benefit among all employee types, this alternative would maximize potential savings for the MVA, somewhat reducing the fund's ongoing structural imbalance. Lower pension payments—and a net benefit of roughly $700 million over 30 years—could put the fund in a slightly better condition over the long-term.

3. **Make Full Payment to Peace Officers and Firefighters Plan.** One concern about administering the proposal using repayments is the administrative complexity involved. This alternative would maximize General Fund benefit without a complicated repayment system, and would make the entire supplemental payment to Peace Officers and Firefighters plan. This plan is nearly entirely General Fund supported and the vast majority of the benefit would still

accrue to the General Fund. The state could generate over $5 billion net savings, which is the most General Fund benefit of the proposals.

**<u>Staff Recommendation.</u> Approve Governor's budget proposal.**

**Issue 20: SB 84 (Committee on Budget and Fiscal Review), Chapter 50, Statutes of 2017, Supplemental Pension Loan Repayment.**

**Background.** The 2017-18 budget provided a $6 billion one-time from the Pooled Money Investment Account (PMIA) cash loan to pay down the CalPERS unfunded liability. Under SB84, all funds that make contributions to CalPERS are responsible for repaying the loan by June 30, 2030. SB 84 authorizes the Department of Finance to determine responsible funds' repayment amounts.

**Governor's Budget Proposal.** The Governor's January budget proposed $390 million in Proposition 2 debt funding to pay down the General Fund's share of the loan that funded the 2017-18 supplemental pension payment.

As for the special fund repayment, these items are non-Budget Act, the following amendments are being shared for informational purposes:

- Assessments to the Motor Vehicle Account (MVA) are being decreased by $59.2 million in 2018-19, and by $61.5 million in 2019-20, which is consistent with a recent Spring Finance Letter issued to delay repayment of the MVA's share of the SB 84 loan for five years beginning in 2018-19.

- Shift in assessments to funds administered by the California Department of Tax and Fee Administration for fiscal years 2019-20 through 2024-25, which results in a net zero dollar change. The changes in 2019-20 for these funds are summarized as follows:

    - Decrease Item 9892-501-0965 by $45,000
    - Increase Item 9892-501-3067 by $130,000
    - Decrease Item 9892-501-3251 by $63,000
    - Decrease Item 9892-501-3270 by $22,000

- Shift in assessments to funds administered by the Department of Justice are being made in 2018-19, which result in a net zero dollar change. The changes in 2018-19 for these funds are summarized as follows:

    - Increase Item 9892-501-0017 by $2.6 million
    - Decrease Item 9892-501-0460 $325,000
    - Decrease Item 9892-501-9731 by $2.3 million

- Increases in the following items under the Department of Toxic Substances Control to provide for loan repayments in 2019-20:

    - Increase Item 9892-501-0014 by $1.9 million
    - Increase Item 9892-501-0557 by $1.9 million

- o Increase Item 9892-501-3301 by $61,000

The net effect of these adjustments is a $59.2 million decrease in 2018-19, and a $57.6 million decrease in 2019-20. According to the Administration, these changes do not have a material impact on the overall cost of the SB 84 loan.

**Staff Recommendation. Approve the Governor's budget proposal.**

## CONTROL SECTION 3.60

### Issue 21: Control Section 3.60

**Background.** The May Revision requests that Control Section 3.60 be amended to capture changes in state retirement contribution rates for state members of CalPERS and the Judges' Retirement System II (JRS II), adopted by the CalPERS Board on April 16, 2019 and February 21, 2019, respectively. The increase in state employer contribution is a result of normal progression of the existing amortization and smoothing policy, a reduction in the discount rate to seven percent, and increases in payroll.

The newly adopted state employer contribution rates result in additional state costs of $525.1 million, an increase of $3.5 million from the $521.5 million included in the Governor's Budget. The $3.5 million increase consists of an increase of $8.8 million General Fund, a decrease of $1.2 million special funds, and a decrease of $4.2 million in other nongovernmental cost funds.

The increase in the state employer contribution rate for JRS II members is attributed to the net effect of the most recent investment gain offset by a liability loss, as well as a change in actuarial method. The newly adopted rate results in General Fund costs of $85.2 million, a total increase of $6.4 million from the $78.8 million General Fund included in the Governor's Budget.

The aggregate effect of these changes on the General Fund is an increase of $15.3 million in fiscal year 2019-20 compared to Governor's Budget.

**Staff Recommendation. Approve the Governor's budget proposal.**

## ITEM 9800 – EMPLOYEE COMPENSATION

### Issue 22: Employee Compensation

**Background.** The May Revision requests that Item 9800-001-0001 be decreased by $961,000, Item 9800-001-0494 be decreased by $552,000, and Item 9800-001-0988 be decreased by $272,000 to reflect updated estimates to the dental and vision premium rates, natural changes to enrollment in health and dental plans, and updated employment information for salary increases and other post-employment benefit contributions. Additionally, while these figures include estimated health premium rates, the Administration notes that final health rates are not expected to be adopted by the CalPERS Board of Administration until June 2019.

It is also requested that provisional language in Item 9800-001-0001 be amended to ensure penalty assessments are applied to all employers (state agencies, departments, boards and the California State University) for their respective portion of penalties the state may face under the federal Patient Protection and Affordable Care Act. The IRS has been issuing penalties related to Penalty B (Employer Shared Responsibility), which are a result of part-time, temporary, and seasonal employees that may have been considered full-time for one or more months, were not offered or did not qualify for health benefits through the state, purchased health coverage from the Health Insurance Marketplace (known as Covered California), and received a premium tax credit or cost sharing reduction. The 2015 penalty was $347,100 and was paid October 10, 2018.

**Staff Recommendation. Approve the Governor's budget proposal.**

### Issue 23: Excluded and Exempt Employer Contribution Formula for Annuitants

**Background.** Through the collective bargaining process, new employees are now subject to a lower employer contribution for future retiree health benefits (80/80 percent contribution formula vs. 100/90 percent contribution formula). Existing language specifies the 80/80 percent employer contribution for annuitants applies to all 21 bargaining unit rank-and-file employees, related excluded employees, and state employees of the judicial branch.

However, existing statute pertaining to the 80/80 percent employer contribution formula does not clearly or explicitly state that this provision of law applies to exempt or excluded employees not related to a bargaining unit.

The May Revision proposes trailer bill language to specify that new excluded or exempt employees not related to a bargaining unit, or an officer or employee of the executive branch who is not a member of state civil service is subject to a lower employer contribution rate for future retiree health benefits under the 80/80 percent employer contribution.

**Staff Recommendation. Approve the Governor's trailer bill proposal.**

## 7350 DEPARTMENT OF INDUSTRIAL RELATIONS

### Issue 24: Subsequent Injury Benefit Trust Fund (SIBTF)

**Background.** On May 9th, the subcommittee heard the Governor's proposal to provide additional resources to address the SIBTF backlog. Specifically, the Governor proposes an increase of 30 positions and $4.8 million in 2019-20, 30 positions and $4.4 million in 2020-21 and 2021-22, 23.0 positions and $3.4 million in 2022-23, with 14 positions and $2.0 million in 2023-24 and ongoing from the Workers' Compensation Administration Revolving Fund to: 1) reduce caseload per claims examiner to a manageable level; and 2) provide sufficient claims examiners and attorneys to perform due diligence investigations and reduce the State's long-term liability from SIBTF claims. The resources requested by this proposal will reduce the caseload from 1,000 to 360 per examiner.

**Staff Recommendation. Approve the Governor's budget proposal.**

### Issue 25: Sexual Harassment Training for the Janitorial Industry

**Background.** On May 9th, the subcommittee heard the Governor's trailer bill proposal to clarify sexual harassment training for the janitorial industry. The trailer bill proposal:

- Requires, effective January 1, 2020, that new applicants for registration and renewal submit a written attestation to the Labor Commissioner stating that the training has been provided.

- Amends the definition of a covered janitorial "employer" to close a loophole that excludes from the registration requirement janitorial contractors who provide janitorial services through independent contractors or franchisees, but do not have any employees.

- Requires employers to ensure sexual harassment training is provided to all covered workers (meaning janitorial employees, franchisees, and independent contractors), not just employees.

- Specifies that employers must keep records for janitorial employees and other covered workers, rather than all of a covered employer's employees.

- Amends the successor liability provision to provide that a successor employer is liable for any wages and penalties its predecessor employer owes to any of the predecessor employer's former workforce, not just to the predecessor employer's former employees.

- Allows the use of a Taxpayer Identification Number where a Social Security Number is required for registration purposes, including for all individuals associated with the business, because inability to provide this number may have the unintended consequence of forcing these businesses further into the underground economy because they are unable to meet the registration requirements.

- Specifies that a successor employer is liable for damages its processor employer owes to its former workforce.

- Clarifies that sexual violence and harassment prevention training requirements for workers and employers is consistent with Section 12950.1 of the Government Code, as prescribed under SB 1343.

- Requires that janitorial businesses with unsatisfied judgments under the FEHA or for failure to secure adequate workers' compensation coverage are not eligible to register or renew their registration.

**Staff Recommendation.** Approve the Governor's trailer bill budget proposal.

**Issue 26: Garment Manufacturer's Special Account**

**Background.** On May 9th, the subcommittee heard an information item regarding the Garment Manufacturer's Special Account (GMSA). As discussed during the hearing, on April 24, 2019, the Administration processed and approved an Executive Order to transfer $3.9 million from the Unpaid Wage Fund (UWF) to the GMSA to pay unpaid garment wage claims. While individual claims can vary significantly depending on the underlying factors, the Administration estimates that the cost of claims covered by this transfer is approximately $24,000 each, impacting 162 workers. However, this leaves approximately 311 workers with $7.3 million in unpaid wage claims.

While the 2018-19 budget bill language appears to have provided a short-term solution to the fund imbalance, the subcommittee may wish to consider whether a long-term solution is needed. Specifically, the subcommittee may wish to consider whether the current fee structure of the GMSA is appropriate in meeting the needs of the millions of dollars in unpaid wage claims, or if there are other reforms or changes to ensure that workers receive their owed back wages. The subcommittee may wish to direct the Administration to develop a plan to address this issue, and establish a timeline to execute it.

**Staff Recommendation.** Appropriate $7.3 million General Fund one-time to the Garment Manufacturer's Special Account to address the backlog. Additionally, adopt budget bill language to authorize the transfer of any remaining unencumbered balance of the UWF into the GMSA in 2019-20. Additionally, adopt supplemental reporting language directing the Department of Industrial Relations to report to the Legislature by February 1, 2020 regarding recommendations to address the solvency of the GMSA, including but not limited to changing the current fee and registration structure of the GMSA and a timeline to implement the recommendations.

## Issue 27: Domestic Workers Outreach

**Background.** On March 28th, the subcommittee heard an informational item regarding domestic workers outreach.

In 1938, the U.S. Congress enacted the Fair Labor Standards Act introducing the forty-hour work week and establishing minimum wage and overtime protections for workers, with some exceptions including domestic workers and farmworkers. "Domestic workers" or "household workers" are generally comprised of housekeepers, nannies and caregivers of children and others, including the disabled and elderly, who work in private households to care for the health, safety and well-being of those under their care. According to a University of California, Los Angeles Labor Center report, 16 percent of all households in the state hire for housecleaning, childcare or homecare support, with as many as two million households in California hire domestic workers. About two-thirds reside in Southern California, 26 percent in the Northern California and 11 percent in Central California. Based on labor market information from the EDD, the report finds that by 2022, the number of personal care aides in California will increase by 52 percent to over half a million workers.

