Senate Budget and Fiscal Review

Subcommittee No. 4 2005 Agendas

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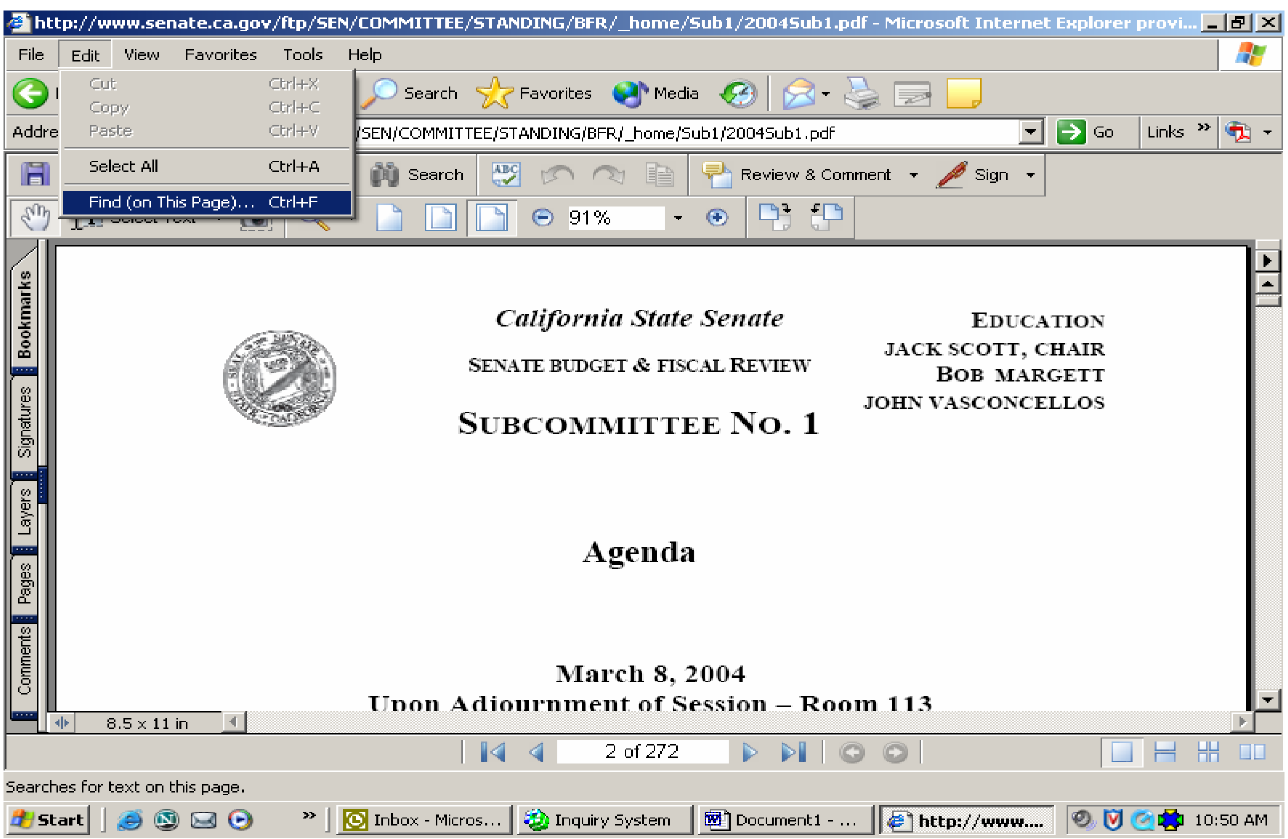

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Tom McClintock
Christine Kehoe

Wednesday, February 9, 2005
1:00 p.m.
Room 3191

Consultant, Brian Annis

Subject: Department of Transportation: Oversize-Load Permit Process

Attachments: Summary from the May 2000 California State Auditor's report, *California's Department of Transportation: Has Improved Its Process for Issuing Permits for Oversize Trucks, but More Can be Done*. (http://www.bsa.ca.gov/bsa/pdfs/99141.pdf)

Department of Transportation, Transportation Permit Management System project website. (http://www.dot.ca.gov/hq/traffops/permits/tpms.htm)

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ISSUE: Oversize-Load Permit Process

DESCRIPTION: Caltrans indicates its new oversize-load truck permit computer system (the Transportation Permit Management System – TPMS) will begin statewide production use on March 31, 2005. Funding for eight limited-term positions that "double-check" transportation permits expired in December 2004; however, Caltrans indicates it is administratively continuing these positions until TPMS is implemented.

The purpose of this hearing is to examine and assess the Department of Transportation's efforts to issue accurate oversize-load permits and safely convert to TPMS. The Department should be prepared to discuss the permit process and its plans for the future operation of the program.

BACKGROUND: The Department of Transportation has the discretionary authority to issue special permits for the movement of vehicles/loads exceeding statutory limitations on the size, weight, and loading of vehicles contained in Division 15 of the California Vehicle Code. Permits are obtained by submitting an application to the Transportation Permit Branch in Caltrans' Traffic Operations Program.

In July 1999, a fatal accident occurred in Orange County when a truck carrying an oversize load struck a bridge along State Route 91. As a result of the bridge hit, the load of the truck fell on a passenger vehicle and killed that vehicle's driver. The accident occurred when a permit writer in the South Region Permits Office erroneously overlooked a clearance notice and incorrectly approved the permit request.

In response to this accident, the Senate Transportation Committee convened a hearing in October 1999, in the City of Downey, to question Caltrans about this accident and about other concerns with the permit program. Subsequent to the Senate hearing and correspondence with Caltrans, the Legislature approved an audit of Caltrans' permit program to determine the changes necessary to improve the safety and efficiency of the program.

The Bureau of State Audits completed its work and submitted the audit report to the Legislature on May 31, 2000. As part of the Auditor's overall review and findings, the following key issues were identified:

- The Permits Division at Caltrans did not have consistent access to important information regarding state highways and bridges because of a poor communication system and lack of personnel who serve as regional liaisons.
- There was a lack of uniformity and consistency regarding data collection and reporting of roadway changes.
- The permit writing process was labor intensive and too susceptible to human error.
- Approximately 31 accidents involving oversized vehicles that struck bridges occurred from January 1996 to April 2000.

Prior to the audit report, Caltrans acknowledged problems with the permit program. Caltrans conveyed to the Legislature a series of short-term changes to address these issues including: the hiring of additional permit staff; improvements to the existing computer system (the Single Trip Application and Routing System – STARS); increased training for permit staff; and "double checking" of all permits for vehicles with a height over 14 feet. These changes were intended to address the short-term needs of the program until a more comprehensive solution could be implemented.

A major component of Caltrans' long-term solution was to implement an automated routing/permit system, designed to improve the program's efficiency and safety. The advantages of utilizing the automated system are focused in the areas of data collection and reporting, reducing turnaround times for permits, and significantly reducing the potential for human error. The new system was dubbed the Transportation Permits Management System (TPMS).

The Legislature approved $11.7 million for the TPMS project in 2000-01. Of this amount, $5.1 million for post-implementation maintenance was reverted in 2002-03, leaving a net of $6.6 million for the project. The original estimate from Caltrans was to have TPMS in place by the end of 2000. The estimate of the completion date was pushed back several times and Caltrans now indicates the system will begin operation on March 31, 2005.

Caltrans awarded the TPMS development contract to Bentley Systems on January 17, 2002. Bentley would customize their "GeoTransport ARPS application," which is in production in Maryland, Michigan, Minnesota, North Carolina, and South Carolina. Near the end of the design phase of the project in the fall of 2002, Caltrans felt improvements to the existing STARS permit system merited a new consideration of the need for TPMS. The Administration hired the consulting firm of Booz Allen Hamilton to assess whether transportation-permit business objectives would best be met with TPMS or with the existing STARS. The consultant report found that STARS met only 45 percent of the Request for Proposal (RFP) requirements, while the Bentley design for TPMS would meet 86 percent of RFP requirements. In May 2003, the Administration decided to proceed with TPMS, and Caltrans began discussions with Bentley on the RFP requirements that Booz Allen Hamilton asserted were unmet with the Bentley design. Bentley started system customization on May 14, 2004.

The limited-term double-checker positions have been extended several times by the Legislature as the completion of TPMS has been delayed. In 2003, the Administration requested to extend only eight of 15 limited-term positions, due to increased usage of the STARS and the resulting reduction in workload. Caltrans reports that in addition to this reduction, two vacant positions have since been eliminated and one redirected position has been returned.

Transportation Permit Staffing

	1998-99	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05
Base staffing	41	41	41	41	41	41	41
Redirected positions	0	27	11	10	10	10	9
Limited-term positions	0	0	15	15	15	8	8
Vacant position eliminations	0	0	0	0	0	-2	-2
Total	**41**	**68**	**67**	**66**	**66**	**57**	**56**

Source: Caltrans

The Department assembled a Caltrans Transportation Permits Advisory Council (CTPAC) to provide a forum for government and industry viewpoints on the transportation permitting policies and procedures. Members include the California Trucking Association, the California Highway Patrol, and other governmental and business interests. The CTPAC met on June 9, 2004, and Caltrans presented a demonstration of TPMS.

Caltrans reports there have been no bridge hits due to permit writer error in about four years.

QUESTIONS FOR CALTRANS:

1. Provide an overview of the current permit process and describe the changes that will occur with the Transportation Permit Management System (TPMS).

2. What steps is Caltrans taking to ensure safety during the conversion to TPMS?

3. With the implementation of TPMS, Caltrans is losing funding for eight limited-term positions that provided double-checking of transportation permits. What is the ongoing staffing need to ensure that all oversize-load permits are accurate? Will the nine “redirected” permit positions be retained or returned to other functions?

4. What type and what percent of permit applications will be approved through TPMS without any human double-checking?

California State Auditor

BUREAU OF STATE AUDITS

California's Department of Transportation:

Has Improved Its Process for Issuing Permits for Oversize Trucks, but More Can Be Done

May 2000

99141

INTRODUCTION

BACKGROUND

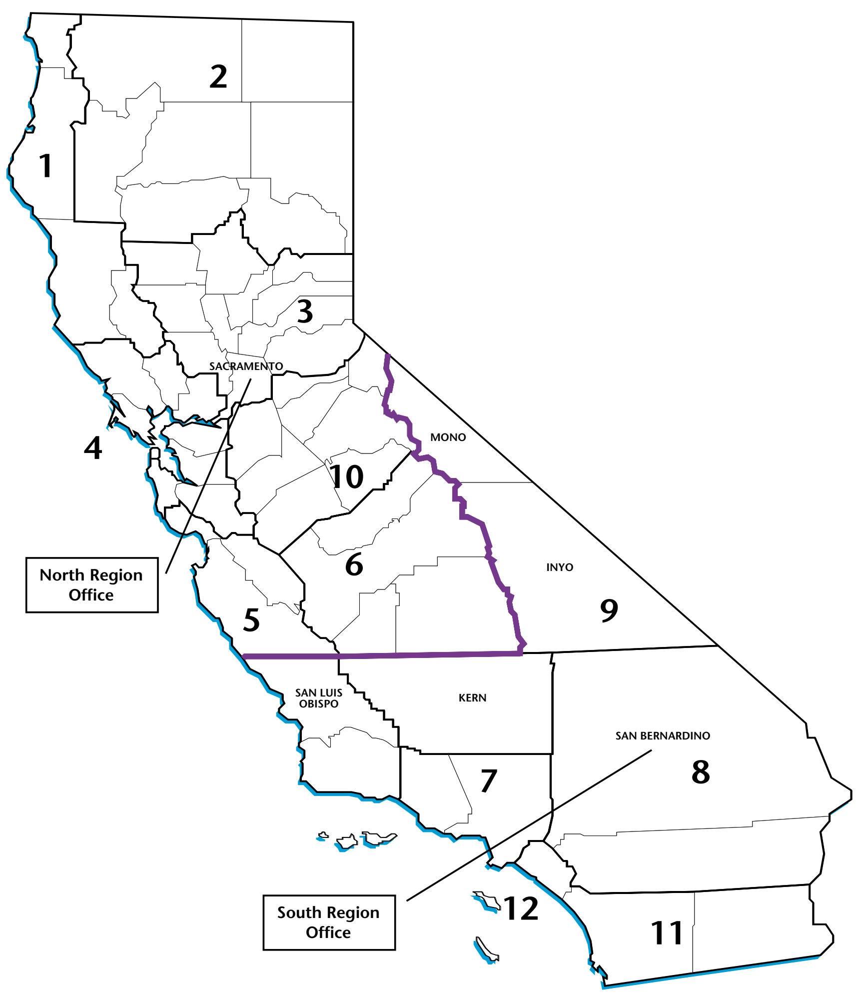
California's Department of Transportation (Caltrans) is responsible for planning, designing, building, operating, and maintaining California's state highway system. As part of this responsibility, Caltrans manages approximately 15,000 miles of highway, over 12,000 bridges, and more than 230,000 acres of right-of-way. To ensure the safety of the motoring public and the integrity of this infrastructure, the California Vehicle Code (code) establishes height, weight, length, and width restrictions for vehicles and their loads. Vehicles or loads that exceed these limitations are considered oversize and require a special permit to operate on the state highway system. The code authorizes Caltrans to issue special permits for the movement of these oversize vehicles along specified routes on the state highway system. This helps ensure that oversize vehicles can pass under bridges without hitting them and travel roads without damaging the roadbed. Similarly, the code authorizes county and city governments to issue special permits for the movement of oversize vehicles through their jurisdictions.

As the agency responsible for approving oversize permits, Caltrans faces the challenge of balancing the expectation of the commercial trucking industry for the timely issuance of permits with the need to ensure the safety of the motoring public and to protect the State's transportation infrastructure. Balancing these demands has become increasingly difficult as the State faces increased traffic congestion from population growth, the need to maintain and reconstruct an aging highway system, construction of additional highways and bridges to keep up with population growth and commuter trends, an increase in the size and complexity of commercial trucks and their loads, and an increase in the volume of requests for permits. In addition, some truckers do not comply with the requirements to have valid permits or to follow approved routes, thereby risking their own safety as well as the safety of other drivers.

The Transportation Permits Branch (permits branch), a unit within the Office of Truck Services, administers the oversize permits program. Two regional offices, located in Sacramento (North Region) and San Bernardino (South Region), issue the permits. The region where the load originates is responsible for processing the permit. For example, a trucking company whose load originates in Redding will apply for a permit in the North Region Office. Figure 1 illustrates the counties served by each regional office.

FIGURE 1

Twelve Districts Served by the Two Regional Offices of the Permits Branch



The permits branch primarily issues four types of permits for oversize vehicles: single-trip, annual, repetitive, and variance. A single-trip permit authorizes travel from a single point of origin to a single destination in one direction. An annual permit authorizes certain standard loads or vehicles to travel within a specific geographical area. A repetitive, or multitrip, permit allows the delivery of the same load over the same route on a regular basis for up to one year. Finally, a variance permit authorizes travel for very large or extremely heavy loads, such as those in the photographs in Figure 2. Single-trip permits represent approximately 90 percent of all permit activity. In fiscal year 1998-99, the permits branch issued approximately 186,000 oversize permits, of which 169,000 were single-trip permits. These permits are normally good for five days, with travel restricted to times and days of the week specified on the permits.

FIGURE 2

Two Examples of Oversize Vehicles That Require a Variance Permit

Source: Caltrans permits branch.

The permits branch issues permits for oversize vehicles after reviewing proposed routes for adequate clearances and special conditions that can restrict a route. Although certain changes in roadway conditions cannot be anticipated, such as vehicular accidents, natural disasters, or severe weather, other changes are due to planned activities such as construction projects, California Home | Tuesday, February 8, 2005

- Transportation Permits Home
- Routing Database
- Interactive Application Instructions
- Application Forms and Accompaniments
- Transportation Permits Manual
- New Policies & Revisions
- Extralegal Weight Charts
- Pilot Car Maps
- CCR Proposals
- Route Reclassification
- 02-07-05 Short Term Restrictions for Annual Permit Holders
- 01-31-2005 Short Term Restrictions for Annual Permit Holders
- Request for Policy/ Equipment exceptions
- Route Classification Checklist (PDF)
- Route Classification Guide (PDF)
- Links

Caltrans

Caltrans Home

TRAFFIC OPERATIONS

Office of Truck Services

Caltrans

TRANSPORTATION PERMITS BRANCH

Transportation Permits Branch

Caltrans > Traffic Operations > Truck Services > Transportation Permits Homepage

What we do:
The Department of Transportation has the discretionary authority to issue special permits for the movement of vehicles/loads exceeding statutory limitations on the size, weight, and loading of vehicles contained in Division 15 of the California Vehicle Code. Requests for such special permits requires the completion of and application for a Transportation Permit.

The Transportation Permits Branch is responsible for the administration of the Transportation Permit program through the uniform issuance of Transportation Permits.

This page was last modified:

search

My CA | This Site

- January 7, 2002: Letter to all Transportation Permits Applicants
- June 27, 2001: Letter to all Transportation Permits Applicants
- Extralegal Load Network (ELLN)
- Holiday Information
- STARS Information
- FAQ
- CALTRANS Transportation Permit Advisory Council (CTPAC)
- TPMS Project Information
- Contact Us

Transportation Permits Management System (TPMS) Overview

The Transportation Permits Management System (TPMS) is a computer system that will eliminate human errors in the transportation permit process. It will also allow transportation permits applicants to apply for, receive, and pay for permits through the Internet. If you would like to know more about TPMS, please click on the links below:

Background and Business Problems – This section describes the reasons why Caltrans is undertaking this projects.

Objectives – This section describes the objectives of TPMS.

Business and Technical Requirements – This section contains detailed descriptions of each business and technical requirement of TPMS (total of 136). The chosen vendor (Bentley Systems, Inc.) must meet each requirement to successfully complete the project.

Benefits – When successfully completed, TPMS will achieve these benefits.

Status – This is the current status of the project (updated on the first day of each month).

Major Milestones – Past and future major project milestones.

Customer Training – The section describes the training to be provided to the trucking industry end users.

Contact Us – Name, phone number, fax number, and e-mail address of the project manager.

Benefits

TPMS will provide a substantial degree of automation while significantly reducing bridge hits. These benefits are described in more detail below:

AUTOMATION

TPMS will automatically issue, without human intervention, any permit that does not require a custom-designed detour, CHP escort, or Structures review. TPMS is expected to issue 55-70% of all transportation permits automatically, in less than five minutes. Approximately 55% of all permits involve legal height loads and most likely will not require detours. Approximately 15% of permit loads are between 14' and 14'6" high and most likely will not require detours. Of the permits that require detours, many can be handled with standard detours, and will not require human intervention.

TPMS will automatically:

- Issue completed permits via the Internet, fax, and e-mail.
- Reject permit applications with missing and improper data, and inform the customer of the reason for the rejection.
- Reject permit applications with non-permissible dimensions, and inform the customer of the reason for the rejection.
- Determine whether or not an Inspection Report is required.
- Copy Inspection Report data onto the permit application.
- Validate a proposed route by comparing all vehicle and load dimensions (height, weight, width, length, and kingpin-to-last-axle) against the route conditions and restrictions.
- Determine if a permit can be issued without a permit writer's review.
- Indicate potential problems with the requested route to the permit writer.
- Identify preferred alternative State highway detours.
- Double-check the approved route before issuing the permit.
- Indicate permit writer or computer-generated revisions to the permit application in a manner that is easily recognizable by the applicant.
- Identify pilot car requirements.
- Determine and generate required permit attachment documents with the permit.
- Notify all permit holders of route condition changes affecting their routes within one hour from receipt of the change notice.
- Track the status of each permit at each stage of permit processing using a date/time stamp. (Note: The status will be viewable by the customer and Caltrans.)
- Reject permit applications from suspended companies.
- Allow the customer and permit writer to view each route segment through an electronic map or graphic medium.
- Charge credit cards before issuing the permit.

Benefits

REDUCE BRIDGE HITS

TPMS will reduce bridge hits in the following ways:

- Haulers will be more likely to obtain permits because the average permit turnaround time will be greatly reduced. Complete and accurate permit applications will be completed and returned to the applicant within five minutes. Bootlegging, and the associated bridge hits, will be reduced.
- The on-line permit application will include on-line help, default values, and Boolean logic. This will simplify the application process and increase the likelihood that out-of-state haulers and infrequent haulers will obtain permits. Bootlegging, and the associated bridge hits, will be reduced.
- All permits will be typewritten. This will reduce the likelihood that a driver will not be able to read an approved route (i.e. – it will reduce "off route" bridge hits).
- All approved routes will be written in a standardized format. This will reduce the likelihood that a driver will misunderstand the approved route (i.e. – it will reduce "off route" bridge hits).
- All permits will be automatically double-checked by the computer before they are returned to the customer. This will eliminate bridge hits due to permit writer error.
- The new system will automatically check the customer's records (to make sure they are not suspended) before issuing a permit. This will eliminate the possibility of issuing a permit to a suspended company. The increased enforcement of suspensions will increase the likelihood that companies will be more careful with height measurements, thus reducing bridge hits. Companies will also be more likely to obtain permits, which will also reduce bridge hits.

Status

Updated 2/7/05

- Caltrans signed a contract with Bentley Systems on January 17, 2002. Bentley will customize and implement their GeoTransport ARPS application, which is in production in Maryland, Michigan, Minnesota, North Carolina, and South Carolina.
- Work began on February 25, 2002.
- Interviews were conducted with subject matter experts during the week of February 25.
- Bentley presented a first prototype of the various user interfaces to Caltrans during the week of March 18.
- Based upon Caltrans' comments, Bentley then developed a second prototype and presented it to Caltrans and several trucking industry representatives during the week of April 8.
- Based upon Caltrans' and the trucking industry's comments on the second prototype, Bentley developed a design document and presented it to Caltrans on May 10, 2002. Caltrans reviewed the design document and provided comments to Bentley on June 5.
- Since January 2002, Bentley Services, Inc. began to prototype and demonstrate GeoTransport ARPS and submitted four Customization Design Statements (CDS) versions to Caltrans by November 2002. In addition, negotiations continued regarding contract roles and responsibilities and the 99.8% application "up time" requirements.
- Caltrans delivered comments on the fourth version of the CDS by December 2002.
- January 2003, Department of Finance (DOF) and Department of Transportation (DOT) requested an Independent Assessment of the TPMS project. Bentley Systems, Inc. was advised not to proceed with any TPMS development activities until after the contract amendment was developed and the independent assessment completed.
- Contract Amendment 1 changed the location of the servers from DOT to the Teale Data Center (TDC). Contract Amendment 1 with Bentley Systems was signed and executed in May 2003.
- In April 2003, Booz-Allen-Hamilton was contracted to perform an Independent Assessment of the TPMS project. The assessment would determine if the objectives represented in the June 2001 TPMS Feasibility Study Report would be better met with the current interim permits system or with the proposed TPMS system as specified in the Bentley CDS's. Based on the findings identified in the final May 15, 2003 report, the Business, Transportation and Housing Agency, DOT and DOF jointly agreed that Caltrans would complete the TPMS project.
- As suggested by DOF, a TPMS Project Manager, experienced in Information Technology application deployment, began work on July 1, 2003. A Functional Program Manager and a new Independent Project Oversight Consultant are assigned to the TPMS project.
- The TPMS Steering Committee held its kick-off meeting on August 4, 2003.
- DOT submitted a Special Project Report (SPR) required due to the TPMS project delayed caused by contract negotiations, the contract amendment changing the location of the servers to TDC, and the Independent Assessment effort. Control Agencies approved SPR on September 11, 2003.

Status

- Caltrans authorized Bentley to restart the project by letter on September 17, 2003.
- Caltrans sent its review comments to Bentley, on the 35 requirements that the Booz-Allen-Hamilton Independent Assessment found to be either unmet or partially met, on October 15, 2003.
- On November 10, 2003, Caltrans sent its review comments to Bentley on the CDS 3.01 review summary comments; and Permitting and Routing CDS, version 3.01.
- On November 12, 2003 Caltrans sent its review comments to Bentley on the Route Data Maintenance CDS, version 3.01; and Vehicle Inspection CDS, version 3.01.
- On January 14 and January 15, 2004, Caltrans and Bentley held conference sessions to resolve the CDS issues with only 1 unresolved issue remaining.
- Caltrans and Bentley have reached resolution on all of the outstanding CDS issues. Caltrans approved the three Customization Design Statements- Permitting and Routing; Data Maintenance; and Vehicle Inspection on March 8, 2004.
- Contract Amendment 2 replaced the equipment that was no longer manufactured as specified in Contract Amendment 1. Contract Amendment 2 with Bentley Systems was signed and executed on March 18, 2004.
- Caltrans presented PowerPoint demonstration of TPMS to CTPAC Steering Committee meeting on April 19, 2004.
- Caltrans delivered completed test scenarios to Bentley on June 4, 2004.
- Caltrans presented PowerPoint demonstration of TPMS to CTPAC meeting for the second time, on June 9, 2004.
- Special Project Report to reflect current project schedule is completed and delivered to BT & H Agency on August 10, 2004.
- Final version of Teale Data Center Service Request and Statement of Work to build TPMS production environment were signed and delivered on September 29, 2004.
- On October 25, 2004, Test Consultant contract was completed and executed.
- Caltrans staff and industry users were provided Test training on Nov 15-19, 2004.
- Caltrans South Region staff and industry users at CTPAC mtg.; and Caltrans North Region staff were provided TPMS demonstration on 1/26/05 and 2/3/05 respectively.
- Caltrans recorded 409 application defects in Acceptance Test as of 1/31/05.
- Route Clearing data separation process, now 84% completed as of 1/31/05.
- Vehicle Inspection data entry, estimated 4,756 to be processed with 663 completed as of 1/31/05.

The remainder of the project schedule is as follows:

Activity	Target Start Date	Target Completion Date
Detailed Requirements Definition and System Design	2/25/02	7/29/04
System Customization	5/14/04	8/26/04
Data Conversion	2/25/02	3/31/05
System Acceptance Testing	2/25/02	2/8/05
Installation and Training at North Region	2/28/05	3/11/05
Installation and Training at South Region	3/14/05	3/25/05
Begin Production Use Statewide	3/31/05	3/31/05

Starting **September 1, 2005**, applications by fax will no longer be accepted.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Tom McClintock
Christine Kehoe

Hearing Outcomes

Wednesday, March 2, 2005
1:30 p.m.
Room 2040

(Consultant: Brian Annis)

Technology, Business, and Housing

Proposed Consent Calendar

Department Budgets Proposed for Consent / Vote Only

2120 Alcoholic Beverage Control Appeals Board

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

The Governor proposes total expenditures of $968,000 (no General Fund), - an increase of $52,000 from the current year. The Administration did not submit any Budget Change Proposals for ABC Appeals Board.

Action: Budget approved on a 2-1 vote, with Senator McClintock voting no.

2150 Department of Financial Institutions

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

The Governor proposes total expenditures of $23.7 million (no General Fund), - an increase of $57,000 from the current year. The Administration did not submit any Budget Change Proposals for DFI.

Action: Budget approved on a 2-1 vote, with Senator McClintock voting no.

Staff Recommendation: Approve the budgets.

0520 Secretary for Business, Transportation and Housing

The Secretary of the Business, Transportation and Housing Agency is a member of the Governor's Cabinet and oversees departments including:

- Alcoholic Beverage Control
- Corporations
- Housing and Community Development
- California Highway Patrol
- Motor Vehicles
- Financial Institutions
- Real Estate
- Managed Health Care
- Transportation
- Stephen P Teale Data Center

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

- Infrastructure and Economic Development Bank
- Film Commission
- Division of Tourism
- Small Business Loan Guarantee Program
- Off. of Military & Aerospace Support
- Manufacturing Technology Program

The Governor proposes total expenditures of $18.3 million ($5.3 million General Fund) for the Office of the Secretary – a reduction of $2.7 million.

Budget Changes proposed for Consent / Vote Only

1. **BT&H Agency / CHP Staffing (BCP #1).** The Administration requests to move two positions currently in the BT&H Agency budget to the CHP budget. This proposal would result in no net change in cost to the State. The CHP performs certain administrative and budget activity for BT&H Agency programs and offices that are too small to employ their own budget or administrative staff. Currently, two positions received by the BT&H Agency as part of the Technology, Trade, and Commerce Agency (TTCA) elimination are on loan to CHP to perform these Administrative functions for former TTCA programs and offices. This proposal would permanently move these two positions from BT&H to the CHP.

Action: Issue approved on a 2-1 vote, with Senator McClintock voting no.

2. **California Welcome Center Staffing (BCP #2).** Assembly Bill 1356 (Chapter 296, Statutes of 2004), authorized the establishment of a system of California Welcome Centers to be overseen by the Office of Tourism. A Center can be operated by a chamber of commerce, local government, or private entity. The operating entities pay fees to the state to cover the State's costs of administering the program. This proposal would authorize funding for a half-time position ($55,000 special fund) in the Office of Tourism to administer the program.

Action: Budget approved on a 2-1 vote, with Senator McClintock voting no.

Staff Recommendation: Approve these requests.

***Vote on Consent issues**:*

BT&H Agency Issues for Discussion / Vote

1. **Infrastructure and Economic Development Bank – Staffing (BCP #3).** The Infrastructure Bank requests $100,000 (California Infrastructure and Economic Development Bank Fund) and 1 position. Assembly Bill 1554 (Chapter 263, Statutes of 2004), authorized the West Contra Costa Unified School district and the Oakland Unified School District to use lease financing to repay their existing emergency apportionments, and provided an emergency loan to the Vallejo City Unified School District – also to be repaid with lease financing. The legislation directs the California Infrastructure and Economic Development Bank to issue lease revenue bonds that will provide approximately $160 million for the General Fund and will provide a non-General Fund source of funding in the future years for emergency apportionments to school districts. AB 1554 appropriated $100,000 and one position to "fulfill" the provisions of the bill. This budget proposal indicates the workload associated with AB 1554 is ongoing and requests permanent continuation of the funding (special fund) and authority for this position.

   Staff Recommendation: If the bonds authorized by AB 1554 are all issued at the same time, this would not appear to be an ongoing workload. The Administration should explain the timing of the bond issuance and why AB 1554 creates an ongoing workload. Keep item open.

   Action: Kept item open – staff to gather more information.

2. **Small Business Loan Guarantee Program – Performance-Based Grants.** The Small Business Loan Guarantee Program is administered by 11 non-profit Financial Development Corporations (FDCs). The state pays the FDCs for their administration of the program, under contractual agreements with each FDC. Last year, the Legislature added requirements to the program through provisional-language. The Administration deleted the two provisions in the proposed budget bill for 2005-06. The 2004-05 language reads as follows:

0520-011-0001—For transfer, upon order of the Director of Finance, to the Small Business Expansion Fund. 3,988,000

Provisions:

1. Beginning with the 2004–05 fiscal year, the total income received by a financial development corporation for each loan guarantee completed may not exceed $6,000 per guarantee. Total income includes funds received from the state and fees charged to loan guarantee recipients. The Secretary of Business, Transportation and Housing may exempt up to 25 percent of the loan guarantees contracted for by the agency from this requirement. It is the intent of the Legislature that state funding of the Small Business Loan Guarantee Program be 100 percent performance-based by the 2005–06 fiscal year.
2. The Department of Finance is hereby authorized to transfer any savings in this item to the General Fund at the end of the 2004–05 fiscal year. It is anticipated that the amount to be transferred to the General Fund will be $248,000.

Staff Comment: The language was added last year due to concerns that some FDCs were receiving excessive State funding when measured per loan guarantee. The Administration indicated concern that since some FDCs had been recently established and some had lower loan-guarantee trust funds, that the Agency Secretary should have the authority is exempt 25 percent of the loan guarantees contracted from performance-based payment requirements.

While last year's provisional language cited the intent of the Legislature for the program to be 100 percent performance-based by 2005-06, the Agency indicates it would prefer to retain the language in the 2004-05 contracts. The 2004-05 language provides base funding along with a funding cap that requires FDCs to return funding that exceeds the product of the number of loan guarantees made and $6000. Note, the contracts with three FDCs do not contain the funding cap requirement, pursuant to the discretionary authority provided to the Secretary in Provision 1.

Staff Recommendation: The Administration should discuss the progress made in moving toward a 100-percent performance-based program, and why they don't believe a 100-percent performance-based program is prudent for 2005-06. Leave item open.

Action: Kept open –staff to gather more information.

1955 Department of Technology Services

The Department of Technology Services (DTS) represents the Governor's reorganization proposal to consolidate the Stephen P. Teale Data Center (Teale), the Health and Human Services Data Center (HHSDC), and certain telecommunications functions of the Department of General Services. To date, the actual reorganization plan has not been submitted to the Little Hoover Commission or the Legislature.

Proposed Budget: The Governor proposes total expenditures for DTS of $235.4 million (funded by reimbursements from State departments, including General Fund departments, that use the services). The table below shows the base 2004-05 funding for the existing three entities and the 2005-06 funding proposed for DTS. Note, the Systems Integration Division (SID) of the Health and Human Services Data Center is excluded from the DTS consolidation and is proposed to be transferred to the Health and Human Services Agency. No position savings is proposed in the short-term from the consolidation.

Proposed Budget: The Department of Technology Services (in 1,000)

	Teale Data Center	Health & Human Services Data Center (less SID)	DGS - Office of Network Services	Totals
2004-05 Budget	$101,063	$120,874	$10,408	$232,345
Compensation Adjustments	2,055	1,453	203	3,711
Negative Baseline Adjustments	-11,640	-3,449	0	-15,089
Miscellaneous Baseline Adjustments	45	2,776	62	2,883
Provision 5	na	1,966	na	1,966
Capacity BCPs	8,077	1,553	0	9,630
Total 2005-06 (DTS Budget)	**$99,600**	**$125,173**	**$10,673**	**$235,446**

DTS Issues for Discussion / Vote

1. **Consolidation and Budgetary Treatment.** The official reorganization plan has not been submitted to the Little Hoover Commission or provided to the Legislature. Preferably, the Legislature will be have the opportunity to review (and approve or reject) the Administration's reorganization plan, prior to taking any budget action on the consolidated Department of Technology Services. The description of the reorganization plan below is based on information provided by the State Chief Information Officer and the Teale Data Center. No statutory language has been provided by the Administration.

Tentative Reorganization plan: According to preliminary documents provided by the Administration, the consolidation plan will include the creation of a new Technology Services Board, composed of the State Chief Information Officer, the Director of Finance, the Controller, and Agency Secretaries, to provide governance and budgetary oversight to DTS. The Administration proposes a continuous appropriation for the DTS in contrast to the current practice of Budget Act appropriations for the existing data centers. This proposal would discontinue the Legislature's oversight of data center budgets. While the Legislature confirms the Governor's choice for Teale Director, the Executive Officer of DTS would not require confirmation. Additionally, the Administration proposes that the DTS Board would set the compensation for the Chief Executive Officer and up to five deputy executive officers of the Department, without legislative review.

No position savings is proposed in the short-term from the consolidation. The Administration indicates positions would be internally redirected to handle the task of consolidation. Efficiencies that reduce baseline workload are anticipated, but the Administration suggests overall workload may increase as more departments would use DTS services.

Background. The Legislature has approved past legislation that moved the state toward data-center consolidation. AB 1752, (Chapter 225, Statutes of 2003) required the Department of Finance to convene a working group comprised of representatives of the California Health and Human Services Data Center, the Teale Data Center, the office of the Legislative Analyst, and client departments to develop a data center consolidation plan. The plan was required to result in savings of not less than $3.5 million, General Fund, in 2004-05. The 2004 Budget Act, Control Section 15.00, provided authority to transfer $3.5 million to the General Fund, and the Department of Finance indicates that transfer has been made. On January 10, 2005, the Administration provided the Legislature with the Chief Information Officer's *Recommendation on Data Center Consolidation*. On January 25, 2005, the Administration provided the *Department of Technology Services Project and Financial Overview.*

Legislative Analyst's Recommendations: In *the Analysis of the 2005-06 Budget Bill*, the Analyst indicates that consolidation would likely improve the state's technology services and reduce costs to departments. The Analyst agrees with the inclusion of the Department of General Services' Telecommunications Division in DTS and the Administrations proposal to require an annual external financial audit of DTS, which would be shared with the Legislature. The Legislative Analyst identifies five problems with the consolidation proposal and recommends solutions in the below table.

LAO Recommendations to Solve Flaws In Proposed Consolidation	
Problem	**Recommended Solution**
● Continuously appropriated revolving fund inconsistent with current practice and would limit legislative oversight.	● Establish an annually appropriated revolving fund.
● Legislature's budgetary and oversight role would be limited.	● Eliminate TSB budgetary role. ● Establish an annually appropriated revolving fund.
● Legislature would not confirm DTS Director.	● Allow Governor to select DTS Director, with Senate confirmation.
● DTS executive salaries would not be reviewed by the Legislature.	● Eliminate TSB salary setting role. ● Require administration to include executive salaries at the proposed levels in the annual DTS budget.
● Concerns regarding responsibilities and composition of TSB.	● Change TSB responsibilities from budgetary to oversight. ● Change composition of TSB to include more IT expertise and perspecitives outside of the administration.

Staff Comment: The Administration has provided eight BCPs totaling $9.6 million for DTS; however, with the continuous appropriation, the Technology Services Board can make budget adjustments without Legislative approval.

The Subcommittee may wish to ask the Administration the following:

- When will the Administration present its reorganization proposal?
- Why is the Administration proposing to reduce legislative oversight with the new consolidated entity, as outlined in the LAO table above?

Staff Recommendation: Leave the DTS budget open. Defer discussion on the BCPs until the reorganization plan is received. Direct staff to work with the Administration on language for a Budget Bill appropriation, so the language is ready for consideration at a future hearing. The Subcommittee should discuss any concerns it has with the consolidation plan, as the Administration may be able to take these under advisement as they finalize their proposal.

Action: Kept open –staff to work with the Administration on language for a Budget Act appropriation. The Administration will provide the statutory language needed to implement DTS within 10 working days..

2100 Department of Alcoholic Beverage Control

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

The Governor proposes total expenditures of $44.8 million (no General Fund), - an increase of $99,000 from the current year.

Issues

1. **Office Renovations (BCP #1).** The Department requests a total of $245,000 (special fund) in one-time funding - $100,000 for renovations in the Van Nuys State Building and $220,000 for renovations in their Santa Ana State Building. The request is partially offset savings from new leases from other facilities such that the request totals $246,000. Improvements include new modular workstations as well as changes to doors and walls.

   Staff Recommendation: Approve the request.

Action: Kept open –move item to a future hearing when the Department of General Services (DGS) is heard. (DGS is currently schedule for the April 13th hearing)

2180 Department of Corporations

The Department of Corporations administers and enforces state laws regulating securities, franchise investment, lenders, and fiduciaries.

The Governor proposes total expenditures of $31.1 million (State Corporations Fund), an increase of $1.8 million.

Issues:

1. **California Electronic Access to Securities Information (Cal-EASI) - Ongoing Operations Costs (BCP #1):** The Department requests a permanent augmentation of $465,000 (special fund) for eight position upgrades ($66,000), staff training ($16,000) and consulting services ($383,000) for continued operation of the Cal-EASI system which has previously been funded as a four-year pilot program. Total cost through 2004-05 is estimated at $3.7 million ($2.4 million appropriated, and $1.3 million redirected) with all staffing through redirection. Cal-EASI includes an online filing system that allows for credit card payment, electronic filing of forms (includes scanned documents not filed on-line), and public on-line access to certain securities notice filings. The Department indicates the pilot project has been a success. Without the requested funding, the Department indicates it will not be able to maintain the existing functionality. Workload efficiencies were gained with the system; however, the hiring freeze and position eliminations resulted in staff reductions in excess of the efficiency gain.

   Detail on request:
   Position upgrades ($66,000): The Department requests to upgrade seven Office Assistants to Office Technicians, and one Office Assistant to a Staff Services Analyst. The work of these positions requires technical program knowledge which meets the criteria for the higher levels. While Cal-EASI has produced some workload savings, the Department reports that three positions redirected for Cal-EASI were eliminated in vacant position reductions and the number of filings has increased.
   Training ($16,000): Funds are requested for the information technology staff to maintain and update the skills necessary for the day-to-day system administration, help desk, and programming of the system.
   Consulting ($383,000): Funds are requested for IT consultant services, software maintenance contracts, student assistants, data center services and the ongoing useful life replacement costs for equipment. The Department indicates consultant services are still needed to handle the more complex, difficult imaging and workflow and resolution of any system errors or extended downtimes that may occur.

   Staff Recommendation: Approve the request.

Action: Issue approved on a 2-1 vote, with Senator McClintock voting no.

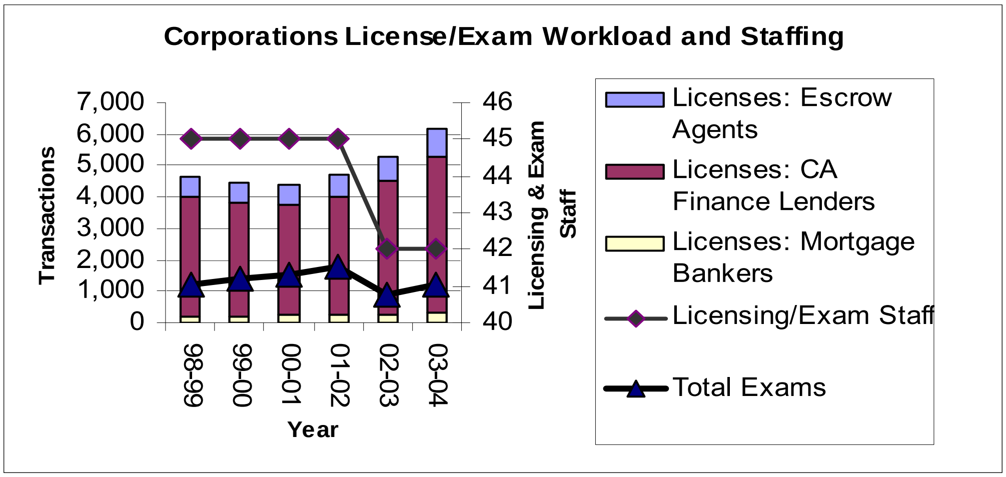
2. **California Electronic Access to Securities Information (Cal-EASI) – Expansion (BCP #2):** The Department requests $203,000 (special fund, $174,000 of this one-time) to expand the Cal-EASI system to include two additional securities filing exemption notices. Cal-EASI currently accepts 74 percent of the filings received and this expansion would increase this number to 84 percent. The ongoing cost of $30,000 is for miscellaneous supplies and training and ongoing costs related to hardware and software maintenance contracts. Ongoing savings from system efficiencies is expected to be $31,500; however, the Department requests to retain this savings to handle an increase in file volume, ranging from 14 percent to 28 percent.

   Legislative Analyst Recommendation: In the *Analysis of the 2005-06 Budget Bill*, the Analyst recommends that the Legislature reduce Cal-EASI funding for Item 2180-001-0067 by $40,000 to account for the double-budgeting of server replacement.

   Staff Recommendation: Adopt budget request minus $40,000 in one-time funding, per LAO recommendation.

Action: Issue approved minus $40,000 on a 2-1 vote, with Senator McClintock voting no.

3. Additional Examiners – Mandated Exams and Licensing Workload (BCP #3): The Department requests $1.489 million (special fund) and 16 positions (two positions are one-year limited-term, 5 positions are two-year limited-term, and the rest are permanent) to deal with increased workload. The Department reports licensing and exam workload has increased since 1998-99, and staffing for this function has declined pursuant to vacant-position reductions. The chart below shows the trends.



Depending on the type of exam, statute requires or the Department determined, that examinations should be performed on licensees as often as deemed necessary, but not less than once every 4 years. As the number of licenses increases, the number of exams must also increase to maintain the same exam cycle. The chart indicates that exams have not kept pace with licensees. The Department is requesting a 29-percent increase in staffing (from the 1998-99 base) for a 34 percent increase in licensees.

Staff Recommendation: Approve the request.

Action: Issue approved on a 2-1 vote, with Senator McClintock voting no.

4. **Continuation of Seniors Against Investment Fraud Program (BCP #4):** The Department requests $400,000 (special fund) and 1 position to continue this three-year-old program that previously has been funded by a grant from the Criminal Justice Programs Division of the Governor's Office of Emergency Services. With help from volunteers from organizations such as the Association of Retired Persons and the Retired Senior Volunteers Program, the program conducts outreach training and distributes information packets to senior. The program aims to reduce investment fraud in areas such as insurance, annuities, and ponzi schemes.

   Legislative Analyst Recommendation: In the *Analysis of the 2005-06 Budget Bill*, the Analyst recommends that the Legislature deny this funding request. The Analyst indicates it is difficult to draw definitive conclusions about the program's direct benefits on reducing investment fraud. Additionally, the Department of Justice contains a Bureau of Medical Fraud and Elder Abuse that also works to reduce investment fraud on seniors.

   Staff Recommendation: Approve the funding requested, but change it from permanent to two-year limited term. This will require the Department to again evaluate and justify the program in two years and also allow another assessment of the fiscal ability of the State Corporations Fund to support this program.

Action: Issue kept open to look at the overlap with this program and the Department of Justice.

5. **Additional Examiners – Abusive Lending Enforcement (BCP #5):** The Department requests three positions and $287,000 (special fund) for the additional workload associated with AB 2693 (Chapter 940, Statutes of 2004, Wiggins). AB 2693 added a provision to California Financial Code that prohibits finance lenders from failing to disburse funds in accordance with a commitment to make a loan, or intentionally delaying the closing of a loan for the purpose of increasing costs to the borrower. The Assembly analysis of the bill indicated that these practices are already illegal under Residential Mortgage Law, but not described as prohibited acts under the California Financial Code.

   Staff Comment. The Administration's analyses of AB 2693 indicated it would not have a fiscal impact. The Department indicated that late amendments to the bill changed the fiscal impact and the Department did not have time to submit a new analysis. Staff looked at the final amendments to AB 2693, and they did not include changes to the section of code referenced as the workload-drivers in the BCP.

   Staff Recommendation: Deny this request. The Department should try to absorb any new workload within existing resources, as was anticipated at the time AB 2693 was approved.

Action: Issue kept open – staff to look again at the written documentation concerning AB 2693.

2240 Department of Housing and Community Development

A primary objective of the Department of Housing and Community Development (HCD) is to expand housing opportunities for all Californians. The department administers housing finance, economic development, and rehabilitation programs with emphasis on meeting the shelter needs of low-income persons and families, and other special needs groups. It also administers and implements building codes, manages mobilehome registration and titling, and enforces construction standards for mobilehomes.

The Governor proposes $563.2 million ($13.3 million General Fund) in total expenditures for the department – a decrease of $34.9 million.

Budget Changes Proposed for Consent / Vote Only

1. **Mobilehome-Manufactured Home Registration and Titling Program Staffing (BCP #1).** The Department requests to establish five additional permanent positions (to existing permanent staffing of 60.5 positions) to be funded within existing resources. HCD is charged with processes mobilehome registration and titling documents. HCD is currently performing this five-positions-worth of workload with temporary-help staff. During the 1990s, the program had a backlog of over 120,000 documents with turnaround time as high as two years, and staffing was augmented to achieve the goal of a 15 day turnaround. Over the past couple of years, HCD has added temporary staffing to maintain the 15 day goal, while also improving efficiency – the production rate has increased from 1.65 applications per hour in 2002, to 2.3 applications per hour currently. The Department expects the workload to stay at level which will require this extra staffing on a permanent basis.

Action: Issue approved on a 2-1 vote, with Senator McClintock voting no.

2. **Federal HOME Program Staffing (BCP #2).** HCD requests position and expenditure authority ($634,000 federal funds) to make five limited-term HOME-Program positions permanent. This request would continue staffing at the existing level of 30 positions. The HOME Program is the largest federal block grant to State and local governments created exclusively for the creation and preservation of affordable housing. The federal Housing and Urban Development Department (HUD) allows the state to use 10 percent of the HOME annual allocation for administrative costs. No state match is required. HCD received the grant funds on behalf of the state, and then makes the funds available to eligible applicants in cites and counties that do not receive a direct federal allocation.

Action: Issue approved on a 2-1 vote, with Senator McClintock voting no.

Staff Recommendation: Approve these two requests.

Housing and Community Development Issues for Discussion / Vote

1. **Emergency Housing Assistance Program (EHAP) - Funding.** The Administration proposes an EHAP funding reduction of $864,000 – to $3.1 million (General Fund). The Emergency Housing Assistance Program (EHAP) provides funds for homeless shelter programs through minimum county allocations of $30,000. The Program funds basic homeless shelter operating costs such as rent, utilities, and salaries of core administrative staff. A history of program funding is outlined in the below table.

Funding for Emergency Housing Assistance (in millions)								
	1998-99*	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05**	2005-06***
Funding	$2.0	$2.0	$39.0	$13.3	$5.3	$5.3	$4.0	$3.1

* Supported with special funds in 1998-99, General Fund thereafter.
** Funding was augmented by the Legislature to $5.3 million, but vetoed by the Govenor
*** Proposed by the Governor

Staff Comment: The Administration indicates the funding reduction for the budget year is a policy, not a caseload, decision. Homeless programs are primarily funded at the local level. HCD estimates that $3.1 million would serve 4,700 persons per day, while $4.0 million would serve 6,100 persons per day. The Department indicates federal homeless funding is expected to increase from $6.7 million in 2004-05 to $7.3 million in 2005-06; however, the 2005-06 number is an estimate.

Staff Recommendation: Keep issue open pending May Revision.

Action: Issue kept open for further consideration of the funding level.

2. **Daily Rental Rates for Farmworker Housing:** In July 2004, HCD increased rental rates for farmworker housing operated by their Office of Migrant Services. HCD indicates they do not plan to increase rates again in 2005. The below table shows the recent rent increase per size of unit.

Daily Rental Rates by Size of Unit			
	2 Bedroom	3 Bedroom	4 Bedroom
2003-04 Rates	$7.50	$8.00	$8.50
2004-05 Rates	$9.50	$10.00	$10.50
2005-06 Rates*	$9.50	$10.00	$10.50
* HCD indicates it does not intend to increase rents in 2005.			

Last year, the Legislature approved a budget trailer bill (SB 1102, Chapter 227, Statutes of 2004) that prohibited HCD from increasing rents for residents of any Office of Migrant Services Facility to a level that exceeds 30 percent of the average annualized household incomes of residents of the facility without specific legislative authorization. However, this language was chaptered out by AB 868 (Chapter 868, Statutes of 2004).

HCD indicates that the current rents fall below 30 percent of the average annualized household incomes of residents. Rental income helps cover the operating costs of the migrant centers and the July 1, 2004, rent increase resulted in about a $500,000 annual revenue gain.

Staff Recommendation: Approve trailer bill language (see Attachment I on page 21) that would constrain rents for residents of Office of Migrant Services facilities to a level not to exceed 30 percent of the average household incomes of center residents unless specific legislative authorization for a higher rent level has been received. This language is identical to the language the Subcommittee approved last year.

Action: Trailer-bill language approved on a 2-1 vote, with Senator McClintock voting no.

3. Economic Development Areas – Administrative Funding. The State currently designates four types of economic development areas intended to attract and retain businesses in economically-challenged communities. Currently, there are 39 Enterprise Zones (EZs), eight Local Agency Military Base Recovery Areas (LAMBRAs), two Manufacturing Enhancement Areas (MEAs), and one Targeted Tax Area (TTA). Last year, a budget trailer bill (SB 1097) provided HCD authority until July 1, 2006, to impose a fee, not to exceed $10, for each application for a Enterprise Zone hiring tax credit voucher. Businesses are only required to pay the fee if they choose to take advantage of the tax credit. This fee funds the State's cost of the Economic Development Areas Programs ($668,000 and 6 positions), which would otherwise be a General Fund expense. Statute does not currently allow for the imposition of fees to cover the State's cost of the LAMBRA, MEA, and TTA programs.

Statutory amendments that would include LAMBRAs, MEAs, and TTAs in the fee structure, remove the EZ sunset date, and delete the refund requirement for a rejected EZ application, are on Attachment II (page 22) of this agenda.

Staff Comment: There are approximately 55,000 businesses using the EZ tax credit and only about 2,300 businesses using tax credits in all the other economic development areas. According to HCD, there is not an administrative problem with also requiring the businesses that use the other tax-credit programs to help support the State's administrative cost of the programs. Removing the EZ sunset date would save the State approximately $668,000 (General Fund) in 2006-07.

Staff Recommendation: Leave open.

Action: Issue kept open so trailer-bill language could be further reviewed with input from interested parties.

4. **Office of Migrant Services Reconstruction Plan (BCP #3).** HCD requests to redirect $9.5 million of Proposition 46 bond funds from the Joe Serna, Jr. Farmworker Housing Grant Program to the Office of Migrant Services (OMS) for the following purposes:
    - $6.23 million to complete three migrant centers currently under construction and/or in the predevelopment stage but in need of supplemental funds due to cost escalations.
    - $2.42 million to continue the replacement of migrant center child care buildings that have outlived their useful lives.
    - $0.85 million to construct a required water system and perform long-delayed road and drainage repairs at one migrant center.

    The Office of Migrant Services operates 2,103 units of family housing that provide seasonal housing to approximately 11,000 farm workers and family members annually. Privately operated labor camps provide some 26,000 units, most often for single workers.

    Proposition 46, approved in 2002, provided $25 million for the Joe Serna, Jr. Farmworker Housing Grant Program to encourage non-state entities to construct more farmworker housing. Grant applications have been below expectations – with only 3 applications approved totaling less than $3 million. Current law caps the amount of this funding available for Office of Migrant Services farmworker housing at $5.5 million. This request includes trailer bill language that would increase that cap to $15.0 million.

    If this request is denied, HCD indicates the alternative options would be to reduce the number of current units (to redirect funding), increase rental charges, or augment General Fund support.

    Statutory change is required to implement this request. The language submitted by the Administration is Attachment III (page 26) to this agenda.

    Staff Recommendation: Approve the request including trailer-bill language.

Action: Trailer-bill language approved on a 2-1 vote, with Senator McClintock voting no.

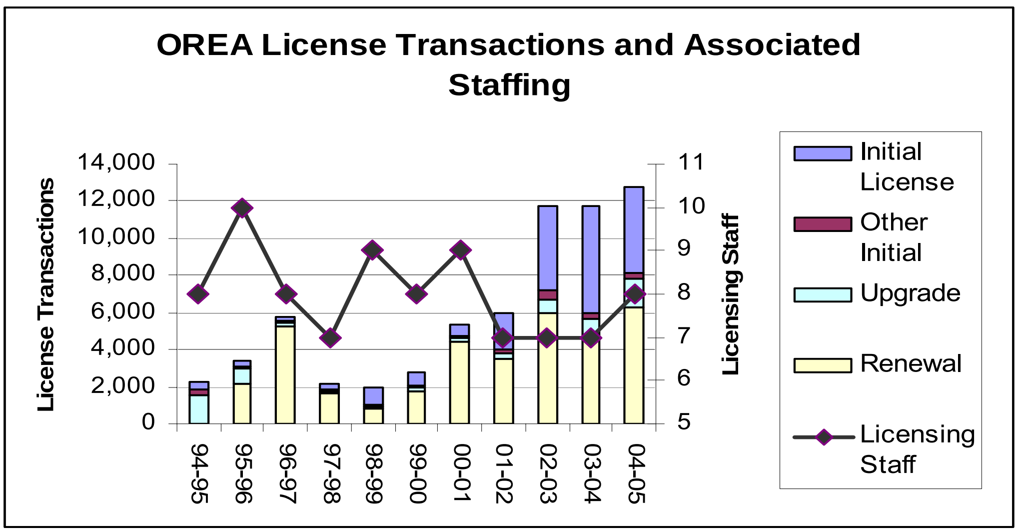
2310 Office of Real Estate Appraisers

The Office of Real Estate Appraisers (OREA) administers a program for licensing of real estate appraisers in federally-related loan transactions. All appraisals for federally regulated real estate financing transactions must be conducted by persons licensed in accordance with applicable state standards. In addition, certain appraisals, because of the size of the real property or complexity involved, must be performed only by a state-licensed appraiser.

The Governor proposes $4.1 million (no General Fund) in total expenditures for OREA – an increase of $90,000. The Governor did not propose any policy budget changes for the department.

Issue

License Processing Turnarounds. Committee staff received a complaint about delays in OREA's processing of real estate appraisers' licenses. OREA reports that initial licenses averaged 34 days in years 1994-95 through 2001-02; however, they averaged 84 days in years 2002-03 through 2004-05. OREA is funded by industry and has a fund balance sufficient to support temporary help positions to reduce processing times. The chart below shows historic OREA license volume and staffing. OREA indicates it expects the real estate market to cool, and if that occurs, it will be able to reduce transaction times with existing staff. If the volume of licenses stays at the 2002-03 and 2003-04 levels, OREA will likely have problems reducing wait times.



Staff Recommendation: Augment funding by $43,000, Real Estate Appraisers Regulation Fund, for one-year limited-term for a temporary-help position to improve licensing turnaround times.

Action: No action taken on staff recommendation or proposed budget; therefore, budget is approved.

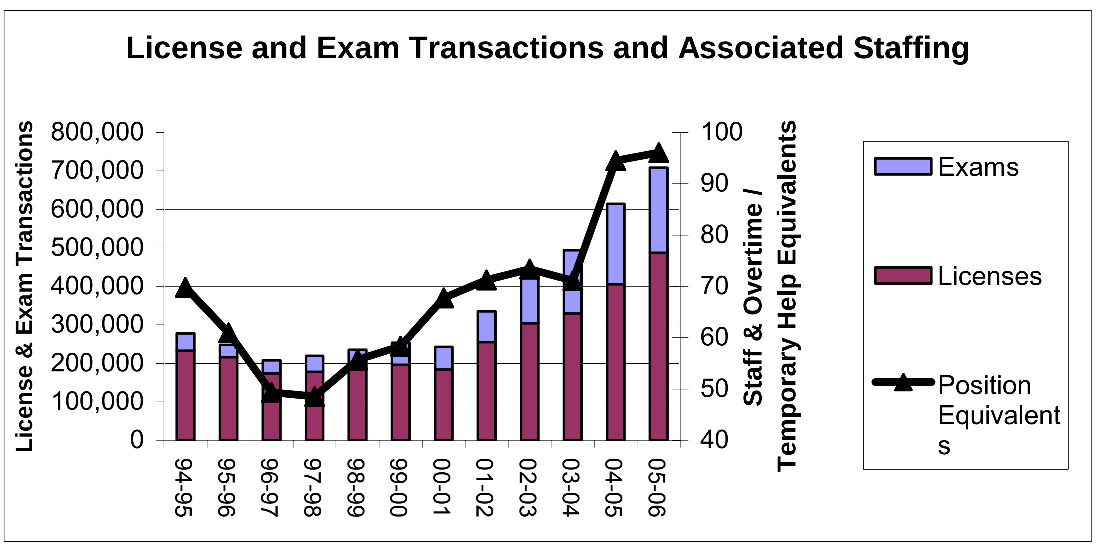
2320 Department of Real Estate

A primary objective of the Department of Real Estate is to protect the public in real estate transactions and provide related services to the real estate industry.

The Governor proposes $34.6 million (no General Fund) in total expenditures for the department – an increase of $1.6 million.

Issue

1. **Workload Augmentation (BCP #1).** The Administration requests a two-year limited-term augmentation of $445,000 (special fund) to fund 16 new temporary-help positions to process real estate examination and license transactions in a more-timely manner. The Department indicates that use of temporary help and overtime has reduced exam and license processing from 175 days to 83 days (as of June 30, 2004). Without the funding augmentation, the Department projects that processing times will again increase. Last year, the Legislature approved $775,000 (special fund) and 13.0 positions (12.4 personnel years) on a permanent basis to address department-wide workload issues. However, the volume of exam and license workload in 2004-05 has exceeded last year's expectations, and the Department is requesting additional limited-term temporary-help funding. The chart below compares staffing and workload (actual and projections) – overtime and temporary help hours were converted to annual position equivalents assuming 1,840 work-hours per year. Data was provided by the Department; however, the Department notes the data exclude additional support categories that have also increased workload in recent years.



Staff Comment: In addition to this requested augmentation, the Department of Finance approved a two-year funding augmentation $249,000 for overtime associated with license and exam workload. This request was not submitted as a Budget Change Proposal but included in the budget galley combined with other adjustments with the title "Various baseline adjustments."

Staff Recommendation: The Subcommittee may wish to ask the Department of Finance why the $249,000 overtime augmentation was treated as a baseline adjustment and not provided to the Legislature as a Budget Change Proposal. Staff understands there has been a change in Finance policy concerning how budget changes are reported to the Legislature.

Staff recommends approval of the request.

Action: Issue approved on a 3-0 vote.

Attachment I

Amendments to Section 50710.1 of the Health and Safety Code approved last year, but chaptered out. These relate to implementing a statutory cap on rent increases for residents of Office of Migrant Services housing. (See Issue #2 on page 16 of this agenda).

50710.1. (a) If all the development costs of any migrant farm labor center assisted pursuant to this chapter are provided by federal, state, or local grants, and if inadequate funds are available from any federal, state, or local service to write-down operating costs, the department may approve rents for that center which are in excess of rents charged in other centers assisted by the Office of Migrant Services. However, notwithstanding any other provision of law, commencing with the 2005 growing season the Department of Housing and Community Development shall not increase rents for residents of Office of Migrant Services facilities to a level which represents more than 30 percent of the average annualized household incomes of center residents without specific legislative authorization for such increase. Prior ~~prior~~ to approving these rents, the department shall consider the adequacy of evidence presented by the entity operating the center that the rents reimburse actual, reasonable, and necessary costs of operation. ~~The department may not increase any rent charged at a migrant farm labor center during the 2003-04 fiscal year.~~

Attachment II

Amendments to Government Code that relate to proposed changes the financing of economic development areas. (See Issue #3 on page 17 of this agenda).

1) Amend Section 7076(c) and (d) of the Government Code to read:

(c) The department may establish, charge, and collect a fee as reimbursement for the costs of its administration of this chapter. The department shall assess each enterprise zone *and manufacturing enhancement area* a fee of not more than ten dollars ($10) for each application ~~it accepts~~ for issuance of a certificate pursuant to *subdivision (j) of Section 17053.47,* subdivision (c) of Section 17053.74, ~~of the Revenue and Taxation Code and~~ subdivision (c) of Section 23622.7, *or subdivision (i) of Section 23622.8* of the Revenue and Taxation Code. The enterprise zone *or manufacturing enhancement area* administrator ~~may~~ *shall* collect this fee at the time ~~it accepts~~ an application *is submitted* for issuance of a certificate. ~~This subdivision shall become inoperative on July 1, 2006, and shall have no force or effect on or after that date.~~
~~(d) Any fee assessed and collected pursuant to subdivision (c) shall be refundable if the certificate issued by the local government pursuant to subdivision (c) of Section 17053.74 of the Revenue and Taxation Code and subdivision (c) of Section 23622.7 of the Revenue and Taxation Code is not accepted by the Franchise Tax Board.~~

2) Amend Government Code Section 7086(d) as follows:

(d) The department shall adopt regulations governing the imposition and collection of fees pursuant to ~~subdivisions (c) and (d)~~ *subdivision (c)* of Section 7076, and the issuance of certificates by local governments pursuant to *subdivision (j) of Section 17053.47,* subdivision (c) of Section 17053.74, ~~of the Revenue and Taxation Code and~~ subdivision (c) of Section 23622.7*, or subdivision (i) of Section 23622.8* of the Revenue and Taxation Code. The regulations shall provide for a notice or invoice to fee payers as to the amount and purpose of the fee. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall remain in effect for no more that 360 days unless the agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 as required by subdivision (e) of Section 11346.1.

3) Amend Government Code Section 7097 by adding subdivision (g) as follows:

(g)(1) The department may establish, charge, and collect a fee as reimbursement for the costs of its administration of this chapter. The department shall assess each targeted tax area a fee of not more than ten dollars ($10) for each application for issuance of a certificate pursuant to subdivision (d) of Section 17053.34 of the Revenue and Taxation Code and subdivision (d) of Section 23634 of the Revenue and Taxation Code. The

targeted tax area administrator shall collect this fee at the time an application is submitted for issuance of a certificate.

(2) The department shall adopt regulations governing the imposition and collection of fees pursuant to this subdivision and the issuance of certificates by local governments pursuant to subdivision (d) of Section 17053.34 of the Revenue and Taxation Code and subdivision (d) of Section 23634 of the Revenue and Taxation Code. The regulations shall provide for a notice or invoice to fee payers as to the amount and purpose of the fee. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall remain in effect for no more that 360 days unless the agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 as required by subdivision (e) of Section 11346.1.

4) Add Section 7114.2 to the Government Code as follows:

7114.2(a) The department may establish, charge, and collect a fee as reimbursement for the costs of its administration of this chapter. The department shall assess each LAMBRA a fee of not more than ten dollars ($10) for each application for issuance of a certificate pursuant to subdivision (c) of Section 17053.46 of the Revenue and Taxation Code and subdivision (c) of Section 23646 of the Revenue and Taxation Code. The LAMBRA administrator shall collect this fee at the time an application is submitted for issuance of a certificate.

(b) The department shall adopt regulations governing the imposition and collection of fees pursuant to this section and the issuance of certificates by local governments pursuant to subdivision (c) of Section 17053.46 of the Revenue and Taxation Code and subdivision (c) of Section 23646 of the Revenue and Taxation Code. The regulations shall provide for a notice or invoice to fee payers as to the amount and purpose of the fee. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall remain in effect for no more that 360 days unless the agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 as required by subdivision (e) of Section 11346.1.

5) Amend Rev and Tax Code 17053.34(d) to read:

(d) The qualified taxpayer shall do both of the following:

(1) Obtain from ~~either~~ the Employment Development Department, as permitted by federal law, ~~or~~ the local county or city Job Training Partnership Act administrative entity, ~~or~~ the local county GAIN office or social services agency, *or the local government administering the targeted tax area* ~~as appropriate~~, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. ~~The Employment Development Department shall develop a form for this~~

~~purpose.~~ *The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to paragraph (3) of subdivision (g) of Section 7097 of the Government Code and shall develop forms for this purpose.*
(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

6) Amend Rev and Tax Code 17053.46(c) to read:

(c) For qualified disadvantaged individuals or qualified displaced employees hired on or after January 1, 2001, the taxpayer shall do both of the following:
(1) Obtain from ~~either~~ the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office, or social services agency, *or the local government administering the LAMBRA* ~~as appropriate~~, a certification that provides that a qualified disadvantaged individual or qualified displaced employee meets the eligibility requirements specified in subparagraph (C) of paragraph (4) of subdivision (b) or subparagraph (A) of paragraph (6) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. ~~The Employment Development Department shall develop a form for this purpose.~~ *The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (c) of Section 7114.2 of the Government Code and shall develop forms for this purpose.*
(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

7) Amend Rev and Tax Code 17053.47 by adding subdivision (j) to read:

(j) The qualified taxpayer shall do both of the following:
(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the manufacturing enhancement area, a certification that provides that a qualified disadvantaged individual meets the eligibility requirements specified in of paragraph (5) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (d) of Section 7086 of the Government Code and shall develop forms for this purpose.
(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

8) Amend Section 23622.8 of the Rev & Tax Code by adding subdivision (i) as follows:

(i) The qualified taxpayer shall do both of the following:
(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office

or social services agency, or the local government administering the manufacturing enhancement area, a certification that provides that a qualified disadvantaged individual meets the eligibility requirements specified in of paragraph (5) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (d) of Section 7086 of the Government Code and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

9) Amend Rev and Tax Code Section 23634(d) to read:

(d) The qualified taxpayer shall do both of the following:

(1) Obtain from ~~either~~ the Employment Development Department, as permitted by federal law, ~~or~~ the local county or city Job Training Partnership Act administrative entity, ~~or~~ the local county GAIN office or social services agency, ~~as appropriate~~ *or the local government administering the targeted tax area*, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. ~~The Employment Development Department shall develop a form for this purpose.~~ *The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to paragraph (3) of subdivision (g) of Section 7097 of the Government Code and shall develop forms for this purpose.*

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

10) Amend Rev and Tax Code Section 23646(c) to read:

c) For qualified disadvantaged individuals or qualified displaced employees hired on or after January 1, 2001, the taxpayer shall do both of the following:

(1) Obtain from ~~either~~ the Employment Development Department, as permitted by federal law, the administrative entity of the local county or city for the federal Job Training Partnership Act, or its successor, the local county GAIN office~~,~~ or social services agency, *or the local government administering the LAMBRA* ~~as appropriate~~, a certification that provides that a qualified disadvantaged individual or qualified displaced employee meets the eligibility requirements specified in subparagraph (C) of paragraph (4) of subdivision (b) or subparagraph (A) of paragraph (6) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. ~~The Employment Development Department shall develop a form for this purpose.~~ *The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (c) of Section 7114.2 of the Government Code and shall develop forms for this purpose.*

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

Attachment III

Administration-proposed amendments to Health and Safety Code Section 53533 (a) (4) (A), relating to the use of Proposition 46 bond funds for the purpose of reconstructing migrant centers operated through the Office of Migrant Services in the Department of Housing and Community Development. (See Issue #4 on page 18 of this agenda).

(A) Twenty–five million dollars ($25,000,000) shall be used for projects that serve migratory agricultural workers as defined in subdivision (i) of Section 7602 of Title 25 of the California Code of Regulations. If, after July 1, 2003, funds remain after the approval of all feasible applications, the department shall be deemed an eligible recipient for the purposes of reconstructing migrant centers operated through the Office of Migrant Services pursuant to Chapter 8.5 (commencing with Section 50710) that would otherwise be scheduled for closure due to health or safety considerations or are in need of significant repairs to ensure the health and safety of the residents. Of the dollars allocated by this section, the department shall receive ~~five million five hundred thousand dollars ($5,500,000)~~ fifteen million dollars ($15,000,000) for these purposes.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Tom McClintock
Christine Kehoe

Hearing Outcomes

Wednesday, March 16, 2005
1:30 p.m.
Room 2040

Consultant: Brian Annis

Transportation

Department Budgets Proposed for Consent

2600 California Transportation Commission

The California Transportation Commission (CTC) is responsible for the programming and allocating of funds for the construction of highway, passenger rail, and transit improvements throughout California. The CTC also advises and assists the Secretary of Business, Transportation and Housing Agency and the Legislature in formulating and evaluating state policies and plans for California's transportation programs.

The Governor proposes total expenditures of $77.139 million (no General Fund) and 13.0 positions for the CTC, - an increase of $438,000 from the current year. Most of this funding, $75.0 million, is local assistance funding from the Clean Air and Transportation Improvement Fund, which is revenue from general obligation bonds. The remainder of the proposed funding, about $2.1 million, supports the operations of the CTC. The Administration did not submit any Budget Change Proposals for the CTC; however, the Administration did increase the CTC's budget by approximately $250,000 above the statewide standard price increase to fund additional travel, legal costs, and rent costs.

2700 Office of Traffic Safety

The Office of Traffic Safety (OTS) is responsible for allocating federal grant funds to state and local entities to promote traffic safety. The office administers the California Traffic Safety Program and will distribute approximately $77.9 million of federal grant funds in 2005-06 to local and State agencies. The grants provided by OTS focus on the nine priority areas of traffic safety: (1) alcohol and drugs, (2) occupant protection, (3) pedestrian and bicycle safety, (4) traffic records, (5) emergency medical services, (6) roadway safety, (7) police traffic services, (8) motorcycle safety, and (9) speed control.

The Governor proposes total expenditures of $84.9 million (no General Fund), - an increase of $35,000 from the current year. The Administration did not submit any Budget Change Proposals for the Office of Traffic Safety.

Staff Comment: No issues have been raised with either of these budgets.

Staff Recommendation: Approve both of these budgets.

Action: Both Budgets approved on a 2-1 vote, with Senator McClintock voting no.

Department Budgets Proposed for Discussion

2640 Special Transportation Programs

The Special Transportation Program provides funding to the State Controller for allocation to regional transportation planning agencies for mass transportation operations and projects. Revenue comes from the sales tax on diesel fuel and a small portion of the sales tax on gasoline.

The Governor proposes funding of $137.3 million for Special Transportation Programs – an increase of $19.9 million (17 percent) over current-year funding. The increase in funding is primarily due to projections of higher diesel-fuel prices. Half of the projected Public Transportation Account "spillover" revenue (about $113 million) would go this budget item under current law; however, the Administration proposes to retain all spillover revenue of $216 million in the General Fund. Spillover revenue is a portion of the sales tax on gasoline and only occurs in years when gasoline prices are high relative to the prices of all other goods.

Staff Recommendation: Keep this budget open because (1) the proposal to redirect spillover revenue to the General Fund should be further considered in the overall context of transportation funding levels, and (2) the Administration generally provides a new forecast of these revenues with the May Revision of the Budget.

Action: Budget kept open pending May Revision revenue numbers.

2660 Department of Transportation

The Department of Transportation (Caltrans) constructs, operates and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

The Governor proposes total expenditures of $8.0 billion ($0 General Fund), a decrease of $119 million (1.5 percent) from the current-year budget.

Expenditure by Program (dollars in thousands)	2004-05	2005-06	$ Change	% Change
Aeronautics	$7,620	$12,705	$5,085	66.7
Highway Transportation	7,220,543	$6,583,256	-637,287	-8.8
Mass Transportation	254,371	755,817	501,446	197.1
Transportation Planning	143,940	145,940	2,000	1.4
Administration	327,088	319,207	-7,881	-2.4
Equipment Program	147,685	165,046	17,361	11.8
State Mandated Local Programs	1	0	-1	-100.0
Total	$8,101,248	$7,981,971	-$119,277	-1.5

Expenditure by Category (dollars in thousands)	2004-05	2005-06	$ Change	% Change
Personal Services	$1,779,950	$1,799,077	$19,127	1.1
Operating Expenses and Equipment	1,383,402	$1,425,629	42,227	3.1
Tort Payments	41,356	41,356	0	0.0
Debt Service (GARVEE bonds)	54,695	72,899	18,204	33.3
Local Assistance	1,980,369	1,429,380	-550,989	-27.8
Capital Outlay - Office Buildings	2,483	34,646	32,163	1,295.3
Capital Outlay - Transportation Projects	2,835,008	3,147,984	312,976	11.0
Unclassified	23,985	31,000	7,015	29.2
Total	$8,101,248	$7,981,971	-$119,277	-1.5

Expenditure by Fund Type (dollars in thousands)	2004-05	2005-06	$ Change	% Change
General Fund	$0	$0	$0	0.0
Federal Trust Fund	2,921,927	$2,402,637	-519,290	-17.8
Special Funds and Bond Funds	4,181,094	4,683,294	502,200	12.0
Reimbursements	998,227	896,040	-102,187	-10.2
Total	$8,101,248	$7,981,971	-$119,277	-1.5

Caltrans Budget Changes proposed for Consent / Vote Only

1. **San Diego District 11 Leased Office Space (BCP #1).** Caltrans requests a two-year limited-term augmentation of $1.186 million in 2005-06 and $1.055 million in 2006-07 (both years funded by the State Highway Account) to fund additional "swing space" lease cost due to delays in completion of the new San Diego District 11 office building. The swing space is temporary office space to house Caltrans personnel who were vacated from the old District 11 office building, which was demolished as part of the construction of a new facility. Caltrans indicates the project delays occurred during the preliminary plans and working drawings phase of the project and the construction should now be completed by June 2006.

   Background: The 2002 Budget Act appropriated $72.6 million for the Construction phase of the San Diego District 11 office building replacement project. Additionally, the 2002 Budget Act approved swing space funding totaling $11.2 million over a four-year period. The construction phase was augmented by $7.7 million by Executive Order C 03/04 – 56. The construction of the building is being financed with lease-revenue bonds.

Action: Issue approved on a 2-1 vote with Senator McClintock voting no.

2. **Maintenance of Electronic Toll Collection Equipment (BCP #7).** Caltrans requests a permanent increase of $289,000 (reimbursements from the Bay Area Toll Authority) and 3 positions for the maintenance and materials cost of toll facilities and electrical toll collection equipment associated with the Advanced Toll Collection and Accounting System (ATCAS).

   Background: The 2000 Budget Act provided $28.7 million in one-time funding for the completion of Advanced Toll Collection and Accounting System. Prior to December 2003, a contractor maintained the system. Beginning in January 2004, the maintenance of the system became the responsibility of Caltrans.

Action: Issue approved on a 2-1 vote with Senator McClintock voting no.

3. **Oakland District Office Building Seismic Retrofit (CO BCP #1).** The Administration requests $34.5 million (State Highway Account) to fund the working drawings and construction of the Oakland District Office building seismic retrofit. This retrofit would upgrade the building from a seismic Risk Level V to a Risk Level III, which is consistent with the state seismic program performance standards.

   Background: The building was constructed in 1991 and was designed utilizing the seismic provisions of the 1988 Uniform Building Code. While it is surprising that a building constructed in 1991 would rate a seismic level V, Caltrans reports that designers and construction firms associated with the 1991 project bear no liability, since the building was constructed to the codes at the time. Funding of $1.3 million was approved in the 2004 Budget Act to fund preliminary plans for this project.

Action: Issue kept open – the Subcommittee requested that Caltrans provide additional information on why building designers and contractors bear no liability for a 1991 building that now requires seismic retrofit.

Staff Recommendation: Approve these consent / vote-only issues.

Caltrans Budget Issues proposed for Discussion

1. **Transportation Funding.** The Governor proposes to retain gasoline sales tax revenue of approximately $1.53 billion in the General Fund in 2005-06 instead of transferring these funds to transportation. This revenue would otherwise support transportation through a $216 million Public Transportation Account "spillover" transfer and a $1.31 billion Proposition 42 transfer. The Director of Finance also indicates the Administration will propose a Proposition 42 suspension in 2006-07, reducing transportation funds by an additional $1.38 billion.

   The Administration indicates that the issuance of tribal-gaming bonds to repay $1.2 billion in transportation loans has been delayed from 2004-05 to 2005-06, due to litigation. Current statute requires the repayment of this $1.2 billion loan by June 30, 2006. Proposed trailer-bill language would remove the statutory due date as well as the General Fund obligation to repay any loan obligation not covered by tribal-gaming revenue.

   The Governor proposes to reschedule past Proposition-42 transportation loans due no later than June 30, 2009, over a 15-year period ending in 2021-22.

   These proposals would delay highway and mass-transit projects in the Traffic Congestion Relief Program, the State Transportation Improvement Program, and delay improvements to local streets and roads. The Governor proposes an amendment to the Constitution to prohibit the suspension of Proposition 42 after 2006-07.

   The table below shows the history and Governor's proposals for transportation loans to the General Fund.

Transportation Loans to the General Fund	Loan Amount (in millions)	Current-law due date	Proposed due date
Traffic Congestion Relief Fund loans (made in 2001-02 and 2002-03)	$1,383	June 30, 2006	By tribal gaming revenue - no GF obligation
2003-04 Propositions 42 loan	868	June 30, 2009	June 30, 2022
2004-05 Proposition 42 loan	1,243	June 30, 2008	June 30, 2022
2005-06 Proposition 42 loan (proposed)	1,310	n.a.	June 30, 2022
2006-07 Propositions 42 Loan (proposed)	1,383	n.a.	June 30, 2022
Total	$6,187		

Staff Comment & Suggested Questions: The subcommittee may wish to ask the Administration the following questions regarding the Governor's transportation proposals.

Traffic Congestion Relief Fund (TCRF) loans and tribal-gaming revenues/bonds:

- The State is receiving approximately $25 million quarterly from gaming revenues for transportation loan repayment. This cash balance is not necessary for the bond issuance. When will the administration transfer the gaming-revenue cash balance to the TCRF? - The faster the cash is received in transportation accounts, the faster projects can move forward.
- If tribal-gaming revenues are insufficient to repay this loan, the Administration's proposed trailer-bill language would remove the obligation of the General Fund to repay the remainder. Why is the Administration proposing removing the statutory requirement that the TCRF loans be repaid in full?
- Why did the Administration decide to exclude the TCRF loan from the proposed constitutional repayment requirements in ACA 4X?

Proposition 42 and ACA 4X

- Concerning ACA 4X, why is the Administration proposing to treat future Proposition 42 reductions from across-the-board budget reductions as a cut instead of a loan?
- The language in ACA 4X is not specific concerning the allocation of revenue from future Proposition-42 loan repayments. Is it the intent to the Administration to allocation those revenues in the same manner those funds would have otherwise been allocated without Proposition-42 suspensions?

The Effect of the Governor's Proposals on Transportation Projects. The California Transportation Commission (CTC) provided information on transportation projects delayed under the Governor's proposal. The information is summarized on the next page, but more detailed CTC documents are Attachment I to this agenda. The dollars in the tables for 2005-06 represent the funding required on top of the Governor's budget to fund the described project categories.

Traffic Congestion Relief Program (TCRP) Projects

The CTC has not made a new TCRP allocation since December 2002. The TCRP program includes $4.9 billion in project funding and $1.5 billion has been allocated to date. The "resources needed" line below represents the cash needed to move forward with all TCRP projects.

	2005-06	2006-07	2007-08	Beyond
TCRP Existing Allocations	$0	$76 M	$18 M	$0
TCRP Match for STIP Programming in 2005-06	$6 M	$13 M	$16 M	$72 M
TCRP Repayment - Approved AB 1335 Letters of No Prejudice	$119 M	$0	$150 M	$0
TCRP Construction in 2005-06	$410 M	$290 M	$156 M	$211 M
TCRP Non-Construction in 2005-06 and Future Year New Allocations	$262 M	$341 M	$516 M	$853 M
Resources Needed	**$797 M**	**$720 M**	**$856 M**	**$1.136 B**

State Transportation Improvement Program (STIP) Projects

The CTC indicates that without the Proposition 42 transfer or loan repayments, there will be little if any capacity to approve STIP allocations in the 2005-06 fiscal year. All, or nearly all, cash available from the State Highway Account will be required to cover the State Highway Operations and Protection Program (SHOPP) allocations and continuing expenditures from past STIP allocations, including continuing preconstruction work that is programmed in prior years. The "resources needed" line below represents cash needed for the allocation of $1.564 billion in STIP projects in 2005-06.

	Total	2005-06	2006-07	2007-08	Beyond
STIP State Highway Projects - Construction in 2005-06	$763 M	$153 M	$381 M	$229 M	$0
STIP State Highway Projects - Preconstruction for 2006-07 to 2008-09	$137 M	$27 M	$69 M	$41 M	$0
STIP State Highway Projects - Preconstruction for Beyond 2008-09	$26 M	$5 M	$13 M	$8 M	$0
STIP Local Projects - Construction	$257 M	$51 M	$129 M	$77 M	$0
STIP Local Projects - Preconstruction	$97 M	$19 M	$49 M	$29 M	$0
Subtotal, No TCRP Match	*$1.280 B*	*$256 M*	*$640 M*	*$384 M*	*$0*
STIP State Highway Projects - Construction in 2005-06 (Match TCRP)	$277 M	$55 M	$138 M	$83 M	$0
STIP State Highway Projects - Preconstruction for Beyond 2008-09 (Match TCRP)	$7 M	$1 M	$4 M	$2 M	$0
Subtotal, TCRP Match	*$284 M*	*$57 M*	*$142 M*	*$85 M*	*$0*
Resources Needed	**1.564 B**	**$313 M**	**$782 M**	**$469 M**	**$0**

See attachment for footnotes to this table.

Staff Comment: The Subcommittee may wish to hear testimony from the CTC on this project information.

Staff Recommendation: Keep the transportation funding proposals open pending the May Revision and revised forecasts of gasoline sales tax revenues from the Department of Finance.

Action: Issue kept open pending the May Revision of the Governor's Budget. (Senator McClintock made a motion to reject this issue, which failed on a 1-2 vote)

2. Specialty Building Facilities (Committee-staff issue). Caltrans plans to spend $212 million through 2007-08 on non-office-building facilities. Caltrans operates 28 equipment facilities, 304 maintenance facilities, and 15 material labs across the state. Additionally, all of Caltrans' districts operate some type of a traffic management center – either as a stand alone facility or as part of anther facility. While funding for office-building projects is reviewed by the appropriate control agencies (the Department of General Services and the Capital Outlay Unit of the Department of Finance) and funding is specifically approved for these projects by the Legislature, that is not the case for non-office-building facilities.

Funding and Approval Process: Non-office-building facilities are funded using the State Highway Operation Protection Program (SHOPP) Budget-Act appropriations. The projects are programmed in the four-year SHOPP, and projects cannot go forward until receiving an allocation from the California Transportation Commission.

Cost of Non-office-building Projects: The 2004 SHOPP (covering the period of 2004-05 through 2007-08) programs $187 million for maintenance, equipment and lab facilities, and $25 million for a new traffic management center in San Bernardino. The list below summarizes the facility projects awaiting a CTC allocation in the later half of 2004-05.

SHOPP Allocation List for 2004-05 ($1,000)	
Maintenance Facilities	
New or remodeled facilities	$39,059
Equipment/material storage	$8,959
Paving/landscaping	$1,664
Back-up generators	$280
SUB TOTAL	$49,962
Equipment Shop Upgrades	$1,374
Material Labs	$2,000
Traffic Management Centers	$2,911
TOTAL	$56,247

Staff Comment: The Subcommittee may wish to explore ways to review the current Caltrans building-facilities process and the necessity to expend at this $50 million annual rate. The LAO or the Department of Finance Performance Review Unit may be appropriate entities to conduct this review. Additionally, the Subcommittee may wish to create a separate appropriation for these facilities expenditures so they can be tracked in the budget.

Staff Recommendation: Keep this issue open for further discussion.

Action: Issue kept open – staff to work with work with the Administration on a separate appropriation to be discussed further at a later hearing.

3. **Update on Cash Management (Informational issue).** Last year, the Legislature approved $734,000 (State Highway Account) and 8 positions (two-year limited term) to allow Caltrans to accelerate the receipt of federal reimbursements, which would in turn allow additional transportation projects to receive allocations to begin construction. At the time of last-year's Governor's Budget, the Administration estimated a $800 million acceleration from cash management; however, that estimate fell to $200 million by the May Revision. Caltrans reports that $65 million in federal reimbursements have been received through January 2005, due to this effort.

What is cash management? The federal government funds transportation projects on a reimbursement basis. Each year, the federal government provides Obligation Authority (OA) that defines the level of federal reimbursements available. Since road construction projects may take several years to complete, the federal government also allows states to begin projects with future OA – called Advanced Construction (AC). For example, construction expenses in 2006-07 would be reimbursed with OA received in 2006-07, instead of unused OA saved from 2004-05. To maximize federal reimbursement in a given year, current reimbursement authority (OA) should be directed to current expenditures and not held unused for future expenditures. Cash management involves directing OA and AC to state and local projects to speed the flow of federal transportation money to California.

Benefit of cash management: Currently, there are highway projects ready for construction that are delayed due to insufficient cash in transportation accounts. Accelerating federal reimbursements provides cash which allows the CTC to make allocations to transportation projects.

Outlook for unreimbursed federal projects: Despite the cash-management effort, Caltrans estimates that unreimbursed federal expenditures will be $1.127 billion at the end of 2004-05 and grow to $1.463 billion by the end of 2005-06. The State Highway Account covers expenditures prior to federal reimbursement.

Can more be done? Caltrans reports that as of January 31, 2005, the State had $948 million of unused federal reimbursement authority (OA) and an additional $598 million at the local level. Caltrans indicates that the department is using cash management for local projects on the highway system, but not for projects off the highway system. Also State reimbursement authority is not always used with the first eligible expenditure.

Staff Comment: If Caltrans could further accelerate federal reimbursements, additional cash would be available to move some stalled transportation projects. Caltrans should discuss what changes could be made to their cash management practices to bring in additional federal reimbursements and additionally why those change would, or would not, be desirable.
Action: Informational item – no vote. Staff to gather more information from Caltrans as needed.

4. **Transportation Funds – Budgetary Accounting (LAO issue)**. The LAO recommends that the Legislature approved amendments to statute, through a budget trailer bill, to remove the authority for the Director of Finance to select the accounting and reporting systems for four transportation funds. The Director of Finance has chosen to display these accounts on a “modified-cash” basis instead of the “modified-accrual” basis, which is standard for most state funds.

Cash versus accrual accounting: Most funds in the Governor’s Budget are displayed on a “modified-accrual” basis, which shows funds as expended when the State commits to making the payments, instead of when the cash is actually transferred out of the fund. Cash accounting shows funds as expended when the cash actually leaves the funds. Because many transportation projects expend funds over several years, the modified-accrual accounting would show all expenditures in the first year, instead of over several years as the contractors are actually paid. For transportation funds, using modified-accrual would sometimes result in a negative fund balance, when the funds may have several hundred million dollars of cash balances.

LAO recommendation: The LAO recommends that transportation funds be budgeted using a modified-accrual accounting treatment, and that statute be accordingly amended. The LAO argues that showing all of Caltrans' funds on the same accounting basis as the rest of the budget would allow the Legislature and the public to accurately determine the size of Caltrans' budget, track changes over time, and compare Caltrans' expenditures to those of other programs. This would greatly enhance legislative oversight and provide the Legislature with a firmer basis on which to make Caltrans budget decisions.

Staff Comment: Consistent budgetary treatment of transportation funds would improve the ability of the Legislature to analyze the Caltrans budget. The Subcommittee may wish to ask the LAO and the Administration to discuss why the modified-accrual or cash treatment is better for these transportation funds. Upon determining the best accounting treatment, the Legislature may want to consider making that specific in statute.

Staff Recommendation: Keep issue open. Direct staff to work with the Administration and LAO to identify the accounting treatment that would best meet the needs of the State.

Action: Issue kept open – staff to work with the Department of Finance and the LAO on the appropriate accounting/budgetary system (either modified accrual or cash, not a combination of the two).

5. **Environmental Enhancement and Mitigation (EEM) Program (Committee-staff issue).** The Administration is proposing no funding for the EEM program in 2005-06. The EEM Program funds grants for projects such as hiking and biking trails, landscaping, and the acquisition of park and wildlife areas.

   Background: The EEM Program was initiated by Chapter 106, Statutes of 1989, which provided for annual transfers of $10 million from the State Highway Account (SHA) to the EEM Fund for a ten-year period. At the expiration of the ten-year period, the Legislature decided to continue funding at the $10 million level and current statute cites the intent of the Legislature to allocate $10 million annually to the EEM Program. Due to declining SHA balances, no transfers were made from the SHA to the EEM Fund in 2003-04 and 2004-05. However there was an existing balance in the EEM Fund of about $10 million, and appropriations were included in the 2003-04 and 2004-05 Budget Acts to allow for EEM Program grants of $5 million in each year.

   Staff Comment: The EEM Fund balance is expected to fall to under $1 million at the end of 2004-05. Therefore, the program cannot continue at the 2004-05 level without a transfer of about $4.2 million from the SHA.

   Staff Recommendation: Leave this issue open. Discuss EEM funding again at the May Revision hearing, when more will be known about the overall level of transportation funding.

   Action: Issue kept open pending the May Revision of the Governor's Budget.

6. **Highway Maintenance Funding (BCP #6).** The Administration requests a permanent increase of 38.0 positions and $45.8 million for highway infrastructure preservation and to implement the statewide culvert inspection and repair program.

   Background: The 2004 Budget Act included a one-time augmentation of the same amount ($45.8 million) and approved budget trailer legislation (SB 1098) requiring Caltrans to provide the Legislature with a five-year maintenance plan by January 31, 2005. This yet-to-be-released report, should provide additional information on the appropriate level of maintenance funding.

   Staff Recommendation: Keep issue open: The still-outstanding maintenance report is necessary to evaluate this request.

   Action: Issue kept open pending the receipt of the maintenance report. The Department of Finance estimated the report should be available in a week or two.

7. **Storm-water Workload (BCP #8).** The Administration requests a permanent increase of 45 positions and $11.7 million (of this, $3.787 million is limited-term) for the maintenance of storm-water structural treatment best management practices. Caltrans' storm-water activities are driven by requirements of the federal Clean Water Act, requirements of the State Water Resources Control Board and various regional boards, and legal settlements. This specific request relates to requirements of a recent legal settlement with the Natural Resources Defense Council.

   Legislative Analyst Recommendation: In the *Analysis of the 2005-06 Budget Bill*, the LAO recommends that this request be denied because to date, Caltrans has provided poor and contradictory workload estimates. However, the LAO recommends the Administration resubmit its request as a Finance Letter using updated estimates.

   Staff Comment: Caltrans indicates that better information now exists on the workload associated with the legal settlement.

   Staff Recommendation: Reject this request, as recommended by the LAO. If the Administration still believes a new workload exists, this request should be resubmitted as an April Finance Letter with the updated workload calculations.
   Action: Issue rejected on a 3-0 vote. The Administration will submit an April Finance Letter with updated workload projections for this issue.

8. **Capital Outlay Support Program Service Contracts (BCP #14)**. The Administration requests a permanent increase of $11.7 million (to $23.6 million – a 98 percent increase) for non-project-specific contracts. Services include document reproduction, photography and satellite imagery, environmental studies, and training.

Capital Outlay Support Service Contract Budgets (in $ millions)			
	2003-04	2004-05	2005-06*
Non-Project-Specific Contracts	$17.977	$11.894	$23.593
Project-Specific Contracts	$4.083	$7.647	$7.647
Total	$22.060	$19.541	$31.240
* Proposed. The Administration may request an adjustment to the Project-Specific-Contract budget in a May Finance Letter.			

   Staff Comment: The Subcommittee may want staff to periodically review capital-outlay-support contracts to determine if expenditures are consistent with legislative priorities. Caltrans indicates it will share, upon request, a list of contracts including a brief description of the needed service and the amount of funding expended.

   Staff Recommendation: Approve the request.
   Action: Issue kept open – Caltrans will provide more detailed expenditure information on this request.

9. **Historic Property Maintenance (BCP #12).** Caltrans requests a permanent increase in expenditure authority of $1.5 million (Historical Property Maintenance Fund) to fund repairs and maintenance on historic properties that Caltrans owns for highway right-of-way purposes. The amount requested matches annual expenditures in 2003-04 and 2004-05, which were authorized on a limited-term basis.

   Background: Caltrans owns residential and other properties that were purchased as right-of-way for highway construction. In some cases, the properties include houses that have been declared historically-significant and as such state and federal law requires their preservation. Many of these properties are located on the Route 710 corridor in Pasadena, and have been owned by Caltrans for over 40 years. Caltrans has been criticized and sued over the maintenance of these properties. Senate Bill 1221 (Chapter 759, Statutes of 1999, Schiff), created the Historical Property Maintenance Fund, which is funded by fifty percent of the revenue receipts collected from Caltrans-owned federally-designated historic properties.

   Staff Comment: Staff recently found provisional language in the 2001 Budget Act that required Caltrans to submit to the Legislature a work plan and cost estimates for the rehabilitation of historic properties located on the 710 corridor. Staff has requested a copy, but has not received one to date.

   Staff Recommendation: Keep this issue open, so the 710 corridor report can be provided and reviewed.
   Action: Issue kept open. Caltrans indicated it will provide the 710 corridor report in time for consideration by budget subcommittees.

10. **Fuel and Insurance Cost Escalations (BCP #5).** The Administration requests $13.1 million in additional expenditure authority to fund various Caltrans programs for price increases for fuel and insurance. The increase for fuel is $9.8 million (to $26.5 million – a 59 percent increase) and the increase for insurance is $3.2 million (to $8.8 million – a 58 percent increase). Caltrans indicates that it has not received a fuel price increase since 2001-02. In 2001-02, fuel prices averaged $1.38 per gallon, and Caltrans projects fuel prices will average $2.19 per gallon in 2005-06. Caltrans indicates the cost of insurance has increased 61 percent since 2003-04.

    Staff Comment: Caltrans projects a 10.5 percent fuel expenditure increase from 2004-05 to 2005-06 while the Department of Finance Economic Research Unit forecasts California Gasoline Consumer Price Index will fall by 8.4 percent.

    Staff Recommendation: Approve request minus $2.528 million: this would provide a $7.2 million fuel increase but tie 2005-06 funding to costs projected for 2004-05.
    Action: Issue kept open. Finance proposed an alternate funding level of the BCP minus $528,000, and will provide additional information to Subcommittee staff.

11. **Equipment Program (BCP #16).** The Administration requests one-time funding of $75,000 (Equipment Service Fund) to reimburse the Department of Finance, Office of State Audits and Evaluation, to serve in an advisory function as the Department develops record keeping systems for the Equipment Program to meet federal and state reporting requirements.

Background. A number of changes to the Equipment Program were instituted in 2000-01 with BCP 16. Most significantly, the Equipment Service Center Internal Service Fund was established and Caltrans was provided the authority to rent idle equipment to local agencies. That BCP indicated that 227 Caltrans vehicles were used less than 50 percent of the year, and if these vehicles were rented to other public agencies, $5.7 million in rental revenues could be generated. Additionally, it was thought that program changes would decrease equipment needs, by encouraging more sharing of underutilized vehicles across Caltrans programs and districts.

Staff Comment. Staff understands that no Caltrans vehicles are currently being leased to other public agencies, and that few vehicles are shared among programs and districts. Caltrans should explain what has prevented the department from achieving the goals of the 2000-01 program reforms. If vehicles are not being shared across agencies and Caltran's programs, can the accounting system be simplified to reduce costs? The Administration indicates the scope the consulting services will also include advice on the appropriateness of the accounting system relative to the way the Equipment Program actually operates.

Staff Recommendation: Approve the request.

Action: Issue approved on a 2-1 vote with Senator McClintock voting no.

12. **Strategic Performance Measures (BCP #10).** The Administration is requesting a permanent increase of $657,000 (State Highway Account) and 4 positions to implement strategic organizational and transportation system performance measures.

    Detail: Caltrans indicates the Strategic Performance Measures initiative is consistent with recommendations of the Performance Improvement Initiative for transportation spearheaded by the Secretary of the Business, Transportation and Housing Agency. Key objectives of the request include developing and implementing strategic performance measurement tools to (1) transform the Department into a more nimble, responsive and accountable business partner, (2) assess results of transportation decisions and investments, and (3) continuously improve department productivity and services by aligning department functions with strategic objectives. The output of this effort is quarterly and annual performance reports

    Staff Comment: Caltrans indicates the quarterly and annual reports associated with this proposal would be made available to the Legislature, although there is no formal reporting requirement.

    Staff Recommendation: Approve request, but make funding and positions two-year limited-term. If these performance measure are not useful in improving outcomes, the funding should not be provided on a permanent basis. To continue funding beyond two years, the Department would have to come forward for the 2007-08 budget and justify continued funding.

    Action: Issue approved, but funding and position authority was changed to two-year limited term. The vote was 2-1 with Senator McClintock voting no.

2665 High-Speed Rail Authority

The California High-Speed Rail Authority (HSRA) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The HSRA is required to prepare a plan for the financing, construction, and operation of a high-speed network for the state that would be capable of achieving speeds of at least 200 miles per hour. The HSRA has completed its business plan, initial finance plan, and currently is completing a program environmental impact report (EIR) and related technical studies. Current law provides for a proposition on the November 2006 ballot to provide $9.95 billion in general obligation bonds for the high-speed rail and related rail projects. The total cost to build the entire system was most-recently estimated at $37 billion.

The Governor proposes $3.9 million in total expenditures for the HSRA, an increase of $2.1 million (120 percent) from the current-year budget.

Issues

1. **Legal Defense of the Program Environmental Impact Report (part of BCP 1).** The HSRA is requesting a one-time augmentation of $500,000 (Public Transportation Account) to prepare an administrative record for the defense of the EIR as well as respond to all lawsuits filed regarding the EIR.

   Background: Last year the HSRA indicated additional funding was needed to complete the EIR, and the Legislature augmented the HSRA budget by $720,000. The Governor vetoed this augmentation. The HSRA indicates that the EIR was delayed, which also delayed legal costs – $300,000 budgeted in 2004-05 for legal costs was instead redirected to cover the cost of the completing the EIR.

   Staff Comment: The HSRA indicates that the estimate for legal costs was provided by the Attorney General.

   Staff Recommendation: Approve the request.

   Action: Issue kept open.

2. **Financing Plan (part of BCP 1).** The HSRA is requesting a one-time augmentation of $500,000 (Public Transportation Account) to prepare a financing plan for the high-speed train system. Current law provides for a proposition on the November 2006 ballot to provide $9.95 billion in general obligation bonds for the high-speed rail and related rail projects.

   Staff Comment: The HSRA indicates the bond was not an element in the Business Plan completed in 2000, and therefore no complete financing plan exists that includes the bonds.

   Staff Recommendation: Approve the request.

   Action: Issue kept open.

3. **Next-Tier Environmental Impact Report (part of BCP 1).** The HSRA is requesting a one-time augmentation of $1.7 million (Public Transportation Account) for the preparation of the "next-tier" program EIR to study the Central Valley to San Francisco Bay Area portion of the planned high-speed train route. The HSRA indicates this study will be an entirely new EIR process, and not part of the current program EIR. If the State does move forward with construction of the high-speed rail system, a project-specific EIR will be required.

   Background: Past EIR work has studied Central Valley to Bay Area route alignments in the areas south of San Jose. At public hearings, the HSRA received a great deal of input on an alternative route alignment, further to the north, along the Altamont Pass (near Interstate 580). The HSRA indicates additional technical review of route options on this segment are required to address the concerns of the public.

   Assembly Bill 3047 (Chapter 650, Statutes of 2004), allows for up to $2.5 million of Measure 2 toll money to be expended by the "Metropolitan Transportation Commission and the High-Speed Rail Authority to study Bay Area access to the High-speed rail system." According to the Metropolitan Transportation Commission, this funding is not available for EIR funding, but rather for a regional alignment study.

   Staff Comment: The Subcommittee may want to consider delaying this next-tier EIR until after the November 2006 bond vote. The benefit of this action would be to minimize expenditures prior to the public vote to fund the construction of this project. The risk of this action would be that upon approval of the bonds by voters, the project is delayed while the next-tier EIR is completed.

   Staff Recommendation: Keep open for further review.

   Action: Issue kept open – the Subcommittee requested information from the HSRA on the addition EIR cost if this study was deferred until after the November 2006 bond vote.

2720 California Highway Patrol

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

The Governor proposes $1.4 billion in total expenditures for the CHP, an increase of $44 million (3 percent) from the current-year budget.

Budget Changes proposed for Consent / Vote Only

1. **Reimbursement Authority (BCP #7).** The Administration requests increased CHP reimbursement authority of $480,000 and 5.5 additional positions to perform administrative functions for programs that transferred from the Technology, Trade, & Commerce Agency to the Business, Transportation & Housing Agency. These programs include the Film Commission, the Infrastructure Bank, the Small Business Loan Program, and the Office of Military Support. The 5.5 positions can be split into two groups:

   - 2.0 positions are currently Business, Transportation and Housing (BT&H) Agency positions loaned to the CHP. The related BT&H-Agency BCP #1 was approved by the Subcommittee at the March 2, 2005, hearing on a 2-1 votes (Senator McClintock voting no).
   - 3.5 positions are currently limited-term positions funded by reimbursements from the BT&H Agency. The CHP indicates the administrative workload performed for the Agency is ongoing at this level.

   Staff Recommendation: Approve this request.

   Action: Approved on a 2-1 vote with Senator McClintock voting no. The Subcommittee requested that the Department of Finance explain why the CHP performs administrative work for other departments and offices. (i.e. what other options exist for this workload other that the CHP, and why is the CHP the preferred service provider)

Budget Changes proposed for Discussion / Vote

1. **Capital Outlay (CO BCPs 1, 2, 4, 5, & 6).** The Administration requests an augmentation of $10.2 million in Motor Vehicle Account funds for the following facilities projects:

   - Santa Fe Springs area office: Design and construct a new office at a cost of $3.3 million. The CHP indicates the existing facility was designed to house 60 officers, but now houses 114 officers.
   - Los Angeles area office: Purchase for $2.3 million the existing facility that the CHP currently leases. The facility was built-to-suit for the CHP with a purchase option. The CHP began occupancy in January 2003 and the lease agreement allows for purchase after January 1, 2005.
   - Williams area office: Construct a new office at a cost of $4.3 million. The Williams area office was damaged by fire in 1999.
   - San Diego area office: Construct office alterations at a cost of $215,000.
   - Oakhurst area study: Develop a future capital outlay proposal at a cost of $50,000.

   Staff Recommendation: Approve this request.

   Action: Issue kept open – staff to clarify cost figures for these projects.

2. **Fuel, Vehicles, Insurance, Interagency Services – Inflation Adjustment**. **(Baseline BCP)** The Administration included in CHP's baseline budget adjustments a total increase of $10.6 million (special fund) to cover price increases in the following areas:

   - $4.0 million for gasoline,
   - $1.4 million for vehicles;
   - $4.6 million for insurance;
   - $0.6 million for interagency services.

   This $10.6 million "baseline BCP" price adjustment was in addition to the standard "Price Letter" inflation adjustment of $6.6 million.

   Staff Comment: The CHP indicates that the standard "Price Letter" inflation increase was not adjusted down to account for CHP-specific inflation adjustments. Therefore, $1.2 million of the total inflation adjustments are duplicative. The CHP re-estimated gasoline expenditures based on March 8, 2005, prices, and found that if these prices continued into 2005-06, fuel costs would exceed the BCP request by $1.3 million. The BCP analyzed over 12 months of price data to forecast costs.

   Staff Recommendation: Approve the inflation adjustments minus $1.2 million to back out the duplicative inflation adjustment.

   Action: Issue kept open – staff to work with CHP and the Department of Finance on the gasoline price forecast.

3. **Overtime Pay – Augmentation (Baseline BCP).** The Administration increased the CHP's overtime budget by $5.4 million (special funds) as a baseline adjustment. This adjustment is in addition to employee compensation augmentations. The CHP indicates this adjustment is not intended to fund additional overtime hours, but rather fund the cost-increase for baseline overtime hours.

   Staff Comment: The CHP recently reviewed 2004-05 overtime usage and reported: "During the first seven months of 2004-05, the impact of the increased hourly cost for uniformed overtime has been mitigated by lower than normal activity levels. If this trend continues, the CHPs non-reimbursed overtime costs for 2004-05 will trail last year's cost." However, the CHP believes the lower 2004-05 overtime usage is an aberration instead of a continuing trend.

   Staff Recommendation: Keep issue open. Recent trends indicate that overtime costs in 2004-05 are less than in 2003-04; however, that trend may not continue. Direct staff to gather more information on unfunded overtime at the CHP.

   Action: Issue approved on a 2-1 vote with Senator McClintock voting no.

4. **911 Dispatch (Staff issue).** The Administration should discuss budget changes needed to implement the recommendation in the State Auditor's report, *Wireless Enhanced 911: The State Has Successfully Begun Implementation, but Better Monitoring of Expenditures and Wireless 911 Wait Times is Needed*. The Auditor had the following four finding related to the CHP:

   - Most CHP centers do not have systems to monitor how long they take to answer 911 calls, and more than half the centers that tracked wait times did not meet the State's goal to answer 911 calls within 10 seconds.
   - Wait times were high, in part, because dispatchers at CHP centers handled significantly more 911 calls per dispatcher than did local answering points we contacted.
   - Unfilled dispatcher positions at CHP centers contributed not only to longer wait times but also to significant overtime costs for the CHP.
   - The CHP does not expect the number of wireless 911 calls diverted to local answering points to exceed 20 percent statewide.

   Staff Comment: Concerning the first bullet, the CHP indicates that all 25 communications centers now have equipment to track call wait times. The CHP should be prepared to discuss progress made in addressing all the Auditor's findings, and what budget changes could be made to improve the continuing program deficiencies.

   Staff Recommendation: Keep issue open.

   Action: Informational issue, no vote.

5. **Workers' Compensation & Industrial Disability Retirement (LAO issue).** The LAO recommends that the Legislature adopt supplemental report language to require the CHP to establish and report on its goals and performance measures in order to assess the effectiveness of its actions to reduce costs and claims associated with workers' compensation claims and industrial disability retirement.

   Background: According to information in the LAO's *Analysis of the 2005-06 Budget Bill*, the CHP spent $68 million in 2003-04 on workers' compensation costs – a $25 million increase from 1998-99. Additionally, the rate of uniformed staff retiring on industrial disabilities is higher than statewide public safety personnel as a group in the Public Employees' Retirement System. Industrial-disability retirees do not pay state or federal income taxes on half of their annual pension amounts.

   The CHP issued a report titled *Workers' Compensation and Disability Retirement within the CHP*, in November 2004, which included findings and corrective measures.

   LAO Recommendation: The LAO's *Analysis* indicates that the CHP's report and subsequent actions are a reasonable first step; however, further investigation is warranted. Specifically, the LAO notes that the higher rate of disability retirement among chiefs relative to rank-and-file officers is not adequately explained. Additionally, the LAO recommends performance measures to assess the success of the corrective measures. The LAO recommends that the Legislature adopt the following supplemental report language.

   The California Highway Patrol shall (1) investigate the reasons for the difference in industrial disability retirement (IDR) rates between high-ranking uniformed personnel (including chiefs, deputy and assistant chiefs) and lower-ranking personnel, and (2) report its findings to the Joint Legislative Budget Committee and the policy and fiscal committees of the Legislature by December 1, 2005. The investigation shall not be limited to age and length of service of the two groups of personnel, but shall also include other factors such as physical fitness and the nature of workers' compensation claims leading to IDR. The report shall identify corrective actions, as appropriate, targeted to reducing the high incidence of IDR among high-ranking personnel.

   The California Highway Patrol shall report by December 1, 2005 on the goals and performance measures it will use to assess the success of its efforts to reduce workers' compensation and industrial disability retirement claims and costs. In establishing these goals and performance measures, the department shall examine the performance and policies of other public safety agencies in California and other states. Findings of this examination shall be included in the December report.
   Staff Recommendation: Approve the LAO's supplemental report language.
   Action: Issue approved on 3-0 vote. (approving the LAO's supplemental report language). The CHP will separately provide additional year to year historical data.

6. CHP Efficiency Improvements (LAO issue). In the *Analysis of the 2005-06 Budget Bill*, the LAO outlines certain efficiency and policy actions the CHP could take to free up additional officers for street patrols.

Background: The LAO reports that since 1993, the number of road patrol officers increased by 12 percent (500 officers), while the number of accidents grew by 30 percent. Accident reporting and other workload increases have reduced the number of road patrol hours.

LAO recommendation: The LAO recommends the enactment of legislation directing CHP to do the following to free up officers for additional road patrol hours within existing budgetary resources:

A. Reduce workload by discontinuing CHP report-writing for non-injury accidents (The LAO estimates this would free up the equivalent of 185 personnel-years)
B. Use technology to streamline the CHP's record-keeping process. (The LAO estimates this would free up the equivalent of 100 personnel-years)
C. Pilot test the use of nonsworn staff for nonenforcement road patrol duties such as directing traffic. (The LAO estimates that if the pilot were successful and expanded statewide this would free up the equivalent of 100 personnel-years)
D. Backfill certain vacant nonpatrol officer positions in areas such as inspecting commercial vehicles and attending community outreach events with nonuniformed staff. (The LAO estimates that every 100 positions converted from uniformed to nonuniformed would provide enough savings to hire an additional 25 road patrol officers)

The LAO indicates these efficiencies would allow the CHP to increase patrol services by the equivalent of several hundred officers within existing budgetary resources.

CHP response: The CHP provided the following responses to the LAO recommendation (lettered responses below correspond to lettered recommendations above):

A. Oppose, because it would reduce service to the public.
B. Concur with some technology improvements (indicating some are already underway), indicates others are not feasible.
C. Oppose because of safety concerns, and questions whether it could be determined in advance if the incident would be appropriate for a non-sworn employee.
D. Concur with some activities, but disagrees with other, such as community outreach.

Staff Recommendation: Keep issue open.

Action: No issues for vote at this time. The CHP will continue to work on these issues with the LAO and keep Subcommittee staff informed.

2740 Department of Motor Vehicles

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

The Governor proposes total expenditures of $762 million, an increase of $7 million (1 percent) from the current-year budget.

Budget Changes proposed for Consent / Vote Only

1. **Moving Costs (BCP).** The Administration requests one-time funding of $781,000, special funds, for moving costs related to three existing offices (in Rocklin, Poway, and Riverside East) where the lessors do not intend to renew the DMV lease.

   Action: Issue kept open. The Subcommittee requested additional information from DMV to further detail the cost of moving these three offices.

2. **Capital Outlay (CO BCP 1 & 2).** The Administration requests an augmentation of $11.2 million in Motor Vehicle Account funds for asbestos abatement and office renovations for the third floor of the Sacramento DMV headquarters building. Two floors have already been completed, after this request, two floors remain. Additionally, the DMV requests $100,000 in capital outlay study funds for budget packages, special studies, and planning activities related to high priority capital outlay projects.

   Action: Issue approved on a 2-1 vote with Senator McClintock voting no.

3. **Woosley v. DMV Refund Claims (BCP).** The DMV requests a one-time augmentation of $1.5 million (special fund) to process refund claims related to Woosley v DMV. This case involved vehicle license fees (VLF) assessed on vehicles first registered outside of California. The California Supreme Court found that these fees on vehicles brought into the state, violated the Commerce Clause of the United States Constitution. Historically, DMV has been funding the costs of the case, including refunds, through deficiency requests and redirection. DMV indicates that they are requesting the new appropriation to avoid the necessity to submit a deficiency. The appropriation would only be available for expenditure on these claims.

   Staff Comment: The DMV indicates Woosley costs averaging $1.1 million were absorbed in 2003-04 and 2005-06; however, that resulted in delayed vehicle purchases, maintenance, etc.

   Action: Issue approved on a 3-0 vote.

Budget Changes proposed for Discussion / Vote

1. **Evaluations of High-Risk Drivers (LAO issue).** The LAO recommends adoption of budget bill language directing the department to transfer the workload for evaluating certain high-risk drivers from driver safety offices to its field offices, and to report on the impact of the transfer. The LAO suggests the "negligent operator " evaluations (concerning motorists that accrue an excessive number of moving violations or cause multiple traffic accidents) be moved to the field offices because these are the simpler type of evaluations that mid-level field office staff could perform with little training. This action would decrease the workload at the safety offices by about 10 percent and allow quicker evaluation of Driving-Under-the-Influence (DUI) cases and physical and mental ability cases. The LAO indicates that currently, DMV is not meeting statutory time frames for DUI cases.

   LAO Recommendation: The LAO recommends that the Legislature adopt the following budget bill language:

   The Department of Motor Vehicles shall transfer the workload associated with negligent operators from the driver safety offices to the customer-service field offices. As part of its 2006-07 budget submittal, the department shall provide information on the impact of the workload transfer on (1) customer-service field offices and driver safety offices, and (2) the delays in the evaluations of driving-under-the-influence cases and the reexamination of motorists who may be physically or mentally unfit to drive safely.

   Staff Comment: The DMV indicates it needs additional time to evaluate and research this recommendation.

   Staff Recommendation: Leave issue open.
   Action: Issue kept open (also at the request of DMV). The DMV, LAO, and staff will have further discussions on the merits of this proposal.

2. **Administrative License Suspension Mandate.** The Administration requests local mandate funding of $10 million in 2004-05 and $1.5 million in 2005-06 (both from the Motor Vehicle Account). State law requires a law enforcement officer (state or local) to immediately confiscate the driver license of a person arrested for driving under the influence of alcohol. The officer is then required to submit the driver license, a copy of the notice of suspension or revocation, and a written report regarding the circumstances of the arrest to DMV. In August 2002, the Commission on State Mandates determined that these activities are a state-reimbursable mandate. The 2004-05 funding would cover mandate costs from 1997-98 through 2004-05, and the 2005-06 funding would cover the ongoing annual cost.

   Legislative Analyst Recommendation: In the *Analysis of the 2005-06 Budget Bill*, the LAO recommends that funding be approved for this mandate.

   Staff Recommendation: Approve the request.
   Action: Issue approved on a 3-0 vote.

Attachment I
California Transportation Commission

Traffic Congestion Relief Program
Funding Options

In February 2005, the California Transportation Commission in cooperation with the Department of Transportation surveyed all Traffic Congestion Relief (TCR) Program lead agencies to obtain the most current information on TCR Program projects. Each lead agency was asked to provide the expected cash flow for projects that had received an allocation of TCR Program funds, expected cashflow for future TCR Program fund allocations to complete the projects (assuming funding was made available in the 2005-06 fiscal year), and updated project schedules and funding plans.

Based on the survey results the following four funding options were developed:

Funding Option #1 - Provide funding to cover the projected costs for projects with an existing allocation of TCR Program funds.

Funding Option #2 - Provide funding to cover the projected costs for projects with an existing allocation of TCR Program funds, and funding to reimburse agencies for eligible costs on projects completed under a currently approved AB 1335 Letter of No Prejudice (LONP).

Funding Option #3 - Provide funding to cover the projected costs for projects with an existing allocation of TCR Program funds, funding to reimburse agencies for eligible costs on projects completed under a currently approved AB 1335 Letter of No Prejudice (LONP), and funding to resume making allocations for Phase 4 Construction or Procurement.

Funding Option #4 – Provide funding to complete the TCR Program.

Funding Option #1 - Provide funding to cover the projected costs for projects with an existing allocation of TCR Program funds.

The TCR Program began the 2004-05 fiscal year with available resources of $355 million (primarily as a loan from the State Highway Account). The February 2005 survey of TCR Program lead agencies indicated that $218 million will be expended in FY 2004-05 and $134 million in FY 2005-06 for the projects and phases that had received an allocation of funds.

Resources needed by Fiscal Year for Funding Option #1:

	2004-05	2005-06	2006-07	2007-08	2008-09	Beyond
Beginning Balance	$355 M	$137 M	$3 M			
Cash-flow, existing allocations	$218 M	$134 M	$79 M	$18 M	$0	$0
Resources Needed			**$76 M**	**$18 M**		

Funding Option #2 - Provide funding to cover the projected costs for projects with an existing allocation of TCR Program funds, and funding to reimburse agencies for eligible costs on projects completed under a currently approved AB 1335 Letter of No Prejudice (LONP).

The TCR Program began the 2004-05 fiscal year with available resources of $355 million (primarily as a loan from the State Highway Account). In an effort to keep projects on track, agencies indicated their willingness to fund projects using their own funds to proceed with the project work and be reimbursed in future fiscal years under an approved AB 1335 LONP.

Resources needed by Fiscal Year for Funding Option #2:

	2004-05	2005-06	2006-07	2007-08	2008-09	Beyond
Beginning Balance	$355 M	$137 M				
Cash-flow, existing allocations	$218 M	$134 M	$79 M	$18 M	$0	$0
Repayment – Approved AB 1335 Letters of No Prejudice		$119 M	$0	$150 M	$0	$0
Resources Needed		**$116 M**	**$79 M**	**$168 M**		

Funding Option #3 - Provide funding to cover the projected costs for projects with an existing allocation of TCR Program funds, funding to reimburse agencies for eligible costs on projects completed under a currently approved AB 1335 Letter of No Prejudice (LONP), and funding to resume making allocations for Phase 4 Construction or Procurement.

The TCR Program began the 2004-05 fiscal year with available resources of $355 million (primarily as a loan from the State Highway Account). Additional information furnished as part of the February 2005 TCR Program survey indicated approximately $1 billion of TCR Program funded construction or procurement contracts are either ready to go to award or would be ready for award. Any decisions regarding funding to start new construction or procurement contracts should recognize the need of reliable funding beyond the budget year to complete the contracts.

Resources needed by Fiscal Year for Funding Option #3:

	2004-05	2005-06	2006-07	2007-08	2008-09	Beyond
Beginning Balance	$355 M	$137 M				
Cash-flow, existing allocations	$218 M	$134 M	$79 M	$18 M	$0	$0
Repayment – Approved AB 1335 Letters of No Prejudice		$119 M	$0	$150 M	$0	$0
Cash flow, 2005-06 Construction/Procurement Allocations		$415 M	$298 M	$160 M	$137 M	$74 M
Resources Needed		**$531 M**	**$377 M**	**$328 M**	**$137 M**	**$74 M**

Funding Option #4 – Provide funding to complete the TCR Program.

The TCR Program began the 2004-05 fiscal year with available resources of $355 million (primarily as a loan from the State Highway Account). Additional funding is needed in 2005-06 and beyond to complete all projects contained in the TCR Program.

Resources needed by Fiscal Year for Funding Option #4:

	2004-05	2005-06	2006-07	2007-08	2008-09	Beyond
Beginning Balance	$355 M	$137 M				
Cash-flow, existing allocations	$218 M	$134 M	$79 M	$18 M	$0	$0
Repayment – Approved AB 1335 Letters of No Prejudice		$119 M	$0	$150 M	$0	$0
Cash flow, 2005-06 Construction/Procurement Allocations		$415 M	$298 M	$160 M	$137 M	$74 M
Cash flow, 2005-06 Non-Construction Allocations and Future Year New Allocations		$262 M	$347 M	$528 M	$355 M	$570 M
Resources Needed		**$793 M**	**$724 M**	**$856 M**	**$492 M**	**$644 M**

Traffic Congestion Relief Program (TCR Program)
Resource Need Summary

The Commission suspended making TCR Program allocations in December 2002 due to the continued uncertainty of program funding. Of the $4.908 billion made available through AB 2928, the Commission had approved $1.494 billion in project allocations.

In February 2005, the California Transportation Commission in cooperation with the Department of Transportation surveyed all Traffic Congestion Relief (TCR) Program lead agencies to obtain the most current information on TCR Program projects. Each lead agency was asked to provide the expected cashflow for projects that had received an allocation of TCR Program funds, expected cashflow for future TCR Program fund allocations to complete the projects (assuming funding was made available in the 2005-06 fiscal year), and updated project schedules and funding plans.

Resource Needs to Complete the TCR Program

	2005-06	**2006-07**	**2007-08**	**Beyond**
TCRP Existing Allocations	$0	$76 M	$18 M	$0
TCRP Match for STIP Programming in 2005-06	$6 M	$13 M	$16 M	$72 M
TCRP Repayment - Approved AB 1335 Letters of No Prejudice	$119 M	$0	$150 M	$0
TCRP Construction in 2005-06	$410 M	$290 M	$156 M	$211 M
TCRP Non-Construction in 2005-06 and Future Year New Allocations	$262 M	$341 M	$516 M	$853 M
Resources Needed	**$797 M**	**$720 M**	**$856 M**	**$1.136 B**

State Transportation Improvement Program (STIP)
Resource Need Summary

Without Transportation Investment Fund (TIF) transfers or loan repayments, there will be little if any capacity to approve STIP allocations in the 2005-06 fiscal year. All, or nearly all, cash available from the State Highway Account (SHA) will be required to cover the State Highway Operations and Protection Program (SHOPP) allocations and continuing expenditures from past STIP allocations, including continuing preconstruction work that was programmed in prior years.

To allocate $1.564 billion in STIP projects programmed for the 2005-06 fiscal year would require about 20% of that amount, or about $313 million, in cash in the 2005-06 fiscal year. To make this level of allocations would also require an assurance that about 50% of that amount, or $782 million, would be available in cash in the 2006-07 fiscal year to support the allocations made in the 2005-06 fiscal year. Another $469 million in cash would be needed in the 2007-08 fiscal year to support remaining expenditures on the 2005-06 fiscal year allocations.

Without an assurance that the needed cash would be available in the 2006-07 and 2007-08 fiscal years, then allocations in the 2005-06 fiscal year would be limited roughly to the amount of the TIF transfer and/or loan repayments in the 2005-06 fiscal year.

Resource Needs for STIP 2005-06 Allocations Programmed

	Total	2005-06	2006-07	2007-08	Beyond
STIP State Highway Projects - Construction in 2005-06	$763 M	$153 M	$381 M	$229 M	$0
STIP State Highway Projects - Preconstruction for 2006-07 to 2008-09	$137 M	$27 M	$69 M	$41 M	$0
STIP State Highway Projects - Preconstruction for Beyond 2008-09	$26 M	$5 M	$13 M	$8 M	$0
STIP Local Projects - Construction	$257 M	$51 M	$129 M	$77 M	$0
STIP Local Projects - Preconstruction	$97 M	$19 M	$49 M	$29 M	$0
Subtotal, No TCRP Match	*$1.280 B*	*$256 M*	*$640 M*	*$384 M*	*$0*
STIP State Highway Projects - Construction in 2005-06 (Match TCRP)	$277 M	$55 M	$138 M	$83 M	$0
STIP State Highway Projects - Preconstruction for Beyond 2008-09 (Match TCRP)	$7 M	$1 M	$4 M	$2 M	$0
Subtotal, TCRP Match	*$284 M*	*$57 M*	*$142 M*	*$85 M*	*$0*
Resources Needed	**1.564 B**	**$313 M**	**$782 M**	**$469 M**	**$0**

Includes allocations programmed in 2004-05 that will now be carried forward to 2005-06.
Does not include resources needed to support SHOPP allocations (which come from the SHA).
Does not include resources needed to support prior STIP allocations (fundable from the SHA).
Figures for 2006-07 and 2007-08 do not include resources to support new allocations in those years.
Does not include resources to support early delivery of projects programmed after 2005-06

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Christine Kehoe
Tom McClintock

Wednesday, March 30, 2005
1:30 pm
Room 2040

Proposed Consent / Vote-Only Agencies

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

Departments Proposed for Consent / Vote-Only

0280 COMMISSION ON JUDICIAL PERFORMANCE

The Commission on Judicial Performance is the independent state agency responsible for investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges pursuant to article VI, section 18 of the California Constitution. Its jurisdiction includes all active judges and justices of California's superior courts, Courts of Appeal, and Supreme Court, and former judges for conduct prior to retirement or resignation. The Commission also shares authority with local courts for the oversight of court commissioners and referees. In addition to disciplinary functions, the Commission is responsible for handling judges' application for disability retirement.

The Commission is composed of eleven members: three judges appointed by the Supreme Court, two attorneys appointed by the Governor, and six lay citizens, two appointed by the Governor, two appointed by the Senate Rules Committee and two appointed by the Speaker of the Assembly. Members are appointed to four-year terms and may serve two terms, Commission members do not receive a salary.

Budget Request. The budget proposes total expenditures of $4.1 million from the General Fund, an increase of $13,000, or 0.3 percent from current year expenditures. The commission has a total of 27 positions.

0390 JUDGES' RETIREMENT SYSTEM

The Judges' Retirement System (JRS I) provides retirement benefit funding for judges of the Supreme Court, Courts of Appeal, Superior and Municipal Courts. Retirement benefits are based on age, years of service, compensation of active judges, and eligibility as determined by specific sections of the Judge's Retirement Law. The JRS I is funded by the Judge's Retirement Fund, which receives revenue from the General Fund and certain filing fees, as well as employee contributions equal to 8 percent of the judges' salaries.

Chapter 879 of the Statutes of 1994 established the Judges' Retirement System II (JRS II). Unlike its predecessor, JRS II is designed to be fully funded from employer and employee contributions on a prospective basis. The major differences in JRS II include increased retirement age and a cap of 3 percent annually for COLAs for retirement benefits. All judges elevated to the bench on or after November 9, 1994, are required to participate in JRS II. There are currently 1,610 authorized judges and justices in the State of California. The majority of these judges participate in the JRS I plan.

Budget Request. The budget proposes total expenditures of $278.2 million for the Judges' Retirement System. The DOF notes that the estimated expenditures are consistent with actual expenditures and that no deficiency is anticipated for the current year for this item.

8550 CALIFORNIA HORSE RACING BOARD

The seven-member California Horse Racing Board (CHRB) supervises all race meetings in the state where pari-mutuel wagering is conducted. The purpose of the CHRB is to regulate pari-mutuel wagering for the protection of the betting public, to promote the horse racing and breeding industries, and to maximize State of California tax revenues. The state's revenue from horseracing is principally derived from fees based upon a percentage of the pari-mutuel wagering pools, breakage (the odd cents not paid to winning ticket holders), and unclaimed tickets. Additional revenue is derived from licenses issued to horse owners, trainers, jockeys, grooms and others, and from fines.

Budget Request: The budget proposes $8.7 million from special funds, an increase of $80,000 or less than 0.9 percent from the estimated current year expenditures.

8690 SEISMIC SAFETY COMMISSION

The Seismic Safety Commission (SSC) was established to improve earthquake preparedness and safety in California. Specifically, the commission is responsible for providing a consistent framework for earthquake-related programs and coordinating the administration of these programs throughout state government. The 17-member commission performs policy studies, reviews programs, investigates earthquake incidents, and conducts hearings on earthquake safety. The commission advises the Legislature and the Governor on legislative proposals, the state budget, and grant proposals related to earthquake safety.

Budget Request: The budget proposes total expenditures of $1.1 million ($1 million from the Insurance Fund and $75,000 in reimbursements) for 6.8 positions at the SSC. This amount is an increase of $8,000, or 0.7 percent from estimated current-year expenditures. In 2003-04, the Legislature shifted funding for the SSC from the General Fund to the Insurance Fund.

Staff Recommendation on Proposed Consent / Vote-Only Agencies. No issues have been raised with these agencies. Staff recommends approval as budgeted for the proposed consent / vote-only agencies.

Action on the consent / vote-only agencies.

Departments Budget Proposed for Discussion

0250 Judicial Branch

The Governor's budget combines the Judicial and Trial Court Funding budgets into one budget for the Judicial Branch. The budget proposes a total of $3 billion ($1.8 billion General Fund and $1.3 billion other funds) for the Judicial Branch.

Of the total amount, the budget proposes expenditures of $373.5 million ($308.9 million General Fund) for items related to the state judiciary. The state judiciary items include the Supreme Court ($40.7 million), the Courts of Appeal ($178.3 million), the Judicial Council – which includes the Administrative Office of the Courts (AOC) ($110.5 million), the Judicial Branch Facility Program ($32.6 million), and the California Habeas Corpus Resource Center ($11.4 million). The proposed amount for the state judiciary is a decrease of $43 million, or 10.3 percent, from estimated expenditures in the current year. The reduction is due primarily to the transfer of $64.1 million for local assistance grants that were previously funded in the Judicial Council item, but are now funded in the Trial Court Funding item. Total authorized positions for the state judiciary entities would increase by 100 positions to 1,851.9 positions. These new positions are primarily related to a proposal to have the AOC provide centralized administrative services support such as accounting and human resources for the local trial courts.

The proposed total budget for the Trial Court Funding item is $2.7 billion ($1.5 billion General Fund and $1.2 billion other funds). This amount is an increase of $220.4 million, or 9 percent, from anticipated expenditures in the current year. Similar to above, much of the increase in this program is due to the transfer of $64.1 million in local assistance grants that were formerly displayed in the Judicial Council program.

Judicial Branch – Program Requirements

Program	2003-04	2004-05	2005-06	Change	Percent Change
	***Expenditures** (dollars in thousands)*				
Supreme Court	$37,671	$40,279	$40,743	$464	1.2%
Courts of Appeal	160,659	176,423	178,295	$1,872	1.1%
Judicial Council	158,263	194,241	110,468	-$83,773	-43.1%
Judicial Branch Facility Program	-	0	32,596	32,596	N/A
Habeas Corpus Resource Center	9,925	11,133	11,425	$292	2.6%
Unallocated Reduction	-	-5,500	-	$5,500	-100.0%
Subtotal, Judiciary	*$366,518*	*$416,576*	*$373,527*	*-$43,049*	*-10.3%*
Support for the Operations of Trial Courts	$1,889,886	$2,117,558	$2,269,111	$151,553	7.2%
Salaries of Superior Court Judges	223,757	232,991	233,530	539	0.2%
Assigned Judges	17,269	19,254	20,254	$1,000	5.2%
Court Interpreters	67,534	67,735	70,986	$3,251	4.8%
Grants	-		64,069	64,069	N/A
Subtotal, State Trial Court Funding	*$2,198,446*	*$2,437,538*	*$2,657,950*	*$220,412*	*9.0%*
Totals, Programs	**$2,564,964**	**$2,854,114**	**$3,031,477**	**$177,363**	**6.2%**
Authorized Positions	**1,465.6**	**1,751.6**	**1,851.9**	**100.3**	**5.7%**

Judicial Branch Budget Changes Proposed for Consent / Vote Only

1. Capital Central Staff. This request proposes $408,000 from the Appellate Court Trust Fund and 3 positions (2 attorney positions and 1 clerk position). The additional positions would expand the number of position s assigned to the Capital Central Staff in order to support the court in adjudication of death penalty appeals cases.