**Staff Recommendation.** Appropriate $5 million one-time General Fund to DLSE to conduct outreach to increase awareness of worker rights and enforcement.

## Issue 28: Private Attorneys General Act

**Background.** The Private Attorneys Genera Act (PAGA) authorizes an aggrieved employee to bring a civil action to recover specified civil penalties that would otherwise be assessed and collected by the Labor Workforce Development Agency (LWDA), on behalf of the employee and other current or former employees for certain violations of the Labor Code. Existing law:

1. Requires the aggrieved employee to follow prescribed procedures before bringing an action under PAGA, including but not limited to, giving written notice to both the LWDA and the employer of the provisions of the Code allegedly violated as well as facts supporting the claim.

2. Requires that the LWDA provide written notice to the employer and the aggrieved employee or representative as to whether it intends to investigate the alleged violation within 60-65 calendar days of the postmark date of the written notice.

3. Provides that, in the event the LWDA decides to investigate the alleged violation, it has up to 180 calendar days to investigate and cite the employer.

4. Provides, with certain exceptions, the following distribution of civil penalties under PAGA: 75 percent to be distributed to the LWDA for enforcement of labor laws and for education of employers and employees about their rights and responsibilities, and 25 percent to be distributed to the aggrieved employees.

5. Requires superior court review and approval of any settlement under PAGA.

The 2016-17 budget provided ten positions and $1.6 million in resources from Labor and Workforce Development Fund (LWDF) for the 2016-17 fiscal year and $1.5 million ongoing to increase the number of staff to review notices and oversee the PAGA program.

**Governor's Budget Proposal**

The May Revision proposes 12 positions and $1.97 million in 2019-20, and $1.8 million ongoing from the LWDF to increase DIRs capacity to review PAGA cases. The positions are as follows:

- Two information technology specialists
- Four associate governmental program analysts
- Two attorneys
- Two deputy labor commissioner I
- Two deputy labor commissioner II

The Administration notes that the resources requested by this proposal will have investigatory impact by allowing the unit to carry out all necessary enforcement related activities within the 180-day statutory time frame to cite or sue an employer.

| Workload Measure | 2015/16 | 2016/17 | 2017/18 | 2018/9 | 2019/20 | 2020/21 |
|---|---|---|---|---|---|---|
| PAGA Notices Filed | 5,510 | 3,707 | 5,383 | 5,718 | 6,074 | 6,452 |
| Notices Reviewed | N/A | 1,694 | 1,339 | 244 | 366 | 488 |
| Pre-Investigations | N/A | 23 | 26 | 25 | 37 | 49 |
| Case Investigations (cases retained) | N/A | 14 | 16 | 16 | 23 | 30 |
| Number of PAGA Notices in which one or more violations is curable | N/A | 1,629 | 2,195 | 1,912 | 2,103 | 2,314 |
| Number of Employer Responses/Cures filed | N/A | 121 | 261 | 287 | 316 | 347 |
| Number of Cure Disputes | N/A | 24 | 53 | 58 | 64 | 71 |
| Cure Decisions Issued | N/A | 1 | 27 | 28 | 38 | 48 |
| Settlements Reviewed | N/A | 476 | 1,070 | 773 | 928 | 1,005 |
| Court Comments Regarding Settlements | | | | 2 | 6 | 9 |
| Amicus Briefs | | | | 1 | 4 | 6 |

DIR states that while they receive hundreds of notices each month, DIR chooses to prioritize cases that could potentially be the most impactful for employees. Specifically, PAGA notices have enabled DIR to identify serious violations that in many cases would otherwise have remained underground. Each PAGA notice is submitted by a private attorney after the attorney has done an initial investigation with workers, and it helpfully identifies alleged wrongdoing employers and contact information for potentially aggrieved employees. The effort the PAGA Unit put into its investigations and prosecutions resulted in several high impact results:

- The PAGA Unit settled a case in February 2019 with an employer it had cited for an intentional failure to pay employees overtime premium pay (1.5x) and systematic failure to provide sufficient or timely meal breaks. The settlement amount was $1.1 million, with $1 million to be paid to employees.

- The PAGA Unit issued citations exceeding $4 million for an employer's misclassifying as independent contractors its employees, who were paid a flat daily rate for up to 14 hours of work performing dangerous rodent, debris and insulation removal in hot, confined spaces in private homes. Based on the PAGA Unit's referral, the district attorney filed felony charges against the company owner, and is demanding full restitution for the workers.

- The PAGA Unit issued several citations totaling over $3 million to ten interconnected meat processing entities operating in the underground economy that jointly employed 100 employees, most of whom were intentionally misclassified.

If approved, the Administration believes that this BCP will help expand on these early results.

An attorney reviews each proposed court settlement submitted to the LWDA for specific criteria evidencing legality, fairness and robustness or lack thereof, such as over breadth, requiring a claim to receive money, or reversions of funds to the employer or settlements which favor the PAGA plaintiff to the detriment of other aggrieved employees. This review has revealed that the substantial majority of proposed settlement agreements proposed to superior courts and filed with the LWDA did not sufficiently protect the interest of workers and the state. Though current staffing provides some bandwidth to file comments in response to proposed settlement agreements, LWDA seeks additional staffing to augment this function.

Seventy-five percent of the 1,546 settlement agreements reviewed by the PAGA Unit in fiscal years 2016-17 and 2017-18 received a grade of fail or marginal pass, reflecting the failure of many private plaintiffs' attorney to fully protect the interests of the aggrieved employees and the state. It is natural for courts to approve settlement agreements when all the parties they have heard from – the plaintiff and defendant – advocate in favor of a particular outcome. LWDA has to date taken a cautious approach regarding submission of comments regarding proposed settlements of PAGA claims, only filing comments to proposed settlement agreements in four cases.

**Staff Recommendation. Approve as proposed.**

**Issue 29: Lead Exposure Limits**

**Background.** The subcommittee heard this issue on May 9th.

**Status of Cal/OSHA's Occupational Lead Exposure Standards.** Since 2011, Cal/OSHA has been working on revisions to the lead standards in the safety orders pertaining to construction and general industry. According to DIR, there were six advisory meetings with stakeholders, which resulted in six versions of draft regulations. Revisions to the lead standard were completed in 2016 but they have yet to be finalized.

According to Cal/OSHA "the revised standards are undergoing a standardized regulatory impact analysis (SRIA), as required by Government Code Sections 11346.3(c) and 11346.36. SRIAs are required for any regulations with an economic impact of $50 million or more.

DIR notes that the SRIA was informally submitted to DOF for input. The SRIA is currently undergoing a final internal review at DIR, and will be formally submitted to DOF for approval in early summer. The review will be included in the Initial Statement of Reasons, along with a summary and analysis of DOF's comments, as part of the package that will be submitted to the Office of Administrative Law to commence rulemaking.

Formal rulemaking can take up to one year from the date that the OSHSB is ready to issue the notice of proposed rulemaking. The Administration estimates that rules will be complete by mid-2020.

**Staff Recommendation. Adopt placeholder trailer bill language, as follows:**

> ***Section 105258 is added to the Health and Safety Code, to read:***
>
> ***(a) The Division of Occupational Safety and Health shall complete rulemaking to establish a revised permissible exposure limit for lead in the lead standards of the general industry safety orders (Section 5198 of Title 8 of the California Code of Regulations) and the construction safety orders (Section 1532.1 of Title 8 of the California Code of Regulations) by February 1, 2020.***
>
> ***(b) The division may promulgate emergency regulations as necessary to implement this section.***

## 7501 California Human Resources Department (CalHR)

### Issue 30: Nonindustrial Disability Insurance Program

**Background.** This issue was heard in subcommittee on April 25th. The Administration proposes trailer bill language to expand nonindustrial disability insurance (NDI) benefits for excluded state employees. Specifically, on July 1, 2019, excluded employees enrolled in the annual leave program will be able to take up to six weeks paid time off to care for a seriously ill family member or to bond with a new child. This new benefit would be approximately 50 percent of an excluded employee's salary, with the option to supplement with leave for full salary. On July 1, 2021, family care leave under the NDI program will be expanded to cover qualifying exigency leave related to the covered active duty or call to covered active duty of the employee's family member in the U.S. Armed Forces.

According to the Administration, this program is to provide excluded employees parity to what they might have been eligible to receive as rank-and-file employees under the SDI program for family care leave and bonding time with a new child. In 2018, there were approximately 41,600 excluded state employees, of which, 46.6 percent were enrolled in the annual leave program. This means that approximately 19,000 excluded state employees would be eligible for this new benefit. This additional benefit would cost approximately $4.3 million ($1.9 million General Fund); however, the Administration notes that the departments are expected to absorb this additional cost.

**Staff Recommendation. Approve as proposed.**

### Issue 31: Statewide Human Resources Workload

**Background.** The Administration requests one position to provide human resources management over the Office of Digital Innovation at CalHR. The Governor's January budget proposal requested the creation of the Office of Digital Innovation with 50 civil service employees. The subcommittee earlier this week modified the Governor's proposal and only authorized the office to have 20 positions. As a result of this action, the staff recommendation is to reject the additional position.

**Staff Recommendation. Reject.**

## 7100 Employment Development Department

### Issue 32: Claimants Privacy Measure

**Background**

The EDD is responsible for administering the state's Disability Insurance Program, Unemployment Insurance Program, collecting payroll taxes, and providing employment services to millions of Californians. Due to the unique nature of each of these critical programs, EDD collects personal information for a variety of purposes. Currently, the Social Security Numbers (SSNs) is the primary way the EDD can uniquely identify a person and their associated wages and employment history to accurately pay benefits. The EDD has used the SSN as the unique identifier within its benefit systems and on accompanying program forms and correspondence since shortly after the enactment of the Social Security Act of 1935. As such, the existing system's dependency on SSNs is imbedded throughout millions of lines of legacy mainframe code.

The EDD has estimated that an effort to remove the SSN dependency from existing systems and the ten high volume forms could cost over $25 million and take nearly four years to complete. Due to the significant investment required, and the progress that the EDD has made to date in minimizing its usage of SSNs, the EDD's final solution to this issue is the Benefit Systems Modernization project, which will eliminate its dependency on SSN usage entirely. Ultimately, the Benefit Systems Modernization project will modernize the EDD benefit systems and implement a unique identifier for claimants that is not based on any personally identifiable information. The new unique identifier will be used as needed on print and online correspondence to ensure accurate traceability of claim information without compromising personal data. Until the Benefit Systems Modernization project is implemented, the EDD needs to utilize an alternative solution to ensure the privacy of claimants' information.

**Governor's Budget Proposal**

The May Revision proposes $1.8 million and 9.3 positions in 2019-20, $2.1 million and 10.5 positions in 2020-21, and $0.1 million and 0.6 positions in 2021-22 funded equally by the General Fund and the Disability Insurance Fund. These resources will enable EDD to replace SSN with a modified unique identifier on the top ten mailed documents with the highest volume that currently display an SSN.