Background: The base budget includes five Capital Central Staff Attorney positions. Currently, there are 134 fully briefed cases awaiting action by the court. 56, or approximately 41%, of the fully briefed cases are death penalty cases. Each year between 2001—2004 an average of 18 death penalty cases have been argued before the court. At its current pace, it will take 3 years for the court to deal with the currently pending cases.

2. Mediation of Civil Appeals. This request proposes an increase of $424,000 ($252,000 in one-time costs) and 2 positions from the Appellate Court Trust Fund to develop and administer a mediation program for civil appeals.

Background: Currently, there is no settlement or mediation program at the Third District Court of Appeal. Other courts of appeal have initiated settlement or mediation programs that have prompted parties to settle appellate cases prior to preparation of the record, resulting in substantial savings to the parties and allowing the courts of appeal to redirect resources to the disposition of other pending appeals. The settlement conference program would be based on the pilot program in the First Appellate District Court of Appeal.

3. Judicial Branch Fiscal Accountability and Operational Oversight. This request proposes an increase of $144,000 in reimbursement authority and one internal auditor position to continue implementation of the statewide audit program to strengthen financial recordkeeping and operational controls of the trial courts.

Background: In fiscal year 2001-02, an Internal Audit Unit was established with 16 auditors when fully staffed. It was estimated that the Unit would average 12 trial court audits a year in addition to its other responsibilities including the Supreme Court, courts of appeal, and the AOC. The AOC believes that the original analysis was extremely optimistic in terms of the annual number of projects (audits, reviews, and investigations), and didn't take into account the size of some of the very large courts.

4. Paternity Judgments. This request proposes an increase of $146,000 in the current year and $292,000 in the budget year in reimbursement authority for the implementation of Chapter 849, Statutes of 2004 (AB 252). Reimbursement funding to the Judicial Council will be provided by the Department of Child Support Services (DCSS) through an interagency agreement. Chapter 849 mandates DCSS to implement new procedures for individuals to challenge a judgment of paternity on the basis of genetic testing when the genetic test shows that the previously established father is not the biological father.

5. Offender Eligibility for Traffic Violator School. This request proposes a one-time appropriation form the Motor Vehicle Account to implement requirements of Chapter 952, Statutes of 2004 (AB 3049). Chapter 952 prohibits courts from utilizing traffic violator schools in lieu of adjudicating a traffic offense if the violator was issued a notice to appear for a serious traffic violation that occurred in a commercial vehicle or for drivers processing a commercial driver's license. Implementation will result in one-time computer programming and employee training costs to the courts. This proposal would allow California to conform with federal laws on this issue.

6. Increased Trial Court Costs. This request proposes an increase of $92.6 million to address increases in mandatory trial court costs for employee salaries, benefits, and retirement, and for court security and county services. This amount is intended to fund actual court operational cost increases incurred in the current and budget years. The current year amount for this request was $88.4 million. The requested $92.6 million represents the annualization of the current year amount. The AOC reports that for the budget year, $39 million will be allocated for increased retirement costs, $3.7 million for pay parity due to court unification, $37.2 million for discretionary costs including costs of salary and benefit increases, $7.9 million for increased security costs, and $4.9 million for increased county charges.

7. Trial Court Administrative Services Support. This request proposes $13.1 million in reimbursements from the trial courts and 91.5 positions for the continuation and expansion of various administrative and information technology services to support the trial courts. This funding represents full-year funding for staffing that was part of a January section letter.

The administrative services funded by this increase include:

- Staffing for the implementation and support of standardized fiscal processes for all trial courts, including a statewide, centralized treasury function and Court Accounting and Reporting System (CARS).
- Staffing for design, development, and implementation of a statewide Court Human Resources Information System (CHRIS).
- Staffing to provide oversight for the development, im0plementation, and support for a statewide California Case Management System (CCMS).
- Staffing to provide oversight and transition coordination for a centralized Technology Center.
- Staffing to form a Regional Office Assistance Group to provide legal advice and assistance to the courts.
- Staffing to implement statewide enhanced collections of fines and fees.

The AOC reports that the roll out of these services will occur over the next few years. The AOC currently estimates that the costs for these support services will increase to $23.8 million in 2008-09 as the program expands to include additional courts and services.

8. Grand Jury Proceedings Mandate. In June 2002, the Commission on State Mandates (CSM) determined that the statutory changes related to grand juries constitute state-reimbursable mandates and estimated the statewide cost of these mandates to be $12.6 million (for 1997-98 through 2004-05). This amount includes county costs for such expenses as (1) providing training to grand juries, (2) providing more extensive comments to grand juries in response to its findings, and (3) providing a meeting room and support for the grand juries.

The Governor's budget proposes to suspend the mandates and includes no funding for prior-year claims.

Background: The suspended mandates are described below.

- Chapter 1170, Statutes of 1996 (SB 1457, Kopp), authorized the grand jury to request the local entity to appear before it to discuss the findings of its report. It also required the local entity to provide more extensive comments on the findings of the grand jury report. For example, it required the responding entity to indicate if it was in agreement (fully or partially) with the findings of the grand jury, and whether any of its recommendations had been adopted.
- Chapter 43, Statutes of 1997 (AB 829, Thomson), required the court, in consultation with the county counsel and the district attorney to ensure that grand juries receive training that at a minimum addresses report writing, interviews, and the scope of the grand jury's responsibility and authority.
- Chapter 230, Statutes of 1998 (AB 1907, Woods), requires the county clerk to transmit a copy of the grand jury report, and any local entity response to the State Archivist.

Staff Recommendation. Staff recommends approval of these consent / vote-only issues.

Action.

Judicial Branch Budget Items Proposed for Discussion

1. Cost of Forensic Evaluations.

This request proposes an increase of $5.5 million through an increase in the county obligations associated with the Maintenance of Effort payments. The augmentation would address unanticipated cost increases to the trial courts for various forensic evaluations, as specified in a recent California State Attorney General's opinion regarding whether the counties or the state are responsible for these costs.

The AG's opinion concluded that the costs for five out of seven categories of forensic evaluations are court costs. The AOC indicates that many counties have continued to pay for the costs of these forensic evaluations, in whole or part. The AG's opinion clarifies the issue of who pays, which has resulted in unfunded cost increases for the trial courts.

Proposed Trailer Bill Language. The proposal includes trailer bill language (included in the appendix) requiring the AOC and CSAC to establish a working group to review information to determine the level of cost changes incurred by the counties and the courts related to fiscal examinations. Based on the review, the working group is required to identify adjustments to be made to county MOEs and report on the adjustments to the State Controller by September 30, 2005.

Staff Comments. The AOC notes that individual county MOE payments may shift either up or down depending on the particular funding arrangement in each county. However, the net result will be a $5.5 million increase for MOE payments statewide.

CSAC has indicated that it is opposed to this proposal. AOC and CSAC have indicated that they are working on potential resolutions to this issue.

Staff Recommendation. Staff recommends holding this issue open at this time pending on-going discussions between AOC and CSAC on this issue.

Action.

2. Undesignated Fees.

Budget Request. The budget proposes trailer bill language (included in the appendix) to permanently reauthorize the transfer of $31 million from counties to courts in revenue from undesignated fees.

Two years ago, the Legislature enacted statutory changes to distribute these undesignated fees, with direction that the AOC and the CSAC jointly propose a long-term revenue allocation schedule to take effect on July 1, 2005. The proposed trailer bill language would continue the current distribution of the undesignated fees and would no longer require a long –term revenue allocation schedule. The language would also put into place penalties for delayed payments from the counties.

Background. Chapter 850, Statutes of 1997 shifted primary fiscal responsibility for support of the trial courts from the counties to the state. Chapter 850 and other recent trial court funding legislation made changes in the distribution and amount of court-related fees. An important part of the financing mechanism for the state's new fiscal responsibility for the trial courts was the requirement that local governments transfer a variety of court-related fees collected by trial courts and local governments to the state's trust fund. However, Chapter 850 did not designate which entity—the state or local governments—would retain a number of court-related fees. Some of these undesignated court fees include fees paid for trial postponement, change of venue, filing for Writ of Execution, and civil assessment fees.

Staff Comments. CSAC has indicated that it is opposed to this proposal. AOC and CSAC have indicated that they are working on potential resolutions to this issue.

Staff Recommendation. Staff Recommends holding this issue open pending further discussions between CSAC and the AOC.

Action

3. Uniform Civil Fees.

In order to address the complexity and lack of uniformity in the existing civil fee structure, the Judicial Council in late 2003 formed a working group of diverse stakeholders to undertake a comprehensive review of the existing civil fees and to make recommendations for developing a uniform civil fee structure. Based on the findings and recommendations of the working group, the court is developing legislation to streamline the existing civil fee structure and achieve uniformity in the level of fees charged by courts and counties statewide. Generally, this proposal would involve collapsing a number of existing fees into a single fee, as well as raising certain fees.

The court security fee which was imposed two years ago and will expire in July 1, 2005, creating a $16.8 million shortfall in the Trial Court Trust Fund. Revenues from the new fee would be deposited into the Trial Court Trust Fund.

Staff Recommendation. At the time of this analysis, no language has been submitted to the Subcommittee. Staff Recommends holding this issue open at this time.
Action.

4. State Appropriations Limit.

This request proposes $97.4 million as a baseline adjustment for trial court operational costs, computed on the year-to-year percentage change in the annual State Appropriations Limit (SAL). The amount was computed by multiplying specific trial court operational costs including all expense for court operations, court employee salaries and salary-driven benefits by an estimated growth factor of 4.8 percent. The calculation does not include the costs of compensation for judicial officers, subordinate judicial officers, or funding for the assigned judges program.

The LAO notes that the SAL estimate published elsewhere in the budget is closer to 6 percent, which would result in increased funding for the trial courts of $24 million. The SAL will be recalculated at the time of the May Revise and the administration will likely update the trial court adjustment at that time.

Staff Comments. The DOF indicates that the Modernization Fund does not include a SAL growth factor for 2005-06, but will be included in the calculation in future years. The local assistance items do include a growth factor except for the Equal Access program.

The AOC indicates that the Judicial Council is working on a SAL allocation methodology. The SAL funding would be allocated according to the following priorities:

- Statewide programs – such as the court interpreter program and the court appointed counsel program)
- Mandatory costs – such as increased retirement costs
- Judicial Council Priorities
- Inflation
- Population Growth
- Productivity

The AOC indicates that a Judicial Council will be releasing a report in the next few weeks that provides a detail of the proposed methodology and a template for how it will work.

Staff Recommendation. Staff recommends holding this issue open at this time pending the updated SAL calculation at the May Revise. The Subcommittee may wish to consider language that requires the AOC to report on how SAL funding has being spent. Staff will continue working with the LAO and the AOC on potential reporting language.

Action.

5. Information Item --Expansion of SAL to the Judiciary Budget.

The Governor's Budget Summary mentions a proposal that would add a growth factor based on the SAL for the state judiciary items starting in fiscal year 2007-08. This growth factor would be similar to the SAL growth factor for the trial courts.

Information Item. Currently, there is no language before the Subcommittee regarding this issue.

6. Information Item – Transfer of Trial Court Facilities to the State.

Pursuant to the Trial Court Facilities Act of 2002, the process for the transition of court facilities from the county to the state has started in the current year. The AOC estimated that in the current year between 100 and 140 facilities would be transferred to the state. The Legislative Analyst's Office (LAO) has estimated that the cost of renovating existing buildings and constructing new ones would be between $4.9 billion and $5.5 billion over the next ten years. It is intended that the funding for the transition will come from fees that are deposited into the State Court Facilities Construction Fund. The budget proposes repayment of $72.7 million from the General Fund to the State Court Facilities Construction Fund to repay a loan from the 2003-04 fiscal year. In the current year, the Construction Fund has loaned the General Fund $30 million.

The January budget proposal does not include any new expenditure proposals related to trial court facilities.

The Subcommittee may wish to have the Judicial Council report on the progress of transferring facilities in the current year.

0820 Department of Justice

It is the responsibility of the Attorney General to uniformly and adequately enforce the laws of the State of California. The Attorney General fulfills this mandate through the programs under his control at the Department of Justice (DOJ). There are five primary divisions within the department, including (1) Civil Law, (2) Criminal Law, (3) Public Rights, (4) Law Enforcement, and (5) Criminal Justice Information Services. In addition, there are the Directorate and Administration Divisions, Executive Programs, the Division of Gambling Control, and, as of January 1, 2000, the Firearms Division.

Budget Overview. The budget proposes $687.7 million for the DOJ, which is an increase of $10.9 million, or 1.6 percent above current year expenditures. General Fund support of $322.5 million represents an increase by $3.6 million, or 1.1 percent from the estimated current year budget.

DOJ Program Requirements

	(dollars in thousands)				Percent
Program	**2003-04**	**2004-05**	**2005-06**	**Change**	**Change**
Directorate and Administration	$22,587	$25,810	$27,418	$1,608	6.2%
Distributed Directorate and Administration	-22,587	-25,810	-27,418	-1,608	6.2%
Legal Support and Technology	43,188	46,082	47,723	1,641	3.6%
Distributed Legal Support and Technology	-43,188	-46,082	-47,723	-1,641	3.6%
Executive Programs	12,669	14,136	14,160	24	0.2%
Civil Law	104,842	120,691	116,247	-4,444	-3.7%
Criminal Law	107,487	113,810	114,506	696	0.6%
Public Rights	56,864	63,769	69,437	5,668	8.9%
Law Enforcement	154,083	172,551	174,367	1,816	1.1%
California Justice Information Services	143,589	166,358	170,960	4,602	2.8%
Gambling	13,382	15,233	15,307	74	0.5%
Firearms	11,103	12,030	12,293	263	2.2%
State-Mandated Local Programs	1	1	420	419	n/a
Unallocated Reduction	0	-1800		1,800	-100.0%
Total	**$604,020**	**$676,779**	**$687,697**	**$10,918**	**1.6%**
Authorized Positions	**5,032.1**	**4,984.2**	**5,049.4**	**65.2**	**1.3%**

DOJ Budget Adjustments Proposed for Consent / Vote-Only

Issue Title	Positions	Dollars
1. Violent Crime Information Network Renovation. The proposal requests 4 positions and $1.8 million to begin renovation of the Violent Crime Information Network (VCIN) and to provide the necessary level of technical and program support staff. The VCIN is the central repository of the State's sex offender registration data. New mandates and repeated system modifications have strained the system's capabilities. The Renovation Project is estimated to be completed in four years, with an estimated cost of $7.4 million. (General Fund)	4.0	$1,820,000
2. Corporate Responsibility Unit. The proposal requests 12.5 positions and $4.7 million for the Corporate Responsibility Unit. The unit would be self-funded through the Public Rights Division Law Enforcement Fund. Included in this request is an additional $3 million per year for external consultant support and $50,000 for out-of-state travel authority above the standard compliment. The DOJ indicates that based on the past successful performance of the Attorney General's Energy Task Force, Consumer Law, and Antitrust Litigation Sections, the resources requested in this proposal will self-fund ongoing activities. The proposal includes trailer bill language clarifying that no General Fund augmentations shall be used for this purpose and budget bill language stating that new positions can not be hired if there are insufficient funds in the Public Rights Law Enforcement Fund. Proposed trailer bill language is attached as an appendix. (Special Funds)	12.5	$4,681,000
3. Megan's Law Data Improvement. The proposal requests four positions and $428,000 to be assigned to the Violent Crime Information Center to meet increased workload related to California's Megan's Law program. (Special Funds)	4.0	$428,000
4. Criminal Justice Information System Redesign. The proposal requests $4 million and eight two-year limited-term positions in order to begin replacement of five automated database systems. The five databases provide statewide support for Wanted Persons, Stolen Vehicles, Supervised Release File, Firearms Eligibility Applicants, and Domestic Violence Restraining Orders. The proposal would include funding of $4.5 million in 2006-07, $2.8 million in 2007-08, and ongoing support of $373,000 in 2008-09 for ongoing maintenance costs. (General Fund)	8.0	$3,953,000
5. Recycling Fraud Enforcement. This proposal requests $466,000 in reimbursement authority and 3.3 positions to prosecute recycling fraud on behalf of the Department of Conservation (DOC). The DOC has submitted a companion BCP to request resources from the California Beverage Recycling Fund for this purpose.	3.3	$466,000
6. Seller of Travel Unit-Audit Workload. This proposal requests $213,000 and 2 auditor positions to increase compliance and financial audits of Sellers of Travel. This activity is solely funded from fees that go to the Travel Seller Fund. The DOJ reports that inadequate audit support has limited the Seller of Travel Unit's investigations to only those companies with the largest aggregate damages to consumer. The Unit currently has one auditor position. (Special Funds)	2.0	$213,000
7. Federal Fund Authority for Grants and MOU's. The proposal requests an increase of $3.7 million in federal funds expenditure authority for grants and MOU's that DOJ anticipates in the budget year. In the current year, DOJ is increasing authority by $9 million. (Federal Funds)	0	$3,682,000
8. Legal Services Revolving Fund. This request proposes trailer bill language to establish the Legal Services Revolving Fund, to improve the management of the Public Rights and Civil Law Divisions. Reimbursements provided to the DOJ by client agencies are proposed to be deposited into the new fund. This fund would be modeled on Revolving funds used by the Department of General Services for performing duties for client agencies. Proposed trailer bill language is attached as an appendix.	0	0
9. Laboratory Facilities Operations and Utilities. This proposal requests $132,000 in 2005-06 and $222,000 in 2006-07 to address facilities operations and maintenance	0	$132,000

and utilities costs for the forensic lab in Eureka and the newly constructed lab in Santa Barbara. (General Fund).		
10. Underwriters Litigation. This request proposes a one-time augmentation of $1.5 million for external consultants related to the Lloyd's of London (Stringfellow) litigation to continue to fund specialist counsel with expertise in insurance coverage litigation. The budget contains language requiring that funds not expended revert to the General Fund at the end of the year. In the current year, the DOJ requested $3.7 million for litigation costs due to an anticipated trial date in March 2005. (General Fund)	0	$1,452,000
11. Armed Prohibited Persons Transfer. This request proposes to redirect 3 positions and $306,000 (General Fund) to move IT support resources from the Firearms Division into the Division on Criminal Justice Information Services.	0	0
12. Criminal Law Increased Litigation Workload. This request proposes $1.1 million General Fund and 7.7 positions to handle increased litigation workload. (General Fund)	7.7	$1,130,000
13. National Criminal History Improvement Program. This request proposes a one-time increase in federal funds of $1.9 million and 18 positions for Year 10 of the National Criminal History Improvement Program (NCHIP). (Federal Funds)	18.0	$1,922,000
14. Bureau of Medi-Cal Fraud and Elder Abuse Increase. This request proposes an increase of $570,000 in federal trust fund expenditure authority. The augmentation is requested to provide additional spending authority for the investigation an prosecution of Medi-Cal Fraud and Elder Abuse cases. (Federal Funds)	0	$570,000
15. Representation of Franchise Tax Board – Abusive Tax Shelters. This request proposes an increase of $721,000 General Fund and 4.9 positions related to representation of the Franchise Tax Board. (General Fund)	4.9	$721,000
16. Sexually Violent Predator Confinement and Release Workload. This request proposes $1.2 million General Fund and 8.2 positions to defend individual and class-action suits (1) challenging the conditions of confinement for sexually violent predators (SVPs), and (2) involving the release of SVPs at the conclusion of their hospital treatment. The DOJ requested $600,000 and 4 positions for half year funding in the current year. (General Fund)	8.2	$1,202,000
17. Intel Team. This request proposes a transfer of $442,000 (Indian Gaming Special Distribution Fund) and 4 positions from the Division of Law Enforcement to the Division of Gambling Control. Transferring the Intel Team will enable the Division of Gambling Control to better manage intelligence activities, enhance communication, and consolidate DOJ's tribal regulatory program. (Special Funds)	4	$442,000
18. Energy Litigation. This baseline adjustment proposes a continuation of the Attorney General's Energy Task Force with $10.7 million from the Ratepayer Relief Fund in the budget year and $6.1 million from the Ratepayer Relief Fund in 2006-07.	42.6	$10,700,000
19. Tribal Gaming Employee Suitability Investigations. This request proposes $270,000 from the Indian Gaming Special Distribution Fund to pay for the costs of running fingerprint checks, credit reports, public records inquiries, and law enforcement inquiries for Tribal Key Employee applications. (Special Fund).	0	$270,000
20. Santa Rosa Replacement Lab. This request proposes $8.6 million from the lease revenue bonds to continue with the construction phase of the Santa Rosa Replacement Lab. (Lease Revenue Bonds)	0	$8,594,000

Staff Recommendation. No issues have been raised on these budget adjustments. Staff recommends approval of the proposed consent / vote-only adjustments.

Action.

DOJ Discussion Issues

1. Proposition 69 – DNA Initiative.
The proposal requests $11.2 million from the DNA Identification Fund and 48 positions to implement Proposition 69 which passed on the November 2004 ballot. Proposition 69 makes any person convicted of a felony eligible for inclusion in the Forensic DNA Identification Data Bank and the California Palm Print System. In the current year, the budget assumes $11 million from the DNA Identification Fund, including a $7 million loan from the General Fund.

Staff Comments. The funding level provided in the proposal anticipates that 65,000 samples will be processed in the current year and 135,000 samples in the budget year. To the extent that samples are received in excess of the estimates in the request, General Fund resources will be necessary to analyze the samples. Staff notes that CDC anticipates collecting DNA samples from the bulk of its inmate population this April. The amount of samples forwarded to the DOJ from this source alone is likely to be over 80,000 (not including parolees and other samples that CDC and CYA are forwarding to the DOJ.

Staff Recommendation. DOJ and DOF have indicated they are reviewing workload for this program, and will be submitting a revision for this proposal. The Subcommittee may wish to get an update on the workload already received and anticipated workload in the current year and the budget year. Staff recommends holding this issue open pending a revised proposal.

Action

2. Hazardous Material Endorsements.
This proposal requests $3.8 million from the Fingerprint Fees Account to assist the DMV's implementation of Chapter 801, Statutes of 2004 (AB 2040). The USA PATRIOT Act mandates the Federal Transportation Security Administration's regulation of individuals transporting hazardous materials. The endorsement process includes a federal level criminal offender record information background investigation. The DMV will use a live-scan device to electronically capture fingerprint images, which DOJ will transmit to the FBI.

Staff Recommendation. Staff notes that the administration has indicated that it will be proposing a Spring Finance Letter on this issue. Staff recommends holding this issue open pending the Spring Finance Letter.
Action.

3. Proposition 64 Implementation.
This proposal requests a General Fund loan of $2.3 million and 10.8 positions for the enforcement of unfair competition and consumer protection laws, as required by Proposition 64. This loan will be repaid by January 30, 2007 from the Unfair Competition Special Fund as proposed in attached trailer bill language (included in the appendix). Revenues to repay the loan

and to fund Proposition 64 program activities in the future will accrue in the fund from penalties and violations of the state's unfair competition and consumer protection laws.

Staff Comments. The proposed trailer bill language creates a special fund in which the portion of penalties that are payable to the State General Fund or to the State Treasurer recovered by the Attorney General from an action or settlement pursuant to this Proposition can be deposited to allow for proper accounting of the settlements collected. The proposition failed to set up a special fund for this purpose and had settlements being deposited directly to the General Fund and the State Treasurer allowing for no tracking of the proposition collections. Initially, Legislative Counsel had raised some concerns about the proposed trailer bill language due to the fact that the proposition did not include mention of any such fund. Subsequently, DOF has been advised by its counsel and by the Attorney General that the proposed trailer bill language does not change the Proposition.

Staff Recommendation. Staff recommends approving the trailer bill language (appendix X). Should Legislative Counsel raise concerns about the revised language upon additional review, the issue can be brought back before the Subcommittee at that time.
Action.

4. Bureau of Forensic Services Equipment Replacement.

This proposal requests $1.5 million General Fund to replace old, outdated or unrepairable equipment used by the Bureau of Forensic Services' Criminalistics Laboratory System. The DOJ indicates that the Laboratory has no ongoing equipment authority.

Staff Recommendation. The proposal would provide $1.5 million in the DOJ budget on an ongoing basis for equipment purchase. However, staff notes that this level of funding may or may not be sufficient for ongoing equipment purchase for the state's forensic labs. Staff recommends funding this amount on a one-time basis and directing DOJ and DOF to develop an equipment replacement schedule for submission with the budget next year to provide the basis for the ongoing equipment funding.
Action.

5. Reduction for the Spousal Abuser Prosecution Program.

The budget proposes to reduce the Spousal Abuser Prosecution (SAP) program by $283,000. The SAP program funds local district attorney offices to provide vertical prosecution services for spousal abuse cases. The program is currently funded at $3 million and provides grants to district attorneys in 47 counties. This is the DOJ's only local assistance program. The reduction represents a nine percent reduction for the program. No other DOJ programs are targeted for such a reduction. In 2003-04 the Legislature rejected a proposal to reduce funding for SAP.

Staff Recommendation. Staff recommends restoring the funding for this program ($283,000).
Action.

6. Mandates.

A. Custody of Minors/Child Abduction and Recovery Mandate (Ch. 1399, Stats. 1976). The budget proposes to suspend the Custody of Minors/Child Abduction and Recovery mandate. This mandate has been deferred in 2002-03, 2003-04, and 2004-05. The DOF reports that the cost of this mandate is approximately $13.6 million annually, based on claims received by the State Controllers Office (SCO) in 2003-04. Due to the passage of Proposition 1A, mandates can no longer be deferred.

According to the claiming instructions published by the SCO, this mandate requires local law enforcement agencies to actively assist in the resolution of child custody problems and the enforcement of custody decrees. Reimbursable activities are obtaining compliance with court orders and costs for out-of-jurisdiction cases (foster care and transportation costs). No costs for criminal prosecution are covered under this mandate.

DOF Rationale for Suspending the Custody of Minors Mandate. The DOF indicates that the activities reimbursed under this mandate, while important, are local responsibilities and should be prioritized within the resources of the local law enforcement and foster care systems. Further, DOF indicates that the administration conducted a statewide review of mandates during preparation of the 2005-06 Governor's Budget and in general sought to remove the obligation to reimburse for mandates that did not appear to be a state responsibility and that local jurisdictions should perform without state reimbursement. The mandate is only proposed for suspension rather than repeal because of the importance and sensitivity of these activities; it is possible that the State may in the future wish to resume reimbursement when fiscal conditions permit.

B. Stolen Vehicles Mandate (Chapter 337, Statutes of 1990). The budget proposes to fund the stolen vehicles mandate. This mandate requires local law enforcement agencies to update the statewide stolen vehicle database. This mandate was deferred in 2002-03 and suspended in 2003-04 and 2004-05. DOF estimates that an appropriation of $420,000 is expected to fully fund the mandate for 2005-06 only. The DOF indicates that this mandate provides statewide benefits by ensuring that state and local law enforcement have access to current and accurate data through the statewide stolen vehicle database, and the mandate is relatively inexpensive to fund.

C. Other Mandates Proposed to be Suspended. The budget proposes to suspend the following mandates that have been suspended for at least the last two years:

- Sex Offenders: Disclosure by Law Enforcement Officers (Ch. 908, Stats. 1196, and Ch. 909, Stats. 1996)
- Misdemeanor: Booking and Fingerprinting (Ch. 1105, Stats. 1992)
- Missing Persons Report (Ch. 1486, Stats. 1998). This mandate has been *deferred* since 2000-01. The DOF indicates that the cost of this mandate is not known because of the infrequency of claims filed by local agencies.

Staff Recommendation. Staff recommends approval of the mandates as budgeted.

Action

7. Megan's Law on the Internet.

The proposal requests $176,000 from the Sexual Predator Public Information Account to fund to provide funding and staffing for DOJ to maintain an internet web site that provides the public with information on registered sex offenders as mandated by Chapter 745, Statutes of 2004 (AB 488). (Special Funds)

The Department of Justice has requested Budget Bill Language to be added to the Sexual Predator Public Information Account (Fund 0256). Penal Code Section 290.4(a)(5)(D) states, "The Department of Justice shall expend no more than six hundred thousand dollars ($600,000) per year from any moneys appropriated by the Legislature from the account." The restriction has been in effect since 1994.

This augmentation, combined with the Megan's Law Database Improvement proposal (Issue # 3 on the proposed consent/vote-only list) increases the proposed expenditure level from the Sexual Predator Public Information Account in 2005-06 to $670,000. Therefore, BBL is necessary to allow DOJ to spend funds in excess of the statutory limit of $600,000. Below is proposed BBL to be added to Item 0820-001-0256.

> Provision 1. Notwithstanding Section 290.4(a)(5)(D) of the Penal Code, the Department of Justice may expend the amount appropriated in this item.

Staff Recommendation. Staff recommends approval of the proposal and approval of the budget bill language noted above. The DOF indicates that if the issue arises next year, DOF will propose trailer bill language at that time.

Action.

0855 California Gambling Control Commission

The California Gambling Control Commission (GCC) was established by Chapter 867, Statues of 1997 (SB 8, Lockyer). The five-member commission is appointed by the Governor subject to Senate confirmation. The GCC is responsible for setting policy, issuing licenses, administering, adjudicating, and regulating all matters related to controlled gambling in California.

In addition, pursuant to the Tribal Gaming Compacts, the GCC is responsible for (1) administering the gaming license draw process, (2) accounting (3) making findings of suitability regarding key employees of tribal gaming operations, and (4) ensuring the allocation of gaming devices among California's tribes does not exceed the allowable number in the compacts. Included with this responsibility is serving as Trustee for the Revenue Sharing Trust Fund and Administrator of the Special Distribution Fund.

California Gambling Control Commission – Source of Funding

Fund	***Expenditures** (dollars in thousands)* 2003-04	2004-05	2005-06	Change	***Percent*** Change
Indian Gaming Revenue Sharing Trust Fund	$83,229	$98,091	$96,500	-$1,591	-1.6%
Indian Gaming Special Distribution Fund	27,043	39,284	40,885	1,601	4.1%
Gambling Control Fund	1,636	2,308	2,311	3	0.1%
Totals, Funds	**$111,908**	**$139,683**	**$139,696**	**$13**	**0.0%**

California Gambling Control Commission – Program Funding

Fund	***Expenditures** (dollars in thousands)* 2003-04	2004-05	2005-06	Change	***Percent*** Change
Gambling Control Commission					
State Operations	$5,164	$10,107	$13,196	3,089	30.6%
Local Assistance	106,744	129,576	126,500	-3,076	-2.4%
Total	**$111,908**	**$139,683**	**$139,696**	**$13**	**0.0%**
Authorized Positions	**36.7**	**67.7**	**88.7**	**21.0**	**31.0%**

Budget Request. The budget proposes total expenditures of $139.7 million from special funds, which is an increase of $13,000 from estimated current year expenditures. Of this amount, $13.2 million ($10.9 million Special Distribution Fund and $2.3 million Gambling Control Fund) is for state operations and $126.5 million is for local assistance. Of the local assistance, $96.5 million is for distribution from the Revenue Sharing Trust Fund to non-gaming tribes as specified in the compacts and $30 million is for distribution to locals to mitigate the effects of tribal gaming operations.

ISSUES

1. Compact Workload Augmentation. The administration proposes to increase the commission's budget by $4.8 million and 46 two-year, limited-term positions, which would result in a doubling of its current staff. Specifically, the commission requests:

- 15 auditors (which would result in a tripling of their current auditing staff) to audit financial records of the tribes to ensure that appropriate levels of payments are being remitted to the state.
- 13 state gaming testing lab and field-testing staff to test slot machines and gaming software to ensure that they are operating to acceptable standards.
- Nine licensing and investigative staff to review licenses for key employees and vendors associated with tribal gambling and to interface with law enforcement.
- 7.5 administrative staff to respond to media and provide administrative support.

The administration stated its intent to seek a supplemental appropriation to start these activities in the current year. The initial current-year request was not approved by the Joint Legislative Budget Committee. The administration indicates that it will be submitting a revised request shortly.

The LAO raised several concerns with the administration's proposal. The LAO's analysis raised the following issues:

- The Proposal Is Not Clear What Problems Being Addressed, Provides Limited Justification, and Funds some Workload from the 1999 Compacts.
- The Workload Assumptions Are Unclear.
- Gaming Testing Lab Proposal Is Not Required.
- Poor Output From Existing Audit Staff.
- Duplicative Activities Between the DOJ and the Commission.

Analyst's Recommendation. The LAO recommends that the Legislature not approve the administration's current request and that instead, the administration resubmit a request that includes additional information on the workload that is being addressed, provides justification for a state gaming testing lab, and reflects a strategy that considers coordination between DOJ and the Commission.

Staff Recommendation. The GCC and DOF have indicated that a revised proposal will be submitted this Spring and that the revised proposal will represent a significant reduction from the one included in the budget. Staff recommends holding this issue open pending the revised proposal.

Action.

2. Status of the Special Distribution Fund

Pursuant to the compacts, the monies in the Special Distribution Fund (SDF) are subject to legislative appropriation for the following statewide purposes:

- Reimbursement for state regulatory costs associated with implementation of the compacts.
- Payment of shortfalls that may occur in the Revenue Sharing Trust Fund.
- Grants for gambling addiction programs.
- Grants to state and local agencies affected by tribal government gaming.
- Any other purpose specified by the Legislature.

The budget currently assumes the following expenditures:

- $20.7 million from the SDF for the state regulatory costs at DOJ and the GCC.
- Transfer of $50 million to the Revenue Sharing Trust Fund
- $3 million for gambling addiction programs.
- $30 million for local mitigation of gaming.

The fund condition statement for the Special Distribution Fund currently assumes that the reserve at the end of the budget year will be $88.7 million.

Chapter 210, Statutes of 2003 (AB 673) requires the CGCC to report to the Legislature the amount of funding from the SDF necessary to make up the difference between the $1.1 million maximum and the actual amount paid to each eligible tribe from the Revenue Share Trust Fund.

Chapter 858, Statutes of 2003 (SB 621) requires the Department of Finance, in consultation with the CGCC, to calculate the total revenue in the SDF that will be available for local government agencies impacted by tribal gaming. The information is to be included in the May Revision, along with an update of the amount from the SDF necessary to backfill the Revenue Sharing Trust Fund.

Staff Recommendation. Staff recommends holding this issue open pending additional information on the status of the Special Distribution Fund at the May Revise.

Action.

8940 Military Department

The Military Department is responsible for the command and management of the California Army, Air National Guard, and four other related programs.

The Governor proposes $101.4 million ($33.2 million from the General Fund, $59.3 million from federal funds, and $8.5 million in reimbursements) in total expenditures for the Military Department, a decrease of $3.4 million, or 3.2 percent, from the current fiscal-year. Additional federal funding of $571.3 million supports the Army National Guard, Air National Guard, and Office of the Adjutant General, but those funds are not deposited in the State Treasury. The Military Support to Civil Authority Program is showing significant reductions in the current year and in the budget year. The reason for these reductions is that funding for federal fiscal year 2005 for homeland security funds have not yet been allocated in the budget.

Military Department – Program Requirements

	***Expenditures** (dollars in thousands)*				***Percent***
Program	**2003-04**	**2004-05**	**2005-06**	**Change**	**Change**
Army National Guard	$54,197	$57,066	$58,107	$1,041	1.8%
Air National Guard	17,973	18,654	18,889	235	1.3%
Office of the Adjutant General - Administration	8,541	8,970	9,476	506	5.6%
Distributed Administration	-8,541	-8,970	-9,036	-66	0.7%
Military Support to Civil Authority	17,633	13,435	7,444	-5,991	-44.6%
Military Retirement	3,092	3,190	3,190	0	0.0%
California Cadet Corps	697	423	434	11	2.6%
California State Military Reserve	316	348	352	4	1.1%
California National Guard Youth Programs	10,340	11,662	13,035	1,373	11.8%
Unallocated Reduction			-494	-494	n/a
Totals, Programs	**$104,248**	**$104,778**	**$101,397**	**-$3,381**	**-3.2%**
Authorized Positions	**736.2**	**660.0**	**677.3**	**16.3**	**2.5%**

Military Department Issues Proposed for Consent / Vote-Only

Issue Title	Positions	Dollars
1. California Military Family Relief Fund. Requests funding to implement Chapter 546, Statutes of 2004 (SB 1162) which establishes the California Military Family Relief Fund. The funds will be allocated for establishment of financial aid grants to members of the California National Guard who have been called to active duty. The Military will establish eligibility criteria for the grants, which can be used only for food, housing, clothing, child care, utilities, medical services, medical prescriptions, insurance, and vehicle payment. The Franchise Tax Board has amended the state tax return for 2004 to include the check off option for this program. (Special Fund)		$250,000
2. National Guard Surviving Spouses and Children Relief Act of 2004. Requests an appropriation of $190,000 to implement the California National Guard Surviving Spouses and Children Relief Act, enacted by Chapter 547, Statutes of 2004 (SB 1193). This amount would be available to fund the $10,000 death benefit payments for eligible beneficiaries of covered members whose deaths occurred from March 1, 2003 to the end of the budget year. An ongoing amount of $60,000 would provide ongoing funds for benefit payments payable in future years.		$190,000
3. Homeland Security Grant Program Increase. Requests reimbursement authority of $2 million and 10 limited term positions to continue the use of homeland security funds for equipment, training, exercises, and infrastructure.	10.0	$2,000,000

Staff Recommendation. No issues have been raised concerning these proposals. Staff recommends approval of these proposals.

Action.

Military Department Issues for Discussion

1. Funding for the Oakland Military Institute. The budget requests an additional $1.3 million in General Fund support for the Oakland Military Institute (OMI). The request would reestablish 12 positions that were eliminated in the 2003-04 and 2004-05 budgets.

In 2002-03, OMI had a General Fund budget of $2.4 million. Budget reductions in 2003-04 and 2004-05 reduced OMI's budget—resulting in a General Fund appropriation of $1.3 million in 2004-05. Due to these budget reductions, the Military Department reduced its OMI-assigned staff by 12 positions to its current level of 10 positions. Even with these budget reductions, OMI increased its enrollment this year by 100 additional students. In the budget year, OMI plans to include an 11^{th} grade for the first time.

Analyst's Recommendation. The OMI continues to conduct its programs with reduced Military Department personnel. The LAO indicates that if OMI chooses to expand in the budget year, it should do so with resources other than the General Fund. The LAO notes that a denial of additional General Fund dollars for OMI does not preclude OUSD or the City of Oakland from using existing charter school funds or other sources (including local funds and private donations) to expand the school. Consequently, the LAO recommends that the Legislature reject the proposed augmentation.

Background. The OMI is a joint effort of the Military Department, the City of Oakland, and the Oakland Unified School District (OUSD) for a military charter school for Oakland students in grades 6 to 10. The purpose of the school is to promote the academic achievement of disadvantaged students through a strictly structured and disciplined environment. In addition to the standard state curriculum, students receive instruction in military subjects, such as military customs, physical training, drill, and map reading. Military personnel are responsible for OMI administration, including budgeting, program management, policy development, and coordinating campus security. In addition to these duties, military staff escort students to and from the school, and serve as classroom mentors. The OUSD provides instructional staffing, books, and educational supplies. The City of Oakland provides facilities, furniture, and computers. Currently, OMI has 425 students.

Staff Comments. The Military Department indicates that the estimated Proposition 98 funding for OMI in the budget year is $6,311 per ADA, similar to funding for other charter schools. This level of funding does not include any funding for special education services which are provided directly through the Oakland Unified School District. Staff notes that fully funding the Military Department's proposal in the budget year would provide an additional $5,200 per ADA for OMI on top of Proposition 98 funding – for a total of $11,511 per ADA. The Military Department indicates that the General Fund provided in its budget provides for assistant teachers in the classrooms to teach military customs and military history, and for extra curricular activities such as physical education, drill and ceremonies, leadership, and team development. The Subcommittee may wish to get additional specific information on exactly what activities are funding through these monies, the specific classes and instruction that are offered from these funds, and the teaching credentials of the Military Department staff at OMI.

Staff Recommendation. Staff recommends holding this issue open at this time.

Action

2. Santa Ana Armory. The armory in Santa Ana was built in 1957. It currently houses a rifle company with approximately 100 national guardsmen. It is used as a training site one weekend per month. The remainder of the month it is used primarily for vehicle and equipment storage.

The armory is on a 3.5-acre site between an elementary school and a park. Both the elementary school and the park were developed after the armory was built.

If the armory were moved, the armory would need to be larger and upgraded to current standards. The funding for construction of a new armory would be split between the federal government and the state government. The City of Santa Ana is currently searching for a site for the new armory.

Last year, the Legislature adopted Supplemental Report Language requesting that the Military Department report to the Legislature on the feasibility of relocating the Santa Ana Armory to a new site in Orange County.

Prior to deployment last November, the Military Department reports that in term of the staffing reporting to the armory for weekend drills, the required strength was 200, the assigned strength was 139, and the average drilling strength was only 105. For the Maintenance Shop, there were five positions assigned and 4 positions filled.

The Military Department reports that due to the deployment, the maintenance shop at the armory seldom operates during the week, and is open normally only during weekend training. Further, due to the large amount of the Federal Technician force currently mobilized, remaining maintenance requirements are done based on current available manpower or deferred, and maintenance above the organizational level is conducted at the Combined Maintenance Support Shop (CSMS) in Long Beach.

The Military Department will be getting back to staff with information on how much funding is allotted for the Santa Ana Armory, the number of staff working at the armory prior to deployment and since deployment, the current level of staffing actually working in the maintenance shop at the armory, the reasons for why, prior to deployment, the average drilling strength was half the budgeted level, and how this level compared with other armories.

Staff Recommendation. Staff recommends holding this issue open at this time.

Action.

3. Other Major Budget Adjustments

Issue Title	Positions	Dollars
1. Personnel Specialist Position. Requests one position and $60,000 for a Personnel Specialist position in the Facilities Engineering Directorate. The position will support the Human Resource Branch in administration and coordination of personnel functions (Federal Funds).	1.0	$60,000
2. Office Assistant Position. Requests one position and $45,000 for an Office Assistance in the Facilities Engineering Directorate. The position will provide clerical support to multiple branches within the Directorate. (Federal Funds).	1.0	$45,000
3. Energy Specialist Position. Requests an Energy Specialist position and $110,000 to enable the Military Department to focus on energy consumption and conservation measures. The position will perform energy tracking, cost and consumption analysis, utility invoice tracking, and management reporting. (Federal Funds).	1.0	$110,000
4. Stationary Engineer Position. Requests funding to establish a stationary engineer at the newly constructed Fort Irwin Maneuver Area Training and Equipment Site. (Federal Funds).	1.0	$100,000
Capital Outlay Requests.		
8. Roseville Armory Addition and Renovation. Requests $5.4 million ($3.1 million General Fund and $2.3 million Federal Funds) for preliminary plans, working drawings, and construction for the renovation and addition to the Roseville Armory. .		$5,366,000
9. Camp San Luis Obispo Organizational Maintenance Shop. Requests funding of $189,000 (Federal Funds) to fund working drawings for the construction of a new 12,263 gross square foot Organizational Maintenance Shop in Camp San Luis Obispo.		$189,000
10. Camp San Luis Obispo Consolidated Dining Facility. Requests $233,000 from the Federal Funds to construct a new dining facility at Camp San Luis Obispo. The project consists of a single story building with a dining room, kitchen, scullery, dishwasher area, pantry/food storage, self service beverage/salad bar and dessert bar. .		$233,000
11. Kitchen, Latrine, and Lighting Renovations. Requests $1.3 million ($858,000 Federal Funds and $431,000 General Fund) to renovate kitchens and latrines at selected armories to redress fire/life/safety, ADA, and other code deficiencies. Funding is also requested to install security lighting at Mt. Shasta Armory.		$1,289,000

Staff Recommendation. Staff recommends holding this issues open pending resolution of the issues related to the Santa Ana armory.

Action.

Materials for March 30, 2005 Sub 4 Hearing

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, ______.

General Subject: Court fees.

(1) Existing law sets forth various court fees and fines to be collected for services provided in conjunction with the operation of the courts, as specified. The court fees and fines collected pursuant to these provisions, that are not subject to a local revenue sharing agreement or practice, are required to be deposited in a special account in the county treasury, except as to costs incurred by, and services provided by, the superior court, which are transmitted monthly to the Controller for deposit in the Trial Court Trust Fund. Existing law further provides for the distribution of revenue from these fees and imposes administrative and reporting duties on the Administrative Director of the Courts in this regard.

Existing law required the Administrative Office of the Courts and the California State Association of Counties, on or before January 1, 2005, to jointly propose to the Legislature a long-term revenue allocation schedule, to take effect on

July 1, 2005, for specified fees and fines for contempt of court and the failure to appear in court or to pay a court-ordered fine.

This bill would, commencing July 1, 2005, preserve the distribution of revenue, with respect to all of the above-described fees, that is in effect pursuant to an agreement or practice that is in place as of that date; and would revise the duties of the Administrative Director of the Courts with regard to those fees. The bill would shift certain other administrative duties relating to revenue deposited in the Trial Court Trust Fund from the joint administration of the Administrative Office of the Courts and the California State Association of Counties to the sole administration of the Administrative Office of the Courts; and would make additional changes relating to the payment of this revenue by a county or city and county. The bill would impose a state-mandated local program by requiring new duties of county treasurers.

(2) Existing law specifies the installment amounts each county must remit to the state, by specified dates, for funding court operations.

This bill would establish a working group composed of representatives from the Administrative Office of the Courts and the California State Association of Counties to review court and county fiscal information to determine the level of cost changes incurred by the courts and counties with respect to expert evidence services and legal representation furnished in the course of various court proceedings, as compared to the practice in effect before the issuance of a specified opinion of the Attorney General; and, based on this review, to identify adjustments to be made to the county remittances described above that will increase or decrease the amount that each county is required to remit each year, beginning with the 2005-06 fiscal year.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(4) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

An act to amend Section 68085.5 of, and to add Section 77201.3 to, the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

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

SECTION 1. Section 68085.5 of the Government Code is amended to read:

68085.5. (a) Notwithstanding any other provision of law, the fees and fines collected pursuant to Sections 116.390, 116.570, 116.760, 116.860, 491.150, 704.750, 708.160, 724.100, 1134, and 1161.2 of the Code of Civil Procedure, Sections 26824, 26828, 26829, 26834, and 72059 of the Government Code, and Section 1835 of the Probate Code, that are not part of a local revenue sharing agreement or practice shall be deposited in a special account in the county treasury and transmitted therefrom monthly to the Controller for deposit in the Trial Court Trust Fund.

(b) Notwithstanding any other provision of law, the fees and fines collected pursuant to Sections 26827.6, 26827.7, 26840.1, 26847, 26854, 26855.1, 26855.2, 26859, 27293, 71386, and 72061 of the Government Code, Section 103470 of the Health and Safety Code, Sections 1203.4 and 1203.45 of the Penal Code, Sections 2343, 7660, and 13201 of the Probate Code, and Section 14607.6 of the Vehicle Code, that are not subject to a local revenue sharing agreement or practice, shall be deposited in a special account in the county treasury.

(c) However, if a superior court incurs the cost or provides the services specified in subdivision (b), the fees and fines collected shall be transmitted from the special account in the county treasury monthly to the Controller for deposit in the Trial Court Trust Fund.

(d) (1) Until July 1, 2005, each superior court and each county shall maintain the distribution of revenue from the fees specified in subdivisions (a) and (b) that is in effect pursuant to an agreement or practice that is in place at the time this section takes effect.

(2) On and after July 1, 2005, each superior court and each county shall maintain the distribution of revenue that is in effect pursuant to an agreement or practice that is in place as of July 1, 2005, from the fees and fines specified in subdivisions (a) and (b), and the fees and fines collected pursuant to Sections 177.5 and 1218 of the Code of Civil Procedure, and Sections 166 and 1214.1 of the Penal Code.

(e) In order to ensure that expenditures from revenue sharing agreements are consistent with Judicial Council fiscal and budgetary policy, the Administrative Director of the Courts shall review and approve all distribution of revenue agreements regarding the fees and fines collected pursuant to Sections 177.5 and 1218 of the Code of Civil Procedure, and Sections 166 and 1214.1 of the Penal Code, that are negotiated ~~after the effective date of this section~~on or after July 1, 2005. If approval of an agreement negotiated on or after ~~the effective date of this section~~July 1, 2005 is not granted, the director shall advise the court and county of the reasons for not granting approval and suggest modifications that will make the agreement consistent with the Judicial Council fiscal and budgetary policies.

~~(e)~~

(f) The Administrative Office of the Courts ~~and the California State Association of Counties shall jointly determine and administer on or after January 1, 2004, and on or after January 1, 2005,~~shall administer all of the following:

(1) The amount of revenue that was deposited in the Trial Court Trust Fund pursuant to subdivisions (a) and (b) during the calendar year that just ended.

(2) The difference between the amount specified in subdivision (c) and thirty-one million dollars ($31,000,000).

(3) ~~A county-by-county transfer of~~Each county or city and county shall pay the amount specified in paragraph (2) to the Trial Court Trust Fund in two equal installments, on February 15 and May 15, in each fiscal year. Counties shall pay the installments from all available resources, including the county's general fund.

(4) All moneys required to be paid to the Trial Court Trust Fund pursuant to this section shall be considered delinquent if not received by the dates specified in this section, and shall be subject to the penalties set forth in Section 68085.

(5) Penalty amounts calculated pursuant to paragraph (4) shall be paid by the county or the city and county to the Trial Court Trust Fund no later than 45 days after the end of the month in which the penalty was calculated.

~~(4)~~

(6) Any payment to correct ~~for~~ an overpayment or underpayment made for ~~the 2003–04~~ any fiscal year, shall be paid to the appropriate party on or before ~~September 15, 2004~~November 15 of the subsequent fiscal year.

~~(5)~~

(7) The sum of the amounts specified in paragraphs (1) and (2) may not exceed thirty-one million dollars ($31,000,000), and shall be deposited in the Trial Court Trust Fund.

~~(f)~~

(g) Each superior court and each county shall provide detailed quarterly reports of the revenues generated by the fees and fines specified in subdivisions (a) and (b), Sections 177.5 and 1218 of the Code of Civil Procedure, and Sections 166 and 1214.1 of the Penal Code. The reports shall include the total amount collected and retained by the court or county and the existing distribution of those fees.

~~(g) On or before January 1, 2005, the Administrative Office of the Courts and the California State Association of Counties shall jointly propose to the Legislature a long-term revenue allocation schedule, to take effect on July 1, 2005, for the fees and fines specified in subdivisions (a) and (b), Sections 177.5 and 1218 of the Code of Civil Procedure, and Sections 166 and 1214.1 of the Penal Code. The revenue allocation schedule shall include provision for any underpayment or overpayment made pursuant to this section.~~

~~(h) No other transfers of the fees and fines specified in subdivisions (a) and (b), Sections 177.5 and 1218 of the Code of Civil Procedure, and Sections 166 and 1214.1 of the Penal Code shall take effect prior to July 1, 2005.~~

~~(i)~~

(h) Nothing in this section shall be deemed to alter or make void the shift of responsibility for court funding from the counties to the state.

SEC. 2. Section 77201.3 is added to the Government Code, to read:

77201.3. To the extent that responsibility for the payment of the costs of evaluations specified in Sections 288.1, 1026, 1027, and 1368 of the Penal Code, and Sections 3051, 3103.5, 5300, and 6600 of the Welfare and Institutions Code, is transferred from counties to the courts, or from courts to the counties, as compared to the practice in effect before the issuance of an opinion of the Attorney General related to these examinations (87 Ops. Cal. Atty. Gen. 62 (2004)), a working group composed of representatives from the Administrative Office of the Courts and the California State Association of Counties is established to review court and county fiscal information to determine the level of cost changes incurred by the courts and counties that have occurred related to these forensic examinations. Notwithstanding paragraph (3) of subdivision (b) of Section 77201.1, based upon this review, the working group shall identify adjustments to be made to county remittances specified in paragraphs (1) and (2) of subdivision (b) of Section 77201.1 that will increase or decrease the amount that each county is required to remit each year, beginning with the amounts due in the 2005-06 fiscal year. The working group shall report these adjustments to the State Controller by September 30, 2005.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for changes to implement the Budget Act of 2005, it is necessary that this act take effect immediately..

Issue #15—Corporate Responsibility Unit Funding Authority

Chapter 876, Statutes of 2003 is amended to read:

SEC. 16. The investigation and enforcement of the provisions contained in Sections 1 to 15, inclusive, of this act shall be accomplished without any duplication of effort on the part of the Attorney General and the Commissioner of Corporations. To the extent that the Attorney General exercises this authority, ~~it shall be done using existing resources, and no future~~ no General Fund budget augmentations shall be made for this purpose.

Issue #1—Legal Services Revolving Fund

Section 1. Section 11044 of the Government Code is amended to read:

11044. *(a) The Legal Services Revolving Fund is hereby established in the State Treasury, to be administered by the Department of Justice. Moneys in the fund, upon appropriation by the Legislature, shall be used by the Attorney General for investigation and litigation activities for client agencies and for investigation and litigation activities funded through judgments or settlements.*

~~(a)~~ *(b)* For state agencies, departments, or programs which are charged for the costs of legal services rendered by the Attorney General, the Attorney General shall charge an amount sufficient to recover the costs incurred in providing the legal services. *These funds shall be deposited into the Legal Services Revolving Fund.* Except as approved by the Department of Finance, charges for legal services may not be made against the General Fund, but may be made against any other fund or special account in the General Fund.

~~(b)~~ *(c)* Upon the request of the Attorney General in the form prescribed by the Controller, the Controller shall transfer the amount of the charges for services rendered from the agency's appropriation to the appropriation for the support of the Attorney General's office, provided that the Attorney General shall not request an amount which, when added to previous charges in the same fiscal year, exceeds the amount budgeted by the state agency for Attorney General legal services. *Payment* ~~Reimbursements~~ for these charges shall be credited to and in augmentation of the appropriation for the support of the Attorney General's office from which the cost of the services was or will be paid.

~~(c)~~ *(d)* A state agency that has a dispute regarding charges for legal services provided by the Attorney General shall notify the Attorney General, in writing, of the dispute and the basis therefor. The Attorney General shall immediately provide a credit to the state agency in the subsequent billing or billings for the amount of the charges in dispute. No further transfer of funds shall occur with respect to the services for which charges are disputed until the dispute is resolved by the Attorney General, subject to the approval of the Department of Finance.

Section 2. Section 16427 of the Government Code is amended to read:

16427. The fund is under the control of the Department of Justice, hereafter referred to as "the department." The department shall maintain accounting records pertaining to the fund, including subsidiary records of individual litigation deposits and the disbursements thereof, and shall prepare and submit to the Department of Finance, the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations, quarterly reports concerning the activity of the fund which details the number of deposits received, disbursements to claimants, the receipt of interest income, and what amount, if any, was used for the litigation costs of the department. The department shall file a claim with the State Controller to pay out money in the fund to whomever and at such time as the department may direct; provided that if a sum of money in the fund was deposited pursuant to order or direction of the court, that sum shall be paid to whomever and at such time as the court may direct, *notwithstanding Section 13340 of the Government Code. Funds transferred to the Legal Services Revolving Fund or reimbursements may be expended by the department only upon approval from the Department of Finance, as requested in writing by the Department of Justice. Such expenditures are deemed appropriate if the Department of*

Finance does not approve or disapprove within 30 days. ~~The Attorney General shall notify the Department of Finance no later than 15 days after any transfer from the fund.~~ Any residue remaining in a deposit account after satisfaction of all court-directed claims or payment of departmental expenditures approved by the Department of Finance for that account shall be transferred no later than July 1 of each fiscal year to the General Fund.

Proposition 64 – TBL

The TBL was written to create a special fund in which the portion of penalties that are payable to the State General Fund or to the State Treasurer recovered by the Attorney General from an action or settlement pursuant to this Proposition can be deposited. This will allow for proper accounting of the settlements collected. The proposition failed to set up a special fund for this purpose and had settlements being deposited directly to the General Fund and the State Treasurer allowing for no tracking of the proposition collections.

Listed below is the proposed TBL being considered by the Department of Finance.

Section 1. Section 17206 of the Business and Professions Code is amended to read:

17206. Civil Penalty for Violation of Chapter

(a) Any person who engages, has engaged, or proposes to engage in unfair competition shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by any district attorney, by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, by any city attorney of a city, or city and county, having a population in excess of 750,000, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor, or, with the consent of the district attorney, by a city attorney in any city and county, in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in subdivision (d), if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered. The aforementioned funds shall be for the exclusive use by the Attorney General, the district attorney, the county counsel, and the city attorney for the enforcement of consumer protection laws.

(d) The Unfair Competition Law Fund is hereby created as a special account within the general fund in the State Treasury. The portion of penalties that is payable to the State General Fund or to the State Treasurer recovered by the Attorney General from an action or settlement of a claim made by the Attorney General pursuant to this chapter or to Part 3, Chapter 1 shall be deposited into this fund. Moneys in this fund, upon appropriation by the Legislature, shall be used by the Attorney General to support investigations and prosecutions of California's consumer protection laws, including implementation of judgments obtained from such prosecutions or investigations and other activities which are in furtherance of this chapter or of Part 3, Chapter 1.

~~(d) The Unfair Competition Law Fund is hereby created in the State Treasury. Amounts recovered by the Attorney General from an action or settlement of a claim made by the Attorney General pursuant to this chapter shall be deposited into this fund. Moneys in this fund, upon appropriation by the Legislature, shall be used by the Attorney General to support the ongoing investigation and prosecution of California's unfair competition and consumer protection laws in furtherance of this chapter.~~

~~(d)~~ *(e)* If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action. Before any penalty collected is paid out pursuant to subdivision (c), the amount of any reasonable expenses incurred by the board shall be paid to the state Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the state Treasurer. The amount of any reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county that funds the local agency.

~~(e)~~ *(f)* If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered for the exclusive use by the city attorney for the enforcement of consumer protection laws. However, if the action is brought by a city attorney of a city and county for the purposes of civil enforcement pursuant to Section 17980 of the Health and Safety Code or Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, either the penalty collected shall be paid entirely to the treasurer of the city and county in which the judgment was entered or, upon the request of the city attorney, the court may order that up to one-half of the penalty, under court supervision and approval, be paid for the purpose of restoring, maintaining, or enhancing the premises that were the subject of the action, and that the balance of the penalty be paid to the treasurer of the city and county.

Addendum to Agenda
March 30, 2005 Hearing

Department Budget for Discussion.

8840 Commission on Uniform State Laws

In conjunction with other states, the Commission on Uniform State Laws (CUSL) drafts and presents to the Legislature uniform laws deemed desirable and practicable by the National Conference of Commissioners on Uniform State Laws for adoption by the various states. The commission is composed of six members appointed by the Governor, one member of each house of the Legislature appointed by the respective house, the Legislative Counsel, and two life members of the National Conference.

Budget Request. The budget proposes expenditures of $100,000 from the General Fund, an increase of $1,000 from anticipated expenditures in the current year.

Staff Recommendation. Dues for the Commission in the budget year will total $130,000, and anticipated travel expenses are $19,000. Staff recommends augmenting the budget for the Commission by $49,000 General Fund in order to fully fund the activities of the Commission.

Action.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Christine Kehoe
Tom McClintock

Wednesday, March 30, 2005
1:30 pm
Room 2040

OUTCOMES

Proposed Consent / Vote-Only Agencies

Departments Proposed for Consent / Vote-Only

0280 COMMISSION ON JUDICIAL PERFORMANCE

The Commission on Judicial Performance is the independent state agency responsible for investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges pursuant to article VI, section 18 of the California Constitution. Its jurisdiction includes all active judges and justices of California's superior courts, Courts of Appeal, and Supreme Court, and former judges for conduct prior to retirement or resignation. The Commission also shares authority with local courts for the oversight of court commissioners and referees. In addition to disciplinary functions, the Commission is responsible for handling judges' application for disability retirement.

The Commission is composed of eleven members: three judges appointed by the Supreme Court, two attorneys appointed by the Governor, and six lay citizens, two appointed by the Governor, two appointed by the Senate Rules Committee and two appointed by the Speaker of the Assembly. Members are appointed to four-year terms and may serve two terms, Commission members do not receive a salary.

Budget Request. The budget proposes total expenditures of $4.1 million from the General Fund, an increase of $13,000, or 0.3 percent from current year expenditures. The commission has a total of 27 positions.

0390 JUDGES' RETIREMENT SYSTEM

The Judges' Retirement System (JRS I) provides retirement benefit funding for judges of the Supreme Court, Courts of Appeal, Superior and Municipal Courts. Retirement benefits are based on age, years of service, compensation of active judges, and eligibility as determined by specific sections of the Judge's Retirement Law. The JRS I is funded by the Judge's Retirement Fund, which receives revenue from the General Fund and certain filing fees, as well as employee contributions equal to 8 percent of the judges' salaries.

Chapter 879 of the Statutes of 1994 established the Judges' Retirement System II (JRS II). Unlike its predecessor, JRS II is designed to be fully funded from employer and employee contributions on a prospective basis. The major differences in JRS II include increased retirement age and a cap of 3 percent annually for COLAs for retirement benefits. All judges elevated to the bench on or after November 9, 1994, are required to participate in JRS II. There are currently 1,610 authorized judges and justices in the State of California. The majority of these judges participate in the JRS I plan.

Budget Request. The budget proposes total expenditures of $278.2 million for the Judges' Retirement System. The DOF notes that the estimated expenditures are consistent with actual expenditures and that no deficiency is anticipated for the current year for this item.

8550 CALIFORNIA HORSE RACING BOARD

The seven-member California Horse Racing Board (CHRB) supervises all race meetings in the state where pari-mutuel wagering is conducted. The purpose of the CHRB is to regulate pari-mutuel wagering for the protection of the betting public, to promote the horse racing and breeding industries, and to maximize State of California tax revenues. The state's revenue from horseracing is principally derived from fees based upon a percentage of the pari-mutuel wagering pools, breakage (the odd cents not paid to winning ticket holders), and unclaimed tickets. Additional revenue is derived from licenses issued to horse owners, trainers, jockeys, grooms and others, and from fines.

Budget Request: The budget proposes $8.7 million from special funds, an increase of $80,000 or less than 0.9 percent from the estimated current year expenditures.

8690 SEISMIC SAFETY COMMISSION

The Seismic Safety Commission (SSC) was established to improve earthquake preparedness and safety in California. Specifically, the commission is responsible for providing a consistent framework for earthquake-related programs and coordinating the administration of these programs throughout state government. The 17-member commission performs policy studies, reviews programs, investigates earthquake incidents, and conducts hearings on earthquake safety. The commission advises the Legislature and the Governor on legislative proposals, the state budget, and grant proposals related to earthquake safety.

Budget Request: The budget proposes total expenditures of $1.1 million ($1 million from the Insurance Fund and $75,000 in reimbursements) for 6.8 positions at the SSC. This amount is an increase of $8,000, or 0.7 percent from estimated current-year expenditures. In 2003-04, the Legislature shifted funding for the SSC from the General Fund to the Insurance Fund.

Staff Recommendation on Proposed Consent / Vote-Only Agencies. No issues have been raised with these agencies. Staff recommends approval as budgeted for the proposed consent / vote-only agencies.

Action on the consent / vote-only agencies.

Consent departments approved as budgeted. Vote 2-0 (McClintock absent).

Departments Budget Proposed for Discussion

0250 Judicial Branch

The Governor's budget combines the Judicial and Trial Court Funding budgets into one budget for the Judicial Branch. The budget proposes a total of $3 billion ($1.8 billion General Fund and $1.3 billion other funds) for the Judicial Branch.

Of the total amount, the budget proposes expenditures of $373.5 million ($308.9 million General Fund) for items related to the state judiciary. The state judiciary items include the Supreme Court ($40.7 million), the Courts of Appeal ($178.3 million), the Judicial Council – which includes the Administrative Office of the Courts (AOC) ($110.5 million), the Judicial Branch Facility Program ($32.6 million), and the California Habeas Corpus Resource Center ($11.4 million). The proposed amount for the state judiciary is a decrease of $43 million, or 10.3 percent, from estimated expenditures in the current year. The reduction is due primarily to the transfer of $64.1 million for local assistance grants that were previously funded in the Judicial Council item, but are now funded in the Trial Court Funding item. Total authorized positions for the state judiciary entities would increase by 100 positions to 1,851.9 positions. These new positions are primarily related to a proposal to have the AOC provide centralized administrative services support such as accounting and human resources for the local trial courts.

The proposed total budget for the Trial Court Funding item is $2.7 billion ($1.5 billion General Fund and $1.2 billion other funds). This amount is an increase of $220.4 million, or 9 percent, from anticipated expenditures in the current year. Similar to above, much of the increase in this program is due to the transfer of $64.1 million in local assistance grants that were formerly displayed in the Judicial Council program.

Judicial Branch – Program Requirements

	Expenditures *(dollars in thousands)*				***Percent***
Program	**2003-04**	**2004-05**	**2005-06**	**Change**	**Change**
Supreme Court	$37,671	$40,279	$40,743	$464	1.2%
Courts of Appeal	160,659	176,423	178,295	$1,872	1.1%
Judicial Council	158,263	194,241	110,468	-$83,773	-43.1%
Judicial Branch Facility Program	-	0	32,596	32,596	N/A
Habeas Corpus Resource Center	9,925	11,133	11,425	$292	2.6%
Unallocated Reduction	-	-5,500	-	$5,500	-100.0%
Subtotal, Judiciary	*$366,518*	*$416,576*	*$373,527*	*-$43,049*	*-10.3%*
Support for the Operations of Trial Courts	$1,889,886	$2,117,558	$2,269,111	$151,553	7.2%
Salaries of Superior Court Judges	223,757	232,991	233,530	539	0.2%
Assigned Judges	17,269	19,254	20,254	$1,000	5.2%
Court Interpreters	67,534	67,735	70,986	$3,251	4.8%
Grants	-		64,069	64,069	N/A
Subtotal, State Trial Court Funding	*$2,198,446*	*$2,437,538*	*$2,657,950*	*$220,412*	*9.0%*
Totals, Programs	**$2,564,964**	**$2,854,114**	**$3,031,477**	**$177,363**	**6.2%**
Authorized Positions	**1,465.6**	**1,751.6**	**1,851.9**	**100.3**	**5.7%**

Judicial Branch Budget Changes Proposed for Consent / Vote Only

1. Capital Central Staff. This request proposes $408,000 from the Appellate Court Trust Fund and 3 positions (2 attorney positions and 1 clerk position). The additional positions would expand the number of position s assigned to the Capital Central Staff in order to support the court in adjudication of death penalty appeals cases.

Background: The base budget includes five Capital Central Staff Attorney positions. Currently, there are 134 fully briefed cases awaiting action by the court. 56, or approximately 41%, of the fully briefed cases are death penalty cases. Each year between 2001—2004 an average of 18 death penalty cases have been argued before the court. At its current pace, it will take 3 years for the court to deal with the currently pending cases.

2. Mediation of Civil Appeals. This request proposes an increase of $424,000 ($252,000 in one-time costs) and 2 positions from the Appellate Court Trust Fund to develop and administer a mediation program for civil appeals.

Background: Currently, there is no settlement or mediation program at the Third District Court of Appeal. Other courts of appeal have initiated settlement or mediation programs that have prompted parties to settle appellate cases prior to preparation of the record, resulting in substantial savings to the parties and allowing the courts of appeal to redirect resources to the disposition of other pending appeals. The settlement conference program would be based on the pilot program in the First Appellate District Court of Appeal.

3. Judicial Branch Fiscal Accountability and Operational Oversight. This request proposes an increase of $144,000 in reimbursement authority and one internal auditor position to continue implementation of the statewide audit program to strengthen financial recordkeeping and operational controls of the trial courts.

Background: In fiscal year 2001-02, an Internal Audit Unit was established with 16 auditors when fully staffed. It was estimated that the Unit would average 12 trial court audits a year in addition to its other responsibilities including the Supreme Court, courts of appeal, and the AOC. The AOC believes that the original analysis was extremely optimistic in terms of the annual number of projects (audits, reviews, and investigations), and didn't take into account the size of some of the very large courts.

4. Paternity Judgments. This request proposes an increase of $146,000 in the current year and $292,000 in the budget year in reimbursement authority for the implementation of Chapter 849, Statutes of 2004 (AB 252). Reimbursement funding to the Judicial Council will be provided by the Department of Child Support Services (DCSS) through an interagency agreement. Chapter 849 mandates DCSS to implement new procedures for individuals to challenge a judgment of paternity on the basis of genetic testing when the genetic test shows that the previously established father is not the biological father.

5. Offender Eligibility for Traffic Violator School. This request proposes a one-time appropriation form the Motor Vehicle Account to implement requirements of Chapter 952, Statutes of 2004 (AB 3049). Chapter 952 prohibits courts from utilizing traffic violator schools in lieu of adjudicating a traffic offense if the violator was issued a notice to appear for a serious traffic violation that occurred in a commercial vehicle or for drivers processing a commercial driver's license. Implementation will result in one-time computer programming and employee training costs to the courts. This proposal would allow California to conform with federal laws on this issue.

6. Increased Trial Court Costs. This request proposes an increase of $92.6 million to address increases in mandatory trial court costs for employee salaries, benefits, and retirement, and for court security and county services. This amount is intended to fund actual court operational cost increases incurred in the current and budget years. The current year amount for this request was $88.4 million. The requested $92.6 million represents the annualization of the current year amount. The AOC reports that for the budget year, $39 million will be allocated for increased retirement costs, $3.7 million for pay parity due to court unification, $37.2 million for discretionary costs including costs of salary and benefit increases, $7.9 million for increased security costs, and $4.9 million for increased county charges.

7. Trial Court Administrative Services Support. This request proposes $13.1 million in reimbursements from the trial courts and 91.5 positions for the continuation and expansion of various administrative and information technology services to support the trial courts. This funding represents full-year funding for staffing that was part of a January section letter.

The administrative services funded by this increase include:

- Staffing for the implementation and support of standardized fiscal processes for all trial courts, including a statewide, centralized treasury function and Court Accounting and Reporting System (CARS).
- Staffing for design, development, and implementation of a statewide Court Human Resources Information System (CHRIS).
- Staffing to provide oversight for the development, im0plementation, and support for a statewide California Case Management System (CCMS).
- Staffing to provide oversight and transition coordination for a centralized Technology Center.
- Staffing to form a Regional Office Assistance Group to provide legal advice and assistance to the courts.
- Staffing to implement statewide enhanced collections of fines and fees.

The AOC reports that the roll out of these services will occur over the next few years. The AOC currently estimates that the costs for these support services will increase to $23.8 million in 2008-09 as the program expands to include additional courts and services.

8. Grand Jury Proceedings Mandate. In June 2002, the Commission on State Mandates (CSM) determined that the statutory changes related to grand juries constitute state-reimbursable mandates and estimated the statewide cost of these mandates to be $12.6 million (for 1997-98 through 2004-05). This amount includes county costs for such expenses as (1) providing training to grand juries, (2) providing more extensive comments to grand juries in response to its findings, and (3) providing a meeting room and support for the grand juries.

The Governor's budget proposes to suspend the mandates and includes no funding for prior-year claims.

Background: The suspended mandates are described below.

- Chapter 1170, Statutes of 1996 (SB 1457, Kopp), authorized the grand jury to request the local entity to appear before it to discuss the findings of its report. It also required the local entity to provide more extensive comments on the findings of the grand jury report. For example, it required the responding entity to indicate if it was in agreement (fully or partially) with the findings of the grand jury, and whether any of its recommendations had been adopted.
- Chapter 43, Statutes of 1997 (AB 829, Thomson), required the court, in consultation with the county counsel and the district attorney to ensure that grand juries receive training that at a minimum addresses report writing, interviews, and the scope of the grand jury's responsibility and authority.
- Chapter 230, Statutes of 1998 (AB 1907, Woods), requires the county clerk to transmit a copy of the grand jury report, and any local entity response to the State Archivist.

Staff Recommendation. Staff recommends approval of these consent / vote-only issues.

Action.
Consent items approved as budgeted. Vote 2-0 (McClintock absent).

Judicial Branch Budget Items Proposed for Discussion

1. Cost of Forensic Evaluations.

This request proposes an increase of $5.5 million through an increase in the county obligations associated with the Maintenance of Effort payments. The augmentation would address unanticipated cost increases to the trial courts for various forensic evaluations, as specified in a recent California State Attorney General's opinion regarding whether the counties or the state are responsible for these costs.

The AG's opinion concluded that the costs for five out of seven categories of forensic evaluations are court costs. The AOC indicates that many counties have continued to pay for the costs of these forensic evaluations, in whole or part. The AG's opinion clarifies the issue of who pays, which has resulted in unfunded cost increases for the trial courts.

Proposed Trailer Bill Language. The proposal includes trailer bill language (included in the appendix) requiring the AOC and CSAC to establish a working group to review information to determine the level of cost changes incurred by the counties and the courts related to fiscal examinations. Based on the review, the working group is required to identify adjustments to be made to county MOEs and report on the adjustments to the State Controller by September 30, 2005.

Staff Comments. The AOC notes that individual county MOE payments may shift either up or down depending on the particular funding arrangement in each county. However, the net result will be a $5.5 million increase for MOE payments statewide.

CSAC has indicated that it is opposed to this proposal. AOC and CSAC have indicated that they are working on potential resolutions to this issue.

Staff Recommendation. Staff recommends holding this issue open at this time pending on-going discussions between AOC and CSAC on this issue.

Action.
Held open

2. Undesignated Fees.

Budget Request. The budget proposes trailer bill language (included in the appendix) to permanently reauthorize the transfer of $31 million from counties to courts in revenue from undesignated fees.

Two years ago, the Legislature enacted statutory changes to distribute these undesignated fees, with direction that the AOC and the CSAC jointly propose a long-term revenue allocation schedule to take effect on July 1, 2005. The proposed trailer bill language would continue the current distribution of the undesignated fees and would no longer require a long –term revenue allocation schedule. The language would also put into place penalties for delayed payments from the counties.

Background. Chapter 850, Statutes of 1997 shifted primary fiscal responsibility for support of the trial courts from the counties to the state. Chapter 850 and other recent trial court funding legislation made changes in the distribution and amount of court-related fees. An important part of the financing mechanism for the state's new fiscal responsibility for the trial courts was the requirement that local governments transfer a variety of court-related fees collected by trial courts and local governments to the state's trust fund. However, Chapter 850 did not designate which entity—the state or local governments—would retain a number of court-related fees. Some of these undesignated court fees include fees paid for trial postponement, change of venue, filing for Writ of Execution, and civil assessment fees.

Staff Comments. CSAC has indicated that it is opposed to this proposal. AOC and CSAC have indicated that they are working on potential resolutions to this issue.

Staff Recommendation. Staff Recommends holding this issue open pending further discussions between CSAC and the AOC.

Action
Held open

3. Uniform Civil Fees.

In order to address the complexity and lack of uniformity in the existing civil fee structure, the Judicial Council in late 2003 formed a working group of diverse stakeholders to undertake a comprehensive review of the existing civil fees and to make recommendations for developing a uniform civil fee structure. Based on the findings and recommendations of the working group, the court is developing legislation to streamline the existing civil fee structure and achieve uniformity in the level of fees charged by courts and counties statewide. Generally, this proposal would involve collapsing a number of existing fees into a single fee, as well as raising certain fees.

The court security fee which was imposed two years ago and will expire in July 1, 2005, creating a $16.8 million shortfall in the Trial Court Trust Fund. Revenues from the new fee would be deposited into the Trial Court Trust Fund.

Staff Recommendation. At the time of this analysis, no language has been submitted to the Subcommittee. Staff Recommends holding this issue open at this time.
Action.
Held open

4. State Appropriations Limit.
This request proposes $97.4 million as a baseline adjustment for trial court operational costs, computed on the year-to-year percentage change in the annual State Appropriations Limit (SAL). The amount was computed by multiplying specific trial court operational costs including all expense for court operations, court employee salaries and salary-driven benefits by an estimated growth factor of 4.8 percent. The calculation does not include the costs of compensation for judicial officers, subordinate judicial officers, or funding for the assigned judges program.

The LAO notes that the SAL estimate published elsewhere in the budget is closer to 6 percent, which would result in increased funding for the trial courts of $24 million. The SAL will be recalculated at the time of the May Revise and the administration will likely update the trial court adjustment at that time.

Staff Comments. The DOF indicates that the Modernization Fund does not include a SAL growth factor for 2005-06, but will be included in the calculation in future years. The local assistance items do include a growth factor except for the Equal Access program.

The AOC indicates that the Judicial Council is working on a SAL allocation methodology. The SAL funding would be allocated according to the following priorities:

- Statewide programs – such as the court interpreter program and the court appointed counsel program)
- Mandatory costs – such as increased retirement costs
- Judicial Council Priorities
- Inflation
- Population Growth
- Productivity

The AOC indicates that a Judicial Council will be releasing a report in the next few weeks that provides a detail of the proposed methodology and a template for how it will work.

Staff Recommendation. Staff recommends holding this issue open at this time pending the updated SAL calculation at the May Revise. The Subcommittee may wish to consider language that requires the AOC to report on how SAL funding has being spent. Staff will continue working with the LAO and the AOC on potential reporting language.

Action.
Held open

5. Information Item --Expansion of SAL to the Judiciary Budget.
The Governor's Budget Summary mentions a proposal that would add a growth factor based on the SAL for the state judiciary items starting in fiscal year 2007-08. This growth factor would be similar to the SAL growth factor for the trial courts.

Information Item. Currently, there is no language before the Subcommittee regarding this issue.

6. Information Item – Transfer of Trial Court Facilities to the State.

Pursuant to the Trial Court Facilities Act of 2002, the process for the transition of court facilities from the county to the state has started in the current year. The AOC estimated that in the current year between 100 and 140 facilities would be transferred to the state. The Legislative Analyst's Office (LAO) has estimated that the cost of renovating existing buildings and constructing new ones would be between $4.9 billion and $5.5 billion over the next ten years. It is intended that the funding for the transition will come from fees that are deposited into the State Court Facilities Construction Fund. The budget proposes repayment of $72.7 million from the General Fund to the State Court Facilities Construction Fund to repay a loan from the 2003-04 fiscal year. In the current year, the Construction Fund has loaned the General Fund $30 million.

The January budget proposal does not include any new expenditure proposals related to trial court facilities.

The Subcommittee may wish to have the Judicial Council report on the progress of transferring facilities in the current year.

No Action Informational Issue

0820 Department of Justice

It is the responsibility of the Attorney General to uniformly and adequately enforce the laws of the State of California. The Attorney General fulfills this mandate through the programs under his control at the Department of Justice (DOJ). There are five primary divisions within the department, including (1) Civil Law, (2) Criminal Law, (3) Public Rights, (4) Law Enforcement, and (5) Criminal Justice Information Services. In addition, there are the Directorate and Administration Divisions, Executive Programs, the Division of Gambling Control, and, as of January 1, 2000, the Firearms Division.

Budget Overview. The budget proposes $687.7 million for the DOJ, which is an increase of $10.9 million, or 1.6 percent above current year expenditures. General Fund support of $322.5 million represents an increase by $3.6 million, or 1.1 percent from the estimated current year budget.

DOJ Program Requirements

	(dollars in thousands)				Percent
Program	**2003-04**	**2004-05**	**2005-06**	**Change**	**Change**
Directorate and Administration	$22,587	$25,810	$27,418	$1,608	6.2%
Distributed Directorate and Administration	-22,587	-25,810	-27,418	-1,608	6.2%
Legal Support and Technology	43,188	46,082	47,723	1,641	3.6%
Distributed Legal Support and Technology	-43,188	-46,082	-47,723	-1,641	3.6%
Executive Programs	12,669	14,136	14,160	24	0.2%
Civil Law	104,842	120,691	116,247	-4,444	-3.7%
Criminal Law	107,487	113,810	114,506	696	0.6%
Public Rights	56,864	63,769	69,437	5,668	8.9%
Law Enforcement	154,083	172,551	174,367	1,816	1.1%
California Justice Information Services	143,589	166,358	170,960	4,602	2.8%
Gambling	13,382	15,233	15,307	74	0.5%
Firearms	11,103	12,030	12,293	263	2.2%
State-Mandated Local Programs	1	1	420	419	n/a
Unallocated Reduction	0	-1800		1,800	-100.0%
Total	**$604,020**	**$676,779**	**$687,697**	**$10,918**	**1.6%**
Authorized Positions	**5,032.1**	**4,984.2**	**5,049.4**	**65.2**	**1.3%**

DOJ Budget Adjustments Proposed for Consent / Vote-Only

Issue Title	Positions	Dollars
1. Violent Crime Information Network Renovation. The proposal requests 4 positions and $1.8 million to begin renovation of the Violent Crime Information Network (VCIN) and to provide the necessary level of technical and program support staff. The VCIN is the central repository of the State's sex offender registration data. New mandates and repeated system modifications have strained the system's capabilities. The Renovation Project is estimated to be completed in four years, with an estimated cost of $7.4 million. (General Fund)	4.0	$1,820,000
2. Corporate Responsibility Unit. The proposal requests 12.5 positions and $4.7 million for the Corporate Responsibility Unit. The unit would be self-funded through the Public Rights Division Law Enforcement Fund. Included in this request is an additional $3 million per year for external consultant support and $50,000 for out-of-state travel authority above the standard compliment. The DOJ indicates that based on the past successful performance of the Attorney General's Energy Task Force, Consumer Law, and Antitrust Litigation Sections, the resources requested in this proposal will self-fund ongoing activities. The proposal includes trailer bill language clarifying that no General Fund augmentations shall be used for this purpose and budget bill language stating that new positions can not be hired if there are insufficient funds in the Public Rights Law Enforcement Fund. Proposed trailer bill language is attached as an appendix. (Special Funds)	12.5	$4,681,000
3. Megan's Law Data Improvement. The proposal requests four positions and $428,000 to be assigned to the Violent Crime Information Center to meet increased workload related to California's Megan's Law program. (Special Funds)	4.0	$428,000
4. Criminal Justice Information System Redesign. The proposal requests $4 million and eight two-year limited-term positions in order to begin replacement of five automated database systems. The five databases provide statewide support for Wanted Persons, Stolen Vehicles, Supervised Release File, Firearms Eligibility Applicants, and Domestic Violence Restraining Orders. The proposal would include funding of $4.5 million in 2006-07, $2.8 million in 2007-08, and ongoing support of $373,000 in 2008-09 for ongoing maintenance costs. (General Fund)	8.0	$3,953,000
5. Recycling Fraud Enforcement. This proposal requests $466,000 in reimbursement authority and 3.3 positions to prosecute recycling fraud on behalf of the Department of Conservation (DOC). The DOC has submitted a companion BCP to request resources from the California Beverage Recycling Fund for this purpose.	3.3	$466,000
6. Seller of Travel Unit-Audit Workload. This proposal requests $213,000 and 2 auditor positions to increase compliance and financial audits of Sellers of Travel. This activity is solely funded from fees that go to the Travel Seller Fund. The DOJ reports that inadequate audit support has limited the Seller of Travel Unit's investigations to only those companies with the largest aggregate damages to consumer. The Unit currently has one auditor position. (Special Funds)	2.0	$213,000
7. Federal Fund Authority for Grants and MOU's. The proposal requests an increase of $3.7 million in federal funds expenditure authority for grants and MOU's that DOJ anticipates in the budget year. In the current year, DOJ is increasing authority by $9 million. (Federal Funds)	0	$3,682,000
8. Legal Services Revolving Fund. This request proposes trailer bill language to establish the Legal Services Revolving Fund, to improve the management of the Public Rights and Civil Law Divisions. Reimbursements provided to the DOJ by client agencies are proposed to be deposited into the new fund. This fund would be modeled on Revolving funds used by the Department of General Services for performing duties for client agencies. Proposed trailer bill language is attached as an appendix.	0	0
9. Laboratory Facilities Operations and Utilities. This proposal requests $132,000 in 2005-06 and $222,000 in 2006-07 to address facilities operations and maintenance	0	$132,000

and utilities costs for the forensic lab in Eureka and the newly constructed lab in Santa Barbara. (General Fund).		
10. Underwriters Litigation. This request proposes a one-time augmentation of $1.5 million for external consultants related to the Lloyd's of London (Stringfellow) litigation to continue to fund specialist counsel with expertise in insurance coverage litigation. The budget contains language requiring that funds not expended revert to the General Fund at the end of the year. In the current year, the DOJ requested $3.7 million for litigation costs due to an anticipated trial date in March 2005. (General Fund)	0	$1,452,000
11. Armed Prohibited Persons Transfer. This request proposes to redirect 3 positions and $306,000 (General Fund) to move IT support resources from the Firearms Division into the Division on Criminal Justice Information Services.	0	0
12. Criminal Law Increased Litigation Workload. This request proposes $1.1 million General Fund and 7.7 positions to handle increased litigation workload. (General Fund)	7.7	$1,130,000
13. National Criminal History Improvement Program. This request proposes a one-time increase in federal funds of $1.9 million and 18 positions for Year 10 of the National Criminal History Improvement Program (NCHIP). (Federal Funds)	18.0	$1,922,000
14. Bureau of Medi-Cal Fraud and Elder Abuse Increase. This request proposes an increase of $570,000 in federal trust fund expenditure authority. The augmentation is requested to provide additional spending authority for the investigation an prosecution of Medi-Cal Fraud and Elder Abuse cases. (Federal Funds)	0	$570,000
15. Representation of Franchise Tax Board – Abusive Tax Shelters. This request proposes an increase of $721,000 General Fund and 4.9 positions related to representation of the Franchise Tax Board. (General Fund)	4.9	$721,000
16. Sexually Violent Predator Confinement and Release Workload. This request proposes $1.2 million General Fund and 8.2 positions to defend individual and class-action suits (1) challenging the conditions of confinement for sexually violent predators (SVPs), and (2) involving the release of SVPs at the conclusion of their hospital treatment. The DOJ requested $600,000 and 4 positions for half year funding in the current year. (General Fund)	8.2	$1,202,000
17. Intel Team. This request proposes a transfer of $442,000 (Indian Gaming Special Distribution Fund) and 4 positions from the Division of Law Enforcement to the Division of Gambling Control. Transferring the Intel Team will enable the Division of Gambling Control to better manage intelligence activities, enhance communication, and consolidate DOJ's tribal regulatory program. (Special Funds)	4	$442,000
18. Energy Litigation. This baseline adjustment proposes a continuation of the Attorney General's Energy Task Force with $10.7 million from the Ratepayer Relief Fund in the budget year and $6.1 million from the Ratepayer Relief Fund in 2006-07.	42.6	$10,700,000
19. Tribal Gaming Employee Suitability Investigations. This request proposes $270,000 from the Indian Gaming Special Distribution Fund to pay for the costs of running fingerprint checks, credit reports, public records inquiries, and law enforcement inquiries for Tribal Key Employee applications. (Special Fund).	0	$270,000
20. Santa Rosa Replacement Lab. This request proposes $8.6 million from the lease revenue bonds to continue with the construction phase of the Santa Rosa Replacement Lab. (Lease Revenue Bonds)	0	$8,594,000

Staff Recommendation. No issues have been raised on these budget adjustments. Staff recommends approval of the proposed consent / vote-only adjustments.

Action.
Issues #2 (Corporate Responsibility) and #15 (Representation of FTB) held open. All other consent items approves. Vote 2-0

DOJ Discussion Issues

1. Proposition 69 – DNA Initiative.

The proposal requests $11.2 million from the DNA Identification Fund and 48 positions to implement Proposition 69 which passed on the November 2004 ballot. Proposition 69 makes any person convicted of a felony eligible for inclusion in the Forensic DNA Identification Data Bank and the California Palm Print System. In the current year, the budget assumes $11 million from the DNA Identification Fund, including a $7 million loan from the General Fund.

Staff Comments. The funding level provided in the proposal anticipates that 65,000 samples will be processed in the current year and 135,000 samples in the budget year. To the extent that samples are received in excess of the estimates in the request, General Fund resources will be necessary to analyze the samples. Staff notes that CDC anticipates collecting DNA samples from the bulk of its inmate population this April. The amount of samples forwarded to the DOJ from this source alone is likely to be over 80,000 (not including parolees and other samples that CDC and CYA are forwarding to the DOJ.

Staff Recommendation. DOJ and DOF have indicated they are reviewing workload for this program, and will be submitting a revision for this proposal. The Subcommittee may wish to get an update on the workload already received and anticipated workload in the current year and the budget year. Staff recommends holding this issue open pending a revised proposal.

Action
Held open

2. Hazardous Material Endorsements.

This proposal requests $3.8 million from the Fingerprint Fees Account to assist the DMV's implementation of Chapter 801, Statutes of 2004 (AB 2040). The USA PATRIOT Act mandates the Federal Transportation Security Administration's regulation of individuals transporting hazardous materials. The endorsement process includes a federal level criminal offender record information background investigation. The DMV will use a live-scan device to electronically capture fingerprint images, which DOJ will transmit to the FBI.

Staff Recommendation. Staff notes that the administration has indicated that it will be proposing a Spring Finance Letter on this issue. Staff recommends holding this issue open pending the Spring Finance Letter.
Action.
Held open

3. Proposition 64 Implementation.

This proposal requests a General Fund loan of $2.3 million and 10.8 positions for the enforcement of unfair competition and consumer protection laws, as required by Proposition 64. This loan will be repaid by January 30, 2007 from the Unfair Competition Special Fund as proposed in attached trailer bill language (included in the appendix). Revenues to repay the loan and to fund Proposition 64 program activities in the future will accrue in the fund from penalties and violations of the state's unfair competition and consumer protection laws.

Staff Comments. The proposed trailer bill language creates a special fund in which the portion of penalties that are payable to the State General Fund or to the State Treasurer recovered by the Attorney General from an action or settlement pursuant to this Proposition can be deposited to allow for proper accounting of the settlements collected. The proposition failed to set up a special fund for this purpose and had settlements being deposited directly to the General Fund and the State Treasurer allowing for no tracking of the proposition collections. Initially, Legislative Counsel had raised some concerns about the proposed trailer bill language due to the fact that the proposition did not include mention of any such fund. Subsequently, DOF has been advised by its counsel and by the Attorney General that the proposed trailer bill language does not change the Proposition.

Staff Recommendation. Staff recommends approving the trailer bill language (appendix X). Should Legislative Counsel raise concerns about the revised language upon additional review, the issue can be brought back before the Subcommittee at that time.
Action.
Trailer Bill language approved. Vote 2-0

4. Bureau of Forensic Services Equipment Replacement.

This proposal requests $1.5 million General Fund to replace old, outdated or unrepairable equipment used by the Bureau of Forensic Services' Criminalistics Laboratory System. The DOJ indicates that the Laboratory has no ongoing equipment authority.

Staff Recommendation. The proposal would provide $1.5 million in the DOJ budget on an ongoing basis for equipment purchase. However, staff notes that this level of funding may or may not be sufficient for ongoing equipment purchase for the state's forensic labs. Staff recommends funding this amount on a one-time basis and directing DOJ and DOF to develop an equipment replacement schedule for submission with the budget next year to provide the basis for the ongoing equipment funding.
Action.
Staff recommendation approved. Vote 2-0

5. Reduction for the Spousal Abuser Prosecution Program.

The budget proposes to reduce the Spousal Abuser Prosecution (SAP) program by $283,000. The SAP program funds local district attorney offices to provide vertical prosecution services for spousal abuse cases. The program is currently funded at $3 million and provides grants to district attorneys in 47 counties. This is the DOJ's only local assistance program. The reduction represents a nine percent reduction for the program. No other DOJ programs are targeted for such a reduction. In 2003-04 the Legislature rejected a proposal to reduce funding for SAP.

Staff Recommendation. Staff recommends restoring the funding for this program ($283,000).
Action.
Funding for the SAP restored. Vote 2-0

6. Mandates.

A. Custody of Minors/Child Abduction and Recovery Mandate (Ch. 1399, Stats. 1976). The budget proposes to suspend the Custody of Minors/Child Abduction and Recovery mandate. This mandate has been deferred in 2002-03, 2003-04, and 2004-05. The DOF reports that the cost of this mandate is approximately $13.6 million annually, based on claims received by the State Controllers Office (SCO) in 2003-04. Due to the passage of Proposition 1A, mandates can no longer be deferred.

According to the claiming instructions published by the SCO, this mandate requires local law enforcement agencies to actively assist in the resolution of child custody problems and the enforcement of custody decrees. Reimbursable activities are obtaining compliance with court orders and costs for out-of-jurisdiction cases (foster care and transportation costs). No costs for criminal prosecution are covered under this mandate.

DOF Rationale for Suspending the Custody of Minors Mandate. The DOF indicates that the activities reimbursed under this mandate, while important, are local responsibilities and should be prioritized within the resources of the local law enforcement and foster care systems. Further, DOF indicates that the administration conducted a statewide review of mandates during preparation of the 2005-06 Governor's Budget and in general sought to remove the obligation to reimburse for mandates that did not appear to be a state responsibility and that local jurisdictions should perform without state reimbursement. The mandate is only proposed for suspension rather than repeal because of the importance and sensitivity of these activities; it is possible that the State may in the future wish to resume reimbursement when fiscal conditions permit.

B. Stolen Vehicles Mandate (Chapter 337, Statutes of 1990). The budget proposes to fund the stolen vehicles mandate. This mandate requires local law enforcement agencies to update the statewide stolen vehicle database. This mandate was deferred in 2002-03 and suspended in 2003-04 and 2004-05. DOF estimates that an appropriation of $420,000 is expected to fully fund the mandate for 2005-06 only. The DOF indicates that this mandate provides statewide benefits by ensuring that state and local law enforcement have access to current and accurate data through the statewide stolen vehicle database, and the mandate is relatively inexpensive to fund.

C. Other Mandates Proposed to be Suspended. The budget proposes to suspend the following mandates that have been suspended for at least the last two years:

- Sex Offenders: Disclosure by Law Enforcement Officers (Ch. 908, Stats. 1196, and Ch. 909, Stats. 1996)
- Misdemeanor: Booking and Fingerprinting (Ch. 1105, Stats. 1992)
- Missing Persons Report (Ch. 1486, Stats. 1998). This mandate has been *deferred* since 2000-01. The DOF indicates that the cost of this mandate is not known because of the infrequency of claims filed by local agencies.

Staff Recommendation. Staff recommends approval of the mandates as budgeted.

Action
Mandates approved as budgeted. Vote: 2-0

7. Megan's Law on the Internet.

The proposal requests $176,000 from the Sexual Predator Public Information Account to fund to provide funding and staffing for DOJ to maintain an internet web site that provides the public with information on registered sex offenders as mandated by Chapter 745, Statutes of 2004 (AB 488). (Special Funds)

The Department of Justice has requested Budget Bill Language to be added to the Sexual Predator Public Information Account (Fund 0256). Penal Code Section 290.4(a)(5)(D) states, "The Department of Justice shall expend no more than six hundred thousand dollars ($600,000) per year from any moneys appropriated by the Legislature from the account." The restriction has been in effect since 1994.

This augmentation, combined with the Megan's Law Database Improvement proposal (Issue # 3 on the proposed consent/vote-only list) increases the proposed expenditure level from the Sexual Predator Public Information Account in 2005-06 to $670,000. Therefore, BBL is necessary to allow DOJ to spend funds in excess of the statutory limit of $600,000. Below is proposed BBL to be added to Item 0820-001-0256.

> Provision 1. Notwithstanding Section 290.4(a)(5)(D) of the Penal Code, the Department of Justice may expend the amount appropriated in this item.

Staff Recommendation. Staff recommends approval of the proposal and approval of the budget bill language noted above. The DOF indicates that if the issue arises next year, DOF will propose trailer bill language at that time.

Action.
Approved proposal and proposed budget bill language. Vote 2-0

0855 California Gambling Control Commission

The California Gambling Control Commission (GCC) was established by Chapter 867, Statues of 1997 (SB 8, Lockyer). The five-member commission is appointed by the Governor subject to Senate confirmation. The GCC is responsible for setting policy, issuing licenses, administering, adjudicating, and regulating all matters related to controlled gambling in California.

In addition, pursuant to the Tribal Gaming Compacts, the GCC is responsible for (1) administering the gaming license draw process, (2) accounting (3) making findings of suitability regarding key employees of tribal gaming operations, and (4) ensuring the allocation of gaming devices among California's tribes does not exceed the allowable number in the compacts. Included with this responsibility is serving as Trustee for the Revenue Sharing Trust Fund and Administrator of the Special Distribution Fund.

California Gambling Control Commission – Source of Funding

Fund	***Expenditures*** *(dollars in thousands)* **2003-04**	**2004-05**	**2005-06**	**Change**	***Percent*** **Change**
Indian Gaming Revenue Sharing Trust Fund	$83,229	$98,091	$96,500	-$1,591	-1.6%
Indian Gaming Special Distribution Fund	27,043	39,284	40,885	1,601	4.1%
Gambling Control Fund	1,636	2,308	2,311	3	0.1%
Totals, Funds	**$111,908**	**$139,683**	**$139,696**	**$13**	**0.0%**

California Gambling Control Commission – Program Funding

Fund	***Expenditures*** *(dollars in thousands)* **2003-04**	**2004-05**	**2005-06**	**Change**	***Percent*** **Change**
Gambling Control Commission					
State Operations	$5,164	$10,107	$13,196	3,089	30.6%
Local Assistance	106,744	129,576	126,500	-3,076	-2.4%
Total	**$111,908**	**$139,683**	**$139,696**	**$13**	**0.0%**
Authorized Positions	**36.7**	**67.7**	**88.7**	**21.0**	**31.0%**

Budget Request. The budget proposes total expenditures of $139.7 million from special funds, which is an increase of $13,000 from estimated current year expenditures. Of this amount, $13.2 million ($10.9 million Special Distribution Fund and $2.3 million Gambling Control Fund) is for state operations and $126.5 million is for local assistance. Of the local assistance, $96.5 million is for distribution from the Revenue Sharing Trust Fund to non-gaming tribes as specified in the compacts and $30 million is for distribution to locals to mitigate the effects of tribal gaming operations.

ISSUES

1. Compact Workload Augmentation. The administration proposes to increase the commission's budget by $4.8 million and 46 two-year, limited-term positions, which would result in a doubling of its current staff. Specifically, the commission requests:

- 15 auditors (which would result in a tripling of their current auditing staff) to audit financial records of the tribes to ensure that appropriate levels of payments are being remitted to the state.
- 13 state gaming testing lab and field-testing staff to test slot machines and gaming software to ensure that they are operating to acceptable standards.
- Nine licensing and investigative staff to review licenses for key employees and vendors associated with tribal gambling and to interface with law enforcement.
- 7.5 administrative staff to respond to media and provide administrative support.

The administration stated its intent to seek a supplemental appropriation to start these activities in the current year. The initial current-year request was not approved by the Joint Legislative Budget Committee. The administration indicates that it will be submitting a revised request shortly.

The LAO raised several concerns with the administration's proposal. The LAO's analysis raised the following issues:

- The Proposal Is Not Clear What Problems Being Addressed, Provides Limited Justification, and Funds some Workload from the 1999 Compacts.
- The Workload Assumptions Are Unclear.
- Gaming Testing Lab Proposal Is Not Required.
- Poor Output From Existing Audit Staff.
- Duplicative Activities Between the DOJ and the Commission.

Analyst's Recommendation. The LAO recommends that the Legislature not approve the administration's current request and that instead, the administration resubmit a request that includes additional information on the workload that is being addressed, provides justification for a state gaming testing lab, and reflects a strategy that considers coordination between DOJ and the Commission.

Staff Recommendation. The GCC and DOF have indicated that a revised proposal will be submitted this Spring and that the revised proposal will represent a significant reduction from the one included in the budget. Staff recommends holding this issue open pending the revised proposal.

Action.
Held open pending new proposal.

2. Status of the Special Distribution Fund

Pursuant to the compacts, the monies in the Special Distribution Fund (SDF) are subject to legislative appropriation for the following statewide purposes:

- Reimbursement for state regulatory costs associated with implementation of the compacts.
- Payment of shortfalls that may occur in the Revenue Sharing Trust Fund.
- Grants for gambling addiction programs.
- Grants to state and local agencies affected by tribal government gaming.
- Any other purpose specified by the Legislature.

The budget currently assumes the following expenditures:

- $20.7 million from the SDF for the state regulatory costs at DOJ and the GCC.
- Transfer of $50 million to the Revenue Sharing Trust Fund
- $3 million for gambling addiction programs.
- $30 million for local mitigation of gaming.

The fund condition statement for the Special Distribution Fund currently assumes that the reserve at the end of the budget year will be $88.7 million.

Chapter 210, Statutes of 2003 (AB 673) requires the CGCC to report to the Legislature the amount of funding from the SDF necessary to make up the difference between the $1.1 million maximum and the actual amount paid to each eligible tribe from the Revenue Share Trust Fund.

Chapter 858, Statutes of 2003 (SB 621) requires the Department of Finance, in consultation with the CGCC, to calculate the total revenue in the SDF that will be available for local government agencies impacted by tribal gaming. The information is to be included in the May Revision, along with an update of the amount from the SDF necessary to backfill the Revenue Sharing Trust Fund.

Staff Recommendation. Staff recommends holding this issue open pending additional information on the status of the Special Distribution Fund at the May Revise.

Action.
Held open pending May Revise.

8940 Military Department

The Military Department is responsible for the command and management of the California Army, Air National Guard, and four other related programs.

The Governor proposes $101.4 million ($33.2 million from the General Fund, $59.3 million from federal funds, and $8.5 million in reimbursements) in total expenditures for the Military Department, a decrease of $3.4 million, or 3.2 percent, from the current fiscal-year. Additional federal funding of $571.3 million supports the Army National Guard, Air National Guard, and Office of the Adjutant General, but those funds are not deposited in the State Treasury. The Military Support to Civil Authority Program is showing significant reductions in the current year and in the budget year. The reason for these reductions is that funding for federal fiscal year 2005 for homeland security funds have not yet been allocated in the budget.

Military Department – Program Requirements

Program	***Expenditures*** *(dollars in thousands)* **2003-04**	**2004-05**	**2005-06**	**Change**	***Percent*** **Change**
Army National Guard	$54,197	$57,066	$58,107	$1,041	1.8%
Air National Guard	17,973	18,654	18,889	235	1.3%
Office of the Adjutant General - Administration	8,541	8,970	9,476	506	5.6%
Distributed Administration	-8,541	-8,970	-9,036	-66	0.7%
Military Support to Civil Authority	17,633	13,435	7,444	-5,991	-44.6%
Military Retirement	3,092	3,190	3,190	0	0.0%
California Cadet Corps	697	423	434	11	2.6%
California State Military Reserve	316	348	352	4	1.1%
California National Guard Youth Programs	10,340	11,662	13,035	1,373	11.8%
Unallocated Reduction			-494	-494	n/a
Totals, Programs	**$104,248**	**$104,778**	**$101,397**	**-$3,381**	**-3.2%**
Authorized Positions	**736.2**	**660.0**	**677.3**	**16.3**	**2.5%**

Military Department Issues Proposed for Consent / Vote-Only

Issue Title	Positions	Dollars
1. California Military Family Relief Fund. Requests funding to implement Chapter 546, Statutes of 2004 (SB 1162) which establishes the California Military Family Relief Fund. The funds will be allocated for establishment of financial aid grants to members of the California National Guard who have been called to active duty. The Military will establish eligibility criteria for the grants, which can be used only for food, housing, clothing, child care, utilities, medical services, medical prescriptions, insurance, and vehicle payment. The Franchise Tax Board has amended the state tax return for 2004 to include the check off option for this program. (Special Fund)		$250,000
2. National Guard Surviving Spouses and Children Relief Act of 2004. Requests an appropriation of $190,000 to implement the California National Guard Surviving Spouses and Children Relief Act, enacted by Chapter 547, Statutes of 2004 (SB 1193). This amount would be available to fund the $10,000 death benefit payments for eligible beneficiaries of covered members whose deaths occurred from March 1, 2003 to the end of the budget year. An ongoing amount of $60,000 would provide ongoing funds for benefit payments payable in future years.		$190,000
3. Homeland Security Grant Program Increase. Requests reimbursement authority of $2 million and 10 limited term positions to continue the use of homeland security funds for equipment, training, exercises, and infrastructure.	10.0	$2,000,000

Staff Recommendation. No issues have been raised concerning these proposals. Staff recommends approval of these proposals.

Action.
Consent items approved. Vote 2-0

Military Department Issues for Discussion

1. Funding for the Oakland Military Institute. The budget requests an additional $1.3 million in General Fund support for the Oakland Military Institute (OMI). The request would reestablish 12 positions that were eliminated in the 2003-04 and 2004-05 budgets.

In 2002-03, OMI had a General Fund budget of $2.4 million. Budget reductions in 2003-04 and 2004-05 reduced OMI's budget—resulting in a General Fund appropriation of $1.3 million in 2004-05. Due to these budget reductions, the Military Department reduced its OMI-assigned staff by 12 positions to its current level of 10 positions. Even with these budget reductions, OMI increased its enrollment this year by 100 additional students. In the budget year, OMI plans to include an 11th grade for the first time.

Analyst's Recommendation. The OMI continues to conduct its programs with reduced Military Department personnel. The LAO indicates that if OMI chooses to expand in the budget year, it should do so with resources other than the General Fund. The LAO notes that a denial of additional General Fund dollars for OMI does not preclude OUSD or the City of Oakland from using existing charter school funds or other sources (including local funds and private donations) to expand the school. Consequently, the LAO recommends that the Legislature reject the proposed augmentation.

Background. The OMI is a joint effort of the Military Department, the City of Oakland, and the Oakland Unified School District (OUSD) for a military charter school for Oakland students in grades 6 to 10. The purpose of the school is to promote the academic achievement of disadvantaged students through a strictly structured and disciplined environment. In addition to the standard state curriculum, students receive instruction in military subjects, such as military customs, physical training, drill, and map reading. Military personnel are responsible for OMI administration, including budgeting, program management, policy development, and coordinating campus security. In addition to these duties, military staff escort students to and from the school, and serve as classroom mentors. The OUSD provides instructional staffing, books, and educational supplies. The City of Oakland provides facilities, furniture, and computers. Currently, OMI has 425 students.

Staff Comments. The Military Department indicates that the estimated Proposition 98 funding for OMI in the budget year is $6,311 per ADA, similar to funding for other charter schools. This level of funding does not include any funding for special education services which are provided directly through the Oakland Unified School District. Staff notes that fully funding the Military Department's proposal in the budget year would provide an additional $5,200 per ADA for OMI on top of Proposition 98 funding – for a total of $11,511 per ADA. The Military Department indicates that the General Fund provided in its budget provides for assistant teachers in the classrooms to teach military customs and military history, and for extra curricular activities such as physical education, drill and ceremonies, leadership, and team development. The Subcommittee may wish to get additional specific information on exactly what activities are funding through these monies, the specific classes and instruction that are offered from these funds, and the teaching credentials of the Military Department staff at OMI.

Staff Recommendation. Staff recommends holding this issue open at this time.

Action
Held open

2. Santa Ana Armory. The armory in Santa Ana was built in 1957. It currently houses a rifle company with approximately 100 national guardsmen. It is used as a training site one weekend per month. The remainder of the month it is used primarily for vehicle and equipment storage.

The armory is on a 3.5-acre site between an elementary school and a park. Both the elementary school and the park were developed after the armory was built.

If the armory were moved, the armory would need to be larger and upgraded to current standards. The funding for construction of a new armory would be split between the federal government and the state government. The City of Santa Ana is currently searching for a site for the new armory.

Last year, the Legislature adopted Supplemental Report Language requesting that the Military Department report to the Legislature on the feasibility of relocating the Santa Ana Armory to a new site in Orange County.

Prior to deployment last November, the Military Department reports that in term of the staffing reporting to the armory for weekend drills, the required strength was 200, the assigned strength was 139, and the average drilling strength was only 105. For the Maintenance Shop, there were five positions assigned and 4 positions filled.

The Military Department reports that due to the deployment, the maintenance shop at the armory seldom operates during the week, and is open normally only during weekend training. Further, due to the large amount of the Federal Technician force currently mobilized, remaining maintenance requirements are done based on current available manpower or deferred, and maintenance above the organizational level is conducted at the Combined Maintenance Support Shop (CSMS) in Long Beach.

The Military Department will be getting back to staff with information on how much funding is allotted for the Santa Ana Armory, the number of staff working at the armory prior to deployment and since deployment, the current level of staffing actually working in the maintenance shop at the armory, the reasons for why, prior to deployment, the average drilling strength was half the budgeted level, and how this level compared with other armories.

Staff Recommendation. Staff recommends holding this issue open at this time.

Action.
Held Open

3. Other Major Budget Adjustments

Issue Title	Positions	Dollars
1. Personnel Specialist Position. Requests one position and $60,000 for a Personnel Specialist position in the Facilities Engineering Directorate. The position will support the Human Resource Branch in administration and coordination of personnel functions (Federal Funds).	1.0	$60,000
2. Office Assistant Position. Requests one position and $45,000 for an Office Assistance in the Facilities Engineering Directorate. The position will provide clerical support to multiple branches within the Directorate. (Federal Funds).	1.0	$45,000
3. Energy Specialist Position. Requests an Energy Specialist position and $110,000 to enable the Military Department to focus on energy consumption and conservation measures. The position will perform energy tracking, cost and consumption analysis, utility invoice tracking, and management reporting. (Federal Funds).	1.0	$110,000
4. Stationary Engineer Position. Requests funding to establish a stationary engineer at the newly constructed Fort Irwin Maneuver Area Training and Equipment Site. (Federal Funds).	1.0	$100,000
Capital Outlay Requests.		
8. Roseville Armory Addition and Renovation. Requests $5.4 million ($3.1 million General Fund and $2.3 million Federal Funds) for preliminary plans, working drawings, and construction for the renovation and addition to the Roseville Armory. .		$5,366,000
9. Camp San Luis Obispo Organizational Maintenance Shop. Requests funding of $189,000 (Federal Funds) to fund working drawings for the construction of a new 12,263 gross square foot Organizational Maintenance Shop in Camp San Luis Obispo.		$189,000
10. Camp San Luis Obispo Consolidated Dining Facility. Requests $233,000 from the Federal Funds to construct a new dining facility at Camp San Luis Obispo. The project consists of a single story building with a dining room, kitchen, scullery, dishwasher area, pantry/food storage, self service beverage/salad bar and dessert bar. .		$233,000
11. Kitchen, Latrine, and Lighting Renovations. Requests $1.3 million ($858,000 Federal Funds and $431,000 General Fund) to renovate kitchens and latrines at selected armories to redress fire/life/safety, ADA, and other code deficiencies. Funding is also requested to install security lighting at Mt. Shasta Armory.		$1,289,000

Staff Recommendation. Staff recommends holding this issues open pending resolution of the issues related to the Santa Ana armory.

Action.
Approved items 1-11 as budgeted. Vote: 2-0

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Tom McClintock
Christine Kehoe

Wednesday, April 6, 2005
1:30 p.m.
Room 2040

Consultant: Brian Annis

Staff Note: The budgets and budget issues in this Agenda do not include the Administration's April 1 Finance Letters. Finance Letter issues will be heard at a later date.

Department Budgets Proposed for Consent / Vote Only

0510 Secretary for State and Consumer Services

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

The Governor proposes expenditures of $1.4 million ($769,000 General Fund) and 10.8 positions for the Agency – a decrease of $17,000. These figures include a $12,000 unallocated General Fund reduction. The Administration did not submit Budget Change Proposals or workload adjustments for the Agency.

1100 California Science Center

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

The Governor proposes expenditures of $19.9 million ($14.5 million General Fund) and 173.9 positions for the Science Center – a total increase of $121,000 (and a General Fund reduction of $30,000). The proposed budget includes the following four adjustments:

- A permanent augmentation of $93,000 (special fund) to support landscaping, maintenance, and utility costs.
- A permanent increase in reimbursement authority of $35,000 so the California African American Museum can receive increased revenues from the rental of Museum facilities.
- A one-time augmentation of $230,000 (special fund) for the installation of a closed-circuit television security system at the newly-completed parking garage.
- An unallocated General Fund reduction of $183,000.

1100 & 1111 Regulatory Boards, Bureaus, Programs, Divisions (within the Department of Consumer Affairs)

The Administration did not make workload baseline adjustments or submit Budget Change Proposals for the following special-fund-supported organizations. No entity listed below receives General Fund support. (Dollars are in 1,000s)

	Positions		Expenditures	
	2004-05	2005-06	2004-05	2005-06
Boards and Commissions - Organization Code 1110				
Athletic Commission, State	8.5	8.5	$1,023	$985
Behavioral Science, Board of	29.4	29.4	4,914	4,985
Guide Dogs for the Blind, State Board of	1.3	1.3	152	153
Occupational Therapy, Board of	4.7	4.7	728	763
Optometry, State Board of	6.8	6.8	1,384	1,471
Osteopathic Medical Board	4.0	4.0	1,093	1,132
Pharmacy, California State Board	45.3	45.3	7,991	8,233
Physical Therapy Board	10.3	10.3	2,169	2,623
Professional Engineers and Land Surveyors, Board for	48.4	48.4	7,561	7,781
Psychology, Board of	12.7	12.7	2,937	3,067
Respiratory Care Board of California	16.2	16.2	2,588	2,637
Speech-Language Pathology and Audiology Board	4.7	4.7	571	633
Structural Pest Control Board	27.4	27.4	3,860	3,979
Vocational Nurse and Psychiatric Technician Examiners, Board of	36.4	36.4	6,848	6,982
Bureaus, Programs, Divisions - Organization Code 1111				
Arbitration Certification Program	5.4	5.4	$904	$875
Cemetery & Funeral Bureau	22.5	22.5	3,748	3,732
Electronic & Appliance Repair, Bureau of	14.5	14.5	2,020	2,027
Hearing Aid Dispensers Bureau	2.9	2.9	676	695
Home Furnishings and Thermal Insulation	29.5	29.5	3,759	3,750
Naturopathic Medicine, Bureau	0.9	0.9	96	121
Private Postsecondary & Vocational Education	58.2	58.2	11,753	11,699
Telephone Medical Advice Services Program	0.9	0.9	132	145

The Administration adjusted the following budgets to add positions and/or funding to address workload or policy issues. The Office of Privacy Protection is the only entity listed that receives General Fund support. A brief description of the workload adjustment or Budget Change Proposal is included under each Board or Bureau.

	Positions		Expenditures	
	2004-05	**2005-06**	**2004-05**	**2005-06**
Boards and Commissions - Organization Code 1110				
Accountancy, California Board of	63.8	68.5	$9,415	$10,040
	Augmentation of $54,000 (permanent) and 1.0 position for incoming-call workload.			
	Augmentation of $192,000 ($178,000 ongoing) and 2.0 positions for enforcement workload.			
	Augmentation of $99,000 ($96,000 ongoing) and 2.0 positions for SB 1543 (2004) workload.			
Acupuncture Board	8.5	9.4	2,266	2,297
	Augmentation of $54,000 ($46,000 ongoing) and 1.0 position for Chinese-language services.			
Architects Board, California	22.1	23.0	3,724	3,937
	Augmentation of $43,000 in 2005-06 and $72,000 in 2006-07 to redevelop the licensing exam.			
	Augmentation of $82,000 ($81,000 ongoing) and 1.0 position to support additional workload.			
Barbering and Cosmetology, State Board	81.2	82.1	12,857	14,383
	Augmentation of $219,000 (permanent) to fund higher Attorney General service rates.			
	Augmentation of $63,000 (permanent) to convert 4.0 permanent intermittent examiners to regular full-time.			
	Addition of 1.0 position (no new funding) to restore a management position lost due to vacancy.			
Court Reporters Board of California	4.5	4.5	982	1055
	Augmentation of $56,000 (one-time) to fund examination redevelopment.			
Dental Board of California	54.5	55.6	10,469	11,534
	Addition of 0.5 positions (no new funding) for workload associated with AB 539 (2004)			
	Augmentation of $189,000 (one-time) to convert to the Dept. of Consumer Affairs applicant tracking system.			
	Augmentation of $175,000 (one-time) for exam validation and mandated survey.			
	Augmentation of $47,000 (one-time) for revisions to the dental licensure exam.			

	Positions		Expenditures	
	2004-05	2005-06	2004-05	2005-06
Dental Board of California	Augmentation of $103,000 (permanent) for expert examiner stipends and workload.			
	Augmentation of $79,000 (permanent) for expert reviewers.			
	Augmentation of $94,000 in 2005-06 ($92,000 ongoing) for SB 1865 (2004) workload.			
Geologists and Geophysicists, Board for	7.0	8.9	786	969
	Augmentation of $145,000 (permanent) and 2.0 positions for enforcement activity workload.			
Physicians Assistant Committee	4.4	4.4	916	968
	Augmentation of $9,000 (permanent) for the Diversion of Impaired Physician Assistants Program.			
	Augmentation of $16,000 (permanent) to restore the Committee per diem.			
Podiatric Medicine, California Board of	4.2	5.1	1,115	1,154
	Addition of 1.0 position (no new funding) to restore the Board's sole administrative support staff.			
Registered Nursing, Board	91.2	91.2	19,060	20,350
	Augmentation of $725,000 (permanent) for Attorney General costs and expert witnesses.			
Veterinary Medical Board	8.1	10.0	1,660	1,988
	Augmentation of $94,000 (permanent) and 2.0 positions for enforcement and licensing workload.			
Bureaus, Programs, Divisions - Organization Code 1111				
Office of Privacy Protection	3.8	3.8	416	411
	Unallocated General Fund reduction of $6,000.			

1700 Department of Fair Employment and Housing

The mission of the Department of Fair Employment and Housing is to protect people from unlawful discrimination in employment, housing, and public accommodations, and from the perpetration of acts of hate violence.

The Governor proposes expenditures of $18.8 million ($13.3 million General Fund) and 197.7 positions for the Department – an increase of $91,000 and a decrease of 3.2 positions. These figures include a $211,000 unallocated General Fund reduction. The Department indicates it can absorb this reduction because of rent savings from consolidating two San Francisco Bay Area offices. The Administration did not submit Budget Change Proposals or workload adjustments for the Department.

1705 Fair Employment and Housing Commission

The Fair Employment and Housing Commission is a quasi-judicial body responsible for the promotion and enforcement of the State's civil rights laws concerning discrimination in employment, housing, public accommodations, family, medical and pregnancy disability leave, hate violence, and threats of violence.

The Governor proposes expenditures of $1.2 million ($1.1 million General Fund) and 7.0 positions for the Commission – a decrease of $24,000. These figures include a $17,000 unallocated General Fund reduction. The Commission indicates it can absorb this reduction without reducing positions due to rent savings achieved in 2004-05 from a move to a smaller office. The Administration did not submit Budget Change Proposals or workload adjustments for the Commission.

8260 California Arts Council

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

The Governor proposes expenditures of $3.3 million ($1.2 million General Fund) and 19.3 positions for the Arts Council – an increase of $25,000. These numbers include an unallocated General Fund reduction of $18,000. The Administration did not submit Budget Change Proposals or workload adjustments for the Arts Council.

8500 Board of Chiropractic Examiners

The Board of Chiropractic Examiners licenses and regulates the chiropractic industry. The Board also sets educational standards for recognized chiropractic colleges, reviews complaints, and investigates possible violations of the Chiropractic Act and regulations.

The Governor proposes expenditures of $2.7 million (no General Fund) and 13.9 positions for the Board – an increase of $165,000 and 1.4 positions. The proposed budget includes the following three adjustments:

- A permanent augmentation of $96,000 to address higher Attorney General billing rates.
- A permanent augmentation of $59,000 and 1.0 position to implement the Board's Citation and Fine Program.
- A permanent augmentation of $13,000 and 0.4 position to extend to full-time a current 0.6 switchboard operator and receptionist position.

8530 Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun

The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun licenses and regulates maritime pilots who guide vessels entering or leaving those bays.

The Governor proposes expenditures of $1.2 million (Board of Pilot Commissioners' Special Fund) and 2.0 positions – an increase of $15,000. The Administration did not submit Budget Change Proposals or workload adjustments for the Board.

8780 Milton Marks "Little Hoover" Commission

The Little Hoover Commission on California State Government Organization and Economy conducts four to five comprehensive reviews of executive branch programs, departments and agencies each year and recommends ways to improve performance by increasing efficiency and effectiveness. Additionally, the Commission is responsible for analyzing and making recommendations to the Legislature on all Governor reorganization plans.

The Governor proposes expenditures of $943,000 ($941,000 General Fund) and 8.8 positions for the Commission, a decrease of $9,000. These figures include a $15,000 unallocated General Fund reduction. The Administration did not submit Budget Change Proposals or workload adjustments for the Commission.

8800 Membership in Interstate Organizations

This item provides funding for membership in various organizations to which the State belongs, such as the National Conference of State Legislatures and the National Governors' Association. The State has not paid dues or fees since 2002-03 because of budget constraints and these obligations continue to accrue.

The Governor proposes no funding for Interstate Organizations fees and dues. When these costs were last funded in 2002-03, the cost was $931,000 (all General Fund).

Control Section 14.00

This Section authorizes short-term loans (not to exceed 18 months) between special funds within the Department of Consumer Affairs. No loan can be made that would interfere with the carrying out of the object for which the special fund was created. Similar language was approved with the 2003 Budget Act and the 2004 Budget Act. In a February 2005 letter, the Department of Consumer Affairs reported that this lending authority was not exercised during 2003-04.

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

Staff Recommendation: Approve budgets of the entities listed above.

Vote on consent budgets:

Department Budgets Proposed for Discussion

1110 / 1111 Department of Consumer Affairs

The Department of Consumer Affairs Boards and Bureaus provide exams and licensing, enforcement, complaint mediation, education for consumers, and information on privacy concerns.

The Boards are budgeted under organizational code 1110, and the total proposed budget is $210.1 million (no General Fund) and 1254.5 positions – an increase of $11.3 million and 29.8 positions. The Bureaus are budgeted under organizational code 1111, and the total proposed budget is $176.7 million ($376,000 General Fund) and 1,329.3 positions – an increase of $22.9 million and 44.5 positions.

The issues listed below are cross-cutting issues that involve multiple Boards or Bureaus. Issues that relate to a single Board or Bureau are discussed under the heading of the individual Board or Bureau in the pages that follow.

Issue for Consent / Vote Only

1. **Deletion of Continuous Appropriation Authority.** The Administration has submitted trailer-bill language to remove the continuous appropriation authority of various special funds within the Department of Consumer Affairs. This is technical cleanup, as these special funds have received Budget Act appropriations in recent budgets. The trailer-bill language is an attachment at the end of this agenda.

   Staff Comment: No issues have been raised with the issue listed above.

   Staff Recommendation: Approve this issue.

   Vote:

Department of Consumer Affairs Issue for Discussion

1. **Status of Special Fund Loans.** The Department of Consumer Affairs provided the following chart that summarizes outstanding special-fund loans to the General Fund.

Department of Consumer Affairs Outstanding GF Loans ($ in thousands)						
Fund	**Entity**	**Total Loans**	**Repaid in 03-04**	**To be repaid in 04-05**	**To be repaid in 05-06**	**Total Loan Balances Remaining (Excludes Interest)**
0069	Barber Cosmo	**$9,000**			**$5,500**	**$3,500**
0108	Acupuncture	**$1,500**				**$1,500**
0239	BSIS - PSS	**$4,000**				**$4,000**
0264	Osteopathic Med Bd	**$2,600**				**$2,600**
0310	Psychology	**$5,000**				**$5,000**
0421	BAR - VIRF	**$114,000**				**$114,000**
0704	Accountancy	**$6,270**				**$6,270**
0706	Architects	**$1,800**				**$1,800**
0735	Contractors	**$19,700**	$19,700			**$0**
0741	Dentistry	**$10,000**		$600	**$2,500**	**$6,900**
0757	Landscape Architects	**$1,225**			**$1,225**	**$0**
0761	Registered Nursing	**$12,000**			**$5,800**	**$6,200**
0767	Pharmacy	**$6,000**			**$3,000**	**$3,000**
0771	Court Reporters	**$1,250**				**$1,250**
0773	Behavioral Sciences	**$6,000**				**$6,000**
0775	Structural Pest	**$2,000**				**$2,000**
0779	Vocational Nurse	**$2,000**			**$2,000**	**$0**
0780	Psych Tech	**$1,000**				**$1,000**
3017	Occupational Therapy	**$640**				**$640**
	TOTAL:	**$205,985**	**$19,700**	**$600**	**$20,025**	**$165,660**

These loans do not have a fixed repayment date, but Budget Act provisional language cites the intent of the Legislature that repayment be made so as to ensure that the programs supported by these funds are not adversely affected by the loans through reduction in service or through increased fees. The Governor's proposed Constitutional Amendment, ACA 4X, would require repayment of these loans no later than July 1, 2021. The Department of Finance indicates that the proposed loan repayments for 2005-06 was partly based on need and partly based on policy. For example, if loans were only repaid as necessary to retain a $1 million reserve for economic uncertainty; the loan repayment amount would be reduced by approximately $15.5 million. Note, Control Section 14.00 of this budget bill would allow short-term loans between special funds within Consumer Affairs.

Staff Comment: The Subcommittee may want to ask the Administration:
(1) Why is the Administration proposing faster repayment of this loan than is required for 2005-06 expenditures, and
(2) What amount of these loan repayments is based on programmatic needs and what amount is a discretionary policy choice.

Staff Recommendation: Approve the loan repayments at the requested levels.

Vote:

2. **Workers' Compensation Insurance Premium Increase.** The Administration requests a permanent augmentation of $3.1 million (no General Fund, various special funds) to provide Boards and Bureaus with sufficient resources to fund significant increases in State Compensation Insurance Fund premiums. A deficiency request of a similar amount was approved for 2004-05. Based on information provided by the State Compensation Insurance Fund (SCIF) on November 16, 2004, workers' compensation premium and deposit costs are estimated at $6.5 million in 2004-05 for all boards/bureaus/programs. The base budget for these costs is currently budgeted at $3.4 million.

   Staff Comment: An April Finance Letter proposed by the Administration would convert the Department of Consumer Affairs to a self-insured workers' compensation plan. Keep this issue open to be heard at a later hearing along with the Finance Letter.

   Staff Recommendation: Keep open to hear with April Finance Letter.

   Vote:

1110 Medical Board

The Medical Board licenses and regulates physicians, midwives, opticians, spectacle lens dispensers, contact lens dispensers, and research psychoanalysts. The Board administers an enforcement program designed to identify and discipline potentially dangerous physicians. The Board also has oversight responsibility for the Physician Assistant Committee and the Board of Podiatric Medicine.

The Governor proposes expenditure of $44.3 million (special fund) and 247.9 positions for the Board – and increase of $1.6 million and no change in the number of positions.

Issues

1. **Medical Board Revenues.** The Medical Board has annual expenditures in excess of revenues of approximately $6 million out of the Contingent Fund of the Medical Board of California. To continue the same level of service in 2006-07, the Board requires statutory changes to allow for a fee increase.

   Staff Comment: Staff understands that SB 231 (Figueroa) is a spot bill that may be available to address the revenue shortfall, among other Medical Board issues. The Administration should describe its plan to fully fund the Board after 2005-06.

   Since this is an issue for the 2006-07 budget, no vote is required this year.

2. **Initial Monitor's Report on the Medical Board's Enforcement Program**. In November 2004, the independent Monitor issued its *Initial Report: Medical Board of California Enforcement Program Monitor*, which included 65 recommendations for improving the overall efficiency of the Board's enforcement system. To address all of the problems identified in the Monitor's report, additional staffing would be required.

   Staff Comment: The Administration should estimate the staffing and additional funding needed to (1) restore positions lost to vacant position reductions and (2) fully address the deficiencies outlined in the Monitor's report.

   Staff understands, from discussions with the Medical Board, that legislation to allow a fee increase and subsequent regulations would take about a year, and new fee revenue would not be available until July 2006. Therefore, a Medical Board staffing augmentation appears to be an issue for the 2006-07 budget, and no vote is required this year.

Staff Recommendation: Approve the Medical Boards budget as proposed by the Administration.

Vote:

1110 Contractors State License Board

The Contractors State License Board regulates the construction industry to promote the health, safety, and general welfare of the public in matters relating to construction. The Board licenses contractors, enforces licensing laws, and resolves disputes that arise from construction activities.

The Governor proposes expenditures of $51.7 million (no General Fund) and 387.8 positions for the Board – an increase of $2.7 million and 16.6 positions.

Issues for Consent / Vote Only

1. **Test Administration and Examination Development Staffing.** The Board requests an augmentation of $272,000 (special fund - $267,000 ongoing) and 2.5 positions for exam development and proctor costs. The Board indicates that scheduled exams increased from 37,253 in 1998-99 to an estimate 79,014 in 2003-04. Proctor costs have increased from $67,000 in 1998-99 to $145,000 estimated in 2003-04.

2. **Information-Center Staffing.** The Board requests an augmentation of $225,000 (special fund - $216,000 ongoing) and 4.0 positions for the Licensing-Division Information Center (IC). The Information Center responds to questions regarding the hiring of a contractor, complaints against a contractor, licensing issues that require resolution in order to keep businesses running, and issues about the application process. The Board reports that it is unable to respond to the majority of calls that are received. The hiring freeze and vacant position reductions resulted in staffing for this function falling from 19 to 12. This request would restore 4 of the eliminated positions.

Staff Comment: No issues have been raised with the issues listed above.

Staff Recommendation: Approve these issues.

Vote:

Contractor State License Board Issue for Discussion

1. **Economic and Employment Enforcement Coalition.** The Board requests an augmentation of $998,000 (Contractors' License Fund) and 11 three-year limited-term positions to increase enforcement activity against unlicensed contractors. Funding and positions are three-year limited term and the cost drops to $802,000 annually for 2006-07 and 2007-08. The Administration notes that 11 enforcement positions were lost to vacant-position reductions in 2002-03 and 2003-04.

   Background: This request is one of three requests from the Administration that make up the "Economic and Employment Enforcement Coalition" proposal. If the proposal is approved, the Board will work with the other proposed coalition members, the Department of Industrial Relations and the Employment Development Department, to reduce underground-economy activity, and in doing so reduce unfair competition for employers who follow labor laws. The Administration indicates there is a $60 billion to $140 billion underground economy in California that would otherwise provide income tax revenue of $4 billion annually.

   Staff Recommendation: Approve this request.

   Vote:

1111 Bureau of Automotive Repair

The Bureau of Automotive Repair administers the Automotive Repair Program and the Smog Check Program. Both Programs are designed to protect consumers and discipline unethical service dealers and technicians. The Bureau also administers the Consumer Assistance Program, which provides financial assistance to eligible consumers whose vehicles fail a biennial Smog Check inspection.

The Governor proposes expenditures of $142.5 million (no General Fund) and 590.9 positions for the Bureau – an increase of $23.3 million and 41.7 positions.

Issues:

1. **Repair Assistance Program.** The Administration requests an augmentation of $4.8 million (High Polluter Repair or Removal Account), with $2.5 million ongoing, and 17.0 positions to fully operate the Repair Assistance Program. This program reduces air pollution by assisting low-income individuals in the repair of their high-polluting automobiles. The program is funded from $4 of the $6 annual smog abatement fee on newer vehicles. Program applications received are expected to grow to 83,000 in 2005-06, compared to 37,098 received in 2000-01. Total vehicles repaired are expected to grow to 48,318 in 2005-06, compared to 11,762 repaired in 2000-01.

   Staff Comment: The Bureau of Automotive repair indicates that it will annually estimate program demand, and submit a budget change to meet that demand (assuming program revenues are sufficient).

   Staff Recommendation: Approve this request.

   Vote:

2. **Vehicle Retirement Program.** The Administration requests an augmentation of $13.6 million (High Polluter Repair or Removal Account) and 21.0 positions to fully operate the Vehicle Retirement Program. This program reduces air pollution by allowing consumers whose vehicles fail a biennial Smog Check inspection and whose repair proves unfeasible, to sell their vehicle to the Bureau for $1,000. The vehicles are then dismantled to reduce the number of high-polluting vehicles in the state.