According to the Administration, this proposal is consistent with the California State Auditor's audit that outlined recommendations for the EDD to eliminate the use of SSNs on mailed forms, including replacing full SSNs with a modified unique identifier.

EDD will be replacing the full SSNs on the ten highest volume forms with a modified unique identifier and will significantly reduce the number of forms mailed by EDD with full SSNs. EDD is evaluating the resources and timeline necessary to address the remaining documents containing SSNs.

**Staff Recommendation. Approve as proposed**

## 7120 California Workforce Development Board (CWDB)

### Issue 33: Assembly Bill 1111 (E. Garcia), Chapter 824, Statutes of 2017

**Background.** This item was heard in subcommittee on April 25. The Governor requests six positions (one staff services manager I, one research analyst II, and four associate governmental program analysts) and redirection of $914,000 General Fund in 2019-20, and $1.2 million in 2020-21 and 2021-22 to administer and oversee the AB 1111 grant. This results in a total of $3.3 million or 22 percent redirection from the $15 million grant that was approved in the 2018-19 budget.

AB 1111 established the Breaking Barriers to Employment Initiative for the purpose of assisting individuals who have multiple barriers to employment to receive the remedial education and work readiness skills to help them to successfully participate in training, apprenticeship, or employment opportunities that will lead to self-sufficiency and economic stability.

CWDB notes that they plan to provide assistance to grantees and work closely with grantees through the life of the grant. They plan to provide frequent project check-ins, resolve issues, and offer technical support. Managers and analysts will develop community of practice for each program to build support network for grantees to learn from each other through meetings, webinars, and conference calls. Program managers oversee the development of materials from policy briefs to best practices, highlighting solutions.

**Staff Recommendation. Approve as proposed.**

### Issue 34: Workforce Innovation Opportunity Act Discretionary Federal Funds

**Summary.** The Governor’s May Revision proposes $57.2 million in state-level discretionary federal Workforce Innovation Opportunity Act (WIOA) funding in 2019-20, a $4.1 million decrease relative to 2018-19.

**Background.** Federal law provides that a certain portion of federal WIOA funding, up to 15 percent, may be held by the state for “statewide workforce investment activities,” while the remainder of WIOA funds are passed on to Local Workforce development boards to provide services to unemployed or underemployed adults and youth. The statewide funds are sometimes referred to as “discretionary funds.” The actual amount of discretionary funds that may be reserved at the state level, subject to the 15 percent cap, depends on congressional appropriations.

The May Revision decreases funding for some previously funded items while making offsetting increases in other previously funded items.

1. **Comprehensive Services in AJCC’s - $4.7 million** (this represents a $900,000 decrease from 2018-19). This supports Unemployment Insurance (UI) trained staff at America’s Job Center of California (AJCC) sites to perform UI activities. UI trained staff will provide in-person guidance to individuals, including individuals identified as having barriers, in filing a UI claim and using the EDD website.

2. **Audit, Compliance and Fraud Prevention - $6.1 million** (this represents an increase of $200,000). These funds are used to monitor state and local operations for reporting,

compliance, and performance requirements; provide oversight to ensure proper use of information; investigate potential fraudulent activity; and prevent fraud.

3. **Labor Market Information Program - $2.8 million** (this represents an increase of $100,000). Funds are used to analyze and calculate the funding level for each Local Workforce Investment Area based on the WIOA requirements, and to provide planning assistance and training to the Local Workforce Investment Boards and AJCCs.

4. **Local Program Oversight and Technical Assistance - $9.9 million** (this represents an increase of $400,000). Funds are used to administer the various federally mandated activities including policy development and dissemination; data collection and reporting; as well as providing technical assistance, project management and oversight of all WIOA programs

5. **Financial Management and Information Technology - $3.3 million** (this represents an increase of $100,000). Funds are used to manage and maintain the CalJOBS$^{SM}$ system; develop and integrate the Eligible Training Provider Listing system; provide technical assistance for the CalJOBS$^{SM}$ system; and conducts Feasibility Study Reports to support the upgrading and development of WIOA systems.

6. **CAAL-Skills: Performance and Participant Data Alignment - $1.5 million** (this represents a decrease of $500,000). Funds support the development and implementation of state-level and local data sharing to allow job seekers to more easily utilize multiple workforce education, training, and employment services without having to unnecessarily duplicate programs or services. A common data sharing system is also required for common WIOA performance reporting to the federal government.

7. **CWDB Administration, Policy Development and Program Partner Coordination - $4.8 million** (this represents an increase of $100,000). Funds are used to perform operational, administrative, policy and program coordination duties for CWDB.

8. **Regional Workforce Accelerator Program - $3.1 million** (this represents a decrease of $3.9 million). This program funds grants to community organizations, workforce boards, schools, labor organizations and other worker-centered programs to test, scale, and duplicate innovative approaches that accelerate employment for disadvantaged populations. Emphasis is on the development of new strategies that align community organizations, including worker centers, on projects that address job quality or with existing and new High Road Training Partnership for placements in quality jobs. Funds will also support technical assistance, intermediary training, and program assessment.

9. **CalJOBS$^{SM}$ - $2.3 million** (this represents an increase of $700,000). Funds support CalJOBS$^{SM}$ improvements that will help increase the number of job postings in the CalJOBS$^{SM}$, improve customers' ability to search and apply for jobs, modernize record keeping operations, enhance employment services tracking efforts, support collaboration and sharing of data, and amplify employer outreach efforts.

10. **CalJOBS$^{SM}$ and AJCC Evaluations - $1.5 million** (this is a new appropriation). This will fund a 3rd party independent evaluation of California's case management and workforce performance data reporting system to ensure that the system is meeting the needs of the state and local workforce development boards, workforce agency partners, and job seekers.

11. **Regional Plan Implementation - $5.4 million** (this represents a $600,000 decrease). This supports grants to Regional Planning Units identified in the State Workforce Development Plan to support regional plan implementation (plans were submitted in March 2019), including establishing decision-making and governance agreements, administrative efficiencies, coordinated industry engagement work using the High Road Training Partnership model, co-enrollment of participants, and performance tracking and reporting across workforce agency and program jurisdictions. Funds will also support technical assistance, intermediary training, and program assessment.

12. **English Language Learner Navigator - $1.8 million** (this is a new appropriation). Funds grants to local initiatives that implement a navigator model to outreach, recruit, case manage, and support English Learners in the workforce system. This program is intended to improve services to English Learners, reduce/eliminate barriers to employment, build system wide capacity to serve this population, and increase alignment among WIOA partners and identify, develop, and share best practices. Partnerships will be composed of at a minimum a local workforce development board, an adult education partner, and a community organization partner. Partnerships with other WIOA partners including Health and Human Service Programs (CalFresh, CalWORKS etc.) as well as local organizations providing supportive services will be encouraged.

**Staff Recommendation. Approve as proposed.**

## 0911 CITIZEN'S REDISTRICTING INITIATIVE

### Issue 35: Statewide Outreach Program for the Redistricting Process

**Budget.** The Budget proposes $17 million one-time General Fund for the Citizens Redistricting Initiative. These funds would be available for a three-year period. The funding will support efforts of the Citizen Redistricting Commission and the State Auditor throughout the redistricting process associated with the 2020 Census.

**Background.** Proposition 11, the Voters FIRST Act, was approved by the voters on the November 4, 2008 General Election Ballot. Proposition 11 changed the redistricting process by establishing a 14-member Citizens Redistricting Commission (Commission) to draw the new district boundaries for the State Assembly, State Senate, and Board of Equalization beginning with the 2010 Census. Pursuant to Government Code Section 8252, the State Auditor is responsible for administering the selection process for the Commission. Existing law specifies that a minimum of $3 million in funding be provided to the State Auditor and the Commission, or the amount appropriated for the previous redistricting plus CPI, whichever is greater. The total amount provided during the last redistricting cycle was $5.4 million. The minimum amount that must be provided pursuant to existing law is approximately $6.9 million.

**Staff Recommendation.** Decrease the appropriation by $189,000, and adopt placeholder budget bill language implementing the Citizens Redistricting Initiative. Appropriate $1,915,000 to the University of California to maintain the Statewide Database and provide public access to redistricting software.

## 7600 DEPARTMENT OF TAX AND FEE ADMINISTRATION

### Issue 36: Wayfair Clean-Up TBL

**Governor's Budget.** The May Revision proposes trailer bill language to limit the California Department of Tax and Fee Administration (CDTFA) to 3-year look back for back taxes.

**Background.** The U.S. Supreme Court's ruling in *Wayfair v. South Dakota* in June 2018 gives states more authority to require out-of-state sellers to collect use tax. AB 147 (Burke), Chapter 5, Statutes of 2019, clarified the economic nexus thresholds that California will use to determine if out-of-state retailers are required to remit use tax to California, effective April 1, 2019. Additionally, AB 147 requires marketplace facilitators to collect and remit sales and use tax on behalf of their marketplace sellers, effective October 1, 2019. The Wayfair decision and AB 147 are expected to increase sales and use tax (SUT) revenues by $174 million in 2018-19 and $616 million in 2019-20. The May Revision proposes that CDTFA limit the look-back to 3 years of back taxes, and this is consistent with the revenue forecast.

The TBL would limit the SUT liability of certain out-of-state retailers under certain conditions. To qualify for this benefit, retailers must:

- Have been required to pay SUT solely because a marketplace facilitator (as defined in the recently passed AB 147) stored and facilitated delivery of the retailer's goods in California. (As we understand it, these taxes were owed under state law prior to Wayfair, so enforcement of them would not constitute retroactive enforcement of Wayfair.)
- Not have been registered to pay California SUT prior to December 1, 2018, and not have filed SUT returns or made SUT payments prior to being contacted by CDTFA.
- Must register to pay SUT within 90 days of the effective date of the new law and must pay all tax liabilities incurred since April 1, 2016.

Qualifying retailers would, in effect, have to pay roughly three years of taxes instead of the eight years for which they could be liable under current law. They also would be relieved of any associated penalties.

In addition to the Governor's proposal, the California Department of Tax and Fee Administration (CDTFA), tax practitioners, and other interested parties identified the following issues where changes to AB 147 are immediately needed:

1. AB 147 enacted the Marketplace Facilitator Act, which deems a marketplace facilitator as the retailer for each sale it facilitates on behalf of marketplace sellers for both sales and use taxes, thereby shifting the requirement to register with CDTFA, and collect and remit tax, from marketplace sellers onto marketplace facilitators. AB 147 provided that newspapers, internet websites, and other entities that advertise property for sale, but do not transmit or otherwise communicate the offer and acceptance for the sale, and do not process payments for third parties, are not facilitating a sale for purposes of the Act. However, some marketplace facilitators operate platforms where they connect a buyer with a seller, but do not participate any further in the sale, which would potentially trigger a tax collection responsibility for the platform when they are not actually aware of the sales prices because the buyer and seller complete the sale offline. Clarification is needed to these provisions to state that newspapers, internet websites, and other entities that advertise tangible personal property for sale; that refer purchasers to the marketplace seller by telephone, internet link, or other similar means to complete the sale; and do not participate further in the sale; are not facilitating a sale for purposes of the Act.