   Background. This program was originally funded by the $300 Smog Impact Fee on out-of-state vehicles, which was found unconstitutional in 1999. In 2000-01, the Bureau offered $1,000 per vehicle and retired 19,242 vehicles. Due to a declining fund balance and decreased revenue, the program was suspended in 2001-02. Chapter 703 (AB 2128, Statute of 2004) increased from $2 to $4 the portion of the $6 annual smog abatement fee on newer vehicles that transfers to the High Polluter Repair or Removal Account. The increased fund balance, created by AB 2128, allows the program to operate at the level of consumer demand.

   Staff Comment: The Bureau of Automotive repair indicates that it will annually estimate program demand, and submit a budget change to meet that demand (assuming program revenues are sufficient).

   Staff Recommendation: Approve this request.

   Vote:

1111 Bureau of Security and Investigative Services

The Bureau of Security and Investigative Services ensures that only those who meet the prescribed qualifications to offer services as private investigators, repossessors, uniformed security guards, private patrol operators, alarm company operators, alarm agents, locksmiths, and firearm and baton training facilities be licensed, and enforces the regulations established by legislation for such licenses. The Bureau indicates that private security officers are part of the homeland security effort and receive four hours of homeland security training.

The Governor proposes expenditures of $10.0 million (no General Fund) and 44.2 positions for the Bureau – a decrease of $65,000.

Issue:

1. **Efficiency gains, Bureau activity, and fee levels:** The Bureau reports that increased electronic processing, including both license applications and finger printing, have reduced workload hours for these activities. At the same time, program revenues are outpacing expenditures by approximately $800,000 annually. The Bureau indicates it is considering moving some positions freed-up from processing efficiencies to enforcement activity. Additionally, a fee reduction is being considered. Private security officers currently pay an initial registration fee of $50.

   Staff Comment: The Service Employees International Union, which represents private security officers, has suggested that the public would be better served by increased Bureau activity instead of a fee reduction. The following areas have been suggested for increased activity:

   - Enforcement and Auditing – including monitoring of training requirements.
   - Outreach – including the orientation of new security firms to the laws of the State, more coordination with local law enforcement entities, and consumer education concerning the State's oversight role for private security firms.

   The Subcommittee may wish the Bureau to discuss the merits of increasing their enforcement and outreach activities.

   Staff Recommendation: Approve the Bureau's budget as proposed by the Administration.

   Vote:

8820 Commission on the Status of Women

The Commission on the Status of Women serves to advance the causes of women; by advising the Governor and the Legislature; and educating and informing its constituencies.

The Governor's Budget proposes expenditures of $422,000 ($420,000 General Fund and $2,000 reimbursements) and 3.9 positions – a decrease of $3,000. These figures include a $7,000 unallocated General Fund reduction.

Issue

1. **Funding.** In January 2005, the Legislature received a deficiency request from the Administration of $8,768. The Commission had originally requested $36,823, and the Department of Finance had reduced the level to $8,768. While these costs appear to be ongoing in nature, the Governor's Budget does not include a related augmentation. Additionally, the Budget includes an unallocated General Fund reduction of $7,000 for the Commission.

   Staff Comment: The Commission indicates it will not be able to absorb these reductions without a staff reduction or a move to an office away from the capitol – either of which, the Commission indicates, will decrease their effectiveness.

   Staff Recommendation: To keep the Commission at the adjusted 2004-05 budget base, the Subcommittee may want to consider rejecting the $7,000 unallocated General Fund reduction and additionally augmenting the budget by $9,000 General Fund.

   Vote:

Attachment:

Proposed Trailer Bill Changes to Eliminate Unnecessary Continuous Appropriation Language

Remo
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lan

SECTION 1. Section 1721.5 of the Business and Professions Code is amended to read:

1721.5. All funds received by the State Treasurer under the authority of this chapter which relate to dental auxiliaries shall be placed in the State Dental Auxiliary Fund~~, which fund is continuously appropriated~~ for the purposes of administering this chapter as it relates to dental auxiliaries.

SEC. 2. Section 2499 of the Business and Professions Code is amended to read:

2499. There is in the State Treasury the Board of Podiatric Medicine Fund. Notwithstanding Section 2445, the division shall report to the Controller at the beginning of each calendar month for the month preceding the amount and source of all revenue received by it on behalf of the board, pursuant to this chapter, and shall pay the entire amount thereof to the Treasurer for deposit into the fund.

~~On and after July 1, 1981, a~~*A*ll revenue received by the board and the division from fees authorized to be charged relating to the practice of podiatric medicine shall be deposited in the fund as provided in this section, and shall be ~~continuously appropriated to the board~~ *used* to carry out the provisions of this chapter relating to the regulation of the practice of podiatric medicine.

SEC. 3. Section 2529.5 of the Business and Professions Code is amended to read:

2529.5. Each person to whom registration is granted under the provisions of this chapter shall pay into the Contingent Fund of the Medical Board of California a fee to be fixed by the Division of Licensing at a sum not in excess of one hundred dollars ($100).

The registration shall expire after two years. The registration may be renewed biennially at a fee to be fixed by the division at a sum not in excess of fifty dollars ($50). Students seeking to renew their registration shall present to the division evidence of their continuing student status.

The money in the Contingent Fund of the Medical Board of California *shall be used* ~~necessary~~ for the administration of this chapter~~ is hereby continuously appropriated for such purposes~~.

SEC. 4. Section 2534 of the Business and Professions Code is amended to read:

2534. The board shall report to the Controller at the beginning of each month for the month preceding the amount and source of all revenue received by it pursuant to this chapter, and shall pay the entire amount thereof to the Treasurer for deposit in the Speech-Language Pathology and Audiology Board Fund, which fund is hereby created~~ and is continuously appropriated~~ to carry out the purposes of this chapter.

SEC. 5. Section 2568 of the Business and Professions Code is amended to read:

2568. ~~On and after July 1, 1982, t~~*T*he board shall report to the Controller at the beginning of each month for the month preceding the amount and source of all revenue received by it pursuant to this chapter, and shall pay the entire amount thereof to the Treasurer for deposit in the Dispensing Opticians Fund, which ~~fund~~ is created ~~and continuously appropriated~~ to carry out the provisions of this chapter.

~~On and after July 1, 1982, the unencumbered balance of any funds in the Contingency Fund of the Medical Board of California derived from fees and revenues received from registered dispensing opticians and registered contact lens dispensers, and applicants for such registration, shall be transferred to the Dispensing Opticians Fund and shall be expended as provided in this section.~~

SEC. 6. Section 2687 of the Business and Professions Code is amended to read:

2687. All fees earned by the board and all fines and forfeitures of bail to which the board is entitled shall be reported at the beginning of each month, for the month preceding, to the State Controller. At the same time, the entire amount of these collections shall be paid into the State Treasury and shall be credited to the Physical Therapy Fund.

This fund shall be for the use of the board ~~and is continuously appropriated to the board~~ to pay all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this chapter.

SEC. 7. Section 2894 of the Business and Professions Code is amended to read:

2894. All money in the Vocational Nursing and Psychiatric Technicians Fund ~~is hereby continuously appropriated to the Board of Vocational Nursing and Psychiatric Technicians, without regard to fiscal years,~~ *shall be used* ~~for expenditure in carrying~~ *to carry* out the provisions of this chapter, including the promotion of nursing education in this state, and for the refund, in accordance with law, of license fees or other moneys paid into the Vocational Nursing and Psychiatric Technicians Fund under the provisions of this chapter.

Claims against the Vocational Nursing and Psychiatric Technicians Fund shall be audited by the Controller, and shall be paid by the Treasurer upon warrants drawn by the Controller.

SEC. 8. Section 2981 of the Business and Professions Code is amended to read:

2981. The money in the Psychology Fund necessary *shall be used* for the administration of this chapter ~~is hereby continuously appropriated for such purposes.~~

SEC. 9. Section 3455 of the Business and Professions Code is amended to read:

3455. There is established in the State Treasury the Hearing Aid Dispensers Fund. All fees collected pursuant to this chapter shall be paid by the bureau into the fund. All money in the Hearing Aid Dispensers Fund ~~is continuously appropriated to the bureau~~ *shall be used* to carry out the purposes of this chapter.

SEC. 10. Section 3520 of the Business and Professions Code is amended to read:

3520. Within 10 days after the beginning of each calendar month the board shall report to the Controller the amount and source of all collections made under this chapter and at the same time pay all those sums into the State Treasury, where they shall be credited to the Physician Assistant Fund, which fund is hereby created. All money in the fund ~~is continuously appropriated~~ *shall be used* to carry out the purpose of this chapter.

SEC. 11. Section 3771 of the Business and Professions Code is amended to read:

3771. Within 10 days after the beginning of each calendar month, the board shall report to the Controller the amount and source of all collections made from persons licensed or seeking to be licensed under this chapter, and all fines and forfeitures to which the board is entitled, and at the same time, pay all these sums into the State Treasury, where they shall be credited to the Respiratory Care Fund, which is hereby created ~~and, notwithstanding Section 13340 of the Government Code, continuously appropriated for~~ *to carry out* the purposes of this chapter.

SEC. 12. Section 4974 of the Business and Professions Code is amended to read:

4974. The board shall report to the State Controller at the beginning of each month for the month preceding the amount and source of all revenue received by it pursuant to this chapter, and shall pay the entire amount thereof to the State Treasurer for deposit in the Acupuncture Fund, which fund is created ~~and continuously appropriated~~ to carry out the provisions of this chapter.

SEC. 13. Section 4984.6 of the Business and Professions Code is amended to read:

4984.6. (a) The Behavioral Sciences Fund ~~is continuously appropriated, without regard to fiscal years, to the Board of Behavioral Sciences~~ *shall be used* for *the purposes of* carrying out and enforcing the provisions of this chapter.

(b) The board shall keep any records as will reasonably ensure that funds expended in the administration of each licensing or registration category shall bear a reasonable relation to the revenue derived from each category, and shall so notify the department no later than May 31 of each year.

(c) Surpluses, if any, may be used in such a way so as to bear a reasonable relation to the revenue derived from each category, and may include, but not be limited to, expenditures for education and research related to each of the licensing or registration categories.

SEC. 14. Section 4994 of the Business and Professions Code is amended to read:

4994. ~~Notwithstanding Section 13340 of the Government Code and except as provided in Section 4984.6, a~~*A*ll moneys in the Behavioral Sciences Fund are ~~continuously appropriated to the board,~~ to be expended by ~~it~~*the board* for the purposes of the programs under its jurisdiction.

SEC. 15. Section 5683 of the Business and Professions Code is amended to read:

5683. The money paid into the California Architects Board-Landscape Architects Fund ~~is continuously appropriated to the board~~*shall be used* for expenditure in the manner prescribed by law to defray the expenses of the board and in carrying out and enforcing the provisions of this chapter.

SEC. 16. Section 6980.81 of the Business and Professions Code is amended to read:

6980.81. (a) The bureau shall report each month to the Controller the amount and source of all revenue received pursuant to this chapter and shall pay the entire amount thereof into the State Treasury for credit to the Private Security Services Fund.

(b) All moneys paid into the Private Security Services Fund pursuant to subdivision (a) ~~are hereby continuously appropriated to the bureau~~ *shall be used* for the purposes of this chapter.

SEC. 17. Section 6980.82 of the Business and Professions Code is amended to read:

6980.82. The director shall furnish one copy of the licensing law and rules and regulations to any applicant or licensee without charge. The director shall charge and collect a fee equivalent to the cost of producing such laws, rules and regulations, manuals, or guides, plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person. All moneys derived pursuant to this section, except for any sales tax collected, ~~are hereby continuously appropriated to the bureau~~ *shall be used* to cover the costs of producing copies of these laws, rules and regulations, manuals, or guides. All moneys collected for sales tax shall be remitted to the Board of Equalization.

SEC. 18. Section 7599.71 of the Business and Professions Code is amended to read:

7599.71. The director shall furnish one copy of any issue or edition of the licensing law, rules and regulations, manuals, or guides to any applicant or licensee without charge. The director shall charge and collect a fee equivalent to the cost of producing such laws, rules and regulations, manuals, or guides, plus sales tax for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person. All moneys derived, pursuant to this section except for any sales tax collected~~, are hereby continuously appropriated to the bureau~~ *shall be used* to cover the costs of producing copies of such laws, rules and regulations, manuals or guides. All moneys collected for sales tax shall be remitted to the Board of Equalization.

SEC. 19. Section 7599.74 of the Business and Professions Code is amended to read:

7599.74. All money derived from Section 7591.9 ~~is hereby continuously appropriated to the bureau~~ *shall be used* to support the bureau's enforcement program.

SEC. 20. Section 7886 of the Business and Professions Code is amended to read:

7886. The money paid into the Geology and Geophysics Fund ~~is continuously appropriated to~~ *shall be used by* the board to carry out the provisions of this chapter.

SEC. 21. Section 9872 of the Business and Professions Code is amended to read:

9872. The money in the Electronic and Appliance Repair Fund necessary for the administration of this chapter ~~is hereby continuously appropriated~~ *shall be used* for such purposes. ~~Money in excess of a year and a half's operating cost shall be transferred to the General Fund from the Electronic and Appliance Repair Fund.~~

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Tom McClintock
Christine Kehoe

Wednesday, April 13, 2005
1:00 p.m.
Room 2040

Consultant: Dave O'Toole

9840	Augmentations for Contingencies and Emergencies
9850	Loans for Contingencies and Emergencies
9860	Capital Outlay Planning and Studies Funding

BUDGET CONTROL SECTIONS

Sec. 1.00	Budget Act Citation
Sec. 1.50	Intent and Format
Sec. 3.00	Defines Purposes of Appropriations
Sec. 4.30	Lease Revenue Payment Adjustments
Sec. 4.80	State Public Works Board Interim Financing
Sec. 4.90	Architecture Revolving Fund Transfer
Sec. 4.95	Inmate Construction Revolving Account Transfer
Sec. 6.00	Project Alterations Limits
Sec. 8.00	Antiterrorism Federal Reimbursements
Sec. 9.20	Administrative Costs Associated with the Acquisition of Property
Sec. 9.50	Minor Capital Outlay Projects
Sec. 11.00	EDP/Information Technology Reporting Requirements
Sec. 11.10	Reporting of Statewide Software License Agreements
Sec. 11.11	Privacy of Information in Pay Stubs
Sec. 25.50	SCO Apportionment Payment System Assessments
Sec. 26.00	Intraschedule Transfers
Sec. 28.00	Program Change Notification
Sec. 28.50	Agency Reimbursement Payments
Sec. 30.00	Continuous Appropriations
Sec. 31.00	Budget Act Administrative Procedures for Salaries and Wages
Sec. 33.00	Item Veto Severability

Department Budgets Proposed for Consent / Vote Only

VOTE:

Department Budgets Proposed for Discussion

0650 Office of Planning and Research

The Office of Planning and Research (OPR) assists the Administration with planning, research and liaison with local governments. OPR also oversees programs for small business advocacy, rural policy, environmental justice, and helps implement decisions made within the Administration. In addition, the office oversees responsibilities pertaining to state planning, California Environmental Quality Act assistance, environmental and federal project review procedures, and oversees the California Service Corps. Total proposed budget expenditures are $47.2 million, of which $4.1 million is from the General Fund.

Summary of Expenditures (dollars in thousands)	2004-05	2005-06	$ Change	% Change
Programs				
State Planning and Policy Development	$3,420	$4,153	$733	21.4
California Service Corps	43,818	43,164	-654	-1.5
Unallocated Reduction	0	-62	-62	0.0
Total, Programs	$47,238	$47,255	$17	0.0
Fund Source				
General Fund	$2,878	$4,076	$1,198	41.6
Property Acquisition Law Money Acct.	521	0	-521	-100.0
Federal Trust Fund	42,761	42,779	18	0.0
Reimbursements	1,078	400	-678	-62.9
Total, Fund Source	$47,238	$47,255	$17	0.0

1. **Office of Planning and Research Guidelines for Tribal Consultations.** In an April 1 Finance Letter, the Administration proposed a $202,000 reduction to a previously submitted budget change proposal (BCP) for $390,000 to enable the Office of Planning and Research (OPR) to develop guidelines for local-tribal consultation (net requested funding: $188,000). In accordance with Chapter 905, Statutes of 2004 (SB 18), the OPR is directed to develop consultation guidelines for local governments and tribes in order to encourage protection of Native American lands. The OPR requests ongoing staff support to update guidelines, provide consultation with Native American tribes and local governments, and conduct outreach and workshops to these stakeholders.

   Staff Comment: The workload information in the BCP and Finance Letter describes trainings, consultations, and outreach that are likely a declining workload. As more local and tribal officials understand the changes in the new guidelines and amendments are agreed to, the OPR may be able to redirect staff for the remaining workload. For example, the OPR has reported that it was able to redirect existing staff to develop the initial tribal guidelines.

   Staff Recommendation: As requested in the Finance Letter, reduce budgeted funding for OPR by $202,000 to reflect revised funding of $188,000 AND establish the senior planner and administrative assistant positions on a two-year limited term basis.

   Vote:

0840 State Controller

The State Controller is the Chief Financial Officer of the state. The primary functions of the State Controller (SCO) are to provide sound fiscal control over both receipts and disbursements of public funds; to report periodically on the financial operations and condition of both state and local government; to make certain that money due the state is collected through fair, equitable, and effective tax administration; to provide fiscal guidance to local governments; to serve as a member of numerous policy-making state boards and commissions; and to administer the Unclaimed Property and Property Tax Postponement Programs. Total proposed budget expenditures are $124.7 million, of which $72.7 million is from the General Fund.

Summary of Expenditures (dollars in thousands)	2004-05	2005-06	$ Change	% Change
Programs				
Accounting and Reporting	$12,680	$14,266	$1,586	12.5
Audits	22,908	24,232	1,324	5.8
Personnel and Payroll Services	26,338	32,559	6,221	23.6
Information Systems	14,080	14,227	147	1.0
Collections	15,825	15,455	-370	-2.3
Disbursements and Support	35,513	35,666	153	0.4
Distributed to Other Programs	-9,645	-9,661	-16	0.0
Loan Repayment Programs	-2,140	-2,054	86	0.0
Unallocated Reduction pursuant to Budget Control Section 33.50	-449	0	449	0.0
Total, Programs	$115,110	$124,690	$9,580	8.3
Fund Source				
General Fund	$70,969	$72,695	$1,726	2.4
Federal Trust Fund	1,253	1,258	5	0.4
Reimbursements	32,882	34,020	1,138	3.5
Other Funds	10,006	16,717	6,711	67.1
Total, Fund Source	$115,110	$124,690	$9,580	8.3

1. **Salary Savings Level for Augmentations.** Salary savings is the amount of salary expense that a department saves when a position is vacant or filled at a lower salary level than the budgeted level. When new positions are established, it is customary to budget a set five percent salary savings rate to account for time taken to fill the position and other routine periods of vacancy over the “life” of the position (there are occasional exceptions for very small departments, commissions, etc.).

   The Budet Change Proposals (BCPs) and Finance Letters provided by the SCO reflect a 2.4 percent salary savings rate, a rate consistent with the department’s overall salary savings rate. The SCO reports that the lower rate is a result of recent budget reductions that have eliminated many of the vacant positions that are normally accounted for in salary savings. The Department of Finance has concurred with that assertion.

Staff Comment: While recent budget reductions, lower than expected retirements, and other offsetting factors may have caused the department's overall salary savings rate to drop well below five percent, these developments do not justify a lower salary savings rate *on a prospective basis*. If left understated, the 2.4 percent salary savings built into all of the department's 2005-06 BCPs and Finance Letters will result in overbudgeting and/or avoidance of a reduction.

Staff Recommendation: Reduce the following BCPs by the indicated amounts to reflect the customary five percent salary savings rate. The outstanding 2004-05 Finance Letters should also be subject to the adjustment when considered.

Budget Change Proposal	**Adjustment Amount**
California Automated Travel Expense Reimbursement System:	-$6,000
Unclaimed Property Program Staffing	-$14,000
On line Classroom Program Reviews (Chapter 429, Stats. 2003):	-$3,000
Technology Trade and Commerce Program Debt Collection	-$3,000
California Child Support Automation System Support Redirection	-$0*
TOTAL BCP ADJUSTMENT	-26,000

*$3,000 will revert to the SCO's operating expense budget

Vote:

2. **Property Tax Postponement Program Staffing Augmentation.** The Governor's Budget includes an augmentation of $4.7 million to the Senior Citizen's Property Tax Deferral Program, in conjunction with a $100 million reduction to a related property tax assistance programs for seniors. (This change is budgeted in Tax Relief item 9100, not the State Controller's item.) In response to the reductions in grants, it is anticipated that a surge in property tax postponement applications will occur. These applications are processed by the State Controller's Office.

The Governor's Budget further includes an augmentation of two positions and $100,000 in the State Controller's budget to process an anticipated 5000 applications, from which 3100 new loans will be made. The workload backup, however, shows a need for 5 positions if 5000 applications are reviewed. Information received to date suggests that the two new positions built into the Governor's Budget were based on grants made, not the number of applications reviewed.

The LAO has not concurred with the DOF/SCO 5000 applications estimate and has suggested the number of applications will be higher.

Perhaps responding to the uncertainty over positions needed, an April Finance Letter was submitted with budget bill language to allow mid-year staffing augmentations in the Property Tax Postponement Program.

Item 0840-001-0001:

The Director of Finance may authorize expenditures in excess of the amount appropriated in this item by an amount necessary to fund unanticipated workload increases associated with increased *participation in the Property Tax Postponement Program. Expenditures pursuant to this authorization shall not be made prior to 30-days after the Department of Finance notifies the Joint Legislative Budget Committee of the amounts necessary or not sooner than such lesser time as the Chairperson of the Joint Legislative Budget Committee may determine.*

Staff Comment: While there has been some uncertainty to date, a reasonable, conservative estimate of applications and workload—one that does not require mid-year correction—may still be attainable prior to the May Revision hearings. The budget bill language is an unusual and unnecessary exception to the Legislature's authority to establish positions. It should also be noted that funding in the Budget Act is seldom exact and underestimates of workload are routinely handled by departments with absorptions and internal redirections until the next budget cycle (when an augmentation is requested).

Notwithstanding these workload considerations, the augmentation to the senior citizens' property tax postponement program and reductions to the grant program must still be considered in the April 27 Sub 4 hearing. Authorization for any new postponement program positions must follow decisions on the grant program.

Staff Recommendations:
A. Reject the budget bill language.
B. Hold open the Governor's Budget request for two positions.
C. Direct the SCO, DOF, and LAO to consult on a reasonable, conservative estimate of positions needed and report back prior to May Revision hearings.

Vote

3. **Mandates Auditors.** The State Controller receives nearly 75,000 claim forms from local agencies and schools for reimbursement for state mandated activities. As it is often noted, due to unclear claiming guidelines, overzealous applicants, among other reasons, actual costs are sometimes much lower than the total claim submitted. The SCO conducts detailed "desk" audits to detect costs that are outside the scope of the mandate on approximately 5 percent of the 75,000. This five percent is made up of large dollar and new claims. Existing mandates of moderate or low cost are not desk audited, but do receive a quick arithmetic check and scan for obvious flaws.

Government Code 17616 provides the SCO the authority to (a) audit the first year of a claim, base year plus up to three years (adjusting payments as necessary for errors), and (b) conduct field audits to ensure services described are being delivered.

The SCO's Division of Audits conducts audits on a tiny fraction of the 75,000 mandates claims received. Even so, these audits generally identify a large number of errors or over-claims. In 2002-03, SCO's auditors performed 27 audits on $77.5 million of claimed costs, resulting in $54.0 million in audit findings (a 70 percent error rate). In 2003-04, 34 audits were conducted on $50.9 million of claimed costs, resulting in $25.7 million in audit findings (a 51 percent error rate). In the current year, 58 audits have been conducted to date on $176.1 million in claimed costs, with $75.3 million disallowed (a 43 percent error rate).

Staff Comment: Information received from the SCO indicates that additional auditors would result in the identification of more flawed or fraudulent claims. From a cost-benefit perspective, the SCO estimates that 10 additional auditor positions will identify unallowable costs at a rate of 45 times the cost of the position. Those unallowable costs will come in the form of either savings to budgeted payment amounts (a $44 million expenditure in the 2005-06 Governor's Budget) or a reduction to the repayment backlog—now estimated to exceed $2.6 billion in 2005-06.

The Division of Audits currently utilizes 32 positions to conduct mandates audits. If the division were to add 10 auditors and one analyst at a cost of $996,000, the savings are expected to be $44.8

million. That is, the liability that the state has to pay past due (i.e. deferred) mandates would be reduced by $44.8 million.

Staff Recommendation: Augment the SCO budget by $996,000 and 11 positions (10 associate management auditors and 1 staff services analyst) to conduct audits on a two-year limited term basis. After two years, the performance of the auditors and the need to amend the staffing level or extend the positions for a longer period should be reevaluated by the Administration and Legislature.

Vote:

0845 Department of Insurance

Under the direction of the Insurance Commissioner, the Department of Insurance (DOI) regulates the largest insurance market in the United States with over $115 billion in direct premiums written in the state. The Department conducts examinations and investigations of insurance companies and producers to ensure that operations are consistent with the requirements of the Insurance Code and that insurance companies are financially able to meet their obligations to policyholders and claimants.

Summary of Expenditures (dollars in thousands)	2004-05	2005-06	$ Change	% Change
Programs				
Regulation of Insurance Companies and Producers	$59,969	$65,256	$5,287	8.1%
Consumer Protection	43,881	48,681	-200	9.9
Fraud Control	81,950	77,788	-4,162	-5.4
Tax Collection and Audits	1,919	2,061	142	7.4
Administration	24,986	27,653	2,667	6.7
Distributed Administration	-24,986	-27,653	-2,667	-6.7
Total, Programs	$187,719	$193,786	$6,067	3.1%
Fund Source				
Insurance Fund	$187,469	$193,536	$6,067	3.1%
Reimbursements	250	250	0	0.0
Total, Fund Source	$187,719	$193,786	$6,067	3.1%

1. **Finance Letters**: The Department of Insurance requests augmentations from the Insurance Fund for the following purposes:

Title	**Description**	**Positions**	**Cost ($s in 000s)**
Organized Automobile Fraud Activity Interdiction (Urban Grant) Program	One-time augmentation to support local district attorney's investigation, prosecution, and enforcement activities against specific automobile fraud activities in urban centers.	0	$2,410 (Insurance Fund)
Increased Local Assistance Spending Authority for Automobile Insurance Fraud	Distribution of additional fee collections ($1,453 ongoing, $1,403 one time) to supplement district attorney's automobile insurance fraud programs.	0	$2,856 (Insurance Fund)
Workers' Compensation Insurance Fraud Program	Ongoing augmentation for prosecution of worker's compensation fraud in accordance with actions taken by the Governor-appointed Fraud Assessment Commission.	0	$1,018 (Insurance Fund)

Staff Recommendation: Approve the three finance letters.

Vote:

2. **Reversion of Credit Card Payment Efficiencies.** The Governor's Budget includes a request for $200,000 to cover costs for the fees the DOI pays to credit card companies for licensing transactions to apply, renew, or schedule exams. The department does not charge applicants a fee to pay by credit card. To date, the department has absorbed these costs, which grew from just $17,000 in 2002-03 to $122,000 in 2003-04. The department notes that greater use of online application and payment generates efficiencies. Specifically, online filing and scheduling has reduced processing time from six to eight weeks down to two to three weeks. According to the department, these efficiencies fully offset the cost of credit card charges.

   LAO Comment: The department plans to redirect the savings to reduce backlogs in other work. These savings in staff time, however, should be used to cover the credit card costs. If the department desires to address other workload, it should submit a proposal for the Legislature's consideration in the May Revise.

   LAO Recommendation: Legislature delete $200,000 requested for credit card charges because licensing efficiencies from online filing fully offset this cost. (Reduce Item 0845-001-0217 by $200,000.)

   Staff Recommendation: Adopt the LAO Recommendation and reduce Item 0845-001-0217 by $200,000.

   Vote:

3. **Replacement of Personal Computers, Servers, and Printers.** The DOI requests $729,000 (Insurance Fund) to fund ongoing replacement of personal computers, servers, and printers on a regular cycle of three to five years, depending on the equipment. Technology equipment replacement is not typically funded as part of a department's operating expense budget, but instead is funded by redirections from other sources. The DOI had previously redirected from excess salary savings to pay for upgrades and replacements. However, recent position eliminations processes eliminated that funding source and the department has submitted a BCP.

   Staff Comment: According to the state's Department of General Services, a computer replacement rate of four years is consistent with industry best practice, however it is not unusual for that rate to be pushed to five years or more during difficult fiscal periods.

   The LAO has also noted that DOI has not completed a business analysis of printer needs to determine an appropriate level of funding.

   Staff Recommendation: Reduce request by $48,642 and fund for one year only. This reduction reflects implementation of a four-year replacement schedule for notebook users (-$27,842) and "power" users (-$6,800), and reduced funding for the replacement of 44 printers in the budget year (-$14,040).

   For subsequent budget proposals, the Department of Insurance should complete a business needs analysis of technology equipment needs (factoring in longer life of newer PCs and monitors in particular) to determine an appropriate level of ongoing funding.

   Vote:

0950 State Treasurer's Office

The State Treasurer, a constitutionally established office, provides banking services for State government with the goals of minimizing interest and service costs and maximizing yield on investments. The Treasurer is responsible for the custody of all monies and securities belonging to or held in trust by the State; investment of temporarily idle State monies; administration of the sale of State bonds, their redemption and interest payments; and payment of warrants drawn by the State Controller and other State agencies.

The Treasurer's Office also plays a central administrative role to numerous state boards, authorities and commissions. The Treasurer serves as chair or member of these various agencies that organizationally report to the State Treasurer's Office. Many of these agencies are authorized to issue debt for specific purposes as permitted by law. These agencies also may advise California municipalities on debt issuance and oversee the state's various investment operations.

Total proposed budget expenditures for the State Treasurer's Office are $22.7 million, of which $6.1 million is from the General Fund.

Summary of Expenditures (dollars in thousands)	2004-05	2005-06	$ Change	% Change
Programs				
Investment Services	$2,715	$2,709	-$6	-0.2
Cash Management	7,623	7,603	-20	-0.3
Public Finance	5,992	5,973	-19	-0.3
Securities Management	4,260	4,249	-11	-0.3
Administration and Information Services	9,714	9,874	160	1.6
Distributed Administration	-7,680	-7,693	-13	0.0
Total, Programs	$22,624	$22,715	$91	0.4
Fund Source				
General Fund	$6,028	$6,068	$40	0.7
Reimbursements	16,596	16,647	51	0.3
Total, Fund Source	$22,624	$22,715	$91	0.4

1. **Budget Bill Language Loan Authority.** The Governor's Budget includes Budget Bill language that would enable the Director of Finance to authorize a no interest, short-term loan from the General Fund to the State Treasurer's Office for the purpose of meeting cash shortfalls resulting from delayed reimbursements from other funds. Budget bill language is as follows:

   1. The Director of Finance may authorize a loan from the General Fund, in an amount not to exceed the level of reimbursements appropriated in Schedule (3) of this item to the State Treasurer's Office, provided that:
   (a) The loan is to meet cash needs resulting from a delay in receipt of reimbursements.

(b) The loan is short term, and shall be repaid within six months.
(c) Interest charges may be waived pursuant to subdivision (e) of Section 16314 of the Government Code.
(d) The Director of Finance may not approve the loan unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committees in each house that considers appropriations not later than 30 days prior to the effective date of the approval, or not sooner than whatever lesser time the chairperson of the joint committee or his or her designee may determine.
(e) At the end of the six-month term of the loan, the State Treasurer's Office shall notify the Chairperson of the Joint Legislative Budget Committee whether the State Treasurer's Office has repaid the loan pursuant to subdivision (d) of Provision 1.

Staff Comment: The budget change proposal provided indicates that loans will be paid within two months of origination. Consequently, it is unnecessary to grant six months for repayment of a General Fund loan.

Staff Recommendation: Amend provision 1 (b) of the budget bill language as follows:

(b) The loan is short term, and shall be repaid within ~~six~~ *two* months.

Vote:

0968 California Tax Credit Allocation Committee

The California Tax Credit Allocation Committee (CTCAC) is entrusted to form public/private partnerships to assist in the development and maintenance of quality rental housing communities that are affordable to low-income Californians. The CTCAC acts as a credit agency and conducts project compliance monitoring.

Summary of Expenditures (dollars in thousands)	2004-05	2005-06	$ Change	% Change
Programs				
California Tax Credit Allocation Committee	$2,705	$3,032	$327	10.8
Community Revitalization Program	258	264	6	2.3
Total, Programs	$2,963	$3,296	$333	10.2
Fund Source				
Occupancy Compliance Monitoring Account	$1,081	$1,347	$266	19.8
Tax Credit Allocation Fee Account	1,594	1,625	31	2.0
Reimbursements	30	60	30	100.0
Community Revitalization Fee Fund	258	264	6	2.3
Total, Fund Source	$2,963	$3,296	$333	10.2

1. Finance Letter: Staffing Realignment. The CTCAC requests to decrease Item 0968-001-3038 by $172,000 and increase item 0968-001-0457 by an equal amount. This fund shift will reflect the permanent redirection of two Associate Governmental Program Analyst positions from the Community Revitalization Program to the Tax Credit Allocation Fee Program. Workload analysis demonstrates a decrease in activity in the Community Development Program and an increase of over 4000 hours of work in the Fee Program.

Staff Recommendation: Approve Finance Letter.

Vote

8885 Commission on State Mandates

The Commission on State Mandates (CSM) is a quasi-judicial body that makes the initial determination of state mandated costs. The Commission is tasked to fairly and impartially determine if local agencies and school districts are entitled to reimbursement for increased costs mandated by the state. Total proposed budget expenditures for the Commission on State Mandates are $1.6 million, all of which is state General Fund.

Summary of Expenditures (dollars in thousands)	2004-05	2005-06	$ Change	% Change
Programs				
Administration	$1,218	$1,658	$440	36.1
Unallocated Reduction	0	-29	-29	0.0
Total, Programs	$1,218	$1,629	$411	33.7
Fund Source				
General Fund	$1,218	$1,629	$411	33.7
Total, Fund Source	$1,218	$1,629	$411	33.7

1. **Trailer Bill: Suspension of Mandates.** The Administration has provided a trailer bill (attached) that will add an option to identify a suspended mandate by CSM test claim number, in addition to executive order or statute. This technical fix will reduce ambiguity regarding the actual suspended mandate. The attached language has also been introduced as AB 1467.

   Staff Recommendation: Approve trailer bill.

   Vote:

9210 Local Government Financing

Local governments receive a variety of subventions from the state for designated purposes such as health, welfare, and public safety programs. The state provides other assistance to local governments, primarily counties, through other direct programs contained in other items in the budget. For example, Health and Human Services has numerous programs where the state and counties jointly provide funding for services. State funding is also included in Public Safety for such issues as local crime labs and suppression of high intensity drug trafficking areas. Local Government Financing proposed in 2005-06 totals $157.4 million, all of which is General Fund.

Summary of Expenditures (dollars in thousands)	2004-05	2005-06	$ Change	% Change
Programs				
Aid to Local Governments	$118,571	$54,334	-$64,237	-54.2
Citizens' Option for Public Safety (COPS) and Juvenile Justice Programs	199,725	100,000	-99,725	-49.9
Special Supplemental Subventions	650	650	0	0.0
State-Mandated Local Programs	0	2408	2,408	0.0
Total, Programs	$318,946	$157,392	-$161,554	-50.7
Fund Source				
General Fund	$318,946	$157,392	-$161,554	-50.7
Total, Fund Source	$318,946	$157,392	-$161,554	-50.7

1. **Juvenile Justice Grants.** The Governor's Budget eliminates $100 million in General Fund support for the Juvenile Justice Crime Prevention Act (JJCPA) program, a program that provides discretionary funding for juvenile justice activities to counties on a per capita basis. In what the Administration regards as a corresponding augmentation, the Budget diverts $25 million to the Board of Corrections "for distribution to local governments."

   The Governor's Budget Summary reports that negotiations are occurring between the Administration and local governments on all statewide changes in the Juvenile Justice system. These negotiations will consider funding for all corrections activities affecting minors. The outcome of those meetings as they address JJCPA funding is expected to be presented in the May Revision.

   Trailer bill is attached.

   Staff Comment: The JJCPA (Chapter 333, Statutes of 2000) established a stable funding source for local juvenile justice programs. The programs have a carefully documented record of curbing crime and delinquency among at-risk youth and young offenders. The JJCPA supports 193 collaborative programs in 56 counties to address tailored needs and responses to juvenile crime.

Based on research conducted by the California Board of Corrections, the JJCPA Programs as a whole are making a significant difference in curbing crime and delinquency. In analysis comparing juveniles who receive program services versus those who don't, it was found that:

- An average 21.8 percent of program juveniles were arrested vs. 32.5 percent in the reference group
- An average 18.2 percent of program juveniles were incarcerated vs. 23.4 percent for the reference group
- An average 56.3 percent of program juveniles completed court-ordered community service vs. 39.4 percent for the reference group

(Source: California Board of Corrections Annual Report of the Juvenile Justice Crime Prevention Act)

The Governor's Budget proposal not only unfunds JJCPA programs, it also de-links them from the Citizen's Option for Public Safety (COPS) program. The two discretionary crime funding programs had been linked in an arrangement intended by the Legislature in the authorizing legislation (AB 1913, 2000) to equally fund crime deterrence (JJCPA) and crime prosecution (COPS) activities.

Staff Recommendation: Hold open the Governor's Budget proposal to eliminate juvenile justice funding.

Vote:

2. Mandate: Open meetings. The Administration proposes to restructure the Open Meetings mandate and provide $2 million in 2005-06 funding, a funding level significantly below the $15 million expense expected in the current year. In a recent staff meeting, the Department of Finance provided *draft* trailer bill language and explained that the language is expected to support a much narrower scope of printing costs and postage (approximately $2 million).

LAO Comment: In 1953, the Legislature enacted the Brown Act, declaring, "all meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body." Because the Brown Act preceded the 1975 operative date of mandate law, its requirements are *not* a state-reimbursable mandate. Instead, the Open Meeting Act "mandate" pertains to certain post-1975 procedural amendments to the Brown Act, most notably the requirement that local agencies prepare and post agendas 72 hours before a hearing (Chapter 641, Statutes of 1986 [AB 2674, Connelly]).

California residents have shown longstanding interest in open hearings, and the state's voters recently enacted Proposition 59, amending the State Constitution to specify that meetings of public bodies and writings of public officials must be open to public scrutiny. Accordingly, legislative action to eliminate (or make optional) the *procedural elements* of the Open Meeting Act mandate would not likely reduce people's ability to monitor local agency actions.

Accordingly, when considering the Administration's Open Meeting Act mandate proposal, we recommend the Legislature consider, as an alternative, making the Open Meeting Act mandate optional (the Brown Act would still be in force). This alternative would eliminate all future state reimbursable costs for this mandate, as well as the requirement that the Legislature include funding for the mandate's 2004-05 costs in the 2005-06 budget.

Staff Recommendation: Hold open the proposed suspension until (1) the Department of Finance provides final trailer bill language and (2) the LAO has validated DOF's cost estimates.

Vote:

3. **Mandate: Photographic Records of Evidence.** This mandate requires local law enforcement agencies to provide photographs, chemical analyses, and other substitutes for evidence that a court determines poses a health, safety, security, or storage problem. In their mandate claims, local agencies typically request reimbursement for purchases of high-tech digital imaging and printing equipment. The Administration proposes to suspend this mandate in the budget year.

LAO Comment: The responsibility for managing evidence used in the courts should rest with law enforcement agencies. The Administration's proposal to suspend this mandate in the budget bill, however, raises two concerns. It could:

- ***Add Ambiguity to the Laws of Evidence.*** As was discussed in *An Assessment: Governor's Local Government Proposal* (May 2004)***,*** when a mandate is suspended, the suspension applies only to the sections of law (or laws) found to be a mandate by the CSM. All other provisions in the statute continue to have the force of law, but interpreting these remaining provisions (which may refer to the suspended provisions) can become very difficult. Because the Photographic Record of Evidence mandate pertains to an area of law where ambiguity could have serious consequences, we recommend the Legislature carefully craft permanent changes to the mandate's underlying statute, rather than using the suspension process.

- ***Increase Court Costs.*** In 1985, court concerns regarding evidence storage and handling costs prompted passage of the subject legislation. At the time this analysis was prepared, we were not able to determine whether courts currently have sufficient authority—independent of this mandate legislation—to require local agencies to submit substitute evidence. If this mandate's suspension were to result in local agencies submitting some evidence that they currently do not submit, courts could experience increased storage and handling costs.

Staff Comment: It is unclear, at this point, that the Administration has evaluated the offsetting expenses to the savings posed by suspending the Photographic Records of Evidence mandate.

Staff Recommendation:

A. Hold open the requested suspension of the Photographic Records of Evidence mandate, pending validation of cost savings relative to additional burdens on the courts system.

B. Direct LAO to prepare trailer bill language to repeal the Photographic Records of Evidence mandate and, if necessary, enact provisions clarifying or expanding the court's authority to require substitute evidence.

Vote:

4. **Mandate Reimbursement Process.** This mandate reimburses local agencies for their administrative costs to file mandate test claims and reimbursement claims.

LAO Comment: Typically, local agencies request reimbursement for their costs to (1) contract with mandate consulting firms and (2) oversee their consultants' contracts. The administration proposes to suspend this mandate in 2005-06. As a result, local agency actions to file test claims or reimbursement claims would be "optional." That is, local agencies would not be required to follow the mandate reimbursement process. However, by not following the process, local agencies would not receive state reimbursements of mandated local costs (as promised under the State Constitution).

There are problems with the current reimbursement process mandate.

First, it is expensive. Many local agencies' claims for their administrative filing costs equal or exceed 15 percent of their total claims. In large part, local agencies face little incentive to minimize mandate claim preparation or test claim filing costs. Instead, local agencies hire firms that specialize in the arcane mandate process and advertise that they can "maximize" local revenues from state reimbursements.

Second, the existence of this reimbursable mandate reduces local agency (and their consultants') incentives to work with the state to develop an alternative, simpler mandate claiming system.

Despite these shortcomings, we cannot concur with the administration's proposal to suspend this mandate. Simply put, the mandate process is a product of state laws and regulations. If the administration finds the existing process objectionable, it is incumbent on it to suggest an alternative method of addressing these costs. The Legislature could assist in this by directing the administration, local agencies, and legislative staff to work together this spring to develop a new and simpler system for reviewing test claims and providing mandate reimbursements.

Staff Comment: Suspension of this mandate appears to require changes to the budget bill. Authority to claim reimbursement for administrative costs was eliminated from the Commission on State Mandates item but inadvertently left in the SCO's item.

Staff Recommendations:
A. Request the Department of Finance to explain how local agencies will be able to submit claims under this suspension and how statute requiring filings within one year will be affected by the proposed suspension. The Department of Finance should also comment on potential infringement upon the Constitutional right to reimbursement.

B. Hold the mandate reimbursement process mandate suspension open until the budget bill language discrepancy is resolved.

Vote:

5. Property Tax Administration Grants. The Governor's Budget includes a reduction of $5.7 million in grants to counties for the Property Tax Administration Program (PTAP). This program had previously been funded at $60 million. These funds support assessors to make collections for local governments and schools. A key component of the program is a maintenance of effort requirement for Boards of Supervisors to keep assessors funding and staffing at least at the 1994-95 level to be eligible to receive PTAP funds.

Staff Comment: Material submitted by local agencies suggests that the funding reduction is exceeded by the revenues generated for education funding. In Los Angeles County, the benefit-cost ratio has been calculated at $6.50 for schools for every $1 in PTAP funding.

From another perspective, Proposition 1A revised funding mechanisms for local governments and provided new protections for property tax and VLF revenues. These new protections should strengthen the incentives for locals to collect property tax funds which could negate a ten percent reduction in overall PTAP funding.

Staff Recommendation: Hold open and request the LAO and DOF provide quantitative analysis of the lost property tax revenues for schools.

Vote:

Commission on State Mandates Trailer Bill:
Mandates Claims Numbers

SECTION 1. Section 17581 of the Government Code is amended to read:

17581. (a) No local agency shall be required to implement or give effect to any statute or executive order, or portion thereof, during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if all of the following apply:(1) The statute or executive order, or portion thereof, has been determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of local agencies pursuant to Section 6 of Article XIII B of the California Constitution.

(2) The statute or executive order, or portion thereof, *or the commission's test claim number,* has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered to have been specifically identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it is specifically identified in the language of a provision of the item providing the appropriation for mandate reimbursements.

(b) Notwithstanding any other provision of law, if a local agency elects to implement or give effect to a statute or executive order described in subdivision (a), the local agency may assess fees to persons or entities which benefit from the statute or executive order. Any fee assessed pursuant to this subdivision shall not exceed the costs reasonably borne by the local agency.

(c) This section shall not apply to any state-mandated local program for the trial courts, as specified in Section 77203.

(d) This section shall not apply to any state-mandated local program for which the reimbursement funding counts toward the minimum General Fund requirements of Section 8 of Article XVI of the Constitution.

SEC. 2. Section 17581.5 of the Government Code is amended to read:

17581.5. (a) A school district may not be required to implement or give effect to the statutes, or portion thereof, identified in subdivision (b) during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if all of the following apply:
(1) The statute or portion thereof, has been determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of school districts pursuant to Section 6 of Article XIII B of the California Constitution.

(2) The statute, or portion thereof, *or the commission's test claim number,* has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for

which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered to have been specifically identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it is specifically identified in the language of a provision of the item providing the appropriation for mandate reimbursements.

(b) This section applies only to the following mandates:

(1) The School Bus Safety I (CSM-4433) and II (97-TC-22) mandates (Chapter 642 of the Statutes of 1992; Chapter 831 of the Statutes of 1994; and Chapter 739 of the Statutes of 1997).

(2) The School Crimes Reporting II mandate (97-TC-03; and Chapter 759 of the Statutes of 1992 and Chapter 410 of the Statutes of 1995).

(3) Investment reports (96-358-02; and Chapter 783 of the Statutes of 1995 and Chapters 156 and 749 of the Statutes of 1996).

(4) County treasury oversight committees (96-365-03; and Chapter 784 of the Statutes of 1995 and Chapter 156 of the Statutes of 1996).

Local Government Financing Trailer Bill:
Eliminate Juvenile Justice Program

Section 30061 of the Government Code is amended to read:
30061. (a) There shall be established in each county treasury a Supplemental Law Enforcement Services Fund (SLESF), to receive all amounts allocated to a county for purposes of implementing this chapter.

(b) In any fiscal year for which a county receives money to be expended for the implementation of this chapter, the county auditor shall allocate moneys in the county's SLESF, including any interest or other return earned on the investment of those moneys, within 30 days of the deposit of those moneys into the fund, and shall allocate those moneys in accordance with the requirements set forth in this subdivision. However, the auditor shall not transfer those moneys to a recipient agency until the Supplemental Law Enforcement Oversight Committee certifies receipt of an approved expenditure plan from the governing board of that agency.

(1) ~~Five and fifteen one-hundredths percent (5.15%)~~ Ten and three tenths percent (10.3%) to the county sheriff for county jail construction and operation. In the case of Madera, Napa, and Santa Clara Counties, this allocation shall be made to the county director or chief of corrections.

(2) ~~Five and fifteen one hundredths percent (5.15%)~~ Ten and three tenths percent (10.3%) to the district attorney for criminal prosecution.

(3) ~~Thirty-nine and seven-tenths percent (39.7%)~~ Seventy nine and four tenths percent (79.4%) to the county and the cities within the county, and, in the case of San Mateo, Kern, Siskiyou, and Contra Costa Counties, also to the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District, in accordance with the relative population of the cities within the county and the unincorporated area of the county, and the Broadmoor Police Protection District in the County of San Mateo, the Bear Valley Community Services District and the Stallion Springs Community Services District in Kern County, the Lake Shastina Community Services District in Siskiyou County, and the Kensington Police Protection and Community Services District in Contra Costa County, as specified in the most recent January estimate by the population research unit of the Department of Finance, and as adjusted to provide a grant of at least one hundred thousand dollars ($100,000) to each law enforcement jurisdiction. For a newly incorporated city whose population estimate is not published by the Department of Finance but which was incorporated prior to July 1 of the fiscal year in which an allocation from the SLESF is to be made, the city manager, or an appointee of the legislative body, if a city manager is not available, and the county administrative or executive officer shall prepare a joint notification to the Department of Finance and the county auditor with a population estimate reduction of the unincorporated area of the county equal to the population of the newly incorporated city by July 15, or within 15 days after the Budget Act is enacted, of the fiscal year in which an allocation from the SLESF is to be made. No person residing within the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, or the Kensington Police Protection and Community Services District shall also be counted as
residing within the unincorporated area of the County of San Mateo, Kern, Siskiyou, or Contra Costa, or within any city located within those counties. The county auditor shall allocate a grant of at least one hundred thousand dollars ($100,000) to each law enforcement jurisdiction. Moneys allocated to the county pursuant to this subdivision shall be retained in the county SLESF, and moneys allocated to a city pursuant to this subdivision shall be deposited in a SLESF established in the city treasury.

~~(4) Fifty percent (50%) to the county or city and county to implement a comprehensive multiagency juvenile justice plan as provided in this paragraph and to the Board of Corrections for administrative purposes. Funding for the Board of Corrections, as determined by the Department of Finance, shall not exceed two hundred seventy-five thousand dollars ($275,000). For the 2003-04 fiscal year, of the two hundred seventy-five thousand dollars ($275,000), up to one hundred seventy-six thousand dollars ($176,000) may be usedfor juvenile facility inspections. The juvenile justice plan shall be developed by the local juvenile justice coordinating council in each county and city and county with the membership~~

~~described in Section 749.22 of the Welfare and Institutions **Code**. If a plan has been previously approved by the Board of Corrections, the plan shall be reviewed and modified annually by the council. The plan or modified plan shall be approved by the county board of supervisors, and in the case of a city and county, the plan shall also be approved by the mayor. The plan or modified plan shall be submitted to the Board of Corrections by May 1, 2002, and annually thereafter.~~

~~(A) Juvenile justice plans shall include, but not be limited to, all of the following components:~~

~~(i) An assessment of existing law enforcement, probation, education, mental health, health, social services, drug and alcohol and youth services resources that specifically target at-risk juveniles, juvenile offenders, and their families.~~

~~(ii) An identification and prioritization of the neighborhoods, schools, and other areas in the community that face a significant public safety risk from juvenile crime, such as gang activity, daylight burglary, late-night robbery, vandalism, truancy, controlled substances sales, firearm-related violence, and juvenile substance abuse and alcohol use.~~

~~(iii) A local juvenile justice action strategy that provides for a continuum of responses to juvenile crime and delinquency and demonstrates a collaborative and integrated approach for implementing a system of swift, certain, and graduated responses for at-risk youth and juvenile offenders.~~

~~(iv) Programs identified in clause (iii) that are proposed to be funded pursuant to this subparagraph, including the projected amount of funding for each program.~~

~~(B) Programs proposed to be funded shall satisfy all of the following requirements:~~

~~(i) Be based on programs and approaches that have been demonstrated to be effective in reducing delinquency and addressing juvenile crime for any elements of response to juvenile crime and delinquency, including prevention, intervention, suppression, and incapacitation.~~

~~(ii) Collaborate and integrate services of all the resources set forth in clause (i) of subparagraph (A), to the extent appropriate.~~

~~(iii) Employ information sharing systems to ensure that county actions are fully coordinated, and designed to provide data for measuring the success of juvenile justice programs and strategies.~~

~~(iv) Adopt goals related to the outcome measures that shall be used to determine the effectiveness of the local juvenile justice action strategy.~~

~~(C) The plan shall also identify the specific objectives of the programs proposed for funding and specified outcome measures to determine the effectiveness of the programs and an accounting for all program participants, including those who do not complete the programs. Outcome measures of the programs proposed to be funded shall include, but not be limited to, all of the following:~~

~~(i) The rate of juvenile arrests per 100,000 population.~~

~~(ii) The rate of successful completion of probation.~~

~~(iii) The rate of successful completion of restitution and court-ordered community service responsibilities.~~

~~(iv) Arrest, incarceration, and probation violation rates of program participants.~~

~~(v) Quantification of the annual per capita costs of the program.~~

~~(D) The Board of Corrections shall review plans or modified plans submitted pursuant to this paragraph within 30 days upon receipt of submitted or resubmitted plans or modified plans. The board shall approve only those plans or modified plans that fulfill the requirements of this paragraph, and shall advise a submitting county or city and county immediately upon the approval of its plan or modified plan. The board shall offer, and provide if requested, technical assistance to any county or city and county that submits a plan or modified plan not in compliance with the requirements of this paragraph. The SLESF shall only allocate funding pursuant to this paragraph upon notification from the board that a plan or modified plan has been approved.~~

~~(E) To assess the effectiveness of programs funded pursuant to this paragraph using the program outcome criteria specified in subparagraph (C), the following periodic reports shall be submitted:~~

~~(i) Each county or city and county shall report, beginning October 15, 2002, and annually each October 15 thereafter, to the county board of supervisors and the Board of Corrections, in a format specified by the Board of Corrections, on the programs funded pursuant to this chapter and program outcomes as specified in subparagraph (C).~~

~~(ii) The Board of Corrections shall compile the local reports and, by March 15, 2003, and annually thereafter, make a report to the Governor and the Legislature on program expenditures within each county and city and county from the appropriation for the purposes of this paragraph, on the outcomes as~~

~~specified in subparagraph (C) of the programs funded pursuant to this paragraph and the statewide effectiveness of the comprehensive multiagency juvenile justice plans.~~

(c) Subject to subdivision (d), for each fiscal year in which the county, each city, the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District receive moneys pursuant to paragraph (3) of subdivision (b), the county, each city, and each district specified in this subdivision shall appropriate those moneys in accordance with the following procedures:

(1) In the case of the county, the county board of supervisors shall appropriate existing and anticipated moneys exclusively to provide frontline law enforcement services, other than those services specified in paragraphs (1) and (2) of subdivision (b), in the unincorporated areas of the county, in response to written requests submitted to the board by the county sheriff and the district attorney. Any request submitted pursuant to this paragraph shall specify the frontline law enforcement needs of the requesting entity, and those personnel, equipment, and programs that are necessary to meet those needs. The board shall, at a public hearing held at a time determined by the board in each year that the Legislature appropriates funds for purposes of this chapter, or within 30 days after a request by a recipient agency for a hearing if the funds have been received by the county from the state prior to that request, consider and determine each submitted request within 60 days of receipt, pursuant to the decision of a majority of a quorum present. The board shall consider these written requests separate and apart from the process applicable to proposed allocations of the county general fund.

(2) In the case of a city, the city council shall appropriate existing and anticipated moneys exclusively to fund frontline municipal police services, in accordance with written requests submitted by the chief of police of that city or the chief administrator of the law enforcement agency that provides police services for that city. These written requests shall be acted upon by the city council in the same manner as specified in paragraph (1) for county appropriations.

(3) In the case of the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County, the legislative body of that special district shall appropriate existing and anticipated moneys exclusively to fund frontline municipal police services, in accordance with written requests submitted by the chief administrator of the law enforcement agency that provides police services for that special district. These written requests shall be acted upon by the legislative body in the same manner specified in paragraph (1) for county appropriations.

(d) For each fiscal year in which the county, a city, or the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County receives any moneys pursuant to this chapter, in no event shall the governing body of any of those recipient agencies subsequently alter any previous, valid appropriation by that body, for that same fiscal year, of moneys allocated to the county or city pursuant to paragraph (3) of subdivision (b).

(e) Funds received pursuant to subdivision (b) shall be expended or encumbered in accordance with this chapter no later than June 30 of the following fiscal year. A local agency that has not met this requirement shall remit unspent SLESF moneys to the Controller for deposit into the General Fund.

(f) If a county, a city, a city and county, or a qualifying special district does not comply with the requirements of this chapter to receive an SLESF allocation, the Controller shall revert those funds to the General Fund.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Tom McClintock
Christine Kehoe

Wednesday, April 27, 2005
1:30 p.m.
Room 2040

Consultant: Dave O'Toole

"A" AGENDA

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

Consent / Vote-Only Calendar

8855	Bureau of State Audits
9612	Enhanced Tobacco Settlement Asset-Backed Bonds
9620	Payment of Interest on General Fund Loans
9625	Interest Payments to the Federal Government

CONTROL SECTIONS

8.50	Federal Funds Receipts
8.51	Federal Funds Accounts
8.52	Federal Reimbursements
9.30	Federal Levy of State Funds
11.52	Transfer of Unencumbered Balance of Various Funds to the General Fund
32.00	Prohibits Excess Expenditures

Department Budgets Proposed for Consent / Vote Only

VOTE:

Department Budgets Proposed for Discussion

0860 State Board of Equalization

The State Board of Equalization (BOE), the Franchise Tax Board (FTB), and the Employment Development Department are the state's major tax collection agencies. The BOE collects state and local sales and use taxes and a variety of business and excise taxes and fees, including those levied on gasoline and diesel fuel, alcoholic beverages and cigarettes, as well as others. The BOE also assesses utility property for local property tax purposes, oversees the administration of the local property tax by county assessors, and serves as the appellate body to hear specified tax appeals, including FTB decisions under the personal income tax and bank and corporation tax laws. Total proposed budget expenditures are $364.9 million, of which $209.5 million is from the General Fund.

Summary of Expenditures (dollars in thousands)	2004-05	2005-06	$ Change	% Change
Programs				
County Assessment Standards	$8,027	$8,094	$67	0.8%
State Assessed Property	6,772	6,827	55	0.8
Sales and Use Tax	281,178	281,006	-172	-0.1
Cigarette and Tobacco Products Tax	12,667	17,094	4,427	34.9
Diesel and Use Fuel Tax	16,929	16,242	-687	-4.1
Administration	33,213	33,213	0	0.0
Distributed Administration	-33,213	-33,213	0	0.0
Other Programs	32,998	35,655	2,657	8.1
Unallocated Reduction	0	-62	-62	0.0
Total, Programs	$358,571	$364,856	$6,285	1.8%
Fund Source				
General Fund	$207,889	$209,481	$1,592	0.8%
Motor Vehicle Fuel Account	20,169	19,402	-767	-3.8
Federal Trust Fund	32	0	-32	-100.0
Reimbursements	106,033	101,464	-4,569	-4.3
Other Funds	24,448	34,509	10,061	41.2
Total, Fund Source	$358,571	$364,856	$6,285	1.8%

1. FINANCE LETTERS PROPOSED FOR CONSENT:

Out-of-State Legal Representation. The Board of Equalization requests to augment its budget by $1,862,000 to provide additional resources to contract with outside counsel for representation in out-of-state legal cases. These services had previously been provided by the Department of Justice; however, the DOJ recently notified the BOE that they could no longer provide representation in out of state cases. Funding for four positions to monitor these contracts and track the progress of the cases in question is included in the request.

Revised Alternative Cigarette Tax Stamp Project Funding. In a Finance Letter presented to the Legislature in May of last year, the Board of Equalization sought $4.9 million for 2004-05 and $9.8 million ongoing to implement the provisions of Chapter 881, Statutes of 2002 (SB 1701, Peace). That statue requires the Board of Equalization to replace the current cigarette stamps with an encrypted stamp that can be read by a scanner. Expected annual revenues from reduced black market sales were $28.8 million.

This Finance Letter requests to adjust expected costs and revenues due to delays in implementing the new stamp. Litigation against the Board by one of the losing bidders for the encrypted stamp contract resulted in a postponed project start and a delay in implementation by many cigarette sellers. Consequently, current year costs will be reduced by $1.9 million and ongoing costs reduced by $4.5 million ($516,000 General Fund). Updated revenue estimates are $8.2 million in the current year and $28.1 million ongoing.

CONSENT VOTE:

2. Finance Letter: Consumer Use Tax Staffing Increase. The Board of Equalization requests seven, two-year limited term tax technician positions for the Consumer Use Tax Section. Of the requested positions, six would be assigned to the Vessel, Vehicle, and Aircraft Program and one to the United State Customs Program.

The Vehicle Vessel and Aircraft Program oversees the purchases of vehicles, vessels, and aircraft that are subject to use tax from non-licensed sellers (private individuals). Due to recent position reductions and new workload requirements, the BOE shifted personnel away from the Vehicle, Vessel, and Aircraft Program. This request would restore some of those revenue-generating positions.

The workload associated with the U.S. Customs Program is based on a recent pilot project that involved reviewing Customs data on over one million individual quarterly transactions for items imported through California's commercial ports of entry and then colleting use tax due. The results from that pilot were surprising: over $6400 in collections per hour of work. In budgeting for the new position, the Board conservatively estimated $1000 per hour in 2005-06 and 2006-07.

Staff Comment: In discussions with the BOE, it was determined additional support would generate greater tax compliance and additional revenues. With the addition of 12 (versus 6) new positions, the Vehicle, Vessel, and Aircraft Program is expected to generate $5 million in the current year and $10 million in 2006-07. Under the submitted proposal, the new positions would generate $3 million in 2005-06 and $6 million in 2006-07.

The addition of two new positions in the Customs program would generate an additional $2.3 million in the budget year and subsequent year.

With this total augmentation of eight positions, the additional new budget year revenue has been estimated by the BOE to be $4.3 million.

Staff Recommendations: Approve the Finance Letter for $415,000 and seven additional positions and:

A. Augment the Vehicle, Vessel, and Aircraft program by six, two-year limited term positions: three Tax Technician I positions, two Tax Technician IIs, one Tax Technician III, and associated costs (an augmentation of approximately $340,00 General Fund).

B. Augment the U.S. Customs program by two two-year limited term Tax Technician III positions and associated costs (an augmentation of approximately $130,000 General Fund).

Vote:

3. **Sales and Use Tax Amnesty Update.** Budget trailer bill enacted as part of the 2004 Budget Act created a tax amnesty program that would waive penalties for individuals and businesses that pay overdue tax liabilities for years prior to 2003. The filing period for tax amnesty was February 1 to March 30, 2005. Individuals and businesses that did not pay past debts or arrange installment payment agreements were assessed significant new penalties at the close of amnesty. Both the Board of Equalization and the Franchise Tax Board implemented the amnesty program.

Revenues for the sales and use tax portion of tax amnesty have come in considerably higher than expected. Net revenues, originally estimated to reach $3.5 million, had already climbed above $15 million as of mid-April.

Staff Recommendation: The Board of Equalization should briefly comment on the success of the Program for both the state and localities, the most recent revenue estimates, and expected net revenues in the budget year.

4. **Remittance processing.** The Board of Equalization annually processes approximately $30 billion in sales and use and other tax remittances. Of that amount, approximately 60 percent are paid through electronic funds transfer (EFT). The BOE offers the Automated Clearing House debit method which allows taxpayers to transfer funds by authorizing the BOE to electronically debit their bank account when their payment information is submitted.

The remaining funds come through cash, check, or credit card payment. These non-EFT payments can be made at office locations throughout the state, but are more often submitted by mail with tax forms to the central processing facility. Credit card payments can be made online or by telephone through an Interactive Voice Response (IVR) System. The credit card processing vendor charges a convenience fee of 2.5% of the transaction amount. Payments under $40 are subject to a minimum fee of $1. In fiscal year 2003-04 the BOE received over $44.6 million by credit card.

Staff Comment: Technology has provided two primary alternatives to the manually intensive operation of processing checks by hand. The first option, “optical scanning,” is utilized by EDD to electronically review and count the check number and amount. The second option, which BOE intends to pursue, is greater utilization of online payments.

For both special taxes and sales and use taxes, all holders of sales and use tax permits whose average monthly tax payments are $20,000 or more are required to pay their sales and use taxes by EFT. This $20,000 threshold has been unchanged for nearly a decade.

The most significant hindrance to paying BOE by EFT is the fact that form filing is still largely unautomated. Because these documents are usually sent by mail, it’s generally more convenient to file a tax form with the remittance, rather than submit one by mail and the other by computer. In comparison, when the FTB implemented electronic filing, electronically filed *remittances* grew from 0.8 million to 1.2 million, a 50 percent increase.

Staff Recommendations: The Subcommittee should request that the BOE report on:
A. Current efforts to increase EFT filing and enable free online credit card payments.

B. The revenue impact, number of new EFT filers, and other considerations if the EFT payment threshold were reduced to $10,000 and $5,000.

5. **Electronic Filing.** The Board of Equalization currently provides, on a limited scale, the ability for sales and use tax filers to submit their paperwork through an online document. The BOE expects to expand this program further in January by making electronic filing available to 700,000 single outlet retailers. BOE expects that only 10 percent of the 700,000 eligible single outlet retailers will file electronically.

LAO Comment: The application of electronic technologies to tax administration has expanded rapidly over the last decade. As we indicated in our January 2005 report, Tax Agency Consolidation: Remittance and Return Processing, the Employment Development Department (EDD) and FTB have increasingly converted to electronic technologies in the filing of tax returns and remittances as well as the processing of this documentation.

The advantages of shifting to electronic remittances and returns are significant. From the taxpayer's perspective, using electronic filing can minimize record keeping requirements, increase filing accuracy, and reduce costs in the long term. From a tax agency perspective, electronic technologies decrease processing time, reduce storage costs, minimize personnel requirements, improve data accuracy, and facilitate sharing of information for enforcement and compliance purposes.

The processing costs associated with electronic returns and remittances are far below those for paper documentation. For example, FTB estimates that 4,800 electronic remittances can be processed for each direct staff hour. For paper submissions, only 65 remittances can be processed for each direct staff hour.

Electronically filed returns and remittances represent a growing component of tax agency processing activities. At FTB, this growth has occurred as a combined result of statutory mandates for tax practitioners as well as a "natural" migration from paper to electronic filing by individual and business taxpayers. The FTB reports that between the 2000 tax year and the 2003 tax year, electronically filed returns expanded from 2.3 million to 3.7 million, or 63 percent. The department expects 10 percent annual growth in electronic remittances through 2008, and 5 percent to 10 percent annual growth in electronic returns through the same period.

Investing in electronic technologies is likely to have substantial payoff over the medium- to long-term in terms of budgetary savings, due largely to reduced staffing requirements. In addition, the technology is likely to have significant benefits for coordination and information sharing among the tax agencies for enforcement and compliance purposes. Finally, such a shift will simplify filing requirements and result in reduced costs for taxpayers.