2. AB 147 exempts from the definition of marketplace facilitator, a person that is a "delivery network company," as defined. The exemption responded to concerns from firms who accept orders of taxable items from purchasers on their internet application, then arrange with a person who purchases the items and pays sales tax to a currently registered retailer, and subsequently delivers the items to the purchaser. But for the exemption, these firms would be considered marketplace facilitators despite tax being paid when the delivery driver purchases the items. However, some delivery network companies indicated that they may want to be considered a marketplace facilitator. Clean-up is needed that directs CDTFA to allow a delivery network company to elect to become a marketplace facilitator in a form, manner, and duration determined by CDTFA, and requires CDTFA to issue regulations allowing for such an election.

3. AB 147 changed the threshold for both in-state and out-of-state retailers to collect and remit district taxes, which are additional sales and use taxes approved by voters in some jurisdictions in the state on top of the current state sales and use tax rate of 7.25 percent. According to the CDTFA notice effective on April 1, 2019, retailers must collect district taxes in any of the

state's 317 jurisdictions with a district tax when it has total sales of more than $100,0000 or enters into more than 200 transactions in that district. AB 147 replaced this threshold with one that provides that whenever a retailer sells property with a cumulative sales price of more than $500,0000 in the current or previous calendar year statewide, it must also collect any applicable district tax regardless of the amount of its sales in that particular district, also effective on April, 1, 2019. The Governor signed AB 147 on April 25th, so some retailers are concerned that they did not collect the correct amount of district tax because of the change in the threshold. The clean-up would change the district tax threshold effective date consistent with the bills signing date.

**Staff Recommendation.** Approve placeholder trailer bill language.

# ITEMS FOR DISCUSSION / VOTE

## 7730 FRANCHISE TAX BOARD (FTB)

### Issue 37: Individual Health Mandate and Expanded Subsidies

**Proposal.** The May Revision includes $8.2 million General Fund and 50 positions ($8.1 million and 100 positions ongoing) to administer the penalty and subsidies associated with the proposed Minimum Essential Coverage Individual Mandate and the Affordable Care Access Plus Program.

**Background.** Title 24 (commencing with Section 100700) has been added to the Government Code for the Minimum Essential Coverage Individual Mandate. The individual mandate imposed by this title, and the penalty imposed by Part 32 (commencing with Section 61000) of the Revenue and Taxation Code, are necessary to protect the compelling state interests of:

1. Protecting the health and welfare of the state's residents.
2. Ensuring access to affordable health care coverage in this state.
3. Ensuring a stable and well-functioning health insurance market in this state.

For each month beginning on or after January 1, 2020, an applicable individual shall be enrolled in and maintain at least minimum essential coverage for that month. If an applicable individual fails to meet the requirements of Section 100705 of the Government Code for one or more months, then, except as provided in Section 61020, there is imposed a penalty on the applicable individual with respect to that failure in the amount determined under Section 61015. This penalty is referred to as the Individual Shared Responsibility Penalty. A penalty imposed by this section with respect to any month shall be included with an applicable individual's return.

FTB's civil authority and procedures for purposes of compliance with notice and other due process requirements imposed by law to collect income taxes shall be applicable to the collection of the Individual Shared Responsibility Penalty. Monies collected from the Individual Shared Responsibility Penalty shall be deposited into the General Fund.

Title 25 (commencing with Section 100801) has been added to the Government Code for the Affordable Care Access Plus Program. This program is being established to help low-income and middle-income Californians access affordable health care coverage through the California Health Benefit Exchange (Exchange). The program will provide financial assistance to California residents with household incomes at certain income levels compared to the Federal Poverty Level and may provide other appropriate subsidies designed to make health care coverage more accessible and affordable for individuals and households.

The FTB is requesting resources as follows:

Filing Division Contact Center – 18 permanent positions in 2020-21 (33 ongoing). The positions within the contact center will respond to increased calls, correspondence, and live chats. Reporting and reconciling healthcare penalties and subsidies at the state level is a new requirement for taxpayers and practitioners and will generate pre-filing questions which will result in additional contacts.

Filing Division Hiring and Training – Three one-year limited-term positions. The positions will provide support to the division's managers and act as a liaison to HR in regard to the hiring process and prepare training materials and provide the necessary training to staff.
Filing Division Fraud and Discovery – Eight permanent positions beginning in 2020-21. The positions will address the risk of fraud due to exploiting the subsidy.

Filing Division Processing – 14 permanent, eight temporary help, and 15 PI positions in 2020-21 (16 permanent positions ongoing). The Individual Healthcare Mandate will require intake and processing of the following information: paper and electronic third party data, calculation of penalty forms and waivers, and subsidy reconciliation forms.

Technology Services Division – 10 permanent and 36 three-year and 4 two-year limited-term positions in 2019-20. The work of the information technology staff includes the development, design, quality assurance and testing for the systems needed to execute the Health Care Mandate and Subsidy Reconciliation.

Accounts Receivable Management Division – Five permanent and one one-year limited term positions beginning in 2020-21 (eight permanent positions ongoing). These resources are for FTB to place one position each in a Southern California field office and a Northern California field office to provide public counter service to tax payers, add eight positions to answer additional calls, and create a new Installment Agreement notices for penalty and revise existing notices.

Finance and Executive Services Division – One permanent position in 2020-21. The position will research, monitor and validate sources of data, extract and analyze data, compile and distribute annual reports, respond to data and revenue requests, and work with third parties regarding data and coverage.

**Staff Recommendation.** Approved as budgeted.

## 7600 Department of Tax and Fee Administration

### Issue 38: Sales and Use Tax Exemptions: Menstrual Hygiene Products and Diapers

**Governor's Budget.** The May Revision includes trailer bill language that, on and after January 1, 2020, and until January 1, 2022, would exempt from those taxes the gross receipts from the sale of, storage, use, or other consumption of, menstrual hygiene products and diapers for infants, toddlers, and children. The Administration estimates that these exemptions will reduce General Fund revenue by $17.5 million in 2019-20 and $35 million in subsequent years. Total state and local revenue losses are estimated to be $38 million in 2019-20 and $76 million in subsequent years.

**Background.** Existing law exempts a number of products from California's sales and use tax. Many types of food and prescription medicines, as well as utilities such as gas, water and electricity, are all exempt. These exemptions are typically referred to as "necessities of life," but this type of exemption is not applied consistently. For example, feminine hygiene products, toilet paper, clothing, shoes, soap and diapers are all subject to the sales tax.

**Legislative Analyst's Office (LAO).** The LAO provided the following comments regarding these proposals:

- **Diaper Exemption Less Targeted Than Alternatives.** The diaper exemption would provide a broad but limited benefit to parents. Alternatives could provide more substantial benefits to families with the greatest needs. For example, instead of providing the exemption for one year (estimated $24 million General Fund, $52 million total), the state could fund roughly 1,600 additional child care slots, provide $28 million to local programs, provide $9.2 million to schools through Proposition 98, and (counterintuitively) reduce required reserve deposits and debt payments by $1.5 million.

- **Consider Broad Range of Options for Addressing Equity Concern.** Some have raised an equity concern regarding the application of sales tax to menstrual products. One could raise similar equity concerns regarding the personal income tax and several other major programs. To the extent that addressing this equity concern is a policy priority, we encourage the Legislature to consider a broad range of options across these program areas.

- **Two Years Is Too Short.** Under the Governor's proposal, these exemptions would last just two years**.** In our view, if the Legislature wants to enact these exemptions, somewhere in the range of four to ten years is more reasonable. Given the different policy rationales for the two exemptions, the Legislature could consider an expiration date towards the earlier end of this range for the diaper exemption and towards the later end for the menstrual products exemption.

**Staff Recommendation.** Approve as budgeted.

## 0515 BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY

### Issue 39: Homeless Coordinating and Financing Council

**Governor's Budget.** The budget requests $981,000 General Fund and 6.0 positions in 2019-20 and 2020-21, and $503,000 and 3.0 positions ongoing to expand the Homeless Coordinating and Financing Council (Council) staff and effectively carry out statutory mandates and Council goals to further reduce the growth and prevalence of homelessness in California.

**Background.** Current law establishes the Council and sets several statutory mandates and goals including: identifying and seeking funding opportunities; brokering agreements between state agencies, state departments, and local jurisdictions; serving as a statewide facilitator, coordinator, and policy development resource; and overseeing the state's implementation of the Housing First policy. The composition of the Council includes up to 17 appointments by the Governor, one stakeholder appointed by the Senate Committee on Rules, and one stakeholder appointed by the Speaker of the Assembly. In addition to implementing Housing First and administering the one-time Homeless Emergency Aid Program (HEAP) funding, the Council is working to effectively carry out these mandates and develop a strategic approach to address homelessness in California. Pursuant to Chapter 48, Statutes of 2018, (SB 850), the Council was moved from the Department of Housing and Community Development to the Business, Consumer Services and Housing Agency (Agency), staffed with three permanent staff - an Executive Officer, a Research Data Specialist II (RDS II), and an Associate Governmental Program Analyst (AGPA) - and tasked with the creation and administration of the $500 million Homeless Emergency Aid Program (HEAP). Through a $1 million carve-out, three one-year limited-term positions were established to implement HEAP - a Staff Services Manager III (SSM III) and two Staff Services Manager lis (SSM Ms). Subsequently, Chapter 841, Statutes of 2018, (SB 918), included a focus on homeless youth led to the expansion of the Council's policy mandate and an additional two full-time staff members - one SSM II focused on policy and an SSM I focused on local partnerships.

**Staff Comments.** HCFC has indicated that the three limited-term positions would provide ongoing support to HEAP and provide ongoing oversight, technical assistance and fiscal monitoring of grantees. The three permanent positions would support the creation of a new Deputy Secretary for Homelessness, as well as additional administrative support.

HCFC has done an effective job in implementing the original HEAP allocation. As homelessness continues to be a central issue in the state, HCFC is likely to remain centrally engaged. As such, the additional resources are generally reasonable.

**Staff Recommendation.** Approve as Budgeted.

**Issue 40: Governor's Homelessness Proposal**

**Governor's Budget.** The May Revision includes $650 million in one-time General Fund resources to fund grants to address homelessness, administered by the Homeless Coordinating and Financing Council (HCFC). This is a request of $150 million increase from the Governor's January budget, with accompanying changes to the proposed program structure.

The Administration has also requested trailer bill language to allow the use of CalTrans air space (space along the department's right of way) for emergency homeless shelters.

**Background.** The Budget Act of 2018 made a significant $500 million investment to support local approaches to addressing homelessness. These Homeless Emergency Aid Program (HEAP) funds provided flexible grants that could be used for emergency housing vouchers, rapid rehousing, and emergency shelter construction, among other uses. Jurisdictions were eligible if they declared a local shelter crisis and identified city-county coordination.

The Governor's January proposal included $500 million to address homelessness. This included resources to fund grants for regional planning ($300 million) and meeting milestones ($200 million). The January budget also proposed that this program be administered by the Homeless Coordinating and Financing Council (HCFC).

**Staff Comments.** This proposal updates and modifies the Administration's January budget proposal for homelessness in the following ways:

- ***Increases Grants to Communities Meant to Address Homelessness by $150 Million.*** The May Revision increases the homelessness proposal to $650 million one-time General Fund. These funds would be administered by the Homeless Coordinating and Financing Council as part of the Homeless Aid for Planning and Shelter Program. Communities would have through 2022-23 to use the funds.

- ***Expands Eligible Uses of Grants.*** The Governor offers communities significant flexibility on the use of these funds, including, emergency shelters, navigation centers, rapid rehousing, prevention, permanent supportive housing, job programs, and hotel/motel conversions.

- ***Repurposes General Purpose Grants Towards Services for the Homeless.*** In addition, the Governor's May Revision no longer includes any flexible incentive funding. Instead, all of the funding would be used directly by communities for various services for the homeless. Specifically, the state's 13 most populous cities would receive $275 million, counties would receive $275 million, and Continuums of Care—local entities that administer housing assistance programs within a particular area, often a county or group of counties—would receive $100 million. The allocations would be based on the 2019 homeless point-in-time counts.

Given the healthy General Fund projected in the May Revision, providing additional funds to address homelessness is appropriate. The programmatic changes proposed here generally align with the Senate homelessness framework adopted in Subcommittee No. 4 on May 9, 2019, but do differ in some key ways. Specifically, the Administration's proposal differs in the distribution of funds between cities, counties, and Continuums of Care, and in the creation of a new program instead of using an existing program. Because the Senate has already adopted a framework to address homelessness, the newly proposed trailer bill language is not necessary.

While the proposed trailer bill language on the use of Caltrans airspace has merit, it is a larger statewide policy change that should be reviewed through the policy process.

**LAO Comments.** In the LAO's analysis of the Governor's January budget, they noted that the proposals to reward communities for reaching milestones in developing shelters with flexible funding (incentives totalling $200 million General Fund) may not produce the desired results. The LAO urged the Legislature to consider alternative uses of these funds that would yield more certain benefits. The Governor's May Revision proposals to repurpose the flexible incentive funding towards various services for the homeless individuals would produce more certain outcomes in the state's efforts to address the housing shortage and homelessness.

**Staff Recommendation.** Adopt $650 million for Senate homelessness package. No action on the proposed homelessness trailer bill language. Reject the proposed language on Caltrans airspace without prejudice.

## 0650 GOVERNOR'S OFFICE OF PLANNING AND RESEARCH (OPR)

### Issue 41: California For All Emergency Preparedness Campaign Administration

**Governor's Budget.** The budget requests $387,000 General Fund in 2019-20 and $191,000 General Fund in 2020-21 to support California Volunteers with the implementation of the California For All Emergency Preparedness Campaign and the administration of the local assistance grants over a period of one and a half years.

**Background.** Chapter 1, Statutes of 2019 (AB 72) allocated $30 million to the California Volunteers and $20 million to the California Governor's Office of Emergency Services (Cal OES) to empower and engage local communities in California in emergency preparedness. Focusing specifically on California's diverse and most vulnerable populations, the effort will invest directly in targeted regions and communities to help transform and improve how Californians get prepared. California Volunteers, in coordination with Cal OES, is in the process of releasing 10 grant funding opportunities (Requests for Proposals or RFPs), 7 of which will be directly administered by California Volunteers. These 7 RFPs represent a total investment of $30 million.

**Staff Comments.** Currently, California Volunteers oversees the management of over $40 million in total funds from the federal Corporation for National and Community Service (CNCS), as well as $30 million from AB 72 to support efforts to increase emergency preparedness throughout the State of California. OPR was not provided any administrative funds to oversee the California Volunteers portion of the AB 72 grants.

The Administration has indicated that the requested positions will include communications, grants, and contracts specialists, and will provide 18 months of support. The requested positions are intended to both support the administration of the AB 72 grant programs and provide outreach and communications to grantees or potential grantees. The requested resources seem generally reasonable, and are in-line with the intentions of AB 72.

**Staff Recommendation.** Approve as Budgeted.

## 0968 California Tax Credit Allocation Committee

### Issue 42: Low Income Housing Tax Credits

**Governor's Budget.** The budget requests an additional $500 million for the state low-income housing tax credit (LIHTC) program, split into two components; $300 million for the existing LIHTC and $200 million for a new program that targets housing development for households with incomes between 60 to 80 percent of area median income (AMI). The Administration has proposed new trailer bill language guiding these funds as part of the May Revision.

**Background.** A major source of financial assistance for affordable housing is the federal Low Income Housing Tax Credit (LIHTC) program. The LIHTC is an indirect federal subsidy developed in 1986 to encourage the private development of affordable rental housing for low-income households. The federal LIHTC program enables affordable housing sponsors and developers to raise project equity through the allocation of tax benefits to investors. Taxpayers claim LIHTCs approximately equal to a specified percentage of the project's "basis"—essentially project costs minus land acquisition and transaction costs—over a certain number of years, and start claiming the credit in the taxable year in which the project is placed in service. Projects must remain affordable to residents for 55 years.

In 1987, the Legislature authorized a state LIHTC program to augment the federal tax credit program. State tax credits can only be awarded to projects that have also received, or are concurrently receiving, an allocation of the federal LIHTCs. The amount of state LIHTC that may be annually allocated by TCAC is limited to $70 million, adjusted for inflation. This year, the total credit amount available for allocation was about $99 million.

**Staff Comments.** The low-income housing tax credit program is one of the most successful programs the State has to offer to fund affordable housing construction. The Legislature attempted to expand the State LIHTC through AB 35 (Chiu) (2015); however, Governor Brown vetoed the bill. That proposal and subsequent bills proposed to expand the program by $300 million,modify the state credit percentages augmenting the federal 4% credit, and create a larger credit for older affordable housing projects with limited equity to allow for the preservation of those units. The intent was to encourage greater utilization of the 4% credit, which historically have been undersubscribed and free up the 9 percent credits. As noted above, the 9 percent federal credits are oversubscribed; in the last round of 9percent, funding 37 projects were funded out of 79 that applied. These 42 projects are ready to build and just need the additional credits.

Historically, the LIHTC has been limited to households at or below 60 percent of AMI. In 2018, the 4% and 9% federal tax credit programs were changed to allow for "income averaging." Income averaging allows LIHTC-qualified units to serve households earning as much as 80 percent of the area median income (AMI) as long as the average income limit at the property is no more than 60 percent of the AMI. A project using the income averaging option must make at least 40 percent of its units affordable to eligible households.

The Administration has indicated that the expanded LIHTC is intended to bolster the federal four percent tax credit, which is currently underutilized. While the LIHTC is a valuable tool for encouraging affordable housing development, it has limitations. The rates used to determine the total amount of the state tax credit (representing all four years of allocation) are 30 percent of the eligible cost of a project that is not federally subsidized and 13 percent of the eligible cost of a project that is. Combining federal four percent credits (which amounts to roughly 30 percent) with state credits (which amounts to 13 percent) only covers 43 percent of a project's eligible cost. While this is a necessary support for many affordable housing developments, it may not be enough to make certain projects financially viable if they require more than 43 percent of their eligible cost to be subsidized. Simply expanding the supply of state LIHTC does not address this fact, and therefore may not result in an expansion of LIHTC-supported affordable housing development. The Legislature should consider whether this proposal is the best approach to expanding affordable housing development, or if policy changes, expanding available loan funding programs, or another approach would better meet the state's policy goals.

The Senate adopted $500 million for the LIHTC program as part of its overall housing and homelessness package on May 9, 2019, and adopted placeholder trailer bill language. As such, action on the proposed trailer bill language is unneccessary.

**LAO Comments.** ***Housing Tax Credit Proposal Continues to Raise Questions About How to Prioritize Some Funds.*** In January, the LAO raised concerns with how the Governor chose to prioritize populations for some of the housing funding. Specifically, the LAO was concerned by the new state housing tax credit program targeting relatively higher-income households. Because current resources only assist roughly one-quarter of eligible low-income households, we suggested the Legislature consider prioritizing General Fund resources towards programs that assist low-income households. The Governor's May Revision does not change these January proposals. Instead, the administration continues to target relatively higher-income households. The LAO notes that the Legislature will need to decide if it agrees with the Governor's approach to spread the state's housing resources among broader income levels—including middle-income households—or whether it prefers to target the state's resources toward the Californians most in need of housing assistance.

**Staff Recommendation:** No action.

## 2240 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

### Issue 43: Housing Planning and Production Grants

**Governor's Budget.** The budget requests $750 million General Fund in 2019-20 housing Planning and Production Grants at HCD.

**Background.** California is in the midst of a serious housing crisis. Homeownership rates in the state have fallen to the lowest rate since the 1940s. California is home to 21 of the 30 most expensive rental housing markets in the country, which has had a disproportionate impact on the middle class and the working poor. A person earning minimum wage must work three jobs on average to pay the rent for a two-bedroom unit. Housing units affordable to low-income earners, if available, are often in serious states of disrepair.

In 2017, the Legislature passed a package of 15 bills aimed at increasing the affordability of housing in California. The package included enact a variety of regulatory reforms to speed up development and construction of new housing. It also placed a general obligation bond on the November 2018 ballot (which was subsequently passed by voters). Additionally, SB 2 (Atkins), Chapter 364, Statutes of 2017, provided an ongoing source of revenue for affordable housing and homelessness programs, providing an estimated $289 million per year for a variety of programs.

**Staff Comments.** The Administration's January proposal included $750 million split into two components: $250 million for short-term planning grants to help local governments plan for short term housing production goals, and $500 million in general purpose incentive funds once those goals are hit.

The May Revision modifies this by directing $250 million to local entities to assist in meeting their RHNA 6th-cycle requirements, and $500 million to the Infill Infrastructure Grant (IIG) program for housing-related infrastructure. It also makes local school districts and county offices of education eligible for planning funds to assist in planning for teacher housing.

These changes are broadly consistent with the Senate housing and homelessness framework passed by Subcommittee No. 4 on May 9, 2019. That framework also allocates $250 million for RHNA 6th cycle planning and $500 million for housing-related infrastructure. It also included placeholder trailer bill language to implement these programs. As such, action on this proposal is unnecessary.

**Legislative Analyst's Office Comments**

***Proposed Repurposing of General Purpose Housing Grants Will Yield More Certain Benefits.*** In their analysis of the Governor's January budget, the LAO noted that the proposals to reward communities for reaching milestones in their new short-term housing goals with $500 million in flexible funding may not produce the desired results. The LAO urged the Legislature to consider alternative uses of these funds that would yield more certain benefits. The Governor's May Revision proposals to repurpose the flexible incentive funding towards housing-related infrastructure and various services for the homeless individuals would produce more certain outcomes in the state's efforts to address the housing shortage and homelessness.

***Some Improvements With Proposed Linkage of Transportation Funding and Compliance With Housing Element Process.*** In their analysis of the Governor's January budget, the LAO raised concerns with tying transportation funding with housing production. The LAO noted the problems involved with holding communities entirely responsible for housing production when many factors are outside of their control. The health of the state's economy, lending conditions, and decisions by builders and landowners are all beyond the control of local governments but significantly affect home building. While it is reasonable for the state to ask cities and counties to do all they can do to plan for and facilitate a particular amount of home building, holding them entirely accountable for outcomes that they do not completely control may be unreasonable. To address this issue, the Governor's May Revision links SB 1 transportation funding with *compliance* with the housing element process, rather than housing *production*. As a result, the Governor proposes holding local governments accountable for something over which they have much more control. This approach mitigates some of the LAO's concerns with this proposal. The LAO remains concerned, however, that tying transportation funding to housing could undermine the state's transportation goals. Allocations that best facilitate the maintenance of local streets and roads may be different than the allocation that would result if funds were tied to compliance with the housing element process.