While converting to electronic filing and processing would result in annual savings for the state in the medium-to long-term, it is also important to note that investing in electronic technologies would require up-front investment by the state. (One potential means of addressing these costs is through alternative procurement, whereby the costs of implementation are "paid" through savings achieved through the project.) Given the complexity of the issues associated with electronic filing and processing, we recommend that BOE report at budget hearings regarding its medium- to long-term goals regarding this technology, including estimates of related savings and costs.

Staff Comment: As a point of comparison, FTB's CalFile program offers current-year free electronic filing directly on FTB's web site. In addition, FTB provides taxpayers with a variety of options for free and fee-based filing from private online tax software vendors. FTB's CalFile program is over ten years old and has the third largest share of usage by state citizen's in the country. In 2004, slightly over 50 percent of all returns were filed electronically. That share climbed to 60 percent in 2005.

Staff Recommendations: Request the Board of Equalization report on:

A. The status of efforts to convert existing paper tax filings and manual processing to electronic systems, including the agency's medium- to long-term goals regarding this technology as well as estimates of related savings and costs.

B. In light of the historic participation rates with CalFile, the basis for assuming 10 percent participation in the first year of electronic filing.

6. BOE Headquarters Window Repair. The Board of Equalization requests an augmentation of $12,292,000 ($1.43 million General Fund) for repairing the windows on the BOE's Sacramento headquarters building. Over the last few years progressive deterioration of the window gaskets has occurred, to the point where leaks are common and there is danger of windows falling away from or into the building.

In the 2004 Budget Act, the Legislature authorized $100,000 for a detailed budget package of project costs and directed the BOE to explore the possibility for holding the window manufacturer accountable for the window defects. DGS staff (working on behalf of the BOE) reported back that a one-year warranty on the gasket material had been originally negotiated several years ago and that litigation was not promising.

In order to implement the change, the BOE requests provisional language be added to Item 0860-001-0001:

Of the amount appropriated in Schedule (2) of this Item, $12,292,000 shall be for repair of the window curtain on the Board of Equalization's Sacramento headquarters building. The Board of Equalization shall use these funds to effect all window curtain repairs deemed necessary by the Department of General Services.

LAO Comment: The LAO has expressed concerns that the replacement schedule is particularly aggressive and may not afford time for a comprehensive testing of the prototype gasket. As an alternative, the BOE should be funded for preliminary plans only, with the working drawings and construction phases held over until a subsequent year. The additional time will afford the DGS (the agency directly responsible for the repair) the opportunity to fully test a prototype of the gasket material. The LAO recommends reducing the proposal by $11,923,000 to provide funding of $369,000 for the preliminary plans phase.

Staff Recommendation: Request DGS respond to concerns expressed by the LAO that the schedule is not realistic and will not allow for appropriate testing of the gasket material.

0890 Secretary of State

The Secretary of State (SOS) is the chief election officer of the State and is responsible for the administration and enforcement of election laws. The office is also responsible for the administration and enforcement of laws pertaining to filing documents associated with corporations, limited partnerships, and the perfection of security agreements. In addition, the office is responsible for the appointment of notaries public, enforcement of notary laws, and preservation of certain records with historical significance. All documents filed with the office are a matter of public record and of historical importance. The Secretary of State's executive staff determines policy and administration for Elections, Political Reform, Business Programs, Archives, Information Technology and Management Services Divisions. Total proposed budget expenditures are $76.4 million, of which $30.3 million is from the General Fund.

Summary of Expenditures (dollars in thousands)	2004-05	2005-06	$ Change	% Change
Programs				
Business Programs	$39,068	$41,353	$2,285	5.8%
Elections	249,129	17,653	-231,476	-92.9
Political Reform	3,329	2,537	-792	-23.8
Archives	13,834	14,131	297	2.1
Executive Administration	2,844	2,950	106	3.7
Distributed Executive Administration	-2,844	-2,950	-106	0.0
Management Services	5,646	5,063	-583	-10.3
Distributed Management Services	-5,266	-4,683	583	0.0
Information Technology	7,534	7,555	21	0.3
Distributed Information Technology	-7,216	-7,237	-21	0.0
Local Assistance	42,600	0	-42,600	-100.0
State Mandated Local Programs	4	0	-4	-100.0
Total, Programs	$348,662	$76,372	-$272,290	-78.1%
Fund Source				
General Fund	$40,466	$30,299	-$10,167	-25.1%
Secretary of State's Business Fees	31,034	33,319	2,285	7.4
Federal Trust Fund	266,100	1,700	-264,400	-99.4
Reimbursements	9,462	9,454	-8	-0.1
Victims of Corporate Fraud Compensation	1,600	1,600	0	0.0
Total, Fund Source	$348,662	$76,372	-$272,290	-78.1%

1. **Help America Vote Act (HAVA) Spending.** In the fall of 2002, Congress passed and the President signed legislation to fund improvements to states' election systems. HAVA funds have been appropriated nationwide with the direction to implement broad election reforms and improve the accuracy and performance of each state's voting processes. For California, these activities include developing a statewide voter database and replacing punch card voting machines with more modern

equipment. The 2004-05 budget appropriated an additional $264 million in federal funds for these purposes.

Since these federal funds were first released, the SOS has spent relatively little HAVA funds. The delay has primarily been due to the lack of a spending plan approved by the Administration and Legislature. Additionally, fund misuse and mismanagement (documented in a December 2004 Bureau of State Audits report) raised significant questions over how those HAVA funds have been spent.

In March, the Administration approved and submitted to the Legislature a proposed $280 million spending plan. This plan includes spending over a three-year period, with the bulk of spending ($201 million) occurring in the current year. The plan was reviewed by the Legislature and re-referred to the Administration and Secretary of State's Office with suggested points for reconsideration.

It is expected that once the plan is finalized, the 2005-06 components of the HAVA plan will be built into a formal May Revise proposal.

Staff Recommendation: The Secretary of State's Office should provide the Committee with an update on the status of the plan and any aspects of the HAVA expenditure plan that have been revised or reconsidered.

2. **Special Items of Expense.** The Governor's Budget includes an expenditure of $3.02 million for special items of expense to cover anticipated election costs in the budget year, i.e., the June 2006 election. These expenses include paying for the ballot pamphlet, voter registration cards, and election night reporting. This annual expense has been left unbudgeted for the last several years, resulting in the Secretary of State having to submit deficiency requests to pay the expenses—a practice inconsistent with the "unanticipated" criteria of deficiency requests.

   Staff Comment: The county's 2005-06 voter registration card needs include both the restocking of existing cards to meet HAVA requirements and filling county's quarterly replacement orders, a total roughly approximated at 20 million cards. The HAVA plan described previously includes only an expense item for restocking 10 million new cards and removing the current voter registration cards from circulation for the June 2006 election.

   An alternative to funding the quarterly replacements with General Fund would be to fully fund the voter registration card replacement with federal HAVA funds for the 2005-06 year.

   Staff Recommendation: Reduce the Special Items of Expense budget change proposal by $521,000 to reflect removal of the voter registration card funding. Voter registration card replacement costs are eligible HAVA expenditures. (Note: Because HAVA funding is one-time only, the Secretary of State's office will likely request funding next year to pay for the quarterly voter registration card requests.)

   Vote:

3. **Secretary of State Mandates.** The Secretary of State's budget includes the suspension of seven mandates. These mandates are: Absentee Ballots, Brendon Maguire, Voter Registration Procedures, Permanent Absentee Voters, Handicapped Voter Access, Presidential Primaries, and Absentee Ballots—Tabulation by Precinct. The seven proposed suspensions are expected to save the state a total of $16.5 million.

LAO Comments:
A. Repeal the handicapped voter access information and presidential primaries mandates.

Federal law now generally provides greater protections and rights for disabled voters than that of the handicapped voter access information mandate. For this reason, the mandate has been long suspended. We can find no policy reason why it is necessary to maintain the mandate's provisions in state law. Likewise, since Proposition 198 is no longer in effect, the provisions of the presidential primaries mandate no longer place any meaningful requirements on counties. We recommend that the Legislature repeal the handicapped voter access information and presidential primaries mandates. Repealing both mandates would not affect election procedures.

B. Fund the Legislature the Brendon Maguire Act and the Absentee Ballot—Tabulation by Precinct mandates. (Increase Item 0890-295-0001 by $8,000 and make conforming changes in Provision 1.)

In most years, since candidate deaths immediately prior to elections are rare, the provisions of the Brendon Maguire Act would not be triggered and the state would not incur any costs. If the Legislature wishes to change its policy regarding the death of candidates, providing a new statutory framework would be more appropriate than a year-to-year suspension of the mandate. Regarding the tabulation of absentee ballots, almost all of the mandate's costs were one-time in nature. Funding the continuation of the mandate would incur only minimal additional costs since counties are simply maintaining existing lists. Suspending the mandate and then reinstating it in future years, however, could be relatively much more expensive—since counties again could incur substantial one-time costs if they chose to abandon their lists during the suspension. Fully funding these two mandates would be consistent with prior legislative policy. We recommend that the Legislature fund the mandates. This recommendation would require a total appropriation of $8,000—$1,000 for the Brendon Maguire Act (since no costs are expected) and $7,000 for the tabulation mandate.

C. Under the Administration’s proposal, counties would have the option to maintain mandated procedures.

Other than the potential savings, the Administration has not provided the Legislature any policy rationale for the suspension of the mandates. By suspending the mandates, the requirements under state law become optional for local governments. In the context of these mandates, that means, for instance, that each county could decide whether to offer absentee ballots to voters who did not meet the pre-1978 criteria of being disabled or ill. Without a stated policy rationale, it is unknown whether the administration, through the suspensions, hopes to encourage election-related changes—such as a move away from uniform state laws to a more county-based system or a reduction in the use of absentee ballots.

Staff Comment: If the Brendon Maguire and Absentee Ballot—Tabulation by Precinct mandates are funded, the following technical budget bill provisions must be restored. (This language was removed as part of the Administration’s proposal to suspend all mandates.)

1. *Except as provided in Provision 2 of this item, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.*

2. *If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein.*

No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.

Staff Recommendations:

A. Fund the Brendon Maguire Act mandate by increasing Item 0890-295-0001 by $1,000, make conforming changes in Provision 1 of that item, and restore the two technical provisions displayed above.

B. Request the Department of Finance and LAO estimate the cost of the Absentee Ballot—Tabulation by Precinct mandate, increase Item 0890-295-0001 by that amount, and make conforming changes to Provision 1 of that item. (The LAO had originally estimated $8,000 for this mandate.)

C. Request the Department of Finance report on the policy rationale for suspending the Absentee Ballots mandate.

D. Adopt the LAO's recommendation to repeal the Handicapped Voter Access Information mandate and direct the LAO to prepare repeal language for inclusion in the Budget Bill.

E. Adopt the LAO's recommendation to repeal the Presidential Primaries mandates and direct the LAO to prepare repeal language for inclusion in the Budget Bill.

Vote:

4. **Suspended Mandates under Item 0890-295-0001.** The Administration proposes to amend budget bill language in Item 0890-295-0001 to reflect the suspension of the Handicapped Voter Access, Presidential Primaries, and Absentee Ballots: Tabulation by Precinct mandates. These mandates were shown as suspended in the Governor's Budget but inadvertently omitted from the Budget Bill.

   Staff Recommendation: Pursuant to the recommendation under Issue #3, reject the Finance Letter.

   Vote:

1730 Franchise Tax Board

The Franchise Tax Board (FTB) administers state personal income tax and corporation taxes for the State of California, collects debt on behalf of other state agencies and local entities, and performs audits of campaign statements and lobbyist reports authorized by the Political Reform Act of 1974. The FTB is tasked to correctly apply the laws enacted by the Legislature; to determine the reasonable meaning of various code provisions in light of the legislative purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view. Total proposed budget expenditures for the Franchise Tax Board are $699.6 million, of which $512.3 million is from the General Fund.

Summary of Expenditures (dollars in thousands)	2004-05	2005-06	$ Change	% Change
Programs				
Tax	$416,104	$422,096	$5,992	1.4%
Homeowners and Renters	5,688	5,199	-489	-8.6
Political Reform Audit	1,481	0	-1,481	-100.0
Child Support Collections	16,455	16,760	305	1.9
Child Support Automation	155,606	236,988	81,382	52.3
DMV Collections	5,568	5,647	79	1.4
Court Collection Program	5,762	5,966	204	3.5
Contract Work	7,344	7,408	64	0.9
Administration	23,051	23,051	0	0.0
Distributed Administration	-23,051	-23,051	0	0.0
Lease Revenue Bond Payment	7,410	7,410	0	0.0
Unallocated Reduction	-3,139	-7,840	-4,701	0.0
Total, Programs	$618,279	$699,634	$81,355	13.2%
Fund Source				
General Fund	$485,929	$512,273	$26,344	5.4%
Motor Vehicle Account	1,927	1,956	29	1.5
Motor Vehicle License Fee Account	3,640	3,691	51	1.4
Court Collection Account	5,762	5,966	204	3.5
Reimbursements	120,938	175,654	54,716	45.2
Other Funds	83	94	11	13.3
Total, Fund Source	$618,279	$699,634	$81,355	13.2%

1. **Tax Amnesty.** In accordance with Chapter 226, Statutes of 2004 (SB 1100, Committee on Budget and Fiscal Review) the Franchise Tax Board carried out a comprehensive tax amnesty program between February 1 and March 30, 2005. The tax amnesty provided an opportunity for individuals to pay past tax debts and the associated interest. All penalties were waived under the amnesty

program. Accompanying the amnesty program was a broad public awareness campaign (*It was probably just and oversight…*).

Those who were eligible for amnesty but opted not to participate now face significant penalties. These penalties include a new 50 percent penalty on accrued interest and an increased accuracy-related penalty for filers who understate their amount due.

Expected gross revenues from tax amnesty were $555 million from both individual and corporation filers.

Staff Comment: Recent reports show that the original revenue estimate has been vastly exceeded. With approximately 99 percent of amnesty applications processed, total revenues have reached nearly $4.4 billion. Approximately $3.4 billion of that sum is comprised of questionable "protective claims," described below.

It must be recognized, however, that this surplus contains revenue that is concentrated heavily in audit and settlement payments from corporations who made large protective payments. Many of these corporations opted to *pre-pay* tax amounts and dispute the true debt later, rather than be subject to the new penalties. What share of the $4 billion is comprised of protective payments is uncertain, although the Department of Finance has estimated that as little as 10 percent of the corporate payments are true additional revenues.

Staff Recommendation: Request that the Franchise Tax Board comment on the success of the program, in particular the reasons behind the considerably higher than expected amnesty participation and factors that will affect the final revenue number.

2. **Transfer of Child Support Collection Program Positions to DCSS.** The Administration proposes to reduce the Franchise Tax Board's (FTB) budget by $12,360,000 to facilitate the transfer of the Child Support Full Collection Program, together with 168.5 positions, from the FTB to the Department of Child Support Services. A corresponding augmentation proposal shows up in the DCSS budget. Chapter 806, Statutes of 2004 (AB 2358, Steinberg) transferred the program authority and responsibilities for the FTB Child Support Collection Program from FTB to DCSS. This Finance Letter proposes to make that transfer effective July 1, 2005.

   Staff Recommendation: Approve the Finance Letter.

   Vote:

3. **Unallocated Reduction.** The Administration included in the Governor's Budget an unallocated state operations reduction of $7.84 million for the Franchise Tax Board. The source of the reduction is unidentified, although the Governor's Budget Summary suggests layoffs, hiring freezes, procurement reductions, and other administrative means as options to achieve the required reduction.

   Staff Comment: While not uncommon in the state's budget-constrained years, the Legislature is generally wary of unallocated reductions as they can lead to reductions in Legislative priorities without appropriate review.

   The possibility that revenues would be adversely affected by FTB reductions was apparently considered but disregarded. No unallocated reduction was included in the Board of Equalization budget.

The FTB has expressed confidence that it can withstand the unallocated reduction without affecting revenues. With some assistance from the LAO, the FTB has already identified the following opportunities for budget year savings:

- Consolidating the Long Island and Manhattan field offices. The FTB is finalizing closure of the Long Island field office for a savings of $250,000.

- Cost savings of approximately $400,000 associated with the migration of tax return and remittance submissions from paper versions to electronic data.

- Savings of $200,000 to account for hiring auditors at the entry-level salary

Staff Recommendations:
A. Request the Franchise Tax Board confirm the expected savings from office consolidation, electronic tax data, and entry level position reduction adjustments identified above.

Vote:

4. Tax Gap Enforcement. The Administration has provided a budget change proposal to augment the Franchise Tax Board by $8.6 million and 99.2 positions to enhance "tax gap" (the difference between taxes owed to the state and what is paid) enforcement activities. According to FTB, the tax gap is primarily comprised of 80 percent under reporters, 10 percent nonfilers, and 10 percent who don't pay their full amount due. The tax gap is most harmful to the state's tax structure because: (1) those who pay their fair share are forced to pay higher taxes to cover the gap, and (2) tax collections are undermined by the public perception that some parties are not paying their fair share, suggesting those parties should do the same.

Estimated revenue gains from this budget change proposal are $34 million in 2005-06 (a 4-1 benefit-cost ratio) and $44 million in 2006-07.

The position and program components of this proposal include:
- 36.5 positions for detection of preparers filing fraudulent returns
- 31 positions to augment audit staff
- 14.9 positions to pursue additional information sources to identify nonfilers
- 3 positions to implement an informant award program
- 19 positions for underground economy criminal investigations

Trailer bill language provided with this proposal (see attachments) would implement the following:
A. Amend current law providing the mechanism to reward informants.
B. Increase rewards to persons who provide information on underpayment or underreported income. The reward would increase from up to 10 percent of the value of the underpaid or underreported amount to up to 15 percent.
C. Prevent attorneys who have engaged in underpayment or underreporting from testifying before the Board.
D. Require check cashers to notify the FTB of certain activities and penalize check cashers for a failure to provide that notification.

Staff Comment: While comprehensive in scope and mission, one component of the tax gap proposal raises concerns about appropriateness. With the informant reward program, it is unclear that incentivizing the turning in of one's neighbor to the tax authorities won't engender sufficient public distrust of the FTB that the $800,000 in new revenues won't be partially or completely offset. There is little other state precedent for this program and the federal informant program (which is not publicized) has had limited success.

Staff Recommendations:

A. Approve the budget change proposal with the informant award program removed (reduce Item 1730-001-0001 by $292,000).

B. Reject the trailer bill components that would implement the informant reward program (A and B described above).

Vote:

5. **Misdemeanor Program.** The Franchise Tax Board staff proposed to their Board, but subsequently withdrew, a proposal to establish a misdemeanor program in FTB's Investigations Bureau. The primary purpose of this program would be to step-up deterrence by prosecuting more errant taxpayers and publicizing the cases. This proposal would involve utilizing new technologies against the underground economy by focusing on taxpayers who participate in tax evasion and the underground economy but don't warrant felony prosecution.

   The Franchise Tax Board proposed 14 positions and $1,226,000 to implement this program. Anticipated revenues in the first year are $2.5 million, rising to $4-$5 million in subsequent years.

   Staff Comment: General budgeting practice is to fund revenue generating activities only to the extent the benefits are at least five times the cost. However, as the 4-1 benefit-cost ratio on the tax gap proposal above shows, this practice is not without exception. Other than the cost, there are other behavioral responses to factor in when evaluating new tax programs, including whether other taxpayers respond with greater or lesser compliance. With an informant reward program, greater compliance seems questionable. Misdemeanor prosecution of existing law, however, coupled with publicity of the cases, suggests a compliance effect that may exceed the objective 2-1 or 3-1 benefit-cost ratio.

   Staff Recommendations:

   A. The Franchise Tax Board should report on the assumptions of compliance behind the misdemeanor program and the extent to which that increased compliance is reflected in the stated benefit-cost ratio.

   B. The Department of Finance and Franchise Tax Board should comment on the policy rationale for the 5-1 benefit-cost benchmark standard.

6. **Questionable Wage Withholding.** The Franchise Tax Board staff proposed to the Board, but subsequently withdrew, a proposal to establish a program to educate employees and employers about the withholding process and their responsibilities, and use existing enforcement authority to take involuntary action to change withholding allowances for those underwithholders. The program would focus on taxpayers who are habitual underwithholders, have significant balances due, and earn a majority of their income from wages.

   The FTB estimates that 64,000 employers would be contacted to either provide copies of withholding documents or to change an employees withholding. The FTB expects that by contacting employers early to ensure that taxpayers are appropriately withheld throughout the tax year, they will dramatically reduce the need to issue approximately 30,000 annual wage levies to employers.

   The proposed funding for this activity is $1.5 million and 16 positions. Revenues in the budget year are estimated to be $3 million, rising to $35 million by 2007-08.

   Staff Comment: Similar to the Misdemeanor Program described above, the first year revenues do not meet the 5-1 benefit-cost criteria. Again, however, the 2-1 return in the budget year does not quantify the compliance effects of this largely public education campaign. As noted above, subsequent year revenues are expected to be much higher, growing to above 23-1 by the third year.

Those additional out-year revenues could contribute significantly to solving the state's long-term structural deficit.

Staff Recommendation: Request that the Franchise Tax Board comment on the assumptions behind the revenue estimate, particularly what part of the revenue estimate is based on compliance improvements stemming from the education campaign.

7. **Discovery Audits.** The Franchise Tax Board has historically utilized "Discovery Audits" to unearth valuable information in the areas of tax abuse and noncompliance. Discovery audits generally explore avenues of tax evasion that are new or not fully understood by the tax agency. Those findings are then referred to other auditing and collection programs that use that information to generate revenues many times the department's cost. Income underreporting, which accounts for 80 percent of the tax gap, is the primary focus of discovery efforts.

   According to the LAO, in recent years the FTB's discovery audit resources have been diverted to combat the explosive growth of abusive tax shelters. In 1999-00, FTB spent 23,000 hours on discovery audits. In the current year, only 5,000 hours will be spent on that activity. Discovery audits do not generally reach the 5-1 benefit-cost ratio previously described.

   Staff Comment: In response to questions from the staff and the LAO, the FTB has stated that it would require a total of 20 positions at a cost of $1.7 million (full year costs) to fully implement a multidisciplinary compliance discovery program. At full implementation, the estimated revenues would be sufficient to cover the costs. The FTB reports that augmentations below 20 positions would still be beneficial, although fewer issues could be explored.

   Staff Recommendation: Request that the FTB comment on the notable findings of past discovery audits, provide a refined revenue estimate for staffing a Discovery Audits Program at 20 positions, and articulate the assumptions behind that revenue estimate.

8. **Property Tax Assistance Positions.** The Administration proposes to terminate the Senior Citizens' Property Tax Assistance Program, augment the Senior Citizens' Property Tax Deferral Program, and scale back the Senior Citizens' Renters Tax Assistance Program. The impact of these proposals on FTB is a reduction of 12 positions and $575,000.

   Staff Comment: The property tax and renters' assistance proposals are discussed under the 9100 Item (Tax Relief) later in this agenda.

   Staff Recommendation: Consistent with the recommendations under the 9100 item, restore the 12 positions and $575,000 General Fund.

   Vote:

9. **Utilization of Tax Expenditures.** Tax expenditures (also known as tax loopholes) are used by governments to address perceived inequities in the tax system and to provide incentives for behaviors that may not naturally occur with the existing tax system. California's tax expenditures encourage behavior among a broad range of entities, from rice straw growers to renters and students to stock owners. These tax credits are particular to California or they may also be "conforming" tax expenditures that extend federal tax expenditures to the state level (e.g., the student loan interest deduction).

   As more tax expenditures are added and the economy evolves, the necessity for some tax expenditures becomes questionable. Tax expenditures reflect incentives at a point in time and may become less valuable, leading to a windfall situation for the eligible entity. In addition, tax expenditures complicate the tax code and reduce policy flexibility, hindering the Legislature and Administration from taking corrective action or simplifying tax code. Furthermore, tax expenditures, by their nature, increase the general tax rate necessary to fund the operations of the state.

Staff Comment: The following three items provide examples of questionable tax expenditures:

A. Home Mortgage Interest Deduction. Both federal and state law allows individuals to deduct the interest paid on a home loan for their principal or secondary residence, subject to certain limitations. Interest is deductible on loans of up to $1 million for first and second home loan purchases and up to $100,000 on home equity loans.

The basis of this deduction has come under some scrutiny in recent years. One consideration is the effect that the deduction has on home prices in California. As homeowners know, the amount of the deduction can influence the amount of house they will purchase. With the savings from the deduction the buyer can purchase a relatively more expensive home than they otherwise would. When widely practiced, this behavior can lead to home prices creeping upward, a burgeoning problem in this state.

In the 2004-05 Analysis, the LAO suggested an option of limiting the deduction to $600,000 on the first home only. The LAO estimated that the change would result in $580 million in new revenues in the first year and $525 million thereafter. A less dramatic alternative may be to limit the deduction to first homes only on a prospective basis.

B. "Water's Edge" Application: This tax expenditure allows unitary multinational corporations the option to compute income attributable to California on the basis of a water's edge (domestic) combined report, as opposed to a worldwide combined report. Under the water's edge application, a business elects to compute its California tax by reference to only the income and factors of a limited number of entities. Businesses will opt for either the water's edge or the worldwide income application for a seven year period. This commitment to a filing method is what creates the tax expenditure.

Recent bills have sought to amend the water's edge application and limit the offshoring of assets to avoid state taxes. A 2004 bill, AB 1571 (Alpert), proposed to clarify the water's edge application and prohibit a controlled foreign corporation from excluding its Subpart F income from a water's edge combined report, even if it is a California taxpayer or has income from a United States source. Existing law does not specify whether the United States-source income rules or the rules regarding "Subpart F" income, as defined in the Internal Revenue Code, apply to income of a controlled foreign corporation that has both United States-source income and Subpart F income.

C. Alternate Minimum Tax. The primary function of the state's alternative minimum tax (AMT) is to ensure that a base level of taxes is paid by businesses. This lower tax threshold, however, has been eroded by the proliferation of incentive-type tax credits to the point where some businesses are able to reduce their liability to below the AMT.

Staff Recommendation: The Franchise Tax Board should comment on the original rationale for these three tax expenditures, any statutory and constitutional considerations to amending them, and estimated revenue effects of

(a) limiting the mortgage interest deduction to first homes on a prospective basis,
(b) prohibiting Subpart F income on combined reports, and
(c) limiting the use of business incentive tax credits to reduce regular tax below the AMT.

1760 Department of General Services

The Department of General Services (DGS) provides management review and support services to state departments. The DGS is responsible for the planning, acquisition, design, construction, maintenance, and operation of the state's office space and properties. It is also responsible for the procurement of materials, data processing services, communication, transportation, printing, and security. Total proposed budget expenditures for the Department of General Services are $970.2 million, of which $250,000 is from the General Fund.

Summary of Expenditures (dollars in thousands)	2004-05	2005-06	$ Change	% Change
Programs				
Building Regulation Services	$145,946	$220,462	$74,516	51.1%
Real Estate Services	344,650	328,762	-15,888	-4.6
Statewide Support Services	417,798	397,668	-20,130	-4.8
Administration	35,714	36,274	560	1.6
Distributed Administration	-12,994	-12,994	0	0.0
Total, Programs	$931,114	$970,172	$39,058	4.2%
Fund Source				
General Fund	$15,000	$250	-$14,750	-98.3
State Emergency Telephone Number Account	152,902	144,894	-8,008	-5.2
State Motor Vehicle Insurance Account	28,455	29,248	793	2.8
Public School Planning, Design, & Construction Review Revolving	31,086	31,837	751	2.4
Architecture Revolving Fund	38,497	36,987		
Service Revolving Fund	630,125	696,658	66,533	10.6
2002 State Schools Facilities Fund	12,129	11,952	-177	-1.5
Other Funds	22,920	18,346	-4,574	-20.0
Total, Fund Source	$931,114	$970,172	$39,058	4.2%

1. FINANCE LETTERS PROPOSED FOR CONSENT:

A. **Custodial and Maintenance Services:** The Administration proposes $535,000 and 4.3 personnel years to allow the DGS to recover costs for operations and maintenance services provided to various client departments. Resources to reimburse the DGS are included in base budgets for the client departments.

B. **Prison Construction Inspection Staffing:** The Administration requests $1,098,000 and 7.0 personnel years to allow the Department of General Services (DGS) to recover costs associated with construction inspection services for the Department of Corrections, San Quentin. Resources to reimburse the DGS are included in the project budget.

C. **Stanford Mansion Operations and Maintenance:** The Administration requests $334,000 and 4.7 personnel years to allow the DGS to recover costs for operations and maintenance services provided to the Department of Parks and Recreation (DPR) for the Stanford Mansion. Resources to reimburse DGS are included in the 2005-06 Governor's Budget in the DPR budget.

D. **Department of Transportation San Diego Office Building:** The Administration requests $609,000 and 4.0 personnel years to allow the DGS to recover costs to operate and maintain the California Department of Transportation San Diego building which is scheduled for completion in June 2006. Resources to reimburse DGS are included in a corresponding Finance Letter for CalTrans.

E. **Local Assistance Seismic Grants – Reappropriation.** The City of Richmond has not advanced two seismic retrofit projects sufficiently such that current year costs will not be eligible for grant reimbursement. In response to the delays, the City of Richmond has adopted a new building process to enable completion of the two seismic retrofit projects in two years. An additional reappropriation would be necessary in 2006-07 to complete the projects.

The Administration requests that Item 1760-492 be added to reappropriate funding authorized by Proposition 122, the Earthquake Safety and Public Building Rehabilitation Bond Act of 1990. This item would reappropriate up to $1,833,588 for two local seismic grants that were reappropriated by Item 1760-492, Budget Act of 2004.

1760-492—Reappropriation, Department of General Services. The balance, as of June 30, 2005, of the funds appropriated pursuant to Item 1760-101-0768, Budget Act of 1994 (Ch. 139, Stats. 1994), as reappropriated by Item 1760-492, Budget Act of 2004 (Ch. 208, Stats. 2004), are reappropriated and shall be available for expenditure through June 30, 2007.

Schedule:
(1) 3116-Richmond, Contra Costa –City Hall……………………………………… 1,149,975
(2) 3117-Richmond, Contra Costa –Hall of Justice …………………………………. 683,613

Provisions:
1. After June 30, 2007, these funds will no longer be available for expenditure and shall not be reappropriated.

F. **Property Acquisition Law Account and Asset Sales**: The Administration requests that Item 1760-001-0002 be revised by amending the Budget Bill and adding trailer bill language related to the Property Acquisition Law Money Account and the management of the state's real property assets. The proposal included in the 2005-06 Governor's Budget would have required surplus property to be listed in the Budget Bill. This revised request would retain the current process of using an annual bill to declare properties surplus.

1760-001-0002

Provisions:
1. Of the amount appropriated in the item, $1,633,000 is a loan from the General Fund, provided for the purposes of supporting the management of the State's real property assets.
2. Repayment of loans provided for the purposes of supporting the management of the State's real property assets shall be repaid within 60 days of the close of escrow from the sale of surplus property, pursuant to Government Code Section 11011.
3. ~~The Director of General Services may sell, exchange, or lease for fair market value or upon those terms and conditions as the Director of General Services determines are in the best interest of the state, upon approval of a list of properties.~~ *To the extent that the annual surplus property*

listing enacted in separate legislation results in changes to workload related to management of the State's real property assets, the Director of Finance may adjust the amount of the General Fund loan and the total amount appropriated in this item not sooner than 30 days after notification has been provided to the Joint Legislative Budget Committee.

Staff Comment: The associated trailer bill language is included in the attachments section.

G. **Capital Outlay—Fund shift for Structural Retrofit of San Quentin Building 22.** The Administration requests to decrease General Fund support for the structural retrofit of the San Quentin Building 22 project by $5 million and increase Earthquake Safety and Public Buildings Rehabilitation Fund support by an equivalent amount.

H. **Trailer bill: Cash Management Issues.** The Administration proposes to amend statute to conform with current practice on prepayments for centralized state services to other departments. Current practice requires departments to prepay full annual amounts due to central service agencies (e.g. DGS) at the beginning of a 12-month period. In previous years, departments made quarterly or monthly payments to DGS for services, however, initial capital needs and reconciliation problems necessitated departments providing the full amount to DGS at the beginning of the year. Departments may and do receive return advances when requested. DGS would still be subject to SCO audit authority.

Trailer bill is as follows:

SECTION 1. Section 11260 of the Government Code is amended to read:
11260. After work is performed, services are rendered or materials or equipment are furnished pursuant to advances or transfers made under Sections 11257 and 11258, the State Controller shall *process* ~~adjust his accounts relating to said advances or~~ transfers ~~to provide for the crediting~~ from time to time *as requested by the state agency who performed the work.* ~~of funds or appropriations as set forth in Section 11259.~~ Any agency receiving an advance or transfer under Sections 11257 or 11258 shall remain fully accountable ~~therefor~~ *therefore* to the State Controller who shall audit as provided in Section 12410*.* ~~and apply expenditures in reduction of the applicable advance or transfer.~~

Staff Recommendation: Approve the Finance Letter issues A through H identified above.

Vote:

2. **Budget Change Proposal: Central Plant Water Quality Monitoring.** The Department of General Services requests an ongoing augmentation of $210,000 to fund monitoring and permit fees relating to the operation of the Department's Central Plant at 625 Q Street in Sacramento. This facility provides heating and cooling to 23 downtown Sacramento buildings.

   Staff Comment: Based on discussions and information provided, the ongoing regulatory compliance workload becomes uncertain after 2006-07. Factors such as the central heating and cooling plant renovation, research findings on the Department's water quality monitoring responsibilities, and other evolving environmental compliance requirements could significantly alter the Department's workload for this activity.

   Staff recommendation: Amend the budget change proposal to fund the water quality monitoring on a two-year limited term basis.

   Vote:

3. **Office of State Publishing Reduction.** The Administration proposes a reduction of $6.2 million and 120 positions at DGS' Office of State Printing (OSP). This proposed reduction follows declining state

agency printing contracts and a statewide shift to more digital technology printing and Internet publishing. The OSP has incurred $14.3 million in losses over the last ten years, including a $5.5 million loss in 2003-04 (a 27 percent revenue decrease). The department explains that the OSP's broad range of products preclude it from tailoring services and force it to charge non-competitive rates. These rates naturally drive state agencies to use outside vendors. Under this proposal, “core” OSP services to the Legislature and other state agency clients would be preserved.

In a related proposal, the Administration proposes to extend for one year the requirement that state agencies also request a bid from OSP when seeking services that the OSP currently provides. The Subcommittee adopted this language (for one year) during last year’s budget hearings.

SECTION 1. Section 14612.2 of the Government Code is amended to read:

14612.2. (a) Notwithstanding Chapter 7 (commencing with Section14850) of Part 5.5 of Division 3 of Title 2 of, or Section 14901 of, the Government Code, no agency is required to use the Office of State Publishing for its printing needs and the Office of State Publishing may offer printing services to both state and other public agencies, including cities, counties, special districts, community college districts, the California State University, the University of California, and agencies of the United States government. When soliciting bids for printing services from the private sector, all state agencies shall also solicit a bid from the Office of State Publishing when the project is anticipated to cost more than five thousand dollars ($5,000).

(b) This section shall remain operative only until the effective date of the Budget Act of ~~2005~~ *2006* or July 1, ~~2005~~ *2006*, whichever is later, and as of January 1, ~~2006~~ *2007*, is repealed, unless a later enacted statute that is enacted before January 1, ~~2006~~ *2007*, deletes or extends the dates on which it becomes inoperative and is repealed.

Staff Comment: In analyzing this proposal it was learned that an operating expense reduction that would normally accompany a staff reduction had been omitted from the proposal. Specifically, the general expense category did not show a corresponding reduction associated with the positions. To reflect this reduction fully and accurately, an additional reduction of $60,000 should be included.

Staff Recommendation: Approve the budget change proposal with an amendment to reflect an additional reduction of $60,000 in general expense. (Reduce Item 1760-001-0666 by $60,000)

Vote:

4. **Video News Releases.** DGS provides video production and other related services, such as billing, voice-over, and distribution to other state departments, often at rates well below private sector costs.

A recent addition to the department’s video production services has been the creation of video news releases (VNRs). Since December 2004, the Department of General Services has provided a centralized service for the production of VNRs for all state agencies. As of mid-March, DGS had provided voice-over services for five VNRs, including two non-DGS produced VNRs, and with more in the pipeline. Total DGS costs were $9,202 for the five VNRs.

Staff Comment: The production of VNRs to advocate for proposed regulations or other policy changes not already in statue raises serious concerns regarding the appropriate use of public funds. Specifically, the tenor and timing of VNRs cannot legally be such that it constitutes a promotional or lobbying effort, as that would constitute an invalid use of public funds. In the absence of clear statutory authority for the production and utilization of VNRs, it appears that the state will expose itself to litigation by continuing that activity.

In discussions with the department, it was explained that a single employee facilitates the VNR services for DGS and other departments. This employee is an exempt position with the title of

"Assistant Director, Public Affairs" and is paid at a salary of $88,000/year.

Staff Recommendations:

A. Delete the Assistant Director position and associated staff benefits and operating expense (savings of approximately $135,000).

B. Request that DGS explain their rationale for establishing a VNR production service and clarify the legal boundaries for the production of VNRs.

5. **Reduce Travel Costs by Booking Online:** The Governor's California Performance Review (CPR) provided a recommendation that DGS should: (1) establish new travel policies to limit travel agents, book online, and find best possible fare and (2) advantage of deals offered in Southwest's SWABIZ program and United Airlines Travel Program (UTAP) for business customers. Estimated savings for these changes are $14.9 million annually, based on shifting to making 80 percent of bookings online and saving 30 percent on online fares.

Subsequent to the release of the CPR, DGS initiated a pilot project to study the savings that could be achieved by shifting more bookings to SWABIZ online. During two three-month phases studying contract fares versus SWABIZ fares over 1,200 flight segments (one-way of a flight), it was noticed that significant savings could be had. Specifically, the DGS has estimated that based on the 134,000 transactions executed in 2004, a potential $7.1 million in savings could be generated.

Staff Comment: Without a consistent approach to airline bookings, the state is subject to unnecessarily high costs for tickets. Furthermore, with department budgets built with a blanket travel sum, if that amount happens to be generous, saving on flight costs may not be a high departmental priority. An online filing directive, coupled with an economical airline, seems a prudent first step in minimizing travel costs.

Staff Recommendations:

A. Request that the department quantify costs and describe changes to departmental procedures needed to generate the estimated $7.1 million in savings.

B. It is further requested that the department comment on:
- (1) the revenue difference between the CPR proposal and findings of the pilot, and
- (2) the possibility that SWA frequent flier miles may be perceived as a gift of public funds, and,
- (3) the potential for additional savings associated with utilizing the UTAP program and other business economy options.

6. **Clarifying Provisional Authority for Workload Adjustments.** The Department of General Services' budget item 1760-001-0666 includes authority for the department to increase spending authority from their revolving funds in order to provide services or purchase equipment for departments. That expenditure authority is usually reflected in the DGS budget. However, on some occasions, DGS is not aware of the corresponding expenditure authority provided to the client department. On those occasions, DGS must utilize the authority provided in this budget item to accommodate the client department's request.

According to DGS, as a service provider to other departments, there are times when they need to increase its expenditure authority to accommodate unanticipated department requests.

LAO Comment: Departments examine their workload on an annual basis. If workload has increased, then the department should request additional resources through the annual budget process. This process provides the Legislature with the opportunity to review the proposal and then make decisions on the proposal *before* the department has actually hired staff and increased expenses. Under prior administrations, this was the practice, and DGS submitted workload growth requests through the annual budget process. Under the current administration, however, DGS has interpreted the budget provisions to allow anticipated workload growth increases. This interpretation unnecessarily limits the oversight role of the Legislature.

LAO Recommendation: It is important for DGS to be able to accommodate unanticipated department requests without delaying purchases or disrupting services. We also believe, however, that requests for anticipated workload should be provided during the annual budget process. In our view, DGS should follow the same process for anticipated workload growth increases as other departments. For this reason, we recommend that the Legislature clarify DGS' provisional authority to only authorize increases for unanticipated expenses.

Staff Comment: The following budget bill language will preserve DGS' authority, while clarifying that the provisions of item 1760-001-0666 should not be used for anticipated expenses. In addition, staff notes that the reporting requirements contained in provision 6 of item 1760-001-0666 do not currently require sufficient information for appropriate Legislative review and should be amended as displayed below.

Provisions 3, 4, and 6 of Budget Item 1760-001-0666:

3. The Director of General Services may augment this item or any of Items 1760-001-002, 1760-001-0003, 1760-001-0026, and 1760-001-0602, by up to an aggregate of 10 percent in cases where (a) the Legislature has approved funds for a customer for the purchase of services or equipment through the Department of General Services (DGS) and the corresponding expenditure authority has not been provided in this item or (b) a local government entity or the federal government has requested services from the DGS. Any augmentation that is deemed necessary on a permanent basis shall be submitted for review as part of the normal budget development process. If the Director of the Department of General Services augments this item or Items 1760-001-002, 1760-001-0003, 1760-001-0026, and 1760-001-0602, the DGS shall notify the Department of Finance within 30 days after that augmentation is made as to the amount, justification, and the program augmented. Any augmentation made in accordance with this provision shall not result in an increase in any rate charged to other departments for services or the purchase of goods without the prior written consent of the Department of Finance. *The Director of General Services shall not use this provision to augment this item or Items 1760-001-002, 1760-001-0003, 1760-001-0026, and 1760-001-0602 for costs that the DGS had knowledge of in time to include in the May Revision.*

4. If this item or Item 1760-001-002, 1760-001-0003, 1760-001-0026, and 1760-001-0602, is augmented pursuant to Provision 3 by the maximum allowed under that provision, the Director of Finance may further augment the item or items in cases where (a) the Legislature has approved funds for a customer for the purchase of services or equipment through the DGS and the corresponding expenditure authority has not been provided in this item or (b) a local government entity or the federal government has requested services from the DGS. Any augmentation that is deemed to be necessary on a permanent basis shall be submitted for review as part of the normal budget development process. *The Director of Finance shall not use this provision to augment this item or Items 1760-001-002, 1760-001-0003, 1760-001-0026, and 1760-001-0602 for costs that the Departments of Finance or General Services had knowledge of in time to include in the May Revision.*

6. Any augmentation made pursuant to Provisions 3 and 4 of this item shall be reported in writing to the chairpersons of the fiscal committees of each house and the Chairperson of the Joint Legislative Budget Committee within 30 days of the date the augmentation is approved. This notification shall ~~identify the amount~~ *be provided in a format consistent with normal budget change requests, including the amount, identification* of, and justification for, the augmentation, and the program that has been augmented. Copies of the notification shall be provided to the Department of Finance.

Staff Recommendation: Amend provisions 3, 4, and 6 of Item 1760-001-0666 in accordance with the revisions above.

Vote:

7. **Lowering the State's Cost for Prescription Drugs:** In *The 2005-06 Budget: Perspectives and Issues*, the LAO focuses on about $400 million of the State's $4.2 billion in annual prescription drug purchases to identify areas where significant savings can be achieved. In general, the identified savings are achievable by increased collaboration among the Department of Corrections, DGS, University of California, and various health departments, in their practices of buying, delivering, and utilizing prescription drugs.

   LAO Issue: State agencies purchase about $4.2 billion annually in prescription and nonprescription drugs. These agencies purchase the drugs as part of their responsibilities to deliver health care services to their program recipients. For example, the Department of Mental Health (DMH) provides medications to patients residing in state hospitals. The Public Employees' Retirement System (PERS), as part of its health care coverage plans, pays for medications for public employees, their dependents, and retirees. Figure 1 identifies major state entities that purchase drugs, the primary recipients of those drugs, and the annual purchase amounts.

Figure 1

Annual State Drug Purchases

2003-04[a]

(All Funds)

Entity	Drug Purchase Amount (In Millions)	Recipients Served
Medi-Cal	$3,150.0b	Medi-Cal recipients
Public Employees' Retirement System	640.0	Public employees, dependents, and retirees
University of California	223.0	Students, clinics, and hospital patients
Corrections	128.5	Inmates
Mental Health	30.1	State hospital patients
Developmental Services	15.3	Developmental center residents
Alcohol and Drug Programs	4.5	Narcotics treatment clients
Veterans' Affairs	3.3	Veterans' home residents
California State University	2.0	Students
California Youth Authority	1.8	Wards
Total	**$4,194.0**	

a Legislative Analyst's Office estimates based on the best available data.

b Net of rebates. Amount does not include Medi-Cal managed care drug expenditures.

According to the Congressional Budget Office, the growth in prescription drug costs has outpaced every other category of health expenditure. California, like all other states, has experienced this growth in prescription drug costs. According to a 2002 Bureau of State Audits review, the five state agencies that most frequently purchase drugs experienced an annual average increase of 34 percent in their drug costs from 1996 to 2001.

Our report identifies recent actions that have helped lower some drug costs, examines state agencies' purchasing practices, and makes recommendations for improving the state's costs for drug purchases. The report focuses on the $400 million in annual drug purchases which are most directly affected by the state's procurement and administrative operations.

Staff Comment: Key LAO concerns in procurement and administrative practices included:

- State Is Paying Non-Medi-Cal Drug Prices for Medi-Cal Patients
- DGS Not Providing Sufficient Leadership
- Insufficient Collaboration Among State Agencies
- Multiple Formularies Redundant
- CDC Pharmacy Operations Need Improvement

In working with departments, Legislative staff, and others, the LAO has provided the following six statutory and budget bill recommendations (A through F):

A. Require Collaboration Among State Drug Purchasers
(Adopt the following as trailer bill language)

It is the intent of the Legislature that the Department of General Services, University of California, and the Public Employees Retirement System share information on a regular basis with regards to each agency's drug purchasing activities. The sharing of information shall include, but is not limited to, prices paid for the same or similar drugs and information regarding drug effectiveness. It is the intent of the Legislature that the agencies meet, share information, and identify and implement joint cost savings activities that are mutually beneficial to the participating agencies. By January 10, 2006, and annually thereafter, the Department of General Services shall report to the Chairperson of the Joint Legislative Budget Committee and the chairs of the fiscal committees of both houses of the Legislature on the collaboration activities that the Department of General Services, University of California, and the Public Employees Retirement System conducted in the last 12 months and the savings attributable to joint drug cost savings from those activities. It is not the intent of the Legislature for the Department of General Services to disclose information which may adversely affect potential drug procurements conducted by the participating agencies.

B. Direct the University of California and DGS to Identify Consolidated Drug Purchasing Activities
(Adopt the following as trailer bill language)

The Department of General Services shall work with the University of California to identify opportunities for consolidating the drug purchases made by both agencies, in order to lower each agency's costs for prescription drugs. It is the intent of the Legislature that the University of California cooperates with the Department of General Services in these efforts.

C. Require DGS to Develop Annual Work Plan for Purchasing Drugs
(Adopt the following as trailer bill language)

The Department of General Services shall develop a work plan on an annual basis that includes, but is not limited to, a description of the department's annual activities to lower the state's costs for prescription drugs and the estimated savings that these activities are expected to achieve. The department shall use the work plan when reporting to the Legislature on estimated and achieved savings resulting from drug purchasing activities. It is not the intent of the Legislature for the department to include or disclose information which may adversely affect potential drug procurements.

D. Require DGS Participation in Drug Reviews
(Adopt the following as trailer bill language)

The Department of General Services shall participate in at least one independent group that develops information on the relative effectiveness of prescription drugs.

E. Direct DGS and CDC to Compare Potential Methods to Control Parolee Drug Costs
(Adopt budget bill language for Budget Item and 1760-001-0666. Department of Corrections budget item 5240-001-0001 will be separately amended)

It is the intent of the Legislature that the state provide parolee medications in the most cost-effective manner. In deciding how to purchase parolee medications, the Department of Corrections, in consolidation with the Department of General Services, shall consider, but not be limited to, contracting with a pharmacy benefits manager and purchasing medications under pharmacy contracts used for prison inmates. The department shall compare the cost of such options and choose the lowest cost option(s).

F. Increase DGS Staff in Order to Create More Drug Contracts
(These additional positions would consist of one Pharmaceutical Consultant II and two Associate Materials Analysts.)

Increase Budget Item 1760-001-0666 by $306,000 and authorize three additional positions.

AB 76 (Frommer) was introduced this year to address many of the concerns identified in the *Perspectives and Issues* report. The bill seeks to create an Office of Pharmaceutical Purchasing in the Health and Human Services Agency, an office that would have the authority and duties to purchase prescription drugs for state agencies similar to the authority of DGS. If AB 76 should become chaptered, some of the statutory changes recommended by the LAO may no longer be necessary.

Chapter 409, Statutes of 2004 (AB 79, Dutra) placed a moratorium on several written reports to the Legislature until January 1, 2008. Included in the suspended reports is a requirement that DGS report on options and strategies related to prescription drug procurement, shown below as it appears in Government Code:

> 14981. On or before February 1, 2005, the department shall submit a report to the appropriate policy and fiscal committees of the Legislature on activities that have been or will be undertaken pursuant to this chapter. The report shall include, but not be limited to, all of the following:
>
> (a) The number and a description of contracts entered into with manufacturers and suppliers of drugs pursuant to Section 14977.1, including any discounts, rebates, or refunds obtained.
>
> (b) The number and a description of entities that elect to participate in the coordinated purchasing program pursuant to Section 14977.5.
>
> (c) Other options and strategies that have been or will be implemented pursuant to Sections 14978 and 14980.
>
> (d) Estimated costs and savings attributable to activities that have been or will be undertaken pursuant to this chapter.

Staff Recommendations:

A. Adopt the budget and trailer bill language identified in LAO recommendations A through F, including the three position augmentation and $306,000.

B. Request the LAO and Finance identify the savings associated with these changes and report to the Subcommittee.

C. Add the Government Code 14981 reporting language above to the provisions of 1760-001-0666, amended for reporting by February 1, 2006.

Vote:

2100 Department of Alcoholic Beverage Control

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

The Governor's Budget proposed total expenditures of $44.8 million (no General Fund) - an increase of $99,000 from the current year.

1. **Licensing and Compliance System IT Project (FL #3**). The Department requests the following budget changes related to this IT project, which was approved by the Legislature with the 2004-05 budget:

   - Revert project funding of $961,000 (special fund) as of June 30, 2005.
   - Augment 2005-06 project funding by $710,000 (special fund).

   The Licensing and Compliance System (Phase II) replaces a 1993 system which is nearing obsolescence. These budget changes are requested because the approved Feasibility Study Report anticipated an expedited procurement process, but the Department of General Services required a traditional procurement. The longer procurement means that ABC will not be able to encumber the funding before it reverts. This request does not change the total one-time project cost of $2.0 million, it just adjusts the year of appropriation.

   Staff Recommendation: Approve this request. This is a technical change which does not change the approved level of funding.

   Vote:

ABC Issue for Discussion

1. **Office Renovations (BCP #1).** The Department requests a total of $246,000 (special fund) in one-time funding - $100,000 for renovations in the Van Nuys State Building and $220,000 for renovations in the Santa Ana State Building. The request also includes headquarters office renovations and savings from new leases such that the request totals $246,000. Improvements include new modular workstations as well as changes to doors and walls.

   Staff Comment: This issue was previously heard at the March 2 Subcommittee hearing. At the hearing, ABC indicated that it would be their preference to move to other facilities, however, the Department of General Services (DGS) requires the identification a replacement tenant as a condition of the move and no replacement tenants have been identified. This issue was held open and placed in this hearing with the DGS budget so DGS would be available to testify on this issue.

   DGS Response: In response to questions from staff, DGS indicates these state-owned facilities are in “good operating condition.” DGS states it is acting in compliance with the State Administrative Manual Section 1310.3, which says “Existing state-owned or state-controlled space will be utilized before the leasing of additional space is considered.” DGS has been working with ABC for five years to find a replacement for the Santa Ana facility.

   Discussion Questions: The Subcommittee may wish to ask DGS and ABC the following questions:
   DGS – What further efforts can DGS make to find a backfill tenant for ABC and then find more suitable office space for ABC? What is the prospect for success?
   ABC – If the BCP for Office Renovations is approved, will ABC continue to request to move into new office facilities?

   Staff Recommendation: Approve the BCP request.

   Vote:

9100 Tax Relief

California offers a variety of tax relief programs by appropriating funds through a reduction in rates or nonrefundable tax credits. The state also provides the following tax relief through the appropriation of funds for payments to individuals or reimbursement of local agencies. Tax relief proposed in 2005-06 totals $539.4 million, all of which is General Fund.

Summary of Expenditures (dollars in thousands)	2004-05	2005-06	$ Change	% Change
Programs				
Senior Citizens' Property Tax Assistance	40,494	0	-$40,494	-100.0%
Senior Citizens' Property Tax Deferral	$11,900	$16,600	4,700	39.5
Senior Citizen Renters' Tax Assistance	142,636	42,507	-100,129	-70.2
Homeowners' Property Tax Relief	433,200	440,000	6,800	1.6
Subventions for Opens Space ("Williamson Act")	39,388	39,661	273	0.7
Substandard Housing	0	0	0	0.0
Vehicle License Fee Offset	0	0	0	0.0
State-Mandated Local Programs	0	658	658	0.0
Total, Programs	$667,618	$539,426	-$128,192	-19.2%
Fund Source				
General Fund	$667,618	$539,426	-$128,192	-19.2
Total, Fund Source	$667,618	$539,426	-$128,192	-19.2%

1. **Senior Citizens' Property Tax Assistance and Senior Citizens' Property Tax Deferral**. The Administration proposes to eliminate the Senior Citizens' Property Tax Assistance Program, a reduction of approximately $40 million, and partially offset that reduction by expanding the Senior Citizens' Property Tax Deferral Program. The net budget savings are $35.7 million. Based on participation in 2003-04, this reduction will affect 156,000 seniors, blind, and disabled. The Administration would raise the income threshold for the Senior Citizens' Property Tax Deferral Program to $39,000 to capture some of the individuals who lost property tax assistance.

   The Department of Finance has provided trailer bill language that would implement these provisions (see attachment).

   Staff Comment: The understood intent of the change is to shift from state grants to a long-term property tax deferment program. By participating in the deferment program, the state places a lien on the home to be paid after the owner and his/her spouse passes on.

The LAO has raised concerns about the shift over to the deferral program. Specifically, additional participation from those currently in the property tax assistance program is highly uncertain. The LAO notes that assume only 5 percent (7,826) of those participating in the Senior Citizen Property Tax Assistance Program choose to participate in the deferral program, there would be additional costs of over $10 million.

In a separate budget development that affects many of the same recipients of the property tax assistance, the Governor's Budget proposes to eliminate both the state and federal cost-of-living adjustments (COLAs) to SSI/SSP grants. Consequently, the proposed reductions in homeowners and renters assistance will result in an overall reduction in total income to SSI/SSP beneficiaries who have no other sources of support

Staff further notes that senior and disabled homeowners with incomes under $24,000 (or $34,000 in some cases) already qualify for both the assistance and deferral programs (the assistance payments reduce the amount of the lien). For these homeowners, the budget proposal means not an even exchange, but an erosion of state support.

Staff Recommendations:

A. Restore the Senior Citizen's Property Tax Assistance Program, (augment Item 9100-101-0001 by $40.5 million).

B. Reject the trailer bill language.

C. Reduce the Senior Citizen's Property Deferral Program by $4.7 million to reflect funding aligned with prior year participation rates.

Vote:

2. **Senior Citizens Renters' Assistance.** The Administration proposes to reduce benefits to seniors participating in the Senior Citizens Renters' Tax Assistance Program by $100.1 million, scaling back benefits to 1998 levels. The Department of Finance has provided trailer bill that would implement these provisions (see attachment).

Staff Comment: The Administration's proposal would lower eligibility to the Senior Citizens Renters Tax Assistance from persons making $37,300/year to those making $13,200/year—slightly above the federal poverty line for a family of two.

Unlike the property tax deferment proposal, the Governor's Budget does not include any other program expansion to offset portions of this reduction. However, some senior and disabled renters who have enough income to have a state income tax liability would continue to be eligible to claim the Renters' Credit on their income tax return. The Renters' Credit is $60 (single) or $120 (married) and is available to renters with incomes up to about $30,000 (single) or $60,000 (married). However, many low-income seniors and disabled persons have no state income tax liability or too little liability to obtain the full benefit of the Renters' Credit.

Similar to the property tax assistance recipients, the proposed reductions in renters' assistance will result in an overall reduction in total income to SSI/SSP beneficiaries who have no other sources of support.

Staff Recommendation:

A. Restore Senior Citizen Renters' Assistance Program to the level it otherwise would have been budgeted without the Governor's reduction proposal (augment Item 9100-101-0001 by $100.1 million).

B. Reject the associated trailer bill language.

Vote*:*

3. **County Auditor Redevelopment Tax Report Mandate.** In accordance with Chapter 1124, Statutes of 2002 (AB 3000, Budget Committee), the LAO has reviewed the new mandate entitled "Redevelopment Agencies—Tax Disbursement Reporting."

LAO Comment: State law requires redevelopment agencies to deposit 20 percent of their tax increment revenues into Low and Moderate Income Housing Funds and use these monies to develop affordable housing. In 1997, the Legislature's Task Force on Redevelopment Agencies' Affordable Housing Reports concluded that it was difficult for private and public agencies to monitor redevelopment agency compliance with this state law because data regarding tax increment revenues were not readily available. To address this problem, the Legislature enacted Chapter 39, Statutes of 1998 (SB 258, Kopp), requiring county auditors to prepare annual tax disbursement statements for each redevelopment agency project area.

In November 2002, the CSM determined that county auditor work to prepare these tax statements was a state-reimbursable mandate and estimated the statewide cost of this mandate to be $65,300 (for costs through 2004-05).

LAO Recommendation: The State Controller's Office (SCO) annually publishes detailed reports on the financial transactions of redevelopment agencies, including all information that Chapter 39 requires county auditors to report. Because other sources of data regarding redevelopment tax increment revenues have become readily available in recent years, we recommend the Legislature repeal this mandate by deleting the requirement that auditors prepare these reports.

Staff Recommendation: Adopt the LAO's recommendation and direct the LAO to prepare repeal language for inclusion in the Budget Bill.

Vote:

Proposed Control Section 8.53

1. **Notice of Federal Audits**. The federal government periodically audits states to verify that federal funds are appropriately utilized. When their audits find ineligible or inappropriate expenditures, the federal government releases a draft audit describing the reasons for and amount of reduction to the Administration alone. Under current practice, the Legislature is notified of the amounts of audited reductions only after budget reductions have occurred.

   Staff Comment: A recent federal audit of Medi-Cal expenditures resulted in a more than $5 million General Fund reduction to the current year budget. Based on recent federal trends, the frequency of audits is expected to grow, particularly in the area of Medi-Cal expenditures.

   In order to keep the Legislature abreast of current year budget developments and enable appropriate oversight on the use of federal funds, it is recommended that departments provide the Joint Legislative Budget Committee with copies of draft and final audits.

   Staff Recommendation: Adopt Control Section 8.53 with the following language.

   > *It is the intent of the Legislature that changes to the enacted budget be communicated to the Legislature in a timely manner. Notwithstanding any other provision of law, issuance of draft and final federal audits shall be provided to the Chairperson of the Joint Legislative Budget Committee not less than 10 days after any state agency, department, or other state entity receives a copy of that federal audit. Notification shall include a copy of a draft or final federal audit.*

   Vote:

Control Section 33.50

Strategic Sourcing Initiative. Control Section 33.50, the statewide authority for "strategic sourcing" would renew the Administration's efforts to leverage the State's buying power to facilitate bulk purchasing. The Administration's strategic sourcing concept involves analyzing what the state is buying, market conditions, and potential suppliers.

The Administration proposes to extend the "Strategic Sourcing" initiative and generate $96 million in savings in 2005-06. This target is the same amount originally budgeted for the current year, but was later revised down to $48 million.

The Department of Finance has provided related trailer bill language. This language would streamline reporting to the Legislature on contract award information (e.g., whether the firm is operated by a disabled veteran, the race of the awardee, the gender of the awardee, etc.) by utilizing centralized technologies to gather that information.

Staff Comment: Control Section 33.50 language in the 2004 Budget Act requires reporting to the Legislature before appropriations may be adjusted. This reporting language does not appear in the Budget Bill for 2005-06. The Department of Finance has acknowledged this inadvertent omission and suggested the following amendment:

> SEC. 33.50. Notwithstanding any other provision of law, the Director of Finance is authorized to reduce amounts in items of appropriation in this act for the 2005-06 fiscal year to reflect savings resulting from California's Procurement Initiative for the 21st Century. *At least 30 days prior to the reduction of any item of appropriation, the Director shall notify the Joint Legislative Budget Committee identifying the amounts that will be set-aside prior to the availability of actual savings data. This information shall be revised and updated to reflect actual savings data at the time of the May Revision.*

In a separate Governor's Budget savings proposal, the Administration proposes to make unallocated reductions totaling $150 million across several departments. According to the Governor's Budget summary, "procurement reductions" (page 198) are a valid means for a department to meet the unallocated reduction requirements, suggesting that double counting of strategic sourcing savings may occur.

Staff Recommendation:

A. Adopt the amended budget bill language.

B. Adopt the proposed trailer bill language.

C. The Department should also report to the Committee:
   (1) The latest estimate of current year savings and efforts made to prevent overstatement of savings in the current year.
   (2) The new strategic sourcing practices or changes that will generate twice as much savings as the current year.
   (3) Safeguards in place to prevent double counting in the budget year (e.g. counting unallocated reductions as strategic sourcing savings).

Vote:

TRAILER BILL

Franchise Tax Board Trailer Bill:
Tax Gap Enforcement

Section 1789.30 of the Civil Code is amended to read:

1789.30. (a)(1) Every check casher, as applicable to the services provided, shall post a complete, detailed, and unambiguous schedule of all fees for (1) cashing checks, drafts, money orders, or other commercial paper serving the same purpose, (2) the sale or issuance of money orders, and (3) the initial issuance of any identification card. Each check casher shall also post a list of valid identification which is acceptable in lieu of identification provided by the check casher. The information required by this section shall be clear, legible, and in letters not less than one-half inch in height. The information shall be posted in a conspicuous location in the unobstructed view of the public within the check casher's premises.

(2) Every check casher that cashes checks totaling more than ten thousand dollars ($10,000) in either one transaction or two or more transactions for the same person within the calendar year shall file the report required by Section 18631.7 of the Revenue and Taxation Code.

(b)(1) Except as provided in paragraph (2), this ~~This~~ section shall become operative December 31, 2004.

(2) Paragraph (2) of subdivision (a) shall be operative for checks cashed on or January 1, 2006.

Section 18631.7 is added to the Revenue and Taxation Code to read:

18631.7. (a) Any check casher engaged in the trade or business of cashing checks that, in the course of that trade or business, cashes checks totaling more than ten thousand dollars ($10,000) in one transaction or two or more transactions for the same person within the calendar year, shall file a report with respect to that transaction or transactions with the Franchise Tax Board.

(b) The report required in subdivision (a) shall be filed no later than 90 days after the end of the calendar year and in the form and manner prescribed by the Franchise Tax Board, and shall, at a minimum, contain:

(1) The name, address, taxpayer identification number, and any other identifying information of the person presenting the check that the Franchise Tax Board deems necessary, and

(2) The amount and date of the transaction or transactions.

(c) For purposes of this section:

(1) “Check casher” as used in this section means any person as defined under Section 1789.31 of the Civil Code.

(2) “Checks” includes warrants, drafts, money orders, and other commercial paper serving the same purpose.

(d) A person that fails to file a report required by this section shall be subject to the same civil and criminal sanctions applicable to a person that fails to file a return under Section 6050I of the Internal Revenue Code.

Section 19523.5 is added to the Revenue and Taxation Code to read:

19523.5. (a) If the Secretary of the Treasury has, under the authority of Section 330(b) of Title 31 of the United States Code, suspended or disbarred a person from practice before the Department of the Treasury, the Franchise Tax Board shall, after notice and opportunity for a proceeding, suspend or disbar that person from practice before the Franchise Tax Board during the period of federal suspension or disbarment, unless the action of the Secretary of the Treasury was clearly erroneous.

(b) For purposes of this section:

(1) “Practice" or "practices" means all matters connected with a presentation to the Franchise Tax Board or any of its officers or employees relating to a taxpayer’s rights, privileges, or liabilities under laws or regulations administered by the Franchise Tax Board.

(2) “Presentations” means, but is not limited to, preparing and filing documents, corresponding and communicating with the Franchise Tax Board, and representing a client at conferences, hearings, and meetings.

(c)(1) Every person who practices before the Franchise Tax Board and is suspended or disbarred from practice before the Department of the Treasury shall notify the Franchise Tax Board in writing within forty-five days of the issuance of a final order disbarring or suspending the person pursuant to Section 10.80 of Title 31, Code of Federal Regulations, Subtitle A, Part 10, revised as of July 26, 2002.

(2) Any person that fails to notify the Franchise Tax Board pursuant to paragraph (1) shall be subject to a penalty of $5,000.

(d) The written notice required by subdivision (c) shall concede the accuracy of the federal action or state why it is clearly erroneous.

(e) Any person that has been suspended or disbarred from practice before the Franchise Tax Board may seek review of that determination by bringing an action pursuant to Section 1085 of the Code of Civil Procedure.

(f) The Franchise Tax Board may prescribe any regulations necessary to carry out the purposes of this section.

(g) This section shall be effective for final federal orders of disbarment or suspension issued on or after the enactment date of this act.

Section 19525 of the Revenue and Taxation Code is amended to read:

19525. <u>(a)</u> The Franchise Tax Board~~, under regulations prescribed by the Franchise Tax Board~~ may establish a reward program for information resulting in the identification of <u>the following:</u>

<u>(1) U</u>nderreported or unreported income subject to taxes imposed by Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

<u>(2) Violations (including conspiracies to violate) described in Chapter 9 (commencing with section 19701) of this part.</u> ~~Any reward may not exceed 10 percent of the taxes collected as a result of the information provided. Any person employed by or under contract with any state or federal tax collection agency shall not be eligible for a reward provided for pursuant to this section.~~

<u>(b) The rewards provided under this section will be paid from the proceeds of amounts, other than interest, collected as a direct result of the information provided.</u>

<u>(c) Proceeds of amounts, other than interest, collected as a direct result of the information provided includes both:</u>

<u>(1) Additional amounts collected as a direct result of the information provided, and</u>

<u>(2) Amounts collected prior to receipt of the information if the information leads to the denial of a claim for refund that otherwise may have been paid.</u>

<u>(d) (1) Any person, other than a person described in paragraph (2), that submits, in the manner described in subdivision (f), information relating to underreporting, nonreporting, or a violation described in subdivision (a), is eligible to file a claim for reward under this section.</u>

<u>(2) No person who was a member, officer, agent, or employee of the Franchise Tax Board, the State Board of Equalization, the Employment Development Department, or the United States Department of the Treasury at the time the individual came into possession of information relating to the violations, or at the time the individual divulged such information, is eligible for a reward under this section.</u>

(3) A claim for reward may be filed by an executor, administrator, or other legal representative on behalf of a deceased informant if, prior to the informant's death, the informant was eligible to file a claim for reward under this section.

(e)(1) All relevant factors, including the value of the information furnished in relation to the facts developed by the investigation of the underreporting, nonreporting, or violation, will be taken into account in determining whether a reward will be paid, and if so, the amount of the reward.

(2) The amount of the reward will represent what the Franchise Tax Board deems to be adequate compensation in the particular case, not to exceed 15 percent of the amounts, other than interest, collected (or in the case of a refund claim, retained) by reason of the information.

(3) Payment of a reward will be made as promptly as the circumstances of the case permit, but not until the taxes, penalties, or fines involved have been collected in full (or in the case of a refund claim, its final resolution). However, if the informant waives any claim for reward with respect to an uncollected portion of the taxes, penalties, or fines involved, the claim for reward may be immediately processed.

(4) Partial reward payments, without waiver of the uncollected portion of the taxes, penalties, or fines involved, may be made when a criminal fine has been collected prior to completion of the civil aspects of a case, and also when there are multiple tax years involved and the deficiency for one or more of the years has been paid in full.

(5) No person is authorized under this section to make any offer or promise, or to otherwise bind the Franchise Tax Board, with respect to the payment of any reward or the amount of the reward.

(f) A person desiring to claim a reward under this section must submit information relating to underpayment or underreporting (or improper refund claim) in a form and manner to be determined by the Franchise Tax Board.

(g) A person desiring to claim a reward under this section must file a formal claim in a form and manner to be determined by the Franchise Tax Board.

(h) No unauthorized person will be advised of the identity of an informant.

(i) The Franchise Tax Board may prescribe any regulations necessary to carry out the purposes of this section.

(j) The Franchise Tax Board shall determine the amount of rewards incurred pursuant to this section and notify the Controller of that amount which shall be transferred from the Personal Income Tax Fund or the Corporation Tax Fund to the Franchise Tax Board for reimbursement of rewards paid pursuant to this section.

Department of General Services Trailer Bill:
Property Acquisition Law and Surplus Property

SECTION 1. Section 11011 of the Government Code is amended to read:
11011. (a) On or before December 31st of each year, each state agency shall make a review of all proprietary state lands, other than tax-deeded land, land held for highway purposes, lands under the jurisdiction of the State Lands Commission, land that has escheated to the state or that has been distributed to the state by court decree in estates of deceased persons, and lands under the jurisdiction of the State Coastal Conservancy, over which it has jurisdiction to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to the Department of General Services. These lands shall include, but not be limited to, the following:

(1) Land not currently being utilized, or currently being underutilized, by the state agency for any existing or ongoing state program.

(2) Land for which the state agency has not identified any specific utilization relative to future programmatic needs.

(3) Land not identified by the state agency within its master plans for facility development.

(b) Jurisdiction of all land reported as excess shall be transferred to the Department of General Services, when requested by the director thereof, for sale or disposition under this section or as may be otherwise authorized by law.

(c) The Department of General Services shall report to the Legislature annually, the land declared excess and request authorization to dispose of the land by sale or otherwise.

(d) The Department of General Services shall review and consider reports submitted to the Director of General Services pursuant to Section 66907.12 of the Government Code and Section 31104.3 of the Public Resources Code prior to recommending or taking any action on surplus land, and shall also circulate the reports to all agencies that are required to report excess land pursuant to this section. In recommending or determining the disposition of surplus lands, the Director of General Services may give priority to proposals by the state that involve the exchange of surplus lands for lands listed in those reports.

(e) Except as otherwise provided by any other provision of law, whenever any land is reported as excess pursuant to this section, the Department of General Services shall determine whether or not the use of the land is needed by any other state agency. If the Department of General Services determines that any land is needed by any other state agency it may transfer the jurisdiction of this land to the other state agency upon the terms and conditions as it may deem to be for the best interests of the state.

(f) When authority is granted for the sale or other disposition of lands declared excess, and the Department of General Services has determined that the use of the land is not needed by any other state agency, the Department of General Services shall sell the land or otherwise dispose of the same pursuant to the authorization, upon any terms and conditions and subject to any reservations and exceptions as the Department of General Services may deem to be for the best interests of the state. The Department of General Services shall report to the Legislature annually, with respect to each parcel of land authorized to be sold under this section, giving the following information:

(1) A description or other identification of the property.

(2) The date of authorization.

(3) With regard to each parcel sold after the next preceding report, the date of sale and price received, or the value of the land received in exchange.

(4) The present status of the property, if not sold or otherwise disposed of at the time of the report.

(g) Except as otherwise specified by law, ~~moneys~~ *net proceeds* received from any *real* property disposition, including the sale, lease, exchange, or other means, that is received pursuant to this section shall be paid into the ~~General Fund~~ *Deficit Recovery Bond Retirement Sinking Fund Subaccount (Article XVI, sec. 20(f)), until such time when the bonds issued pursuant to the Economic Recovery Bond Act,* *approved by the voters at the March 2, 2004 statewide primary election and Title 18 of the California Government Code, are retired. Thereafter, net proceeds received pursuant to this section shall be deposited in the Special Fund for Economic Uncertainties.*

For purposes of this section, net proceeds shall be defined as ~~gross~~ proceeds less ~~all costs directly~~ *any outstanding loans from the General Fund to the Property Acquisition Law Money Account or outstanding reimbursements due the Property Acquisition Law Money Account for costs incurred prior to June 30, 2005,* related to the ~~completion of the transaction including, but not limited to, selling costs, transfer fees, commissions, and costs incurred by the Department of General Services~~ *management of the State's real property assets including but not limited to surplus property identification, legal research, feasibility statistics, activities associated with land use, and due diligence*.

(h) The Director of Finance may approve loans from the General Fund to the Property Acquisition Law Money Account, which is hereby created in the State Treasury, for the purposes of supporting the management of the State's real property assets.

~~(h)~~ *(i)* Any rentals or other revenues received by the department from real properties, the jurisdiction of which has been transferred to the Department of General Services under this section, shall be deposited in the *Property Acquisition Law Money Account and shall be available for expenditure by the Department of General Services upon appropriation by the Legislature.* ~~General Fund in the account established by Section 15863. Any expenditures required to maintain, repair, care for, and sell this real property shall be paid from the appropriation made by Section 15863~~.

~~(i)~~ *(j)* Nothing contained in this section shall be construed to prohibit the sale, letting, or other disposition of any state lands pursuant to any law now or hereafter enacted authorizing the sale, letting, or disposition.

~~(j)~~ *(k)*-This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005~~.~~, *with the exception of sections (g) through (j), which shall take effect retroactively, beginning November 3, 2004*.

SECTION 2. Section 11011.21 of the Government Code is amended to read:

11011.21. (a) The Legislature finds and declares that the Department of General Services has, pursuant to former Section 11011.21, as added by Section 8 of Chapter 150 of the Statutes of 1994, and amended by Section 15 of Chapter 422 of the Statutes of 1994, developed an inventory, known as the Surplus Property Inventory, of state-owned properties that are either surplus to the needs of the state in their entirety or are being used for a state program and some portions of the property are unused or underutilized.

b) State agencies, when purchasing real property, shall review the Surplus Property Inventory and purchase, lease, or trade property on that list, if possible, prior to purchasing property not on the Surplus Property Inventory.

~~(~~c) The Department of General Services may sell, lease, exchange, or transfer for current market value, or upon terms and conditions as the Director of General Services determines are in the best interest of the state, all or part of properties as follows:

Parcel 1. Approximately 292 acres with improvements thereon, known as the Agnews Developmental Center-West Campus, bounded by Lick Mill Blvd., Montague Expressway, Lafayette Street and Hope Drive, in Santa Clara, Santa Clara County.

Parcel 2. Approximately 56 acres known as a portion of the Agnews Developmental Center-East Campus, located between the Agnews Developmental Center and Coyote Creek, in San Jose, Santa Clara County.

Parcel 3. Approximately 102 acres with improvements thereon, known as the Stockton Developmental Center, located at 510 E. Magnolia Street, in Stockton, San Joaquin County.

Parcel 6. Approximately 33.56 acres with improvements thereon, known as the California Highway Patrol Motor Transport Facility and Shop, located at 2800 Meadowview Road, in Sacramento, Sacramento County.

Parcel 7. Approximately 1.03 acres of land, not including improvements thereon, located at 1614 O Street, in Sacramento, Sacramento County, and leased by the Department of General Services to the Capital Area Development Authority for development of the 17th Street Commons condominiums.

Parcel 8. Approximately 2 acres of land, not including improvements thereon, located on a portion of block 273 bound by 10th, 11th, P, and Q Streets, in Sacramento, Sacramento County, and leased by the Department of General Services to the Capital Area Development Authority for development of the Somerset Parkside condominiums.

Parcel 9. Approximately 1.76 acres of land, not including improvements thereon, located on the south 1/2 of block bound by 15th, 16th, O, and P Streets and the south 1/4 of block bound by 14th, 15th, O, and P Streets, in Sacramento, Sacramento County, and leased by the Department of General Services to the Capital Area Development Authority for development of the Stanford Park condominiums.

Parcel 10. Approximately 1.18 acres of land, not including improvements thereon, located on the north 1/2 of block bound by 9th, 10th, Q, and R Streets, in Sacramento, Sacramento County, and leased by the Department of General Services to the Capital Area Development Authority for development of the Saratoga Townhomes.

Parcel 11. Approximately 3.66 acres including improvements thereon, known as the Department of General Services, Junipero Serra State Office Building, located at 107 S. Broadway, in Los Angeles, Los Angeles County.

Parcel 12. Approximately 32 acres including improvements thereon, being a portion of the State Department of Developmental Services Fairview Developmental Center, located at 2501 Harbor Blvd., in Costa Mesa, Orange County.

Parcel 13. Approximately 3.6 acres, with improvements thereon. Entire structure used as the Delano Armory by the Military Department, located at 705 South Lexington Street, in Delano, Kern County.

Parcel 16. Approximately 1,720 acres of agricultural land, being a portion of the Department of Corrections' Imperial South Centinella Prison, located at 2302 Brown Road, in Imperial, Imperial County, which shall only be available for lease.

Parcel 17. Approximately 800 acres of agricultural land, being a portion of the Department of Corrections' Imperial North Calipatria Prison, located at 7018 Blair Road, in Calipatria, Imperial County, which shall only be available for lease.

(d) The Department of General Services shall be reimbursed for any cost or expense incurred in the disposition of any parcels.

(e) Notices of every public auction or bid opening shall be posted on the property to be sold pursuant to this section, and shall be published in a newspaper of general circulation published in the county in which the real property to be sold is situated.

(f) Any sale, exchange, lease, or transfer of a parcel described in this section is exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code.

(g) As to any property sold pursuant to this section consisting of 15 acres or less, the Director of General Services shall except and reserve to the state all mineral deposits possessed by the state, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry. As to property sold pursuant to this section consisting of more than 15 acres, the director shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. The rights to prospect for, mine, and remove the deposits shall be limited to those areas of the property conveyed that the director, after consultation with the State Lands Commission, determines to be reasonably necessary for the removal of the deposits.

(h) The net proceeds of any moneys received from the disposition of any parcels described in this section shall be deposited in the General Fund.

SECTION 3. Government Code Section 15862 is amended to read:

15862. (a) Except as specified in subdivision (b), all real property or interest in real property acquired by the state or the Judicial Council pursuant to the Trial Court Facilities Act of 2002 (Chapter 5.7 (commencing with Section 70301) of Title 8), or pursuant to Sections 69202 to 69206, inclusive, shall be under the jurisdiction of the Judicial Council immediately upon transfer of the title to the state.

(b) When real property is acquired by the state pursuant to this part, jurisdiction over the property shall remain in the Department of General Services until the property is needed for the purpose for which it was acquired. The Director of General Services may transfer jurisdiction of the property to the agency for whose use it was acquired before it is needed for the purpose for which acquired if in his opinion the transfer is in the best interests of the state. The department may lease all or any portion of the property which is not presently needed on terms and conditions as the director may fix and may maintain, improve, and care for the property in order to secure rent therefrom. The department may remove or demolish buildings or other structures on the property when it is desirable to do so. It may sell or dispose of the improvements or any materials available upon the demolishing of any building or structure on the property.

15862.5. Notwithstanding Section 15862**,** all real property or interest in real property acquired by the Department of Parks and Recreation pursuant to subdivision (d) of Section 15853 of the Government Code and Section 5006 of the Public Resources Code shall be under the jurisdiction of the Department of Parks and Recreation, immediately upon transfer of the title to the state. The Department of Parks and Recreation shall attempt to make the real property accessible and usable by the general public at the earliest possible time.

15863. (a) The *net* proceeds of any sale made pursuant to Section 15862 shall be deposited in the ~~General Fund~~ *Deficit Recovery Bond Retirement Sinking Fund Subaccount, until such time when the bonds issued pursuant to the Economic Recovery Bond Act, approved by the voters at the March 2, 2004 statewide primary election and Title 18 of the California Government Code, are retired. At that time, net proceeds, as defined in Government Code Section 11011(g), received pursuant to this section shall be deposited in the Special Fund for Economic Uncertainties.*

(b) All rents received by the Department of General Services pursuant to Section 15862 shall be deposited in the ~~General Fund~~ *Property Acquisition Law Money Account and shall be available for expenditure by the Department of General Services upon appropriation by the Legislature.*

~~(c) All money deposited in the General Fund pursuant to this section shall be available for appropriation to the Department of General Services for the care, maintenance, and improvement of the real property acquired pursuant to this part that is under the jurisdiction of, or being administered by, the Department of General Services and for any payments required to be made pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.~~

Tax Relief Item Trailer Bill:

Eliminate the Senior Citizens' Property Tax Assistance Program and Expand Eligibility for the Senior Citizens' Property Tax Postponement Program and Reduce the Senior Citizens Renters' Tax Assistance Program

Section 20505 of the Revenue and Taxation Code is amended to read:

20505. "Claimant" means an individual who--

(a) For purposes of this chapter was either (1) 62 years of age or older on the last day of the calendar year or approved fiscal year designated in subdivision (b) or (c) of Section 20503, whichever is applicable, or (2) blind or disabled, as defined in Section 12050 of the Welfare and Institutions Code on the last day of the calendar year or approved fiscal year designated in subdivision (b) of Section 20503, who was a member of the household, and who was ~~either: (1)~~ ~~the owner and occupier of a residential dwelling on the last day of the year designated in subdivision (b) or (c) of Section 20503, or (2)~~ the renter of a rented residence on or before the last day of the year designated in subdivision (b) of Section 20503. ~~An individual who qualifies as an owner-claimant may not qualify as a renter-claimant for the same year.~~

(b) (1) For purposes of Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), and Chapter 3.5 (commencing with Section 20640) was a member of the household and either an owner-occupant, or a tenant stockholder occupant, or a possessory interestholder occupant, or a mobilehome owner-occupant, as the case may be, of the residential dwelling as to which postponement is claimed on the last day of the year designated in subdivision (b) or (c) of Section 20503, and who was 62 years of age or older by December 31 of the fiscal year for which postponement is claimed.

(2) For purposes of Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), and Chapter 3.5 (commencing with Section 20640) was a member of the household and an owner-occupant of the residential dwelling as to which postponement is claimed on the last day of the year designated in subdivision (c) of Section 20503, and who was blind or disabled, as defined in Section 12050 of the Welfare and Institutions Code, at the time of application or on December 10 of the fiscal year for which postponement is claimed, whichever is earlier.

~~(c)~~ ~~Where amounts have been postponed for any given fiscal year and the claimant continues to own and occupy the residential dwelling on December 31 of the calendar year in which the fiscal year begins, and the claimant sells the dwelling and buys a new residential~~

~~dwelling in this state on or before December 31 of the following fiscal year and the new dwelling is the claimant's principal place of residence, then in that event, the claimant shall be deemed to be a qualified claimant for the purpose of this section. These regulations shall become effective immediately upon filing with the Secretary of State.~~

Section 20508 of the Revenue and Taxation Code is amended to read:

20508. "Residential dwelling" means a dwelling occupied by the claimant as the principal place of residence, and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, owned by the claimant, the claimant and his spouse, or by the claimant and some other individual, and located in this state. It shall also include a residential unit in a cooperative housing corporation (as defined in Section 216(b) of the Internal Revenue Code) occupied by the owner of shares or a membership interest in such corporation as his or her principal residence, mobilehomes which are assessed as realty for local property tax purposes and the land on which situated, houseboats, and other similar living accommodations, as well as a part of a multidwelling or multipurpose building and a part of the land upon which it is built. It shall also include premises occupied by reason of the claimant's ownership of a dwelling located on land owned by a nonprofit incorporated association, of which the claimant is a member, when such association requires the claimant to pay a pro rata share of the property taxes levied against the association's land. It shall also include premises occupied by a claimant wherein he is required by law to pay a property tax by reason of his ownership (including a possessory interest) in the dwelling, the land, or both. It shall also include a dwelling unit which is a mobilehome owned by a claimant, subject to property taxation pursuant to Part 13 (commencing with Section 5800), and located on land which is owned or rented by such claimant. (Owned includes the interest of a vendee in possession under a land sale contract but not the interest of the vendor, the interest of the holder of a life estate interest, but not the interest of a remainderman, and of one or more joint tenants or tenants in common. Except in the case of an unrecorded land sale contract, ownership must be evidenced by a duly recorded document.)

Section 20514 of the Revenue and Taxation Code is amended to read:

20514. (a) Assistance shall not be allowed under this chapter if gross household income, after allowance for actual cash expenditures that are reasonable, ordinary, and necessary to realize income, exceeds thirteen thousand two hundred dollars ($13,200).~~thirty-five thousand two hundred fifty-one dollars ($35,251)~~.

(b) With respect to assistance that is provided by the Franchise Tax Board pursuant to this chapter for the ~~2002~~ 2006 calendar year and each calendar year thereafter, the gross household income figure that applies to assistance provided by the Franchise Tax Board during that period shall be the gross household income figure that applied to assistance provided by the Franchise Tax Board in the same period in the immediately preceding year, multiplied by an inflation adjustment factor calculated as follows:

(1) On or before February 1 of each year, the Department of Industrial Relations shall transmit to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the second preceding calendar year to June of the immediately preceding calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and divide the result by 100.

(3) The Franchise Tax Board shall multiply the gross household income figure that applies in the immediately preceding year by the inflation adjustment factor determined in paragraph (2), and round off the resulting product to the nearest one dollar ($1).

Section 20541 of the Revenue and Taxation Code is amended to read:
20541. (a) Subject to the limitations provided in this chapter a claimant may, to the extent provided in Section ~~20543 or~~ 20544, ~~whichever is applicable,~~ file with the Franchise Tax Board, pursuant to Article 3 (commencing with Section 20561) of this chapter, a claim for assistance from the State of California of a sum equal to ~~a percentage of the property taxes accrued and paid by the claimant on his residential dwelling or a sum equal to~~ the percentage of the applicable statutory property tax equivalent under Section 20544 with respect to a claimant renting his residence.

(b) The owner of a dwelling unit which is a mobilehome subject to the license fee imposed by Part 5 (commencing with Section 10701) of this division which is located on land which is ~~owned or~~ rented by such owner may ~~elect to~~ file under subdivision (a) for assistance provided in ~~either~~ Section ~~20543 or~~ 20544.

Section 20542 of the Revenue and Taxation Code is amended to read:
20542. (a) The Franchise Tax Board, pursuant to the provisions of Article 3 (commencing with Section 20561), of this chapter, shall provide assistance to the claimant based on a percentage of the ~~property tax accrued and paid by the claimant on the residential dwelling as provided in Section 20543 or the~~ statutory property tax equivalent pursuant to Section 20544. ~~In case of an owner-claimant, the assistance shall be equal to the applicable percentage of property taxes paid on the full value of the residential dwelling up to, and including, thirty-four thousand dollars ($34,000). No assistance shall be allowed for property taxes paid on that portion of full value of a residential dwelling exceeding thirty-four thousand dollars ($34,000). No assistance shall be provided if the amount of the assistance claim is five dollars ($5) or less.~~

(b) For purposes of allowing assistance provided for by this section:

(1) ~~(A) Only one owner-claimant from one household each year shall be entitled to assistance under this chapter. When two or~~

~~more individuals of a household are able to meet the qualifications for an owner-claimant, they may determine who the owner-claimant shall be. If they are unable to agree, the matter shall be referred to the Franchise Tax Board and its decision shall be final.~~

~~(B)~~ When two or more individuals pay rent for the same premises and each individual meets the qualifications for a renter-claimant, each qualified individual shall be entitled to assistance under this part.

For the purposes of this subparagraph, a husband and wife residing in the same premises shall be presumed to be one renter.

(2) Except as provided in paragraph (3), the right to file a claim shall be personal to the claimant and shall not survive his death; however, when a claimant dies after having filed a timely claim, the amount thereof may be disbursed to the surviving spouse and, if no surviving spouse, to any other member of the household who is a qualified claimant. If there is no surviving spouse or otherwise qualified claimant, the claim shall be disbursed to any other member of the household. In the event two or more individuals qualify for payment as either an otherwise qualified claimant or a member of the household, they may determine which of them will be paid. If they are unable to agree, the matter shall be referred to the Franchise Tax Board and its decision shall be final.

(3) If, after January 1 of the property tax fiscal year for which a claim may be filed, a claimant dies without filing a timely claim, a claim on behalf of such claimant may be filed by the surviving spouse within the filing period prescribed in subdivision (a) or (b) of Section 20563.

~~(4) If an individual postponed taxes for any given property tax fiscal year under Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640), then any claim for assistance under this chapter for the same property tax fiscal year shall be filed by such individual (assuming all other eligibility requirements in this chapter are satisfied) and not an otherwise qualified member of the individual's household.~~

Section 20543 of the Revenue and Taxation Code is eliminated.

~~20543. (a) (1) The amount of assistance for a claimant owning his or her residential dwelling shall be based on the claimant's household income for the period set forth in Section 20503.~~

~~(2) For claims filed with respect to the 2001 calendar year and each calendar year thereafter, the percentage of assistance for which each claimant owning his or her residential dwelling shall be eligible based on the following scale:~~

~~If the total household income (as defined in this part) is not more than:~~	~~The percentage of tax on the first $34,000 of full value (as determined for tax purposes) used to provide assistance is:~~
~~$8,812~~	~~139%~~

~~9,400~~	~~136~~
~~9,987~~	~~133~~
~~10,575~~	~~131~~
~~11,163~~	~~128~~
~~11,750~~	~~125~~
~~12,337~~	~~122~~
~~12,925~~	~~119~~
~~13,513~~	~~116~~
~~14,101~~	~~113~~
~~14,688~~	~~110~~
~~15,275~~	~~106~~
~~15,863~~	~~100~~
~~16,451~~	~~94~~
~~17,038~~	~~88~~
~~17,626~~	~~83~~
~~18,213~~	~~77~~
~~18,800~~	~~71~~
~~19,389~~	~~65~~
~~19,976~~	~~59~~
~~20,564~~	~~54~~
~~21,151~~	~~49~~
~~21,738~~	~~45~~
~~22,327~~	~~41~~
~~22,914~~	~~36~~
~~23,500~~	~~32~~
~~24,088~~	~~29~~
~~24,675~~	~~26~~
~~25,263~~	~~23~~
~~25,851~~	~~20~~
~~26,438~~	~~17~~
~~27,908~~	~~15~~
~~29,376~~	~~12~~
~~30,846~~	~~10~~
~~32,314~~	~~9~~
~~33,783~~	~~7~~
~~35,251~~	~~6~~

~~(b) With respect to assistance that is provided by the Franchise Tax Board pursuant to this chapter for the 2002 calendar year and each year thereafter, the household income figures that apply to assistance provided by the Franchise Tax Board during that period shall be the household income figures that applied to assistance provided by the Franchise Tax Board in the same period in the immediately preceding year, multiplied by an inflation factor calculated as follows:~~

~~(1) On or before February 1 of each year, the Department of Industrial Relations shall transmit to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the second preceding calendar year to June of the immediately preceding calendar year.~~

~~(2) The Franchise Tax Board shall add 100 percent to the~~

~~percentage change figure that is furnished pursuant to paragraph (1) and divide the result by 100.~~
~~(3) The Franchise Tax Board shall multiply the immediately preceding household income figure by the inflation adjustment factor determined in paragraph (2), and round off the resulting product to the nearest one dollar ($1).~~

Section 20544 of the Revenue and Taxation Code is amended to read:
20544. (a) (1) The amount of assistance for a claimant renting his or her residence shall be based on the claimant's household income for the time period set forth in Section 20503.

(2) For claims filed with respect to the ~~2001~~ 2005 calendar year, and each calendar year thereafter, the ~~percentage of~~ assistance for which each claimant renting his or her residence shall be eligible shall be based on the following scale:

If Total Household Income is		Renter's Assistance is
From	To	
$0	$3,300	$240
$3,301	$3,520	$236
$3,521	$3,740	$232
$3,741	$3,960	$228
$3,961	$4,180	$224
$4,181	$4,400	$220
$4,401	$4,620	$216
$4,621	$4,840	$212
$4,841	$5,060	$208
$5,061	$5,280	$204
$5,281	$5,500	$200
$5,501	$5,720	$196
$5,721	$5,940	$192
$5,941	$6,160	$184
$6,161	$6,380	$176
$6,381	$6,600	$168
$6,601	$6,820	$160
$6,821	$7,040	$152
$7,041	$7,260	$144
$7,261	$7,480	$136
$7,481	$7,700	$128
$7,701	$7,920	$122
$7,921	$8,140	$117
$8,141	$8,360	$112
$8,361	$8,580	$107
$8,581	$8,800	$102
$8,801	$9,020	$98
$9,021	$9,240	$94

$9,241	$9,460	$90
$9,461	$9,680	$86
$9,681	$9,900	$82
$9,901	$10,450	$78
$10,451	$11,000	$74
$11,001	$11,550	$73
$11,551	$12,100	$72
$12,101	$12,650	$71
$12,651	$13,200	$70
$13,201	Over	$0

~~If the total household income (as defined in this part) is not more than:~~	~~The statutory property tax equivalent is:~~	~~The percentage of the statutory property tax equivalent used to provide assistance is:~~
~~$8,812~~	~~$250~~	~~139%~~
~~9,400~~	~~250~~	~~136~~
~~9,987~~	~~250~~	~~133~~
~~10,575~~	~~250~~	~~131~~
~~11,163~~	~~250~~	~~128~~
~~11,750~~	~~250~~	~~125~~
~~12,337~~	~~250~~	~~122~~
~~12,925~~	~~250~~	~~119~~
~~13,513~~	~~250~~	~~116~~
~~14,101~~	~~250~~	~~113~~
~~14,688~~	~~250~~	~~110~~
~~15,275~~	~~250~~	~~106~~
~~15,863~~	~~250~~	~~100~~
~~16,451~~	~~250~~	~~94~~
~~17,038~~	~~250~~	~~88~~
~~17,626~~	~~250~~	~~83~~
~~18,213~~	~~250~~	~~77~~
~~18,800~~	~~250~~	~~71~~
~~19,389~~	~~250~~	~~65~~
~~19,976~~	~~250~~	~~59~~
~~20,564~~	~~250~~	~~54~~
~~21,151~~	~~250~~	~~49~~
~~21,738~~	~~250~~	~~45~~
~~22,327~~	~~250~~	~~41~~
~~22,914~~	~~250~~	~~36~~
~~23,500~~	~~250~~	~~32~~
~~24,088~~	~~250~~	~~29~~
~~24,675~~	~~250~~	~~26~~
~~25,263~~	~~250~~	~~23~~
~~25,851~~	~~250~~	~~20~~
~~26,438~~	~~250~~	~~17~~
~~27,908~~	~~250~~	~~15~~
~~29,376~~	~~250~~	~~12~~
~~30,846~~	~~250~~	~~10~~

~~32,314~~	~~250~~	~~9~~
~~33,783~~	~~250~~	~~7~~
~~35,251~~	~~250~~	~~6~~

(b) With respect to assistance that is provided by the Franchise Tax Board pursuant to this chapter for the ~~2002~~ 2006 calendar year and each year thereafter, the household income figures that apply to assistance provided by the Franchise Tax Board during that period shall be the household income figures that applied to assistance provided by the Franchise Tax Board in the same period in the immediately preceding year, multiplied by an inflation factor calculated as follows:

(1) On or before February 1 of each year, the Department of Industrial Relations shall transmit to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the second preceding calendar year to June of the immediately preceding calendar year.

(2) The Franchise Tax Board shall add 100 percent to the percentage change figure that is furnished pursuant to paragraph (1) and divide the result by 100.

(3) The Franchise Tax Board shall multiply the immediately preceding household income figure by the inflation adjustment factor determined in paragraph (2), and round off the resulting product to the nearest one dollar ($1).

Section 20562 of the Revenue and Taxation Code is eliminated.

~~20562. For the purposes of this chapter, the requirement that property taxes be paid before assistance can be granted may be waived if the taxes were not paid for reasonable cause and the claimant declares under penalty of perjury that the assistance granted will be promptly applied to pay delinquent property taxes on the residential dwelling to the extent reasonably feasible under the circumstances.~~

Section 20564 of the Revenue and Taxation Code is amended to read:

20564. (a) If a lien for the assistance fiscal year has been acquired ~~against the property, or, in the case of a mobilehome~~, against the certificate of title~~,~~ of a mobilehome of the claimant by reason of the claimant's use of a certificate of eligibility which was paid pursuant to Chapter 6 (commencing with Section 16180) of Part 1 of Division 4 of Title 2 of the Government Code, the net payment otherwise due such claimant shall first be applied by the Controller to reduce the obligation secured by such lien.

(b) If a lien has been reduced as provided in subdivision (a) and the Franchise Tax Board subsequently determines that the assistance allowed for such year was erroneous, the Franchise Tax Board shall notify the Controller who will make an appropriate adjustment to the lien.

SEC. 2. Section 20585 of the Revenue and Taxation Code is amended to read:

20585. Postponement shall not be allowed under this chapter or Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) if household income exceeds either of the following amounts:

(a) For the 1976 calendar year or for ~~an~~ *any* approved fiscal year commencing within ~~such~~ *that* calendar year, household income shall not exceed twenty thousand dollars ($20,000).

(b) For all subsequent calendar years and approved fiscal years, postponement shall not be allowed under this chapter, Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) if household income exceeds an amount determined as follows:

(1) On or before March 1 of each year, the California Department of Industrial Relations shall transmit to the Controller the percentages of increase in the California Consumer Price Index for all Urban Consumers and in the California Consumer Price Index for Urban Wage Earners and Clerical Workers of December of the prior calendar year over December of the preceding calendar year.

(2) The Controller shall compute an inflation adjustment factor by adding 100 percent to the larger of the California Consumer Price Index percentage increases furnished pursuant to paragraph (1).

(3) In 1978, the Franchise Tax Board shall multiply twenty thousand dollars ($20,000) by the inflation adjustment factor to determine the maximum allowable gross household income for the 1977 calendar year and for approved fiscal years commencing within ~~such years~~ *that calendar year* . In 1979 and subsequent calendar years through and including 1983, the Controller shall multiply the maximum allowable household income determined for the preceding calendar year by the inflation adjustment factor to determine the maximum allowable household income for the applicable calendar year and approved fiscal years commencing within ~~such~~ *that* calendar year. In determining the maximum allowable household income pursuant to this section, the Controller shall round ~~such~~ *that* amount to the nearest hundred dollar amount.

(c) For calendar year 1984 and subsequent calendar years and for approved fiscal years commencing within those years, postponement shall not be allowed under this chapter, Chapter 3 (commencing with Section 20626), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640), if household income exceeds an amount determined as follows:

(1) For claimants who filed and qualified in the calendar year 1983, ~~thirty-four thousand dollars ($34,000)~~ *and for whom postponement has been allowed for each subsequent calendar year up to and including the calendar year 2004, thirty-four thousand dollars ($34,000). For these same claimants, for the*

calendar year 2005 or for any approved fiscal year commencing within that calendar year, household income may not exceed thirty-nine thousand seven hundred dollars ($39,700).

(2) For all other claimants, *for calendar years up to and including 2004, household income may not exceed* twenty-four thousand dollars ($24,000). *For these same claimants, for the 2005 calendar year or for any approved fiscal year commencing within that calendar year, household income may not exceed thirty-nine thousand seven hundred dollars ($39,700).*

(3) For the 2006 calendar year and each subsequent calendar year, and for any approved fiscal year commencing within that calendar year, the household income amount specified in paragraphs (1) and (2) of subdivision (c) shall be adjusted for inflation, in accordance with an inflation factor determined pursuant to paragraphs (1) and (2) of subdivision (b).

Trailer Bill for Control Section 33.50:

California's Procurement Initiative for the 21st Century

SECTION 1. Section 1139.8 of the Government Code is amended to read:
11139.8. *(a)* Notwithstanding any other provision of law, commencing January 1, 2003, each state department or agency awarding a contract or procuring goods or services shall, and each local agency receiving state funds may, collect information and report to the Governor and the Legislature on the level of participation by minority, women, and disabled veteran-owned business enterprises in contract and procurement activities as identified in this section. The reports shall be submitted annually, on or before July 1 of each year, and shall include dollar values of contract awards for the following categories of contractors:
~~(a)~~ *(1)* Construction.
~~(b)~~ *(2)* Architecture and engineering and other professional services.
~~(c)~~ *(3)* Procurement of materials, supplies, and equipment.
~~(d)~~ *(4)* Information technology procurements.
(b) This section shall become operative on January 1, 2007, and as of that date, is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends the date on which it becomes inoperative and is repealed.

SECTION 2. Section 14840 of the Government Code is amended to read:
14840. The department shall submit an annual report to the Legislature no later than January 1 of each year containing the following information:
(a) Upon request, an up-to-date list of eligible small business bidders by general procurement and construction contract categories, noting company names and addresses and also noting which small businesses also qualify as microbusinesses.
(b) By general procurement and construction contract categories, statistics comparing the small business and microbusiness contract participation dollars to the total state contract participation dollars.
(c) By awarding department and general procurement and construction categories, statistics comparing the small business and microbusiness contract participation dollars to the total state contract participation dollars.
(d) Any recommendations for changes in statutes or state policies to improve opportunities for small businesses and microbusinesses.
(e) A statistical summary of small businesses and microbusinesses certified for state contracting by the number of employees at the business for each of the following categories: 0-25, 26-50, 51-75, and 76-100.
(f) To the extent feasible, beginning in the year 2002, the number of contracts awarded by the department in the categories specified in subdivision (e).
(g) The number of contracts and dollar amounts awarded annually pursuant to Section 14838.5 to small businesses, microbusinesses, and disabled veteran business enterprises.
(h) This section shall become operative on January 1, 2007, and as of that date, is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends the date on which it becomes inoperative and is repealed.

SECTION 3. Section 999.7 of the Military and Veterans Code is amended to read:

999.7. (a) ~~(1)~~ On January 1 of each year, each awarding department shall report to the Governor, the Legislature, the Department of General Services, and the Department of Veterans Affairs on the level of participation by disabled veteran business enterprises in contracts identified in this article for the previous fiscal year.

~~(2) If the awarding department has not met the established goals for that year, the awarding department shall report to the Legislature, the Department of General Services, and the Department of Veterans Affairs the reasons for the awarding department's inability to achieve the goals and shall identify steps it shall take in an effort to achieve the goals.~~

(b) On April 1 of each year, the Department of General Services shall prepare for the Governor, the Legislature, and the Department of Veterans Affairs a statewide statistical summary detailing each awarding department's goal achievement and a statewide total of those goals.

(c) This section shall become operative on January 1, 2007, and as of that date, is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends the date on which it becomes inoperative and is repealed.

SECTION 4. Section 6611 of the Public Contract Code is amended to read:

6611. (a) Notwithstanding any other provision of law, the Department of General Services may, relative to contracts for goods, services, information technology, and telecommunications, use a negotiation process if the department finds that one or more of the following conditions exist:

(1) The business need or purpose of a procurement or contract can be further defined as a result of a negotiation process.

(2) The business need or purpose of a procurement or contract is known by the department, but a negotiation process may identify different types of solutions to fulfill this business need or purpose.

(3) The complexity of the purpose or need suggests a bidder's costs to prepare and develop a solicitation response are extremely high.

(4) The business need or purpose of a procurement or contract is known by the department, but negotiation is necessary to ensure that the department is receiving the best value or the most cost-efficient goods, services, information technology, and telecommunications.

(b) When it is in the best interests of the state, the department may negotiate amendments to the terms and conditions, including scope of work, of existing contracts for goods, services, information technology, and telecommunications, whether or not the original contract was the result of competition, on behalf of itself or another state agency.

(c) (1) The department shall establish the procedures and guidelines for the negotiation process described in subdivision (a), which procedures and guidelines shall include, but not be limited to, a clear description of the methodology that will be used by the department to evaluate a bid for the procurement goods, services, information technology, and telecommunications.

(2) The procedures and guidelines described in paragraph (1) may include provisions that authorize the department to receive supplemental bids after the initial bids are opened. If the procedures and guidelines include these provisions, the procedures and guidelines shall specify the conditions under which supplemental bids may be received by the department.

~~(d) This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SECTION 5. Section 10115.5 of the Public Contract Code is amended to read:
10115.5. (a) Notwithstanding Section 7550.5 of the Government Code, on January 1 of each year, each awarding department shall report to the Governor and the Legislature on the level of participation by minority, women, and disabled veteran business enterprises in contracts as identified in this article for the fiscal year beginning July 1 and ending June 30. In addition, the report shall contain the levels of participation by minority, women, and disabled veteran business enterprises for the following categories of contracts:
(1) Construction.
(2) Purchases of materials, supplies, and equipment.
(3) Professional services.
(4) All contracts for a dollar amount of less than twenty-five thousand dollars ($25,000).
(b) If the established goals are not being met, the awarding department shall report the reasons for its inability to achieve the standards and identify remedial steps it shall take.
(c) This section shall become operative on January 1, 2007, and as of that date, is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends the date on which it becomes inoperative and is repealed.

SECTION 6. Section 10116 of the Public Contract Code is amended to read:
10116. (a) On January 1, of each year, each awarding department shall report to the Governor and the Legislature on the level of participation of business enterprises, by race, ethnicity, and gender of owner *to the extent that such information has been voluntarily reported to the awarding department*~~,~~ in contracts as identified in this article for the fiscal year beginning July 1 and ending June 30. In addition, the report shall contain the levels of participation of business enterprises, by race, ethnicity, and gender of owner, for the following categories of contracts:
(1) Construction.
(2) Purchases of materials, supplies, or equipment.
(3) Professional services.
(4) All contracts for a dollar amount of less than twenty-five thousand dollars ($25,000).
(b) Awarding departments are prohibited from using the data compiled under this section to discriminate or provide a preference in the awarding of any contracts.
(c) Contractors are prohibited from using the information compiled under this section to discriminate or provide a preference in the solicitation or acceptance of bids for subcontracting, or for materials or equipment, on the basis of race, color, sex, ethnic origin, or ancestry.
(d) *This section shall become operative on January 1, 2007, and as of that date, is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends the date on which it becomes inoperative and is repealed.*

SECTION 7. Section 10359 of the Public Contract Code is amended to read:
10359. (a) Each state agency shall annually prepare a report pursuant to this section that includes a list of the consulting services contracts that it has entered into during the previous fiscal year. The listing shall include the following information:
(1) The name and identification of each contractor.
(2) The type of bidding entered into, the number of bidders, whether the low bidder was accepted, and if the low bidder was not accepted, an explanation of why another contractor was selected.
(3) The amount of the contract price.

(4) Whether the contract was a sole-source contract, and why the contract was a sole-source contract.
(5) Justification for entering into each consulting services contract.
(6) The purpose of the contract and the potential beneficiaries.
(7) The date when the initial contract was signed, and the date when the work began and was completed.
The report shall also include a separate listing of consultant contracts completed during that fiscal year, with the same information as above.
(b) The report this section requires shall also include a list of any contracts underway during that fiscal year on which any change was made regarding the following:
(1) The completion date of the contract.
(2) The amount of money to be received by the contractor, if it exceeds 3 percent of the original contract price.
(3) The purpose of the contract or duties of the contractor. A brief explanation shall be given if the change in purpose is significant.
(c) Copies of the annual report shall be sent within 60 working days after the end of the previous fiscal year to the Legislative Analyst, the Department of Finance, the Department of General Services, the State Auditor, the Joint Legislative Budget Committee, the Joint Legislative Audit Committee, the Senate Appropriations Committee, and the Assembly Appropriations Committee.
(d) State agencies may not use the temporary budget allocation process as a means of circumventing the requirements of this section.
(e) Within 120 working days after the close of the fiscal year, the department shall furnish to the officials and committees listed in subdivision (c), a list of the departments and agencies that have not submitted the required report specified in this section.
(f) The department shall annually submit to the Legislature, the Legislative Analyst, the Department of Finance, and the Auditor General, a report describing the information furnished to the department pursuant to this section.
(g) This section shall become operative on January 1, 2007, and as of that date, is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends the date on which it becomes inoperative and is repealed.

SECTION 8. The following section is added to the Public Contract Code:
Section XX. Commencing January 1, 2007, the department shall make available a report on contracting activity containing the following information:
(a) A listing of consulting services contracts that the state has entered into during the previous fiscal year. The listing shall include the following:
(1) The name and identification number of each contractor.
(2) The type of bidding entered into, the number of bidders, whether the low bidder was accepted, and if the low bidder was not accepted, an explanation of why another contractor was selected.
(3) The amount of the contract price.
(4) Whether the contract was a noncompetitive bid contract, and why the contract was a noncompetitive bid contract.
(5) Justification for entering into each consulting services contract.
(6) The purpose of the contract and the potential beneficiaries.

(7) The date when the initial contract was signed, and the date when the work began and was completed.

(b) The report shall also include a separate listing of consultant contracts completed during that fiscal year, with the same information as above.

(c) The information regarding consulting services contracts this section requires shall also include a list of any contracts underway during that fiscal year on which any change was made regarding the following:

(1) The completion date of the contract.

(2) The amount of money to be received by the contractor, if it exceeds three percent of the original contract price.

(3) The purpose of the contract or duties of the contractor. A brief explanation shall be given if the change in purpose is significant.

(d) The level of participation, by agency, of disabled veteran business enterprises in statewide contracting and shall include dollar values of contract award for the following categories:

(1) Construction.

(2) Architecture and engineering and other professional services.

(3) Procurement of materials, supplies, and equipment.

(4) Information technology procurements.

Additionally, the report shall include a statistical summary detailing each awarding department's goal achievement and a statewide total of those goals.

(e) The level of participation by small business in state contracting including:

(1) Upon request, an up-to-date list of eligible small business bidders by general procurement and construction contract categories, noting company names and addresses and also noting which small businesses also qualify as microbusinesses.

(2) By general procurement and construction contract categories, statistics comparing the small business and microbusiness contract participation dollars to the total state contract participation dollars.

(3) By awarding department and general procurement and construction categories, statistics comparing the small business and microbusiness contract participation dollars to the total state contract participation dollars.

(4) Any recommendations for changes in statues or state policies to improve opportunities for small businesses and microbusinesses.

(5) A statistical summary of small businesses and microbuisnesses certified for state contracting by the number of employees at the business for each of the following categories: 0-25, 26-50, 51-75, and 76-100.

(6) To the extent feasible, beginning in the year 2008, the number of contracts awarded by the department in the categories specified in paragraph (5).

(7) The number of contracts and dollar amounts awarded annually pursuant to Section 14838.5 of the Government Code to small businesses, microbusinesses, and disabled veteran business enterprises.

(f) The level of participation of business enterprises, by race, ethnicity, and gender of owner, in contracts as identified in Section 2051 of the Government Code, to the extent that such information has been voluntarily reported to the department. In addition, the report shall contain the levels of participation of business enterprises, by race, ethnicity, and gender of owner, for the following categories of contracts, to the extent that such information has been voluntarily reported to the department:

(1) Construction.
(2) Purchases of materials, supplies, or equipment.
(3) Professional services

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Tom McClintock
Christine Kehoe

Wednesday, April 27, 2005
1:30 p.m.
Room 2040

Consultant: Brian Annis

Agenda - Part B

Public-Employee Issues

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

Department Budgets Proposed for Consent / Vote Only

1900 Public Employees' Retirement System

The California Public Employees' Retirement System (CalPERS) administers retirement and health benefits for more than 1.4 million active employees and retirees of state and local agencies. Benefits include: retirement, disability, and survivor's retirement benefits; Social Security for State employees; and the development, negotiation, and administration of contracts with health maintenance organizations, group hospitals, and medical insurance plans.

Proposition 162, approved by voters in 1992, amended the California Constitution to provide the CalPERS Board of Administration with authority over the administration of the retirement system. Therefore, the CalPERS budget item is presented to the Governor and Legislature for informational purposes, with the exception of the component of the Health Benefits Program. On April 15, 2005, the CalPERS Finance Committee adopted a 2005-06 operations budget of $250.3 million and 1,811 positions – an increase of approximately $800,000 and 52 positions. Note, this operations budget is about $20 million less that that indicated in the Governor's Budget as CalPERS opted to absorb certain price increases. When benefit expenditures are added, the total budget is approximately $11 billion.

8385 California Citizens' Compensation Commission

The California Citizens' Compensation Commission is responsible for setting the salaries and benefits for the State Legislators, Governor, Attorney General, Lieutenant governor, Secretary of State, Controller, Treasurer, Superintendent of Public Instruction, Insurance Commissioner, and Board of Equalization members.

The Governor proposes expenditures of $14,000 (all General Fund) and no positions for the Commission – the same amount as 2004-05. The Commission meets annually and is staffed by the Department of Personnel Administration. The Commission budget funds travel expenses and stipends for the annual meeting – Commissioners do not receive a salary.

Control Section 3.50 Benefit Charges against Salaries and Wages

Control Section 3.50 of the budget bill specifies what benefit expenditures shall be charged against appropriations from which salaries and wages are paid. The language in this control section is identical to language approved with the 2004 Budget Act except for updates to Government Code citations related to SB 626 (Chapter 69, Statutes of 2004), which reorganized and renumbered the code sections in the Public Employees Medical and Hospital Care Act (PEMHCA).

Control Section 4.20
Contribution to Public Employees' Contingency Reserve Fund

Control Section 4.20 sets the employer's contribution to the Public Employees' Contingency Reserve Fund at 0.300 percent of the gross health insurance premiums paid by the employer and employee for administrative expenses. This rate is adjusted annually, as necessary, to maintain a three-month reserve in the fund. The 2004 Budget Act set the rate at 0.425 percent; however, CalPERS indicates a rate of 0.300 is sufficient for 2005-06 to maintain the three-month reserve. The Control Section additionally allows the Director of Finance to adjust the rate, with 30-day notification to the Legislature, as necessary to ensure a three-month reserve.

Control Section 29.00 Personnel-Year Estimates

Control Section 29.00 of the budget bill requires the Department of Finance to calculate and publish a listing of total personnel-years and estimated salary savings for each department and agency. These listing must be published at the same time as the publication of the (a) Governor's Budget, (b) the May Revision and (c) the Final Change Book. Identical language was approved by the Legislature with the 2004 Budget Act.

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

Staff Recommendation: Approve the budgets and control sections listed above.

Vote on consent / vote-only budgets:

Budgets for Discussion:

1880 State Personnel Board

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

The Governor proposes expenditures of $18.5 million ($3.9 million General Fund and $14.6 million reimbursements) and 128.7 positions for the SPB – an increase of $88,000. These figures include a $60,000 unallocated General Fund reduction. SPB indicates it will consolidate two downtown Sacramento locations in response to the unallocated reduction. The Administration did not submit Budget Change Proposals or workload adjustments for the SPB.

Issue for Discussion:

1. **Peace Officer Procedural Bill of Rights Mandate (LAO issue).** In the *Analysis of the 2005-06 Budget Bill*, the Legislative Analyst recommends that the Legislature requests the Commission on State Mandates to reconsider its decision regarding the Peace Officer Procedural Bill of Rights (POBOR) mandate in light of a recent California Supreme Court decision. The Administration proposes this mandate be deferred in 2005-06, which would still require the activity, but delay reimbursement to locals. This mandate has been deferred in every budget since 2002-03. The annual cost is estimated at $30 million and the total backlog of unpaid local government POBOR claims totals about $250 million.

   Background: The Legislature enacted the Peace Officer Procedural Bill of Rights in 1976 to provide a series of rights and procedural protections to peace officers who are subject to interrogation or discipline by their employer. In 1999, the Commission on State Mandates found that the requirement of POBOR, that exceed the rights provided all public employees under the Due Process Clause of the United States and California Constitutions, to be a reimbursable mandate. In 2004, the California Supreme Court found that state procedural requirements do not constitute a reimbursable mandate if local agencies have a choice whether to implement the program. The LAO suggests that the 2004 California Supreme Court decision would likely guide the California State Mandates Commission to make a different determination on POBOR – should the Mandates Commission have a cause to review its 1999 decision. Proposition 1A, which was approved by voters in 2004, exempts mandates pertaining to labor relations from its annual funding requirement.

State Auditor Findings: The State Auditor looked at POBOR mandate claims in its 2003 report, *State Mandates: The High Level of Questionable Costs Claimed Highlights the Need for Structural Reforms of the Process* (Report 2003-106). Among other findings, the State Auditor made the following conclusions related to the POBOR mandate:

- The costs are significantly higher than what the Legislature expected.
- Local entities reviewed claimed costs that far exceed the Commission on State Mandates' intent.
- Local entities lacked adequate supporting documentation for most of the costs claimed.

The State Auditor examined claims made in 2001-02 by four local entities totaling $19.1 million, and found that $16.2 million of this amount related to activities that far exceeded the Mandate Commission's intent. Additionally, $18.5 million of the $19.1 million claimed lacked appropriate supporting documentation.

Staff Comment: A finding that POBOR is not a reimbursable mandate would not change the statutory requirements or affect peace officer procedural rights in any way. Such a finding would remove the requirement that the State fund this activity, but would not prohibit discretionary funding by the Legislature.

Staff Recommendation: Adopt the following LAO suggested budget language that would give the Commission on State Mandates the authority and responsibility to complete a review of their 1999 POBOR determination. The language would make any application of a revised finding prospective.

> *In 2005-06, the Commission on State Mandates shall review its Statement of Decision regarding the Peace Officer Procedural Bill of Rights (POBOR) test claim and make any modifications necessary to this decision to clarify whether the subject legislation imposed a mandate consistent with the California Supreme Court 2004 decision in <u>San Diego Unified School District vs.Commission on State Mandates</u> and other applicable court decisions. If the commission revises its Statement of Decision regarding the POBOR mandate, the revised decision shall apply to local government POBOR activities occurring after the date the revised decision is adopted.*

Vote:

1920 State Teachers' Retirement System

The State Teachers' Retirement System (CalSTRS) administers retirement and health benefits for more than 735,000 active and retired educators in the public schools from kindergarten through the community college system. Unlike public employees covered under the California Public Employees' Retirement System (CalPERS), CalSTRS members do not participate in the social security system.

Proposition 162, approved by voters in 1992, amended the California Constitution to provide the CalSTRS Board with authority over the administration of the retirement system. Therefore, the CalPERS budget item is presented to the Governor and Legislature for informational purposes. The CalSTRS operations budget is $120.2 million and 714 positions, although CalSTRS indicates it is in discussions with the Department of Finance concerning the amount of the pro rata charge. When benefit payments are included, the total budget is approximately $7.1 billion.

Issue for Discussion

1. **State Contribution to the Defined Benefit Program.** The Governor proposes to shift State responsibility for making contributions to CalSTRS basic retirement program to local employers. Specifically, the Governor's proposal eliminates the State's 2.017 percent contribution to the Defined Benefit (DB) program, for an assumed General Fund (Non-98) savings of $469 million in 2005-06. The proposal increases contributions for CalSTRS employers – school districts, county offices of education and community colleges – but does not provide additional funding to cover higher local contributions to the DB program. The Governor's proposal allows local employers to share costs with CalSTRS employees through collective bargaining. The state also contributes 2.5 percent of payroll for purchasing power benefits – estimated to total $581 million General Fund (non-98) in 2005-06. This purchasing power protection program is <u>not</u> affected by the Governor's proposal.

   Detail: Under the DB program, benefits are funded from three sources. Contributions, as a percent of payroll, for each of these sources are fixed in statute as follows:

   - Employee Contributions: 8.0 %
   - Employer Contributions: 8.25 %
   - State Contributions: 2.017 %

   Under the Governor's proposal, the state DB program contribution of 2.017 percent would be eliminated and the funding obligation would shift to either the Employer Contribution or the Employee Contribution (depending on collective bargaining). As noted in the LAO analysis, the State's contribution of 2.017 percent is pegged to payroll two years ago. If the 2.0-percent calculation were applied to current payroll, the costs would be approximately $500 million.

   In addition, the Governor proposes to give teachers the option of eliminating their 2 percent contribution currently credited to a Defined Benefit Supplement (DBS) program. This option would allow employees to increase their take home pay by reducing contributions from 8 to 6 percent, but also reduce DBS benefits. Under current law, the DBS program ends in 2010.

The Administration also proposes to eliminate a statutory surcharge that is activated when there is unfunded liability to cover 1990-level benefits. This surcharge was triggered for three-quarters of the year in 2004-05 at a rate of 0.524 percent and resulted in a General Fund (non-98) cost of $92 million. The LAO estimates that the full year costs of funding the surcharge is between $120 and $170 million in General Funds. CalSTRS estimate of the 2005-06 cost of this surcharge is $122 million.

CalSTRS Comments: The CalSTRS Board is opposed to the Governor's DB contribution shift proposal because it: (1) potentially worsens the funding condition of the DB program; (2) potentially impairs contractual rights of existing members; and (3) poses a severe administrative burden on local employers and CalSTRS to administer the benefit program.

Proposition 98 Rebenching: The Governor's proposal would not result in any savings to the State if the cost shift would result in a rebenching of Proposition 98. In the *Analysis of the 2005-06 Budget Bill*, the LAO indicated that because the proposal shifts costs to locals it would likely require rebenching of Proposition 98. If this were the case, the state would have to appropriate $469 million to locals. The Administration has argued that no rebenching would be necessary with the proposal.

Legislative Counsel Opinion: The Legislative Counsel provided an opinion on the Governor's proposal and Proposition 98 rebenching in a letter dated April 11, 2005, and titled, *State Teachers' Retirement: Proposition 98 - #9293*. The opinion concludes as follows:

> *Thus, it is our opinion that the proposal to eliminate the state's annual contribution to the California State Teachers' Retirement System Defined Benefit Program contained in the Governor's Budget for the 2005-06 fiscal year would require a recalculation of the minimum educational funding obligation imposed by Section 8 of Article XVI of the California Constitution if that proposal is enacted by the Legislature and signed by the Governor.*

Staff Comment: Rebenching of Proposition 98, as the Legislative Counsel indicates would be required, means that the Governor's proposal would not save the State any money, as the State would be required to backfill the cost to locals of this retirement cost.

Staff Recommendation: Reject the Governor's proposal, because it will not generate any savings for the State.

Vote:

8320 Public Employment Relations Board

The Public Employment Relations Board (PERB) is responsible for administering and enforcing California's public-sector collective bargaining laws and to assist employers and employees in resolving their labor relations disputes.

The Governor proposes expenditures of $5.6 million (primarily General Fund) and 44.0 positions for the Board – an increase of $426,000 (General Fund) and 3.0 positions. These figures include an unallocated General Fund reduction of $86,000. The Board indicates it does not currently have a complete plan for this reduction, however, it will first look at reductions to travel, library services, and staff training.

Issue for Discussion

1. **Staffing Augmentation for New Oversight Responsibilities.** The Administration requests a permanent augmentation of $438,000 General Fund to add three new attorney positions. These new positions would perform workload related to legislation over the past three years (most recently SB 1102 in 2004) that added the following entities to PERB's area of responsibility: cities, counties, special districts, and trial court employees. PERB indicates that since these entities were added, the average number of annual litigation documents prepared has increased by 150 percent, the number of annual requests for injunctive relief has increased by 127 percent, and the annual number of unfair practice charges filed has increased by 50 percent.

   Staff Comment: No issues have been raised with this issue. PERB lost three legal positions to Control Section 31.60 in 2003-04, so this request would restore the number of legal positions to that which the Board had in 2002-03.

   Staff Recommendation: Approve this issue.

   Vote:

8380 Department of Personnel Administration

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

The Governor proposes expenditures of $78.5 million ($31.3 million General Fund) and 204 positions for DPA – a decrease of $27.1 million and 21 positions. The decrease in expenditures is primarily driven by carry-over funds that are artificially inflating 2004-05 expenditures; savings related to the closing of the State Training Center; and bargaining-unit MOU expenditures that are shifted from DPA to corrections.

Issue for Discussion

1. **Staffing for the Alternate Retirement Program.** The Administration requests an augmentation of $607,000 ($78,000 General Fund, $529,000 reimbursements), with $110,000 of this one-time, to administer the Alternate Retirement Program. This funding would support 1.0 position (two-year limited term) and administrative costs such as tax counsel legal services, investment consulting fees, and communication costs. DPA had additionally requested 2004-05 funding of $446,000 through a deficiency letter, but staff understands the current year request has been withdrawn by the Administration. The Administration indicates the program will produce 2005-06 savings totaling $145 million ($80 million General Fund).

   Background: As part of the 2004-05 budget package, SB 1105 amended sections of the Government Code to establish an Alternate Retirement Program for new state employees. Effective August 11, 2004, during the first 24 months of employment neither the employer nor the employee make contributions to the California Public Employees' Retirement System (CalPERS). Instead, the employee contributes a portion of their salary to the Alternate Retirement Program. These funds are placed in an Internal Revenue Code Section 401(a) account. The employer does not make a contribution to this plan, thus saving approximately 17 percent of its salary costs for the average miscellaneous employee. At the end of the 24-month period, the employee will be enrolled in the CalPERS system that will include both employer and employee contributions. The Alternative Retirement Plan program is administered by the DPA.

   Staff Comment: DPA indicates the costs associated with this existing program cannot be absorbed within existing budgeted resources.

   Staff Recommendation: Approve this request.

   Vote:

2. **Salary and Benefit Surveys:** The issue of salary and benefit surveys was discussed at the March 30, 2005, Senate Rules Committee confirmation hearing for Director Michael Navarro and Deputy Director William Avritt. Chairman Perata indicated he wanted to help DPA institute a complete salary survey. Mr. Navarro indicated he would welcome that. Mr. Avritt indicated DPA would want the survey to include both rank and file as well as manager and supervisor compensation; look at different regions of the state; and examine total compensation, not just salary.

   Staff Comment: The DPA should describe for the Subcommittee what recent salary surveys they have performed and how the information has benefited the state. The department indicates it will put together a plan for a comprehensive salary survey and submit a 2006-07 Budget Change Proposal to the Department of Finance.

   Staff Recommendation. Adopt provisional budget language that requires DPA to submit a plan to the appropriate fiscal committees of the Legislature by January 10, 2006, to implement a comprehensive salary survey that would include regional data, rank and file as well as manager and supervisor compensation, and total compensation, not just salary. The plan should include full fiscal detail on the costs associated with the survey, including necessary positions and total cost.

   Vote:

9650 Health and Dental Benefits for Annuitants

The Health and Dental Benefits for Annuitants budget item provides the State's contribution for the cost of a health benefits plan and dental care premiums, for annuitants and other employees, in accordance with requirements of Government Code. The cost of this benefit is estimated by the California Public Employees' Retirement System (CalPERS). The budgeted amount is $861 million (all General Fund) – an increase of $65 million from the current year. According to the LAO's *Analysis of the 2005-06 Budget Bill*, the increase reflects growth of 3.5 percent in enrollment and growth of 5 percent in health care inflation.

According to CalPERS, this expenditure forecast is traditionally updated in June and both the Administration and Legislature are notified. The budget bill is updated to reflect the new estimates through a Department of Finance technical correction, upon approval by the Legislature.

Issue for Discussion:

1. **Adjustment for the Federal Prescription Drug Program.** The Administration's estimates for this item include offsetting savings of $34.5 million for one-half year associated with the implementation of the Medicare Part D prescription drug program that becomes effective January 1, 2006. For retiree programs that provide coverage that exceed the coverage in Part D, the federal government should subsidize a portion of the prescription costs. The estimated value of this subsidy is $611 per Medicare enrollee for 2006.

   Staff Comment: The Public Employees' Retirement System (CalPERS) has expressed concern that it may be premature to adopt this reduction to premiums. The Subcommittee may wish to ask CalPERS to discuss their concerns and ask the Department of Finance to respond.

   Staff Recommendation: Keep issue open. The Administration indicates it will have updated figures available at the time of the May Revision.

   Vote:

9800 Augmentation for Employee Compensation

This budget item includes funding for pay and benefit increases for: (1) collective bargaining units with previously agreed upon provisions; and (2) statutory dental and vision insurance increases. Baseline costs are included in individual department budgets. Employee compensation funding is based upon approved Memoranda of Understanding for represented employees that are ratified by the Legislature. Compensation for excluded employees are determined by the Department of Personnel Administration or other authorized entities.

The Governor proposes funding of $261 million ($198 million General Fund) for employee compensation augmentations. In the *Analysis of the 2005-06 Budget Bill*, the LAO notes that $217 million of this amount is for contractual raises for highway patrol and correctional officers (bargaining units 5 and 6 respectively).

Issues for Discussion:

1. **Excluded Costs:** The LAO notes in their *Analysis* that this item does not include costs for the engineers' contract (unit 9), which has previously been estimated at $48 million ($1.8 million General Fund). Additionally, the item does not include the costs related to health insurance premium increases, which has previously been estimated at $102 million ($37 million General Fund). In the case of the engineer's contract, the Administration indicates it is awaiting updated salary-survey data prior to including these costs. In the case of the health premiums, the Administration indicates it intends to negotiate to shift these costs to the employee. The $102 million health-insurance cost listed here, represents the cost escalations from 2004-05 to 2005-06. The Administration also proposes to cut the base 2004-05 program funds, and that savings is included in budget item 9955 discussed later in this agenda.

   Staff Comment: The Administration indicates more information on bargaining-unit 9 costs should be available at the time of the May Revision.

   Staff Recommendation: Keep this issue open. Consider this issue again at the May Revision hearing when additional information will be available.

   Vote:

9955 Reduction for Employee Compensation

The employee compensation reductions proposed by the Governor for 2005-06, are included in the Governor's Budget as item 9955 "Employee Compensation Reform." These savings include reductions due to: (1) the adoption last year of the Alternative Retirement Program, which reduces the State's costs for employees staying with the state less that two years; and (2) cuts to employee compensation such as shifting retirement costs to employees and authority to furlough employees without pay.

The Administration indicates that total savings of $886.3 million ($487.5 million General Fund) would be realized in 2005-06 if the proposals are approved in their entirety. These figures are adjusted from the Governor's Budget based on an April 1 Finance Letter from the Administration that reduced the anticipated 2005-06 savings from the Alternative Retirement Program by $10.4 million. Savings from the Alternative Retirement program is an adjusted $145 million ($80 million General Fund) and savings from the cuts to employee compensation are $741 million ($407 million General Fund).

The Governor's proposal to provide new employees a defined contribution retirement plan instead of a defined benefit retirement plan, which was recently withdrawn by the Governor, is not included in this item. That proposal would not have taken effect in 2005-06, and was previously discussed during subcommittee hearings in February.

Issues for Consent / Vote Only

1. **Savings from the 2004 Alternative Retirement Program.** The Governor proposes to budget savings of $145 million ($80 million General Fund), from the Alternative Retirement Program enacted in August 2004 (SB 1105, Committee on Budget and Fiscal Review). The Administration requests the authority for the Director of Finance to reduce department budgets to capture this savings.

   The Alternative Retirement Program generated long-term budget savings to support the issuance of pension obligation bonds that would provide General Fund relief in 2004-05. The Administration now expects the bonds to be sold in 2005-06 instead of 2004-05, and expects bond revenues to be $560 million instead of $929 million.

   The program generates savings because, during the first 24 months of employment neither the employer nor the employee make contributions to the California Public Employees' Retirement System. Instead, the employee contributes a portion of their salary to the Alternate Retirement Program. These funds are placed in a 401(a) account. The employer does not make a contribution to this plan, thus saving approximately 17 percent of its salary costs for the average miscellaneous employee. At the end of the 24-month period, the employee would be enrolled in the PERS system that would include both employer and employee contributions.

   Staff Comment: This issue recognizes savings from an ongoing program enacted with last year's budget. No concerns have been raised with this budget issue.

   Staff Recommendation: Approve this request.

   Vote:

Issue for Discussion

1. **Cuts to Employee Compensation.** The Governor proposes budget savings of $741 million ($407 million General Fund) from cuts to employee compensation. These reductions would be phased in as union contracts are renegotiated and would therefore, require approval of represented employees through the collective bargaining process. The proposals are as follows:

   - **Defined-benefit retirement plan changes for existing employees.** Beginning in 2005-06, the Governor proposes to require employees to pick up one-half of the total retirement charges approved by CalPERS (both the "normal cost" – current cost of future benefits, and the unfunded liability). This would shift $374 million ($206 million General Fund) from the state to employees in 2005-06.