***Rethinking Long-Term Planning Remains Worthwhile.*** The Governor's plan to revamp state policies on long-term planning is worthwhile. While the Legislature has taken important steps in this area in recent years, opportunities remain for further improvement. The LAO offered a package of changes to long-term planning that they think should be considered in their February 20, 2019 report, *The 2019-20 Budget: What Can Be Done to Improve Local Planning for Housing?*. In that report the LAO recommended: (1) better incorporating measures of housing demand into the calculation of housing goals, (2) lengthening the planning horizon, (3) further enhancing state oversight and enforcement, (4) preempting local land use rules if communities do not faithfully participate in long-term planning, and (5) increasing financial incentives for locals to approve housing.

Finally, given the importance of revamping the state's long-term planning process, the LAO notes that the Legislature should be aware of the trade-off between continued investment in planning for immediate housing production ($250 million proposed by the Governor) and helping local governments prepare for the new long-term planning process. The state may be better off focusing resources and efforts on boosting home building over the long term.

**Staff Recommendation.** No action.

## Issue 44: Excess Sites Executive Order

**Governor's Budget.** The budget requests $3.4 million General Fund in 2019-20, including $842,000 for 4.0 positions and $2.5 million for consulting contracts, and $782,000 on-going in state operations to implement the development of affordable housing on state-owned land.

Background. Efforts to increase housing construction depend largely on local land use decisions and market influences. While the state has made numerous strides to foster the development of affordable housing, the state faces an increasing number of persons who overpay for housing, as well as people who are experiencing homelessness. As part of the Administration's strategy to address the state's housing shortage and affordability pressures, the Governor issued an Executive Order (EG) in January 2019. EG N-06-19 requires HCD to work in collaboration with Department of General Services (DGS) to 1) develop an inventory of state-owned property that is suitable for development of affordable housing, 2) issue a request for proposals offering long-term leases to developers, 3) assess proposed leases for compliance with the executive order criteria, and 4) ensure the goals of the executive order are accomplished.

As part of the Executive Order, DGS has reviewed 44,370 state owned parcels. Of that amount, approximately 3 percent appear to be potentially viable for housing. DGS is in the process of refining and prioritizing that 3 percent and are initially estimating approximately 21 percent of that amount as particularly viable. Further, DGS estimates only 20 percent of those sites as potentially being declared excess by departments after we factor out future needs, joint-state ownership, bond encumbrances, statutory limitations on use, etc. This leaves approximately 50 sites (rounding down) where the state may develop affordable housing.

**Staff Comments.** Assessing state-owned land available for housing development expedites the development of affordable housing opportunities to aid underserved communities, as local land use regulations would not apply. The Administration is arguing that adequate funding, staffing, and subject matter expertise are needed to effectively deploy this new housing option.

This request includes four positions to provide housing expertise, administrative oversight, coordination and collaboration with DGS, assist in development of the Request for Proposals offering the excess sites, evaluate the proposed housing developments, monitor construction milestones to ensure the housing is developed in the timely manner, and to establish long-term monitoring programs if projects are developed without HCD funding.

It also includes $2.5 million for external real estate consultants. DGS will be the lead in contracting out for these services, and it is anticipated that HCD will also request the services of the consultant as needed. HCD will utilize the consultant to assist with the RFP development, evaluate the housing proposals, conduct site analysis, due diligence, and preliminary financial feasibility, and other related services. These services will help minimize the state's risk and better prepare developers to submit successful proposals in the RFP process informed by the consultant's analysis. HCD is requesting $2.5 million for all DGS and HCD consulting services. HCD will establish an Architectural Revolving Fund (ARF) account and transfer approximately $2.3 million for DGS-procured real estate consultant work, leaving approximately $200,000 for HCD contracting costs.

This is an innovative approach to addressing the state's housing crisis. However, the novelty of the approach, and it's heavy reliance on external real estate consultant, raises questions as to how exactly

HCD and DGS will deliver on the goals of the program. Reporting language is appropriate to ensure the Legislature exercises appropriate oversight over this effort.

**Staff Recommendation.** Approve as budgeted. Adopt supplemental reporting language requiring HCD to report on the scope of its real estate contracts, the number of parcels reviewed, an estimation of the number of units that could be created through this program, and the timeline for creating those units.

## Issue 45: State Housing Law Enforcement

**Governor's Budget.** The budget requests $1,440,000 in General Fund budget authority to compensate the Attorney General's (AG's) office for costs incurred as a result of additional workload created by operation of AB 72 (Santiago) Chapter 370, Statutes of 2017.

**Background.** Prior to passage of AB 72, the process for enforcing housing element law and other housing-related laws was dependent on the resources of third-party organizations to challenge local government actions in the courts. HCD's certification of a housing element afforded the locality a statutory presumption of validity and affirmative defense in legal challenges to subsequent land-use decisions and activities - so long as they were putatively in accord with the terms of the HCD-certified element. HCD had no authority to bring legal actions for non-compliance. Now, AB 72 allows HCD to revoke its finding that a jurisdiction is in substantial compliance with its previously approved housing element and refer the non-compliant jurisdiction to the AG for legal action. A local government may be found in violation of state law if the HCD determines that the local government has not complied with housing element law, or other existing housing laws.

**Staff Comments.** The Administration has indicated that HCD's new authority to refer cases to the AG will result in additional workload for AG staff attorneys. HCD is therefore requesting to be made a billable client of the AG along with budget authority to fund potential AG costs.

Preliminary information suggests that 12 cases may be referred to the AG annually with the anticipation that 3-4 cases would result in lawsuits to enforce the State's housing element requirements. The requested resources are based on three Attorneys and two Paralegals multiplied by the annual billable rate for those positions. Specifically, $979,200 for attorneys and $460,800 for paralegals annually for a total of $1.4 million annually.

**Staff Recommendation.** Approve as Budgeted.

**Issue 46: Disaster Preparedness, Response, and Recovery**

**Governor's Budget.** The budget requests $2 million in General Fund budget authority and four positions for the following:

- $950,000 to establish a Grants Management System
- $802,000 for 4.0 positions for a permanent Disaster Response and Recovery (DRR) Unit, and
- $250,000 for a consultant contract to perform local needs assessment and data compilation related to the 2018 Camp and Woolsey wildfires.

**Background.** The State of California has experienced severe wildfire, drought, and flooding events that are becoming more frequent and severe. Since 2014, HCD has engaged in ongoing disaster recovery operations through the Drought Task Force, the application and implementation of the United States Department of Housing and Urban Development (HUD) award for the National Disaster Resilience Competition to address unmet recovery need from the 2013 Rim Fire in Tuolumne County, the Valley and Butte Fires in 2015, flooding in winter 2016, and wildfires in October and December 2017. In all of these disasters, the state and its communities have faced destruction and damage to housing and infrastructure, as well as significant negative economic impacts, and complex and multifaceted environmental damage. During the last three years alone, the State experienced historic droughts, floods, and fires affecting more than 25,000 households.

For the 2017 Northern and Southern fires, a Congressional continuing resolution to extend the 2017 Supplemental Appropriations for Disaster Relief Requirements (Appropriations Act) [approved February 9, 2018], made available $28 billion in Community Development Block Grant - Disaster Recovery (CDBG-DR) funds for necessary expenses for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.). On April 10, 2018, HUD announced the State of California will receive $212,374,000 of available funding from the $28 billion approved in the Appropriations Act to support long-term recovery and mitigation efforts. Funds were appropriated for both unmet recovery needs and mitigation funds

**Staff Comments.** Undertaking disaster recovery work is consistent with HCD's mission of creating resilient communities. HCD, however, is not adequately resourced to participate in the activities it is mandated to perform. To be effective in delivering effective planning, policy and programmatic responses to meet the needs of the 2017 and 2018 fires, floods and mudflows along with future disasters, HCD is seeking funding to stand up a DRR Unit that will, among other things, develop and implement a response and recovery strategy that is scalable, flexible, efficient and effective at addressing appropriate response and long-term recovery needs. The proposed DRR Unit will play a role in designing collection methods and obtaining disaster recovery needs assessments and data, assisting in the development and execution of state and local recovery plans, and recommending courses of action, which in federally declared disasters, will include assisting with or directly requesting assistance from the federal government including delivery of critical disaster-related federal program dollars through the CDBG-DR Unmet Need and Mitigation Programs.

The Grant Management System will be utilized for the Department's current Community Development Block Grant (CDBG) and pending CDBG-Disaster Recovery funds and must be able to track all financial transactions based upon Generally Accepted Accounting Principles (GAAP) and have an external online portal for clients to submit information. This is in response to HUD designating California as a High Risk Grantee. equires all grantees to account for each federal grant separately. The

HCD currently does not have a method or system to accomplish this and significant IT infrastructure improvements are needed to comply, including an accounting system that can take the expenditure data from Fi$Cal and match it with allocation dollars, at both the program and contract level, and a grants management system for DR that provides compliance, reporting, and document management, in addition to the accounting needs.

HCD has indicated that additional consultant services will be utilized to perform local needs assessment and data compilation related to the 2018 Camp and Woolsey wildfires. These consultant services will also produce local long-term recovery plan frameworks that will assist HCD in prioritizing and distributing funds to impacted jurisdictions for any future funding that becomes available from HUD through a Congressional appropriation.

**Staff Recommendation.** Approve as Budgeted.

## 0559 LABOR AND WORKFORCE DEVELOPMENT AGENCY

### Issue 47: Future of Work Commission and Labor Agency Operations

**Background.** The Administration submitted a May Revision BCP requesting positions and funding to create a new state commission, the "Future of Work Commission," as well as additional positions to support Labor Agency. The budget requests are as follows:

- $2.5 million General Fund and 9 positions in 2019-20 (of these positions, three positions are to support the Future Work Commission),
- $2.0 million and 9 positions in 2020-21 (of these positions, three positions are to support the Future Work Commission),
- $1.5 million and 6 positions ongoing to support Labor Agency, and
- Of these amounts, $36,000 will annually to support per diem of 18 board members

**Commission Board Members.** On May 1, 2019, the Governor signed an executive order to establish an Future of Work Commission comprised of 18 board members to prepare the state's workforce and state government for changes in the economy.

**Commission responsibilities and duties.** Based on the description in the BCP, the Commission will evaluate the state's economy to understand and forecast how technological and economic developments will impact workers, workforce needs, regional economies and industries within our state's economy. The Commission will make recommendations to help state leaders think through how to create inclusive, long-term economic growth and ensure workers and their families share in that success.

The commission will produce a progress report in February 2020, which will:

1. Compile available data regarding projected job growth by industry and region and upcoming changes to the labor market and projected impacts and will also reflect changes in outcomes based on the interventions and ideas developed by the Commission. As necessary, the Commission may contract with experts in the field to fill data gaps.

2. Establish goals and visions for state's future labor and the workforce.

3. Propose an action plan for each of the three major stakeholders: (1) government, (2) private sector (as employers and technology), and (3) labor. The action plan propose new programs and structural reforms that are necessary to achieve the goals.

To support the Commission, the BCP requests three staff over two years: a Deputy Secretary, a Staff Services Manager II (Specialist), and a Staff Services Analyst to help produce the report and convene meetings and testimony.

**Labor Agency Operations.** In addition to the resources requested for the Commission, the BCP also requests six ongoing positions is requested to support the Labor Agency's work, as follows:

- Chief Deputy Secretary – The Chief Deputy Secretary of Enforcement will directly oversee the Assistant Secretary Enforcement and Services and coordinate with the Associate Secretary for Farmworker and Immigrant Services.

- Career Executive Assignment (CEA) B, Future of Work Department Reorganization – The CEA B will oversee the development and implementation of a plan for the consolidation of the workforce programs in the Agency that will ultimately form the Future of Work Department. The CEA will lead multiple workgroups comprised of programmatic experts from the various units of the EDD, DIR, the Employment Training Panel, and the California Workforce Development Board to develop and align the functional divisions of the new department and defining the entire organizational structure of the Future of Work Department.

- Assistant Secretary, Enforcement and Services – The Assistant Secretary, Enforcement and Services will evaluate all Agency programs and services rendered to the public and recommend changes to programs to improve proactive enforcement, increase program access, and reduce backlogs or delays. They will also devise strategies to educate workers, worker organizations, community groups, and employers regarding current and new policies that affect the communities of low-wage workers. There is significant change management work necessary to shift the approach from reactive and transactional to impact through more strategic deployment of resources; the Assistant Secretary will work with Agency Departments and Boards to implement these changes, including through the creation of strike teams.

- Assistant General Counsel (Attorney IV) – The Assistant General Counsel will review and advise on personnel matters, including equal employment issues, harassment, retaliation, compliance with civil service requirements. The Assistant General Counsel will also provide legal advice to Agency departments' legal and executive teams, and serve as the principal contact for regulatory issues involving the departments or the Office of Administrative Law, coordinate Public Records Act responses.

- Agency's Information Security Officer (Information Technology Manager II) – The Agency Information Security Officer will be responsible for developing, implementing, and maintaining all necessary security policies, standards and procedures required for a comprehensive Agency Information Security Program, overseeing departmental risk management assessments and the remediation of information security risks across all departments under the Agency, and providing direct Information Security Officer support to the Agency's smaller departments.

- Associate Governmental Program Analyst – The Associate Governmental Program Analyst will provide direct program support to Labor Agency's Policy, Research & Legislation Unit, assigning, tracking, coordinating, reporting on the preparation and submission of legislative proposals, and drafting legislative recommendations and identifying the impact to the Agency's Departments.

**Staff Comments.** As currently proposed, there is no trailer bill to establish the commission.

**Legislative Oversight.** As currently proposed, it is unclear who the members of the board will be, what entity is charged in selecting the members of the board, nor is there a process for the Legislature to weigh in or approve the board members. Additionally, while the BCP states that the intent is to help make recommendations to state leaders, as currently proposed there is not a method to seek legislative input regarding policy priorities.

**Existing Plans and Work.** California Workforce Development Board (CWDB), whose members are appointed by the Governor and are representative of the areas of business, labor, public education, higher education, economic development, youth activities, employment and training, as well as the Legislature.

Existing law also directs the CWDB to assist the Governor in the development, oversight, and continuous improvement of California's workforce investment system to promote the development of a well-educated and highly skilled 21st century workforce by developing, implementing, and modifying the State Plan coordinating and aligning all federal and state workforce training and employment services funding streams and programs.

Existing law also directs the CWDB to develop strategies for meeting the needs of employers, workers, and jobseekers, particularly through industry or sector partnerships related to in-demand industry sectors and occupations, including policies targeting resources to competitive and emerging industry sectors and industry clusters that provide economic security and are either high-growth sectors or critical to California's economy, or both

Under the Workforce Innovation and Opportunity Act (WIOA), the Governor of each State must submit a Unified or Combined State Plan to the Secretary of the U.S. Department of Labor that outlines a four-year strategy for the State's workforce development system. These plans promote an understanding of the workforce needs within each State and fosters development of more comprehensive and integrated approaches, such as career pathways and sector strategies, for addressing the needs of businesses and workers. The State's most recent state plan was adopted in 2018.

In addition, the Centers of Excellence through the Community College Chancellor's Office study the regional economies of California, support the community colleges by providing customized data on high growth, emerging, and economically-critical industries and occupations and their related workforce needs. Moreover, the community colleges, through the Strong Workforce Program, provides career technical education and training aligned on regional priorities and emerging sectors and industries and workforce needs. Each region must develop a plan that identifies priority and emerging sectors and industries, regional market analysis, identify needs, and develop a plan to implement and address these needs.

EDD also has a Labor Market Information Division, which collect, analyze, and publish statistical data and reports on California's labor force, industries, occupations, employment projections, wages and other important labor market and economic data.

**Recent Legislative Actions.** On May 15th, the Senate Budget Subcommittee on Education Finance approved a proposal to provide $1.5 million one-time General Fund to the University of California, Berkeley's Labor Center to conduct research, which is also regarding the state's workforce and labor issues.

Additionally, in March 2018, the Legislature held a joint information hearing by the Senate Labor and Industrial Relations Committee and the Assembly Committee on Labor and Employment to explore the impacts of automation and technology on job losses and the labor market.

Given these variety of existing plans and work that is in place, the subcommittee may wish to ask how this commission and their work is different and not duplicative of previous or current work that is in place.

**Other Issues for Consideration.** In January, the Administration proposed to use Greenhouse Gas Reduction Funds (GGRF) to create a Workgroup on the Future of Work made up of labor, industry, community, and state partners to study and make policy and program recommendations to the Governor. This workgroup would provide policy and program recommendations to address worker and labor market impacts of climate change and automation. Collaboration and buy-in through Workgroup process among selected community, labor and industry leaders, implementation planning will ensure integration with climate-based just transition investments.

The Administration has informed staff that they are no longer pursuing this request through the Cap and Trade expenditure plan, and that the intent is to fold the goals of the workgroup into the proposed Commission. However, based on the language of the BCP and the language of the executive order, it appears the priority of the Commission is related to technology rather than achieving carbon-neutral economy.

Moreover, the Senate Budget Subcommittee on Resources, Environmental Projection, Energy and Transportation, voted on May 15, 2019 to reject the January proposal.

Additionally, it is unclear whether the Commission is ongoing, or if once the report is complete the Commission will dissolve.

**Staff Recommendation.** Approve, contingent upon legislation to specify:

1. The entities to serve on the commission, including labor, employers, industry, workforce education, and Legislative appointments, with relevant experience,

2. The responsibilities and duties of the commission,

3. The components of the report shall include findings and recommendations regarding the impact of technology on workers, employers and the economy. Including, but not limited to, findings and recommendations on the following:

    - The impact of technology and automation on workers and the workplace;
    - The impact of an aging workforce in the public sector;
    - The impact of technology on the economy;
    - A framework to manage the development, deployment, regulation, taxation, and fair distribution of the benefits of technology that advances the interests of workers and the public.

4. The Commission is authorized to seek information, research, and analysis from outside experts, practitioners, and researchers, including those from other states.

5. That the Commission shall review and build upon prior reports and work, including those produced by the Chancellor's Office, Employment Development Department, and research reports.

6. That meetings are open to the public, and would allow for stakeholder input.

## 7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

### Issue 48: Paid Family Leave

**Background.** On March 28th, the subcommittee heard this issue. At the time, the Administration did not have details regarding their proposal. The Governor's budget summary indicated that the Administration sought to expand the PFL program to allow a child to receive six months of bonding time to be split between parents or close relative. In the short-term, the Administration proposes to adjust the reserve requirement for the DI fund, which supports the PFL program. The Administration also proposes to convene a task force to consider options to phase-in and expand the program, to increase program participation among eligible workers, and to align with existing worker protections and non-retaliation protections.

**<u>Trailer Bill Language</u>**

Since the hearing, on April 11th, the Administration released trailer bill language that proposed the following:

1. Findings and declaration that the Administration, through consultation with a taskforce, will develop a proposal by November 2019 to increase paid family leave to six months by 2021-22 for parents to care for and bond with their newborn or newly adopted child.

   Reduces the required reserve balance requirement from approximately 45 percent to 30 percent starting on July 1, 2019.

2. Starting on July 1, 2020 through July 1, 2021, an eligible employee may take up to eight weeks off work to care for a seriously ill child, spouse, parent, grandparent, grandchild, sibling, or domestic partner, or to bond with a minor child within one year of birth or placement of the child in connection with foster care or adoption. Existing law provides up to six weeks of leave.

3. Starting on July 1, 2021, the trailer bill proposes to provide up to eight weeks off of work for eligible employees to participate in qualifying exigency related to the covered active duty or call to covered active duty of individual's spouse, domestic partner, child or parent in the Armed Forces of the United States. Existing law provides up to six weeks of leave for this purpose starting on July 1, 2021.

4. Authorizes EDD to enter into contracts to implement these changes. The trailer bill language specifies that these contracts are exempt from specified provisions of the Public Contract Code and from Department of General Services review and approval.

5. Specifies that for the purposes of implementing this trailer bill, the EDD is exempt from the Department of Technology's Project Approval Lifecycle requirements for technology projects.

   The Administration notes that this exemption from the PAL process is necessary to implement an enhancement with such a short turn-around timeframe. If the exemption is not approved, then the timeline and costs for implementing this PFL expansion effort will need to be extended beyond the July 1, 2020 implementation date.

The Administration estimates that increasing the maximum duration of PFL benefits to eight weeks would result in additional benefit payments of $800 million to $900 million annually. The projected increase in utilization is a conservative estimate.

The EDD estimates that reducing the reserve balance to 30 percent would slow the impact of the projected increase in benefits. EDD estimates that in the first couple of years that lowering the reserve factor will reduce contributions over $1 billion. The Administration notes that the increase in benefits will ultimately cause the contribution rate tin increase slightly over current estimates, however, under current law, the Director of EDD has the discretion to adjust the rate, as specified. Existing law caps the maximum payroll withholding rate at 1.5 percent. In 2019, the payroll withholding rate is one percent with a maximum taxable wage limit of $118,371 per employee, and the maximum to withhold for each employee is $1,183.71.

**Budget Change Proposals**

In addition to the trailer bill language, the Administration is also requesting budget change proposals to implement these changes. These include:

1. $12 million (special funds) and 35 positions to continue EDD's IT project, the Benefit System Modernization (BSM),

2. $2.7 million (special funds) and 13 positions to make additional changes to the paid family leave system to expand leave benefits to family members preparing for military deployment.

3. $3.3 million (special funds) and 13.3 positions in 2019-20, 7.5 positions in 2020-21, seven positions in 2021-22, six positions in 2022-23, and five positions 2023-24 ongoing related to technology changes to update the BSM pursuant to the TBL, and also to establish an outreach unit within EDD to work with all counties on raising awareness of the program.

   The BCP also requests $4 million in 2020-21 and $4 million in 2021-22 for vendor services, ad buys, and additional resources for in-house staff to develop and implement a two-year, statewide paid media campaign that targets California's diverse population and informs them about the availability of PFL. The campaign will target caregivers, new parents, English and non-English speakers, and hard-to-reach communities. These strategies will target diverse audiences including Lesbian, Gay, Bisexual, Transgender, and Questioning, African Americans, and ethnic media outlets in the following languages: Spanish, Armenian, Cantonese, Mandarin, Vietnamese, Tagalog, and Punjabi.

**Staff Comments**

Staff does not have concerns with the first two BCPs, regarding BSM and exigency leave, as described above.

As currently proposed, the trailer bill does include legislative oversight, nor does it provide additional specificity on who will serve on the taskforce or other topics that the taskforce may review with regards to paid family leave. As discussed in the March 28th hearing, the Legislature may wish to consider if the current wage replacement rate is appropriate to increase participation in PFL, or if it adequate amount for people to make ends meet, particularly for low-wage workers. Additionally, often times labor laws are difficult to navigate for employees, the Legislature may also wish to consider whether or not it is feasible to align job protections.

**Staff Recommendation. Approve budget proposal, and adopt placeholder trailer bill language as follows:**

1. The Taskforce membership shall be comprised of the following:

   - Two (2) participants from each of the following entities: employer representatives, worker representatives, early education representatives, Department of Technology, and the Employment Development Department.
   - One (1) designee selected by the Senate President pro tempore.
   - One (1) designee selected by the Speaker of the Assembly.
   - The Secretary of the Labor and Workforce Development Agency, who shall perform the duties of Chair of the Paid Family Leave Taskforce.

2. The Taskforce may seek information, research, and analysis from outside experts, practitioners, and researchers, including those from other states.

3. The Taskforce shall submit a report to the Department of Finance and the policy and fiscal committees of the Legislature by January 1, 2020 regarding options and recommendations on:

   - A path towards providing six months of baby bonding;
   - An increase to the wage replacement rate for low-wage workers and all workers;
   - An alignment of the California Family Rights Act, which provides job protections during leave periods, with the Paid Family Leave program.

4. The report shall also include:

   - A timeline for implementing the recommended actions;
   - A plan to fund expanded benefits, which shall consider how paid family leave benefits are funded in other states; and,
   - Other findings and recommendations of interest.

5. It is the intention of the Legislature that the Taskforce review and build upon prior reports, including those produced by the Legislative Analyst's Office and Employment Development Department's supplemental reporting requirements regarding PFL outreach

## 7900 California Public Employees Retirement System

### Issue 49: Operational Budget

**Background.** The May Revision requests that various budget bill items be amended to reflect the changes to CalPERS' 2019-20 operational budget proposed at the CalPERS Board meeting on April 16, 2019, and anticipated to be approved at the May 2019 Board meeting. The request is comprised of the following changes:

- Item 7900-003-0830 be increased by $159.8 million
- Item 7900-015-0815 be decreased by $552,000
- Item 7900-015-0820 be decreased by $74,000
- Item 7900-015-0830 be increased by $27.4 million
- Item 7900-015-0833 be increased by $962,000
- Item 7900-015-0849 be increased by $37,000
- Item 7900-015-0884 be decreased by $708,000

The budget proposed by CalPERS reflects a net increase of $186.84 million primarily attributed to an increase in external investment management fees, salaries and benefits, and investment operating costs. The Budget Bill items noted above are display items for informational purposes to reflect the corresponding changes in CalPERS' continuous appropriation authority.

**Staff Recommendation. Approve as proposed.**

**Issue 50: Social Security Administration Trailer Bill Language**

**Background**

Since 1955, CalPERS has been designated as the State Social Security Administrator (SSSA) for California and acts as the state's liaison between the Social Security Administration and approximately 2,300 public agencies and schools. Of these, only one third are employers with whom CalPERS contracts for pension benefits (CalPERS-covered employers). According to the Social Security Administration, each State Administrator:

- Serves as a bridge between State and local public employers and the Social Security Administration and the Internal Revenue Service (IRS).
- Prepares modifications to the original agreement to include additional coverage groups, correct errors in other modifications, identify political subdivisions that join a retirement system already covered under the agreement, obtain Medicare-only coverage for certain retirement system employees.
- Sends SSA notice and evidence of legal name changes and dissolutions of covered entities.
- Advises State's public employers on Social Security and Medicare coverage and reporting issues, among other responsibilities.

Between 1955 and 1987, CalPERS collected and deposited Social Security contributions from public employers into the Old Age and Survivor Insurance (OASI) Fund, then later transferred the Social Security contributions to the Internal Revenue Service (IRS). The OASI Fund accrued interest earnings on those Social Security contributions between the time of collection and remittance to the IRS, which was used to support CalPERS' administrative costs associated with the SSSA program.

However, federal legislation in 1986 transferred the responsibility for collecting Social Security contributions from SSSAs to the IRS, and in 1987 the OASI Fund stopped receiving contributions directly from public agencies, which eliminated the OASI fund's ability to accrue interest. Since 1987, SSSA program costs have been charged against the remaining fund balance, which consists of previously accrued interest.

Currently, administrative costs associated with the SSSA program are funded by the OASI Fund, which is continuously appropriated to CalPERS. Additionally, existing law provides CalPERS, with Department of Finance approval, the authority to charge administrative assessments to employers to cover the cost of administrative expenses incurred to serve as the SSSA. However, CalPERS has never charged employers assessments due to the ability to utilize residual interest earnings in the OASI Fund to cover costs.

Beginning in 2019-20, there will be insufficient reserves ($1.8 million as of October 2018) in the OASI Fund to cover expenses (approximately $1 million per year) and allow CalPERS to continue serving as California's SSSA. Therefore, CalPERS will begin assessing two types of administrative fees to recover its annual expenses: (1) annual maintenance fees charged to all Social Security-covered public employers ranging from $200/year for employers with four or less employees to $2,500/year for employers with 1,000 or more employees; and (2) one-time assessments between $600 and $700 to establish or modify an existing contract with the Social Security Administration.

Employers with CalPERS Retirement Contracts Only (Excluding State of CA, CSU and UC)

| Tier | % of Total Employees | Employer Count | Fee | Revenue |
|---|---|---|---|---|
| 1-4 | 10.1% | 233 | $ 200 | $ 46,600 |
| 5-9 | 12.0% | 277 | $ 250 | $ 69,208 |
| 10-19 | 12.1% | 279 | $ 300 | $ 83,741 |
| 20-49 | 18.2% | 418 | $ 400 | $ 167,021 |
| 50-99 | 15.1% | 348 | $ 500 | $ 208,776 |
| 100-249 | 13.0% | 300 | $ 1,000 | $ 299,900 |
| 250-499 | 7.8% | 180 | $ 1,500 | $ 269,910 |
| 500-999 | 4.5% | 104 | $ 2,000 | $ 207,623 |
| 1,000+ | 7.0% | 159 | $ 2,500 | $ 398,711 |
| Total | 100.0% | 2,298 | - | $1,751,489 |

Individual State of CA, CSU and UC Agencies

| Tier | Employer Count | Fee | Revenue |
|---|---|---|---|
| 1-4 | 12 | $ 200 | $ 2,400 |
| 5-9 | 12 | $ 250 | $ 3,000 |
| 10-19 | 10 | $ 300 | $ 3,000 |
| 20-49 | 15 | $ 400 | $ 6,000 |
| 50-99 | 17 | $ 500 | $ 8,500 |
| 100-249 | 18 | $ 1,000 | $ 18,000 |
| 250-499 | 11 | $ 1,500 | $ 16,500 |
| 500-999 | 14 | $ 2,000 | $ 28,000 |
| 1,000+ | 66 | $ 2,500 | $ 165,000 |
| Total | 175 | - | $ 250,400 |
| | | State of CA | $ 163,400 |
| | | CSU | $ 57,500 |
| | | UC | $ 29,500 |

## Governor's Budget Proposal

The Governor's May Revision trailer bill proposal seeks to bring the OASI Fund under the budget-approval process to ensure administrative oversight and provide better insight and transparency into the SSSA program and OASI Fund reserves.

Additionally, because CalPERS has not previously charged administrative fees and lacks collections data, it is uncertain whether employers, particularly those that are not CalPERS-covered employers, will pay assessments in a timely manner. To encourage payment, the penalties are proposed to be increased and interest is proposed to be charged for all amounts unpaid after 120 days. Specifically, the trailer bill language seeks increase the penalty for late payment from 10 percent of the amount owed for delinquent payments to 50 percent. Additionally, any assessments or penalty that is unpaid after 120 days will accrue an interested rate of seven percent, compared to the six percent that was previously required. Furthermore, this language will remove the continuous appropriation authority and require annual Budget appropriation of funds to allow for evaluation of the fee structure if the fund balance exceeds 100 percent of budgeted expenditures.

## Staff Comments

Staff agrees with the Administration's recommendation to put this fund on budget, which will provide greater transparency regarding CalPERS administrative activities, and has no concerns regarding this.

Based on conversations with the Administration regarding the collection of fees, the Administration notes that the objective of the 50 percent penalty is to encourage employers to pay in a timely manner. Some of the fees are quite low, and the 10 percent currently authorized in statute equaled insignificant, one-time penalties ranging from $20 to $50. The Administration notes that the seven percent interest is comparable to the interest that CalPERS pays for certain delayed payments under California Code of Regulations, title2, section 555.5 (d).

**Staff Recommendation.** Approve as proposed.

## 0511 SECRETARY OF THE GOVERNMENT OPERATIONS AGENCY

### Issue 51: Census Outreach

**Governor's Budget.** The Administration requests $50 million General Fund in 2019-20 to augment current statewide outreach and communication efforts related to the Census 2020, and $4 million General Fund to conduct the California Housing and Population Sample Enumeration (CHPSE).

The subcommittee heard this request at its April 4, 2019 hearing.

**May Revision.** The Administration requests $2.931 million General Fund and $1 million in reimbursements to strengthen current statewide outreach and communication coordination and increase Native American outreach efforts. The Administration is also proposing provisional language that would allow the Department of Finance to augment the Census office budget by $22.5 million. Lastly, the Administration requests trailer bill language to prohibit disclosure of personal information by the Department of Finance's Demographic Research Unit if requested under the Public Records Act.

**Background.** The 2017 Budget Act provided up to $10 million for initial census preparation activities, of which $7 million was provided for local governments participating in the federal Census Bureau's Local Update of Census Address (LUCA) program. The 2018 Budget Act provided $90.3 million for communications and outreach efforts for this purpose. As part of these outreach efforts, the state Census office is developing language and communication access standards to be used for counties and CBOs when they are putting together their language and communication access plans. Currently, the Census office is still in the process of finalizing language access requirements for the CBOs and counties.

**Staff Recommendation.** Approve $54 million proposed at Governor's Budget for additional outreach and for the California Housing Population Sample Enumeration efforts. Approve the $2.9 million proposed for Native American outreach efforts, and the $22.5 million that would be appropriated upon approval from the Department of Finance.

Additionally, augment outreach efforts including, but not limited to, language access support and partnerships with parents and schools, by $30 million for community-based organizations and local governments, of which a minimum of $2.4 million be dedicated to the County of Los Angeles, which has the highest rate of hard-to-count populations in the state.