     Additionally, the Governor proposes to allow employees to opt out of CalPERS, with an estimated savings to the state of $164 million ($90 million General Fund). If an employee were to choose this option, they would receive both the "normal cost" employer contribution and the employee retirement contribution as current income, increasing take-home pay. However, unless that employee independently saved for retirement, their sole retirement support would be Social Security. The State would save money by not funding the unfunded liability in CalPERS for this employee.

   - **Five-day furlough of state employees.** The Governor proposes a five-day furlough of state employees to save the state an estimated $109 million ($60 million General Fund) in 2005-06.

   - **Eliminate leave from the overtime calculation**. The Governor proposes to eliminate holiday, sick leave, vacation, annual leave, and compensating time off, from the calculation of overtime. The Administration estimates this will generate 2005-06 savings of $36.4 million ($20 million General Fund).

   - **Health-benefit reductions.** The Governor proposes the following reductions to generate total 2005-06 savings of $55.3 million ($30.0 million General Fund):

     - New employees must work 6 months before health care is provided.
     - Enroll employees retired from the military in the federal health care program.
     - Reduce the amount the state contributes to health care by $14.20/month. (Additional savings of $102 million ($37 million General Fund) related to this proposal, are included in budget item 9800).

   - **Eliminate two state holidays.** The Governor proposes to eliminate 2 state holidays to save the state an estimated $3.1 million ($1.7 million General Fund).

   - **Cap the accrual of vacation and annual leave.** The Governor proposes to cap the accrual of vacation and annual leave at 640 hours. While the Administration indicates this will result in cost savings, it does not score any 2005-06 budget savings from this proposal.

Staff Comment: The Subcommittee may want to ask the Administration about the status of negotiations with state bargaining units relative to these proposals. In order to gain the above concessions from unions, the Administration may offer offsetting benefits that would increase out-year costs. Therefore, it is difficult to evaluate these proposals independent of a total compensation package.

Staff Recommendation: Keep this issue open. More information on the status of negotiations may be available at the time of the May Revision.

Vote:

Control Section 3.60 Contributions to Public Employees' Retirement Benefits

Control Section 3.60 of the budget bill specifies the contribution rates for the various retirement classes of State employees in the California Public Employees' Retirement System (CalPERS). This section also authorizes the Department of Finance to adjust any appropriation in the budget bill as required to conform with changes in these rates. The below table provide proposed rates with historical comparisons, and is copied from the LAO's *Analysis of the 2005-06 Budget Bill*.

State Retirement Contribution Rates

1991-92 Through 2005-06

Fiscal Year	Misc. Tier 1	Misc. Tier 2	Industrial	Safety	Peace Officer/ Firefighter	Highway Patrol
1991-92	11.8%	4.0%	13.4%	17.4%	17.4%	21.7%
1992-93	10.3	3.4	12.0	15.7	15.6	17.1
1993-94	9.9	5.0	11.8	15.5	15.2	16.9
1994-95	9.9	5.9	10.6	13.9	12.8	15.6
1995-96	12.4	8.3	9.0	14.2	14.4	14.8
1996-97	13.1	9.3	9.3	14.7	15.4	15.9
1997-98	12.7	9.8	9.0	13.8	15.3	15.5
1998-99	8.5	6.4	4.6	9.4	9.6	13.5
1999-00	1.5	—	—	7.5	—	17.3
2000-01	—	—	—	6.8	2.7	13.7
2001-02	4.2	—	0.4	12.9	9.6	16.9
2002-03	7.4	2.8	2.9	17.1	13.9	23.1
2003-04	14.8	10.3	11.1	21.9	20.3	32.7
2004-05	17.0	13.2	16.4	20.8	23.8	33.4
2005-06[a]	17.1	13.3	16.9	21.2	24.7	33.1

a Public Employees' Retirement System estimates.

Staff Comment: The above rates show significant annual fluctuations, which is primarily based on the investment market. Using "Misc. Tier 1" from the above table as an example, the highest rates are found in 2004-05 and 2005-06 and the lowest rates are found in 1999-00 and 2001-01. The average rate for Misc. Tier 1 for the period 1991-92 through 1997-98 is 11.1 percent, while the average rate for the 1998-99 through 2005-06 period is 8.9 percent.

CalPERS determines the rates in this section, and will update these rates with the May Revision of the Governor's Budget.

Staff Recommendation: Hold this item open pending the May Revision forecast.

Vote:

Control Section 4.01 Employee Compensation Savings

Control Section 4.01 provides authority for the Director of Finance to adjust Budget Act appropriations for the reductions in employee compensation included in the 9955 budget item. The 9955 item includes savings from the Alternative Retirement Program and proposed reductions to employee compensation. The control section is written with general language and could be used for whatever savings are included in the negotiated contracts.

Staff Comment: No such item was included in the 2004 Budget Act to adjust the budget for the Alternate Retirement Program savings. The Administration should comment on how similar adjustments were made in past budgets, and why this item is needed now.

Staff Recommendation: Keep this item open pending action on budget item 9955.

Vote:

Control Section 4.11 Establishing New Positions

Control Section 4.11 of the budget bill requires that new positions approved in the budget be established effective July 1, 2005, unless otherwise approved by the Department of Finance. Additionally, it requires the Controller submit monthly reports to the Department of Finance that lists new positions approved in the budget that will be abolished pursuant to Government Code Section 12439.

Staff Comment: This control section was added to the Budget Act for the first time last year. Staff understands this control section was added to reduce the practice of departments delaying the establishment of new positions and using the resulting savings for other purposes. The Administration should explain the impact of the July 1 position-establishment requirement on the operation of state departments.

Staff Recommendation: Approve this Control Section.

Vote:

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Christine Kehoe
Tom McClintock

Agenda -- PART A

Wednesday, May 11, 2005
1:30
Room 2040

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

8830 California Law Revision Commission

The primary objective of the California Law Revision Commission (CLRC) is to make recommendations to the Governor and the Legislature for revision of the law. The CLRC assists the Governor and the Legislature in keeping the law up to date by studying complex subjects, identifying major policy questions for legislative attention, gathering the views of interested persons and organizations, and drafting recommended legislation for consideration. The CLRC may study only topics that the Legislature authorizes by concurrent resolution.

Budget Request: The budget proposes expenditures of $550,000 ($535,000 General Fund and $15,000 in reimbursement authority) and 4.0 positions. This amount is $4,000 greater than estimated expenditures in the current year.

Staff Recommendation. Due to recent budget reductions, the CLRC has eliminated office assistant positions. An augmentation to provide ½ administrative positions would save 40 percent of the time that attorneys spend on administrative functions. Staff recommends approval of an augmentation of $40,000 for ½ administrative position.

Action

0820 Department of Justice

Issues Proposed for Consent / Vote-Only

1. Hazardous Materials Endorsements.

Finance Letter Request. This Finance Letter requests a reduction of $3.8 million from special funds to align expenditure authority with available resources. This augmentation was originally included in the 2005-06 Governor's Budget to provide funding for DOJ to collect and process information, fingerprints and fees associated with the hazardous materials endorsement provision of the USA PATRIOT Act, which is administered by the California Department of Motor Vehicles (DMV). As a result of implementation delays, the DMV must utilize a federal Transportation Security Administration agent to collect the information, thus removing the DOJ's involvement in this provision.

2. Reimbursement Authority Reduction.

Finance Letter Request. This Finance Letter requests that reimbursement authority be decreased by $4 million to reflect the expiration of various Memoranda of Understanding and reductions in grant awards.

3. Reduction in Federal Funds

Finance Letter Request. This Finance Letter requests a reduction of $44,000 in federal funds. The federal fund expenditure authority was left over from the limited term National Sex Offender Registry program.

4. Legal Services Revolving Fund

Finance Letter Request. This Finance Letter requests a reduction of $9,090,000 in special fund expenditure authority to align expenditure authority with available resources. This augmentation was included in the 2005-06 Governor's Budget to reflect the DOJ's increased legal services billing rates. This augmentation exceeds the total level of authority needed, based on services that the DOJ expects to provide to its client agencies in fiscal year 2005-06

5. California Methamphetamine Strategy (CALMS)

Finance Letter Request. This Finance Letter requests that a one-time increase of $3,201,000 from federal funds for the California Methamphetamine Strategy (CALMS) Program.

6. Threat, Analysis, Reporting, and Geographic Evaluation Tool Information System

Finance Letter Request. This Finance Letter requests that a one-time increase of $2,590,000 from federal funds for the Threat, Analysis, Reporting, and Geographic Evaluation Tool (TARGET) information system.

7. Single-Point Information Collection and Evaluation System

Finance Letter Request. This Finance Letter requests that a one-time increase of $1,981,000 from federal funds for the Single-Point Information Collection and Evaluation System (SPICES).

8. Technical Adjustment

Finance Letter Request. This Finance Letter requests a technical adjustment to transfer $270,000 from the Public Rights Division to the Division of Gambling Control to correct a posting error in the 2005-06 Governor's Budget.

9. Office of Training and Professional Development Consolidation

Finance Letter Request. This Finance Letter proposes to redirect $989,000 and 12.0 positions from the Division of Legal Support and Technology to the Executive Programs Division to consolidate and streamline the DOJ's training resources.

10. Registry of Charitable Trusts

Finance Letter Request. This Finance Letter requests an increase of $2,104,000 and 6.6 positions to address workload in the Registry of Charitable Trusts Program. As part of the request, reimbursements would be decreased by $906,000 and General Fund would be reduced by $410,000. It is further requested that the trailer bill language be adopted to establish the Registry of Charitable Trusts Fund. (Attached in the Appendix).

Staff Recommendation. No issues have been raised regarding the consent / vote-only issues. Staff recommends approval of the consent / vote-only issues.

Action.

0820 Department of Justice

Discussion Issues

1. Corporate Responsibility Unit.

Budget Request. The proposal requests 12.5 positions and $4.7 million for the Corporate Responsibility Unit. The unit would be self-funded through the Public Rights Division Law Enforcement Fund. Included in this request is an additional $3 million per year for external consultant support and $50,000 for out-of-state travel authority above the standard compliment. The DOJ indicates that based on the past successful performance of the Attorney General's Energy Task Force, Consumer Law, and Antitrust Litigation Sections, the resources requested in this proposal will self-fund ongoing activities. The proposal includes trailer bill language clarifying that no General Fund augmentations shall be used for this purpose and budget bill language stating that new positions can not be hired if there are insufficient funds in the Public Rights Law Enforcement Fund. (Special Funds). The trailer bill language is attached in the appendix.

Staff Recommendation. Staff recommends approving this request.

Action.

2. Representation of Franchise Tax Board – Abusive Tax Shelters.

Budget Request. This request proposes an increase of $721,000 General Fund and 4.9 positions related to representation of the Franchise Tax Board (FTB). SB 614, enacted as Chapter 656, Statutes of 2003 established a state tax compliance program intended to reduce the number of abusive tax shelters and tax avoidance schemes. The DOJ indicates that FTB estimates that at least 10 of the tax shelter claims returns that were deemed claims for refund will be in full litigation in the budget year.

Staff Recommendation. Staff recommends approving this request.

Action.

3. CDC Workload

Finance Letter Request. This Finance Letter requests $4,156,000 and 29.5 positions to handle increased medical malpractice/deliberate indifference cases received from the California Department of Corrections.

The Tort and Condemnation Section of the DOJ defends state agencies and its employees in lawsuits where personal injury and/or property damage claims are made. DOJ indicates that the number of hours dedicated to CDC's cases has significantly increased over the last five years, from 241 cases in 1999-00 to 449 cases in 2003-04. The DOJ notes that given recent evaluations of the implementation of the *Plata* Remedial Plan (regarding improvements to CDC healthcare services) that significant additional workload will continue on CDC cases.

Staff Recommendation. Staff recommends approval of the Finance Letter.
Action

3. Civil Law Division Workload

Finance Letter Request. This Finance Letter requests $2,019,000 and 13.1 positions to address workload performed on behalf of the DOJ and the state in the following two areas: (1) legal services related to DOJ's internal matters, such as providing advice and representation in personnel conflicts and defending subpoenas in third-party litigation; and (2) legal services related to non-discretionary programs and duties, such as reviewing initiatives and defending governmental cases against the state.

The DOJ notes that given the reduction to its budget in the last several fiscal years, it is no longer able to continue this workload without an augmentation.

Staff Recommendation. Staff recommends approval of the Finance Letter.
Action

4. Correctional Law Section

Finance Letter Request. This Finance Letter requests $2,235,000 and 15.3 positions (14.5 personnel years) to handle increased state and federal *habeas corpus* litigation. This request is in addition to an increase of $1.1 million and 7.7 positions proposed in the January 10 budget.

The DOJ indicates that the additional workload is related to cases involving lifer parole hearings by the BPT and changes in the parole revocation process as a result of the *Valdivia* Remedial Plan.

Staff Recommendation. Staff recommends approval of the Finance Letter.
Action

5. Unfair Competition Law Workload

Finance Letter Request. This Finance Letter requests an increase of $913,000 and 6.6 positions for workload associated with the Unfair Competition Law (Proposition 64). As part of the January budget, the DOJ proposed $2.3 million and 10.8 positions for workload resulting from this initiative that passed in November 2004.

The DOJ reports that the staffing previously requested cannot absorb the volume of work that has been identified since the original request. Additionally, the DOJ indicates that in the last several months, courts have found that Proposition 64 applies to pending cases brought by private litigants. These positions would be funded from litigation recoveries obtained for the Unfair Competition Law Fund.

Staff Recommendation. Staff recommends approval of the Finance Letter.
Action

6. Equipment Replacement Project.

Finance Letter Request. This Finance Letter requests $1 million from the General Fund for a one-time purchase of laboratory equipment for the Bureau of Forensic Services to improve current capabilities and replace outdated, un-repairable equipment used by the lab system. The DOJ reports that it has insufficient baseline equipment authority to acquire and replace scientific equipment.

Previous Action by the Subcommittee. This request is in addition to a request of $1.5 million related to equipment replacement in the January budget proposal. At the hearing on March 30, the Subcommittee approved the $1.5 million on a one-time basis and directed DOJ to develop an equipment replacement program.

Staff Recommendation. DOJ indicates that this additional one-time funding is necessary to address immediate accreditation requirements. Staff recommends approval of this Finance Letter request.

Action

0855 California Gambling Control Commission

Finance Letters

1. Compact Workload Augmentation

Finance Letter Request. This Finance Letter amends the January budget request for an augmentation for the Gambling Control Commission (GCC). The 2005-06 budget proposal included an augmentation of $4,682,000 and 44.6 positions for the GCC to address workload associated with Tribal-State Gaming Compacts. The original proposal is being withdrawn and a revised proposal in the amount of $2.3 million and 22.1 positions is include in the Finance Letter to address the Commission's workload associated with existing, new, and amended Compacts.

The revised proposal includes the following:

- $852,000 from the Special Distribution Fund (SDF) and 7 positions to establish and maintain a state gaming test laboratory.
- $532,000 from the SDF and 5 positions to implement a program for field testing of gaming devices.
- $245,000 from the SDF and 3 positions for additional audit and compliance resources for new workload and workload associated with the 1999 compacts.
- $206,000 from the SDF and 3 positions for new workload and workload associated with the 1999 compacts.
- $239,000 from the SDF and $103,000 from the Gambling Control Fund and 4.5 positions related to administrative functions and information technology.
- $85,000 from the SDF and one staff counsel position.

Staff Comments. The LAO has raised some concerns with the portion of the request related to state gaming test laboratory. The new and amended compacts require new gaming devices to be certified by either a private testing lab or a state lab. The GCC indicates that a state gaming lab would give California independence from the gaming industry and would provide internal technological expertise t assist the field testing and audit programs of the GCC.

Analyst’s Recommendation. The LAO recommends not approving the state lab request, but providing GCC with two limited-term special consultant positions to provide technical expertise and five limited-term positions for the field testing component. The LAO recommends two-year limited term positions because these are new activities and the level of workload is not yet defined. The LAO also recommends the following Supplemental Report Language requiring CGG to report to the Legislature on its testing program.

> The California Gambling Control Commission shall report to the chairs of the budget subcommittees in both houses and the Chair of the Joint Legislative Budget Committee by March 1, 2006 and March 1, 2007 on its testing program. The reports shall include the number of gaming devices tested, the average time to test each-gaming device, any types of problems discovered with gaming devices, and how these problems were resolved. The reports shall also include any recommendations for improvements to the testing program.

Staff Recommendation. Consistent with the LAO recommendation, staff recommends approval of the Finance Letter with the following changes – rejection of the funding to establish a state testing lab, approval of the field testing component on a two-year limited-term basis, approval of two special consultant positions to provide technical expertise on a two-year limited-term basis, and approval of supplemental reporting language on the testing program.

Action.

2. Indian Gaming Facility Inspection Verification

Finance Letter Request. This Finance requests an increase of $276,000 from the Special Distribution Fund to reimburse the Department of General Services (DGS) and the State Fire Marshal for building code and fire safety inspection verification. The state has named DGS as the state's designee to oversee the building/construction provisions of the Compacts.

The GCC indicates that pursuant to all the compacts, the Tribal Gaming Authority must have building and safety experts conduct inspections before issuing a certificate of occupancy; and the state's designee must be given reasonable notice to participate in the inspection. The tribe must correct any condition that does not meet standards required under the compacts. In the event that the state's designee objects to the issuance of the certificate of occupancy, the tribe must make a good faith effort to address the state's concerns, and in the event that the state does not withdraw its objection, the matter proceeds through the compacts dispute resolution process.

Staff Comments. DOF indicates that the funding in the proposal would be sufficient for inspection and validation of two new construction projects. The LAO has raised concerns regarding the justification for funding two inspections.

Staff Recommendation. Staff recommends rejection of the Finance Letter pending additional justification for the number of inspections in the budget year.

Action.

Appendix
Proposed Trailer Bill Language

1. Language related to the Corporate Responsibility Unit

Chapter 876, Statutes of 2003 is amended to read:

SEC. 16. The investigation and enforcement of the provisions contained in Sections 1 to 15, inclusive, of this act shall be accomplished without any duplication of effort on the part of the Attorney General and the Commissioner of Corporations. To the extent that the Attorney General exercises this authority, ~~it shall be done using existing resources, and no future~~ <u>no General Fund</u> budget augmentations shall be made for this purpose.

2. Proposed Trailer Bill Language related to Registry of Charitable Trusts

Section 12587.1 is added to the Government Code, to read:

12587.1. The Registry of Charitable Trusts Fund is hereby established in the State Treasury, to be administered by the Department of Justice. Notwithstanding any other provision of law, all registration fees, registration renewal fees, and late fees or other fee paid to the Department of Justice pursuant to this article, Section 2850 of the Probate Code, or Section 320.5 of the Penal Code shall be deposited in the Registry of Charitable Trusts Fund. Moneys in the fund, upon appropriation by the Legislature, shall be used by the Attorney General solely to operate and maintain the Attorney General's Registry of Charitable Trusts and to provide public access via the internet to reports filed with the Attorney General.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Tom McClintock
Christine Kehoe

Agenda – Part B

Wednesday, May 11, 2005
1:30 p.m.
Room 2040

(Consultant: Brian Annis)

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

Issues Proposed for Consent / Vote Only

1110 Board of Registered Nursing

The Board of Registered Nursing ensures that registered nurses are competent and safe to practice through: (1) sound licensing standards; (2) an effective enforcement program to prosecute violations of the Nursing Practice Act; (3) a diversion program to intervene with chemically dependent or mentally ill nurses; (4) oversight of nursing school programs; and (5) public education efforts.

Issue: Augmentation for the Diversion Program (Finance Letter (FL) #1). The Administration proposes a permanent augmentation of $168,000 (special fund) to support the increased participation in the Diversion Program. The Diversion Program is a voluntary confidential monitoring program for Registered Nurses (RNs) whose competency may be impaired as a result of chemical dependency and/or mental illness. The Diversion Program services are performed by a contractor with staff having expertise and knowledge in chemical dependency and mental illness. The base program funding anticipates contract costs of $1.106 million and 408 participants. Recent actual participation suggests 2005-06 costs of $1.274 million and 470 participants.

1111 Bureau of Automotive Repair

The Bureau of Automotive Repair administers the Automotive Repair Program and the Smog Check Program. Both Programs are designed to protect consumers and discipline unethical service dealers and technicians. The Bureau also administers the Consumer Assistance Program, which provides financial assistance to eligible consumers whose vehicles fail a biennial Smog Check inspection.

Issue: Staff Realignment (FL #2): The Administration requests a budget adjustment to rescind a January Governor's Budget Proposal to shift 3.8 positions and $269,000 (special fund) from the Department of Consumer Affairs Communications and Education Division to the Bureau of Automotive Repair. The Administration is now requesting to maintain the status quo and keep consumer education and outreach functions centralized, rather than decentralize these functions by transferring them to the Bureau of Automotive Repair. Implementation of this proposal would result in no net increase in expenditures.

1700 Department of Fair Employment and Housing

The mission of the Department of Fair Employment and Housing is to protect people from unlawful discrimination in employment, housing, and public accommodations, and from the perpetration of acts of hate violence.

Issue: Technical Corrections related to Workers' Compensation (April FL). The Administration requests the following technical corrections related to adjustments made in the January Governor's Budget for Control Section 6.60 of the 2004 Budget Act. Control Section 6.60 provided a mechanism for budget adjustments due to workers' compensation savings.

- Move the savings from operating expenses and equipment to staff benefits.
- Augment funding by $390,000 (General Fund) to correct for overstated savings due to incorrect base-year costs.

Staff Comment: No issues have been raised with the consent / vote-only items listed above.

Staff Recommendation: Approve the budgets of the entities listed above.

Vote:

1110 / 1111 Department of Consumer Affairs

The Department of Consumer Affairs (DCA) provides exams and licensing, enforcement, complaint mediation, education for consumers, and information on privacy concerns. The issue listed below is a cross-cutting issue that involves multiple Boards or Bureaus. Issues that relate to a single Board or Bureau are discussed under the headings of the individual Board or Bureau.

Issue for Discussion:

1. **Workers' Compensation Augmentation and Conversion to a "Self-Insured" Program (Budget Change Proposal (BCP) #1 and FL #1).**

   BCP #1: The Administration requests a permanent augmentation of $3.1 million (no General Fund, various special funds) to provide Boards and Bureaus with sufficient resources to fund significant increases in State Compensation Insurance Fund (SCIF) premiums. The base budget for these costs is currently $3.4 million and SCIF premiums are anticipated at $6.5 million for 2005-06.

   FL #1: The Administration requests conversion of DCA from a premium-based insurance policy with SCIF to a self-insured program. According to information provided by the Department of Finance, most State departments pay workers' compensation costs directly out of their budgets instead of purchasing insurance through SCIF. The Finance Letter indicates that DCA's actual workers' compensation costs have averaged between $1.3 million to $2.0 million, while their SCIF premiums have increased to $6.5 million. The Administration proposes to retain the augmentation in BCP #1 and additionally add 1.5 positions (no additional funding) to DCA, but anticipates overall savings from the conversion to a self-insured program. The Administration proposes to separately schedule the workers' compensation appropriation, so that Control Section 26.00 restrictions would apply and DCA would have limited ability to redirect this funding for other expenditures.

   April 6, 2005 Hearing: BCP #1 was on a past hearing agenda, but the issue was held open without discussion to be considered in concert with FL #1.

   Staff Comment: The Administration indicates the conversion to a self-funded program should reduce DCA costs; however, this may increase the frequency of deficiency requests if small boards are unable to absorb unanticipated workers' compensation costs. If approved, committee staff should be directed to look at this again next year to see if savings were achieved and if the appropriation should be reduced.

   Staff Recommendation: Approve both BCP #1 and FL #1.

   Vote:

1110 Athletic Commission

The State Athletic Commission approves, manages, and directs all professional and amateur boxing and martial arts events. The Commission is charged with ensuring bouts are fair and competitive while protecting the health and safety of participants. The Commission is support by industry fees.

Issue for Discussion

1. **Augmentation to Implement Senate Bill 1549 (FL #1).** The Administration requests a permanent augmentation of $46,000 (special fund) for temporary help to implement the requirement of SB 1549 (Statutes of 2004, Figueroa), which expanded the jurisdiction of the Commission to include all forms of marital arts contests, including mixed martial arts. The Senate Floor Analysis for SB 1549 estimated annual costs of about $300,000, for additional licensing and for regulation of marital arts events, offset by about $550,000 in revenue from license fees and gate taxes.

   Staff Comment: The Commission should explain the difference in fiscal estimates between the SB 1549 analysis and those in the Finance Letter, and whether the requested amount will be sufficient to implement SB 1549.

   Staff Recommendation: Approve the request.

   Vote:

1920 State Teachers' Retirement System

The State Teachers' Retirement System (CalSTRS) administers retirement and health benefits for more than 735,000 active and retired educators in the public schools from kindergarten through the community college system.

Issue for Discussion

1. **State Contribution to the Defined Benefit Program.** The Governor proposes to shift State responsibility for making contributions to CalSTRS basic retirement program to local employers. Specifically, the Governor's proposal eliminates the State's 2.017 percent contribution to the Defined Benefit (DB) program, for an assumed General Fund (Non-98) savings of $469 million in 2005-06. The proposal increases contributions for CalSTRS employers – school districts, county offices of education and community colleges – but does not provide additional funding to cover higher local contributions to the DB program. The Governor's proposal allows local employers to share costs with CalSTRS employees through collective bargaining. The state also contributes 2.5 percent of payroll for purchasing power benefits – estimated to total $581 million General Fund (non-98) in 2005-06. This purchasing power protection program is <u>not</u> affected by the Governor's proposal.

   Detail: Under the DB program, benefits are funded from three sources. Contributions, as a percent of payroll, for each of these sources are fixed in statute as follows:

   - Employee Contributions: 8.0 %
   - Employer Contributions: 8.25 %
   - State Contributions: 2.017 %

   Under the Governor's proposal, the state's DB program contribution of 2.017 percent would be eliminated and the funding obligation would shift to either the Employer Contribution or the Employee Contribution (depending on collective bargaining). As noted in the LAO analysis, the State's contribution of 2.017 percent is pegged to payroll two years ago. If the 2.0-percent calculation were applied to current payroll, the costs would be approximately $500 million.

   In addition, the Governor proposes to give teachers the option of eliminating their 2 percent contribution currently credited to a Defined Benefit Supplement (DBS) program. This option would allow employees to increase their take home pay by reducing contributions from 8 to 6 percent, but also reduce DBS benefits. Under current law, the DBS program ends in 2010.

   The Administration also proposes to eliminate a statutory surcharge that is activated when there is unfunded liability to cover 1990-level benefits. This surcharge was triggered for three-quarters of the year in 2004-05 at a rate of 0.524 percent and resulted in a General Fund (Non-98) cost of $92 million. The LAO estimates that the full-year costs of funding the surcharge is between $120 and $170 million in

General Funds. The CalSTRS estimate of the 2005-06 cost of this surcharge is $122 million.

CalSTRS Comments: The CalSTRS Board is opposed to the Governor's DB contribution shift proposal because it: (1) potentially worsens the funding condition of the DB program; (2) potentially impairs contractual rights of existing members; and (3) poses a severe administrative burden on local employers and CalSTRS to administer the benefit program.

Proposition 98 Rebenching: The Governor's proposal would not result in any savings to the State if the cost shift would result in a rebenching of Proposition 98. In the *Analysis of the 2005-06 Budget Bill*, the LAO indicated that because the proposal shifts costs to locals it would likely require rebenching of Proposition 98. If this were the case, the state would have to appropriate $469 million to locals. The Administration has argued that no rebenching would be necessary with the proposal.

Legislative Counsel Opinion: The Legislative Counsel provided an opinion on the Governor's proposal and Proposition 98 rebenching in a letter dated April 11, 2005, and titled, *State Teachers' Retirement: Proposition 98 - #9293*. The opinion concludes as follows:

> *Thus, it is our opinion that the proposal to eliminate the state's annual contribution to the California State Teachers' Retirement System Defined Benefit Program contained in the Governor's Budget for the 2005-06 fiscal year would require a recalculation of the minimum educational funding obligation imposed by Section 8 of Article XVI of the California Constitution if that proposal is enacted by the Legislature and signed by the Governor.*

Staff Comment: Rebenching of Proposition 98, as the Legislative Counsel indicates would be required, means that the Governor's proposal would not save the State any money, as the State would be required to backfill the cost to locals of this retirement cost.

Staff Recommendation: Reject the Governor's proposal, because it will not generate any savings for the State.

Vote:

Note on CalSTRS budget: Pursuant to the direction of the Chair at the April 27 hearing, the remainder of CalSTRS budget (other than issue #1 above as applicable) is kept open while an issue of concern to another Senator is being addressed.

2180 Department of Corporations

The Department of Corporations administers and enforces state laws regulating securities, franchise investment, lenders, and fiduciaries.

The Governor' Budget proposes total expenditures of $31.1 million (State Corporations Fund), an increase of $1.8 million.

Issues:

1. **Continuation of Seniors Against Investment Fraud (SAIF) Program (BCP #4):** The Department requests $400,000 (special fund) and 1 position to continue this three-year-old program that previously has been funded by a grant from the Criminal Justice Programs Division of the Governor's Office of Emergency Services. With help from volunteers from organizations such as the Association of Retired Persons and the Retired Senior Volunteers Program, the program conducts outreach training and distributes information packets to seniors. The program aims to reduce investment fraud in areas such as insurance, annuities, and ponzi schemes.

   Legislative Analyst Recommendation: In the *Analysis of the 2005-06 Budget Bill*, the Analyst recommends that the Legislature deny this funding request. The Analyst indicates it is difficult to draw definitive conclusions about the program's direct benefits on reducing investment fraud. Additionally, the Department of Justice contains a Bureau of Medical Fraud and Elder Abuse that also works to reduce investment fraud on seniors.

   March 2, 2005 Hearing: The Subcommittee left this issue open and requested that the Administration provide additional information concerning any overlap between the functions of this program and the Department of Justice Program.

   Administration Response: Both the department and the Attorney General's Office provided information about their respective programs. The Attorney General's program has a broader scope and does not provide the detail and depth of help provided by the Department of Corporations with SAIF.

	Dept. of Corporations	**Attorney General's Office**
Scope of Program	Investment fraud against seniors.	Elder abuse, including physical, neglect, and financial.
Response to phone inquires on investments	Receives calls and advises seniors.	Does not have staff to advise senior. Refers callers to SAIF.
Public Outreach	With volunteers, over 2,000 presentations.	Senior Crime Alert Forums, normally include a SAIF representative.

Staff Comment. Information provided by the Administration indicates that SAIF provides services and information that is not available from the Attorney General's program. The Subcommittee may want to adopt one of the following four options:

1) Reject SAIF funding. This is the LAO recommendation and would reduce costs, but decrease state services to seniors.
2) Reduce SAIF funding to $225,000 (BCP minus $175,000). This would provide for one staff person, but reduce funding available for media advertising, conference fees, and video production. The remaining funding would cover printing, travel costs, general expenses and service contracts.
3) Approve SAIF funding at $400,000, but make it 2-year limited-term. This would address the concern about a fee increase – if in two years, fee revenue is insufficient to continue at this level, funding could be eliminated or reduced.
4) Approve permanent SAIF funding of $400,000, as requested by the Administration.

Staff Recommendation: Adopt option #2: Reduce SAIF Funding to $225,000 (BCP minus $175,000). This maintains the core program but eliminates or reduces costly conference attendance, media purchases, and video production.

Vote:

2. **Additional Examiners – Abusive Lending Enforcement (BCP #5):** The Department requests three positions and $287,000 (special fund) for the additional workload associated with AB 2693 (Chapter 940, Statutes of 2004, Wiggins). AB 2693 added a provision to the California Financial Code that prohibits finance lenders from failing to disburse funds in accordance with a commitment to make a loan, or intentionally delaying the closing of a loan for the purpose of increasing costs to the borrower. The Assembly analysis of the bill indicated that these practices were already illegal under Residential Mortgage Law, but not described as prohibited acts under the California Financial Code. The analysis indicated no fiscal cost to implement the bill.

   March 2, 2005 Hearing: The Subcommittee left this issue open and requested that the Administration provide additional information concerning the need for this augmentation and why AB 2693 indicated no fiscal effect.

   Administration Response: The Department indicates that it identified fiscal costs associated with AB 2693, but did not have time to submit their analysis after amendments were adopted and prior to the bill being passed out of committee. The Department notes the cost is due to adding this activity to their audit investigations, such that every lender is examined for compliance every four years.

   Staff Comment. This issue is similar to last year's discussion of SB 1, the Financial Information Privacy Act. The Department wanted funding to audit all firms for compliance; however, the Legislature reduced the funding to cover complaint investigation and "red flag" audits. Report language was added to report the observed level of non-compliance with SB 1.

   Staff Recommendation: Approve funding for only one of the requested three positions (BCP minus $191,000 and 2 positions) to fund complaint investigation and "red flag" audits. This is analogous to last year's action on SB 1. Adopt the following language to require the Department to report on compliance:

   Provision 3: The Department of Corporations shall report to the budget committees of each house of the Legislature and the LAO by January 10, 2007, on the level of non-compliance found with Chapter 940, Statutes of 2004 and any staffing changes requested based on the level of compliance.

   Vote:

3. **Troops Against Predatory Scams Investor Education Program (FL #1).** The Administration requests an augmentation in reimbursement authority of $150,000, three-year limited-term, to receive grant funding to institute a Troops Against Predatory Scams (TAPS) Investor Education Program. The grant has been awarded to the department by the Investor Protection Trust, a nonprofit organization whose primary mission is to provide independent, objective, investor education. The TAPS program is designed to educate members of the Armed Forces and their families stationed within California about how to protect their finances against investment fraud and predatory financial schemes. The proposed TAPS expenditures are as follows:

    - $104,000 – General expenses and advertising.
    - $11,000 – Printing, postage, communications, and facilities.
    - $35,000 – Travel for the TAPS Program Director and an analyst.

    Staff Comment: The Department indicates TAPS would be managed by existing Public Affairs Office staff, existing call center staff, and possibly student assistants.

    Staff Recommendation: Approve this request. Funding is provided by a nonprofit organization.

    Vote:

2240 Department of Housing and Community Development

A primary objective of the Department of Housing and Community Development (HCD) is to expand housing opportunities for all Californians. The department administers housing finance, economic development, and rehabilitation programs with emphasis on meeting the shelter needs of low-income persons and families, and other special needs groups. It also administers and implements building codes, manages mobilehome registration and titling, and enforces construction standards for mobilehomes.

The Governor's Budget proposes $563.2 million ($13.3 million General Fund) in total expenditures for the department – a decrease of $34.9 million.

Housing and Community Development Issues for Discussion / Vote

1. **Regional Housing Needs Assessment Mandate (Staff Issue).** Given a recent *Statement of Decision* by the Commission on State Mandates, the Legislature may want to consider deleting the "housing element" mandate item in the budget bill.

   Background: Statute requires Councils of Governments (COGs) to assess a locality its share of the regional housing need. As part of its general plan, every city and county is required to prepare a "housing element" which assesses the conditions of its housing stock and outlines a five-year plan for housing development. In 1981, the Board of Control determined that the housing-element requirement imposes a reimbursable mandate. Last year, the LAO estimated the annual cost to the State at approximately $4 million (General Fund). Last year, the Legislature approved a budget trailer bill (SB 1102), which asked the Commission on State Mandates to reconsider the 1981 finding based on federal and state statutes enacted and federal and state court decisions rendered since the 1981 finding. On March 30, 2005, the Commission on State Mandates adopted a Statement of Decision that the housing element mandate does not require state reimbursement under the provisions of Article XIIIB, section 6, of the California Constitution.

   Staff Comment: The Governor's Budget proposed a suspension of the housing element mandate in 2005-06. Last year, the Legislature approved the deferral of the mandate, which continued the requirement, but deferred the State reimbursement to locals. Given the recent decision by the Commission on State Mandates, the Legislature may want to delete the mandate item. This action would continue the current-law requirement for locals, but not result in any costs to the State (either current or deferred). Staff understands that the Department of Finance is supportive of this change.

   Staff Recommendation: Delete the housing element mandate item (2240-295-0001) from the budget bill.

   Vote:

2. Economic Development Areas – Administrative Funding (Staff Issue). The State currently designates four types of economic development areas intended to attract and retain businesses in economically-challenged communities. Currently, there are 39 Enterprise Zones (EZs), eight Local Agency Military Base Recovery Areas (LAMBRAs), two Manufacturing Enhancement Areas (MEAs), and one Targeted Tax Area (TTA). Last year, a budget trailer bill (SB 1097) provided HCD authority until July 1, 2006, to impose a fee, not to exceed $10, for each application for a Enterprise Zone hiring tax credit voucher. Businesses are only required to pay the fee if they choose to take advantage of the tax credit. This fee funds the State's cost of the Economic Development Areas Programs ($668,000 and 6 positions), which would otherwise be a General Fund expense. Statute does not currently allow for the imposition of fees to cover the State's cost of the LAMBRA, MEA, and TTA programs.

Proposed statutory amendments would include LAMBRAs, MEAs, and TTAs in the fee structure; include a fee sunset date to 2009 (and move the EZ sunset date from 2006 to 2009); and delete the refund requirement for a rejected EZ application. Proposed amendments are on Attachment I (page 47) of this agenda.

March 2, 2005 Hearing: The Subcommittee kept this issue open to receive further input on the language from interested parties.

Language Changes: The language has been modified since the last hearing to add a 2009 sunset date. These changes were made to address industry concerns and staff understands industry does not oppose this language.

Staff Comment: There are approximately 55,000 businesses using the EZ tax credit and only about 2,300 businesses using tax credits in all the other economic development areas. According to HCD, there is not an administrative problem with also requiring the businesses that use the other tax-credit programs to help support the State's administrative cost of the programs. Moving the EZ sunset date would save the State approximately $668,000 (General Fund) in 2006-07. Identical language is included in SB 254 (Torlakson).

Staff Recommendation: Approve this trailer bill language.

Vote:

3. **Mobilehome Inspection Staffing (FL #2):** The Administration requests permanent funding $1.9 million (special fund) and 14 positions to liquidate the backlog and cover the costs of inspections for the Mobilehome Parks, Special Occupancy Parks, Factory-Built Housing, and the Manufactured Housing Program. Half-year funding is requested for 2005-06 totaling $1.0 million and 7 positions. The Administration proposes to fund these costs with fee increases that can be achieved without statutory change. The amounts of the fee increases vary by inspection type, but many of the fee increases are significant – exceeding 100 percent. Many of the fees have not changed since the 1980's.

Staff Comment: The Department indicates the major stakeholders are supportive of these fee increases, as indicated by the support of the following entities:

- California Manufactured Housing Institute (representing manufacturers, dealers, and installers)
- Western Manufactured Home Association (representing park owners and operators)
- Golden State Manufactured-Home Owners League (representing mobile home owners)

Staff Recommendation: Approve the request.

Vote:

2400 Department of Managed Health Care

The mission of the Department of Managed Health Care (DMHC) is to regulate, and provide quality-of-care and fiscal oversight for Health Maintenance Organizations (HMOs). Within the Department, the Office of the Patient Advocate helps educate consumers about their HMO rights and responsibilities. Previously, DMHC was heard in Budget Subcommittee 3, with Health and Human Services departments. DMHC is now in Budget Subcommittee 4, to be heard with other departments in the Business, Transportation, and Housing Agency.

The Governor proposes $35.9 million (no General Fund) in total expenditures for the department – a decrease of $331,000.

Issue for Discussion

1. **Staffing Augmentation (BCP #1).** The Administration requests authority to add four permanent positions for the HMO Help Center to be funded within existing resources. This request would convert temporary-help positions to permanent positions, so the $166,000 cost for these positions is not additive to the DMHC budget. In 2002-03, BCP #1, projected a need for additional permanent positions, but deferred the request to assess the impact of legislation, outreach efforts, and business-process re-engineering on workload.

   Staff Comment: Since DMHC is new to Subcommittee #4 and has not previously been heard this year, the subcommittee may wish to ask DMHC to briefly describe their HMO Help Center. Additionally, the subcommittee may want DMHC to comment on the quality of customer service performed both by department staff and an external call center operated by a private vender.

   Staff Recommendation: Approve the budget request.

   Vote:

2740 Department of Motor Vehicles

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

The Governor proposes total expenditures of $762 million, an increase of $7 million (1 percent) from the current-year budget.

Budget Changes proposed for Discussion / Vote

1. **Moving Costs (BCP).** The Administration requests 2005-06 funding of $781,000, special funds, for moving costs related to three existing offices (in Rocklin, Poway, and Riverside East) where the lessors do not intend to renew the DMV lease. The table below, from DMV, outlines the one-time and ongoing costs by location.

Ongoing	**2005-06**	**2006-07**
Rocklin	$333,095	$361,740
Poway	na	$415,000
Riverside East	na	$427,000
Total On-going Funds	$333,095	$1,203,740
One-Time		
Rocklin	$0	$0
Poway	$196,000	$64,800
Riverside East	$252,000	84,600
Total One-time Funds	$448,600	$149,400
Total Request	**$781,695**	**$1,353,140**

March 16, 2005 Hearing: The Subcommittee kept this issue open and asked DMV to provide further information to justify the cost of this request.

DMV Response: The DMV has provided additional detail on these costs.

Staff Recommendation: Approved the request.

Vote:

2. **Evaluations of High-Risk Drivers (LAO issue).** The LAO recommends adoption of budget bill language directing the department to transfer the workload for evaluating certain high-risk drivers from driver safety offices to its field offices, and to report on the impact of the transfer. The LAO suggests the "negligent operator " evaluations (concerning motorists that accrue an excessive number of moving violations or cause multiple traffic accidents) be moved to the field offices because these are the simpler type of evaluations that mid-level field office staff could perform with little training. This action would decrease the workload at the safety offices by about 10 percent and allow quicker evaluation of Driving-Under-the-Influence (DUI) cases and physical and mental ability cases. The LAO indicates that currently, DMV is not meeting statutory time frames for DUI cases.

   March 16, 2005 Hearing: The Subcommittee kept this issue open at the request of the DMV. The DMV indicated it needed additional time to evaluate and research this recommendation.

   Compromise Language: The DMV indicates that the LAO proposal merits study and the DMV plans to hire a consultant (within existing budgetary resources) to look at the feasibility of the change. The LAO revised its supplemental report language to incorporate the DMV proposal:

   On or before April 1, 2006, the Department of Motor Vehicles shall provide a report to the Chair of the Joint Legislative Budget Committee and the chairs of the budget committees of both houses of the Legislature on its short-, mid-, and long-term plans for addressing anticipated workload growth in the driver safety program. The report shall include the department's plans for meeting statutory requirements for administrative license suspension and negligent operator hearings, as well as scheduling timely evaluations of other high-risk drivers. The report shall also include an estimate of the department's additional resource requirements, if any, in carrying out these plans.

   Staff Comment: Staff understands the above supplemental report language is acceptable to both the LAO and the Administration.

   Staff Recommendation: Adopt the LAO's compromise supplemental report language.

   Vote:

3. **Funding for Credit Card Fees (FL #2).** The Administration requests an augmentation of $6.6 million (special funds) to fund credit card convenience fees charged by credit card companies. DMV requests an additional $2.3 million augmentation in 2006-07, such that total funding that year will be $8.9 million. This funding will cover the fees assessed by Visa, MasterCard, American Express, and Discover for the credit card transactions conducted by the DMV's customers such as registration renewal, personalized license plate reservation, and driver's license renewal.

   Background: On July 1, 2004, the DMV began absorbing the $4 credit card convenience fee previously charged to customers to encouraged growth in online transactions. The DMV anticipates an approximate doubling of online transactions from 2003-04 to 2004-05 with additional significant growth in 2005-06 and 2006-07. For example, the number of online registration renewals was 644,025 in 2001-02; grew to 1,190,519 in 2003-04; and is expected to be 3,000,000 in 2006-07. In 2004-05, the DMV added drivers license renewals to its online options. The DMV has absorbed these costs in the current year by lengthening the useful life of equipment, deferring routine maintenance, reducing both in-state and out-of-state travel, and reducing training costs; however, the department indicates this redirection cannot be carried out on an ongoing basis.

   Staff Comment: While the Finance Letter indicates increased online credit card payment may reduce visits to DMV offices, the department has indicated in discussions that most of the growth in online transactions is coming from people who would otherwise mail their payment to the DMV. The Department indicates that credit card transactions do not result in cost savings relative to processing checks that arrive in the mail. Despite no current cost saving, the DMV wants to expand online offerings and feels future benefits will accrue from customers visiting the DMV website.

   Staff Recommendation: Approve this request, but change funding to two-year limited-term. The DMV indicates convenience fees have been removed three times and later reinstated over an eleven year period as the budget and fund condition allowed. The current Motor Vehicle Account fund condition is sufficient to support this cost if the Subcommittee wishes to approve this request; however, this may change in the future.

   Vote:

4. **International Registration Plan – IT System Replacement (FL 4):** The Administration requests an augmentation of $1.345 million (special funds) in 2005-06 to begin the replacement of DMV's existing computer system for processing International Registration Plan (IRP) registrations with a commercial-off-the-shelf software package widely utilized by other states and countries. The DMV indicates that the new system would provide the department better tools to detect firms that underreport California mileage and in doing so increase annual revenue by approximately $7.4 million. The Feasibility Study Report (FSR) indicates the DMV intends to redirect funds to this project through 2008-09, such that the total project cost is identified at $8.4 million. Approval of this request would authorize out-year funding as follows ($ in millions):

	2005-06	2006-07	2007-08	Ongoing	Total
Requested Funding	$1.345	$1.325	$1.123	$1.036	$4.829
Redirected Funding	$1.267	$1.308	$0.708	$0.269	$3.553
TOTAL	**$2.612**	**$2.633**	**$1.832**	**$1.306**	**$8.382**
Revenue Increase	$0	$0	$3.700	$7.400	$11.100

Detail: California is a member of the federally-mandated IRP, which apportions registration fees for interstate carriers across IRP jurisdictions based on mileage. DMV indicates that the current IT system, implemented in 1985, doesn’t have the capability to interface with the IRP Clearinghouse electronic exchange system used by 45 of 59 IRP jurisdictions. The requested IT system would enhance automated support for IRP program activities, resulting in more effective and efficient operations and enhanced customer service and convenience. Customer service improvements would include reduced turnaround time for processing IRP applications (from 30-35 days to 10 days) and alternative service delivery options via the Internet to conduct IRP transactions electronically instead of using the current hard copy submission method. This system would support the provisions of SB 1233 (Statutes of 2004), that authorizes the DMV to form a public-private partnership with a motor carrier association to provide electronic services capable of accepting, completing, and transmitting registration transaction data and fees to the department.

Staff Comment: The FSR associated with this project was approved the week of May 2, 2005 by the Department of Finance, Office of Technology Review, Oversight, and Security. The standard practice is for Finance to approve a FSR prior to submission of a budget change proposal to the Legislature. If the Legislature approves a project prior to Finance approval of the FSR, some aspects of the projects may still change – as Finance may require changes to the FSR plan. While this FSR was recently submitted, staff understand the LAO has had reviewed it and does not oppose this project.

Staff Recommendation: Approve this request. Concerns with the FSR have been resolved.

Vote:

5. **Queuing System Expansion - IT Project (FL #5).** The Administration requests $2.087 million (special funds) to install queuing management systems for 42 additional DMV field offices. Ongoing funding is also requested at the level of $267,000. The DMV indicates the benefit of these queuing systems is improved customer service and improved performance measures – as the systems allow DMV to determine if offices are meeting the statutory mandate to provide service to customers within an average wait time of 30 minutes.

   Detail: The DMV currently has electronic queuing systems in 92 of the largest field offices and this request would add 42 additional offices. The Department indicates this would leave 34 offices without such systems; however, most of these offices are located in remote areas and do not have a large customer base or long wait times. These systems will allow field office managers to direct the assignment of customers to different windows to reduce average wait times; improve waiting conditions for customers; and more efficiently allocate staff within individual field offices. Each system will also act as a data collection device to allow regional office managers to monitor and manage the field offices on a real-time basis.

   Staff Comment: The FSR associated with this project was approved the week of May 2, 2005 by the Department of Finance, Office of Technology Review, Oversight, and Security. The standard practice is for Finance to approve a FSR prior to submission of a budget change proposal to the Legislature. If the Legislature approves a project prior to Finance approval of the FSR, some aspects of the projects may still change – as Finance may require changes to the FSR plan. The late approval of this FSR is somewhat mitigated in this case, because this is a proven technology that has been evaluated by a past FSR and a Post Implementation Evaluation Report.

   Staff Recommendation: Approve this request. The FSR was just recently approved; however, this is a known IT system that has been successfully implemented at other DMV offices.

   Vote:

8530 Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun

The Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun licenses and regulates maritime pilots who guide vessels entering or leaving those bays. The Governor's Budget proposed expenditures of $1.2 million (Board of Pilot Commissioners' Special Fund) and 2.0 positions – an increase of $15,000.

Issues for Discussion:

1. **Augmentation for Pilot Trainees (FL 1).** The Administration requests a permanent augmentation of $254,000 (special fund) to increase the average number of trainees from three to nine. The Commission indicates that additional pilot trainees are necessary to meet the need for licensed pilots starting in 2005-06.

   Detail: By regulation, pilot trainees are required to be in the training program for a minimum of one year and a maximum of three years. Pilot trainees receive a stipend of $4,200 per month. The Commission surveyed current Pilots and found ten intend to retire prior to 2008, and another five intend to retire within a year of that.

   Fund Condition: The Governor's Budget shows a Board of Pilot Commissioners' Special Fund reserve of $12,000 at the end of 2005-06, with 2005-06 expenditures exceeding revenues by approximately $900,000. The Department of Finance indicates the Commission will have to increase fees to fund this Finance Letter in 2005-06 and ongoing base expenditure in 2006-07. The Commission is currently considering fee increases, which Finance indicates will produce a reserve of $836,000 in 2005-06 and $913,000 in 2006-07. The proposed fee increase is within current statutory maximums.

   Staff Recommendation: Approve the request.

   Vote:

2. **Facilities Operations Augmentation (FL #2**). The Administration requests a permanent augmentation of $37,000 (special fund) to support a rent increase for the Commission's office facility. Harbors and Navigation Code Section 1153 requires the office to be located in San Francisco, and the facility identified by the Department of General Services has an annual rent of $59,000, versus the budgeted amount of $22,000.

   Staff Recommendation: Approve the Request.

   Vote:

8820 Commission on the Status of Women

The Commission on the Status of Women serves to advance the causes of women; by advising the Governor and the Legislature; and educating and informing its constituencies.

The Governor's Budget proposes expenditures of $422,000 ($420,000 General Fund and $2,000 reimbursements) and 3.9 positions – a decrease of $3,000. These figures include a $7,000 unallocated General Fund reduction.

Issue

1. **Commission Funding.** In January 2005, the Legislature received a deficiency request from the Administration of $8,768. The Commission had originally requested $36,823, and the Department of Finance had reduced the level to $8,768. While these costs appear to be ongoing in nature, the Governor's Budget does not include a related augmentation. Additionally, the Budget includes an unallocated General Fund reduction of $7,000 for the Commission.

   April 6, 2005 Hearing: This issue was heard and left open so the Commission could respond in more detail to concerns raised by the Subcommittee.

   Staff Comment: The Commission indicates it will not be able to absorb these reductions without a staff reduction or a move to an office away from the capitol – either of which, the Commission indicates, will decrease their effectiveness.

   Staff Recommendation: To keep the Commission at the adjusted 2004-05 budget base, the Subcommittee may want to consider rejecting the $7,000 unallocated General Fund reduction and additionally augmenting the budget by $9,000 General Fund.

   Vote:

0520 Secretary for Business, Transportation and Housing

The Secretary of the Business, Transportation and Housing Agency is a member of the Governor's Cabinet and oversees departments including:

- Alcoholic Beverage Control
- Corporations
- Housing and Community Development
- California Highway Patrol
- Motor Vehicles
- Financial Institutions
- Real Estate
- Managed Health Care
- Transportation
- Stephen P. Teale Data Center

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

- Infrastructure and Economic Development Bank
- Film Commission
- Division of Tourism
- Small Business Loan Guarantee Program
- Off. of Military & Aerospace Support
- Manufacturing Technology Program

The Governor's Budget proposes total expenditures of $18.3 million ($5.3 million General Fund) for the Office of the Secretary – a reduction of $2.7 million.

(See next page)

BT&H Agency Issues for Discussion / Vote

1. **Infrastructure and Economic Development Bank – Staffing (BCP #3).** The Infrastructure Bank (I-Bank) requests $100,000 (California Infrastructure and Economic Development Bank Fund) and 1 position. Assembly Bill 1554 (Chapter 263, Statutes of 2004), authorized the West Contra Costa Unified School District and the Oakland Unified School District to use lease financing to repay their existing emergency apportionments, and provided an emergency loan to the Vallejo City Unified School District – also to be repaid with lease financing. The legislation directs the California Infrastructure and Economic Development Bank to issue lease revenue bonds that will provide approximately $160 million for the General Fund and will provide a non-General Fund source of funding in the future years for emergency apportionments to school districts. AB 1554 appropriated $100,000 and one position to "fulfill" the provisions of the bill. This budget proposal indicates the workload associated with AB 1554 is ongoing and requests permanent continuation of the funding (special fund) and authority for this position.

March 2, 2005 Hearing: The Subcommittee kept this issue open and asked the Administration to provide additional information to justify the ongoing nature of this workload.

Administration Response: The Administration indicates the ongoing workload associated with AB 1554 is 360 hours to 480 hours annually; which is, by itself, insufficient justification for this request. The Administration; however, feels the request is justified when combined with the following factors:

a. Additional school districts are facing financial hardship and the Legislature may approve new loans in the future.
b. The I-Bank lost four of its 23 permanent positions as a result of the Budget Control Section 4.10 reductions.
c. The I-Bank has absorbed additional workload associated with recent financing such as the Energy Commission Bonds and the Tribal Compact Securitization Bonds.

Staff Comment: Adding a new permanent position for the I-Bank does not appear justified based solely on the workload for AB 1554. However, the overall workload of the I-Bank (measured in annual financing approved) appears to have grown while three positions were eliminated by Control Section 4.10.

Staff Recommendation: Approve the request.

Vote:

2. **Small Business Loan Guarantee Program – Performance-Based Grants.** The Small Business Loan Guarantee Program is administered by 11 non-profit Financial Development Corporations (FDCs). The state pays the FDCs for their administration of the program, under contractual agreements with each FDC. Last year, the Legislature added requirements to the program through provisional-language. The Administration deleted the two provisions in the proposed budget bill for 2005-06. The 2004-05 language reads as follows:

0520-011-0001—For transfer, upon order of the Director of Finance, to the Small Business Expansion Fund. 3,988,000

Provisions:

1. Beginning with the 2004–05 fiscal year, the total income received by a financial development corporation for each loan guarantee completed may not exceed $6,000 per guarantee. Total income includes funds received from the state and fees charged to loan guarantee recipients. The Secretary of Business, Transportation and Housing may exempt up to 25 percent of the loan guarantees contracted for by the agency from this requirement. It is the intent of the Legislature that state funding of the Small Business Loan Guarantee Program be 100 percent performance-based by the 2005–06 fiscal year.
2. The Department of Finance is hereby authorized to transfer any savings in this item to the General Fund at the end of the 2004–05 fiscal year. It is anticipated that the amount to be transferred to the General Fund will be $248,000.

March 2, 2005, Hearing: The Subcommittee held this issue open, and directed staff to gather additional information from the Small Business Loan Guarantee Program.

Administration Response: The Administration indicates it added provisions to its 2004-05 contracts with FDCs that cap grants at $6,000 per loan guarantee – as required by Provision 1, and decreased base payment while increasing volume payments. The three new FDCs (Inland Empire, Orange County, and San Fernando) were excluded from this cap requirement as was also permissible under Provision 1. The Agency would like to continue these same contract provisions for 2005-06. The Agency argues that a 100-percent pay for performance system doesn't recognize the needs of new FDCs and the economies of scale at the better-established FDCs.

Staff Comment: The Administration modified their FDC contracts to address legislative concerns and indicates it will maintain these provisions in 2005-06. Staff understands the FDCs are supportive of the current contract terms, and do not wish to go to a 100-percent pay-for-performance system.

Staff Recommendation: Approve this issue as budgeted. (Do not add provisional language).

Vote:

3. Manufacturing Technology Program (Staff Issue). The Governor's Budget includes reimbursements of $2.126 million to support the Manufacturing Technology Program (MTP). This program supports the efforts of the Corporation for Manufacturing Excellence (MANEX) in Northern California and the California Manufacturing Technology Center (CMTC) in Southern California. These entities provide consulting services to small manufacturers to improve their efficiency and to retain these firms in the state. Staff has learned that it is unlikely the Agency will receive the budgeted reimbursements in 2005-06 to support the program.

Background / Details: In 2002-03, the MTP program resided in the Technology, Trade, and Commerce Agency (TTCA) and was General Fund supported. In 2003-04, TTCA was eliminated and the program was moved to the BT&H Agency. The General Fund support was replaced by a transfer of $2.126 million in special funds from the Employment Training Panel (ETP) Program within the Employment Development Department's (EDD) budget. Provisional language in the 2003-04 budget bill required this transfer to ETP; however, this language was deleted for 2004-05 at the request of the Administration. Without the provisional language, the MTP centers may apply for ETP grants, but approval may be unlikely as ETP grants are focused on employee training, not industry consulting. Staff understands that neither of the centers has applied for an ETP grant to support the MTP program.

Staff Comment: The Subcommittee should be aware that the Manufacturing Technology Program will most likely *not* receive funding in 2005-06, contrary to what is indicated in the Governor's Budget. The only two budgetary avenues to restore funding that staff is aware of is to restore the provisional language requiring ETP funding in the EDD budget, or fund the MTP with General Fund. During last year's ETP discussion, the use of ETP funds for the MTP program was opposed by the California Manufacturers & Technology Association, and the California Labor Federation.

Staff Recommendation: Since the budget reimbursements are unlikely to be realized to support the Manufacturing Technology Program, the Subcommittee may want to consider adding General Fund support for the program.

Vote:

4. **Film Commission Fee Report (Staff Issue).** The Film Commission has statutory authority to charge fees for film permits on State property, but has not exercised this authority to institute fees. The Film Commission is currently funded with a General Fund appropriation of $886,000. Last year, the LAO recommended the General Fund support for the Commission be eliminated and that the Commission become fee supported. The BT&H Agency requested and received additional time to study fees, and provisional language was added to the 2004 Budget Act that required the Agency to report to the Legislature by April 1, 2005, with a cost-recovery fee plan. The report due date was set at April 1, 2005, so budget subcommittees could consider the appropriateness of fees to support the work of the Film Commission in 2005-06 To date, the report has not been submitted to the Legislature.

Staff Comment: The Subcommittee may want to ask the Agency if the fee report will be provided in time for consideration at the May 18, 2005, Subcommittee hearing. If the report will not be provided in time for next week's hearing, the Subcommittee may want to consider deleting the General Fund support for the Film Commission of $886,000, so the issue will go to the Budget Conference Committee for further consideration.

Staff Recommendation: Depending on Agency response, staff suggests one of the following:
(1) Hold open (if the report will be provided in the next few days).
(2) Reduce General Fund support by $886,000 (if the report will not be provided in time for consideration at the May 18, 2005, hearing – this would allow the Legislature to consider this issue in the Budget Conference Committee).

Vote:

2720 California Highway Patrol

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

Budget Changes proposed for Discussion / Vote

1. **Capital Outlay (Capitol Outlay (CO) BCPs 1, 2, 4, 5, & 6, CO FL).** The Administration requests an augmentation of $10.2 million (with anticipated future requests to complete construction of approximately $11.9 million) in Motor Vehicle Account funds for the following facilities projects:

    - Santa Fe Springs area office - new facility: Land acquisition and preliminary-plans development at a cost of $3.3 million (the total cost of the project is estimated at $12.6 million; and, to fund construction, the CHP will have to submit another request in the future for approximately $9.4 million). The CHP indicates the existing facility was designed to house 60 officers, but now houses 114 officers.
    - Los Angeles area office – purchase existing facility: Purchase, for $2.3 million, the existing facility that the CHP currently leases. The facility was built-to-suit for the CHP with a purchase option. The CHP began occupancy in January 2003 and the lease agreement allows for purchase after January 1, 2005.
    - Williams area office – reconstruct facility: Construct a new office at a cost of $4.3 million. The Williams area office was damaged by fire in 1999.
    - San Diego area office – renovate existing facility: Preliminary plans at a cost of $215,000 (the total cost of the project is estimated at $2.7 million; and, to fund through completion, the CHP will have to submit another request in the future for approximately $2.5 million).
    - Oakhurst area study: Develop a future capital outlay proposal at a cost of $50,000.

    An April 29, 2005, Finance Letter requests reappropriation of funding related to the Los Angeles Regional Transportation Management Center. Funding of $4.8 million was approved in the 1999 Budget Act, and reappropriated in the 2002 Budget Act. Litigation has delayed this project, but the Administration indicates it should be completed in 2005-06.

    March 16, 2005 Hearing: The BCP issues were left open at the last hearing to clarify the total costs of projects requested in the BCP.

    Staff Recommendation: Approve these funding requests.

    Vote:

2. **Fuel, Vehicles, Insurance, Interagency Services – Inflation Adjustment**. **(Baseline BCP and FL #2)** The Governor's Budget included in CHP's baseline budget adjustments a total increase of $10.6 million (special fund) to cover price increases in the following areas:

- $4.0 million for gasoline
- $1.4 million for vehicles
- $4.6 million for insurance
- $0.6 million for interagency services

This $10.6 million "baseline BCP" price adjustment was in addition to the standard "Price Letter" inflation adjustment of $6.6 million.

March 16, 2005 Hearing: The CHP indicated that the "Price Letter" inflation adjustment was duplicative of the individual price adjustments such that the budget double-counts $1.2 million. However, the CHP also noted that gasoline prices have increased since the BCP was approved and they now may be under-funded for the gasoline costs in 2005-06. This issue was kept open to examine the CHP's claim that their gasoline inflation adjustment was insufficient given recent increases in gasoline prices.

Finance Letter #2 – Insurance Adjustment: The CHP submitted an April 1, 2005, Finance Letter that requests to reduce their insurance augmentation by $3.040 million. This reflects a decreased 2005-06 premium assessment for the State Motor Vehicle Insurance Account from the Department of General Services.

Revised Gasoline Forecast: The Department of Finance reexamined the gasoline price assumptions in the Governor's Budget and would not object to a $2.419 million augmentation for CHP to support 2005-06 costs (after backing out the duplicative increase in the Governor's Budget).

Staff Comment: The revised gasoline funding assumes mid-grade gasoline will cost the CHP approximately $2.33 per gallon in 2005-06. The Administration requests a permanent augmentation; however, if during next year's budget deliberations, gasoline prices are significantly less than $2.33, the Subcommittee may want to consider a funding adjustment.

Staff Recommendation: Staff recommends the following actions, which staff understands are supported by the Administration:

1. Augment the Governor's Budget by $1.219 million for higher gasoline prices (this is the net of backing out the duplicative $1.2 million adjustment plus the addition of $2.419 million for the revised gasoline forecast).
2. Approved Finance Letter 2 (which reduces the insurance augmentation by $3.040 million to tie to the actual premium charged by the Department of General Services).

Vote:

2660 Department of Transportation

The Department of Transportation (Caltrans) constructs, operates and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

The Governor's Budget proposes total expenditures of $8.0 billion ($0 General Fund), a decrease of $119 million (1.5 percent) from the current-year budget.

Caltrans Budget Changes proposed for Consent / Vote Only

1. **Technical Corrections (Finance Letter).** The Administration requests authority to make various technical budget adjustments that, in total, reduce the 2004-05 budget by $16.5 million and increase the 2005-06 budget by $24.5 million. These adjustments do not reflect policy changes, but are requested to clarify and correct the budget presented by the Governor in January.

   Detail: The Administration requests the following adjustments.

   - $13.069 million from the Equipment Service Fund in Item 2660-002-0608 was included in the 2005-06 Governor's Budget to pay for increased fuel and insurance costs. However, overhead costs such as fuel and insurance are funded from Streets and Highways Code Section 140.3, which is also used for the purchase of replacement vehicles. Therefore, it is requested that Item 2660-002-0608 be decreased by $13.069 million and that the Equipment Services Program, pursuant to Streets and Highways Code Section 140.3, be increased by $13.069 million.
   - The 2004 Budget Act provided for the repayment of $1.2 billion in loans made previously from the Traffic Congestion Relief Fund to the General Fund, and provided for $14.0 million in interest to be paid to the State Highway Account for these loans. The total amount of $1.214 billion was to be repaid from the securitization of tribal gaming revenues. Due to several pending lawsuits, it is unlikely that the tribal gaming revenue would be realized in 2004-05, so the 2005-06 Governor's Budget reflected the bond sale occurring in 2005-06. However, while the $1.214 billion was moved to the budget year, the $14.0 million in interest due to the State Highway Account was mistakenly left in the current year. This technical correction would move this $14.0 million in interest from current year to budget year, and would increase the amount of interest from $14.0 million to $22.0 million to reflect the additional year of interest earned on the loan.

- Caltrans administers the Federal Section 163 Safety Grants out of budget Item 2660-399-0890 by moving the money into other budget items as necessary using a Budget Revision letter. This item allows for certain federal trust funds relating to specific TEA-21 grant funds to be transferred into the appropriate items for capital outlay, state operations, or local assistance. The following provisional language is proposed to be added to this item to clarify the budget authority to continue making these transfers:

  2. Notwithstanding any other provision of law, funds appropriated in this item may be transferred to Item 2660-001-0890, 2660-101-0890, 2660-102-0890, 2660-301-0890, or 2660-302-0890. These transfers shall require the prior approval of the Department of Finance.

- The Governor's Budget combined current-year and budget-year interest, pursuant to Government Code Section 16312, into current year. This correction would move $2.5 million in current-year interest into 2005-06.

Staff Comment: No issues have been raised with these technical corrections.

Staff Recommendation: Approve this Finance Letter request.

Vote:

Caltrans issues for Discussion / Vote

1. **Oakland District Office Building Seismic Retrofit (Capital Outlay (CO) BCP #1 & CO FL #1).** The Governor's Budget (CO BCP #1) requests $34.5 million (State Highway Account) to fund the working drawings *and construction* of the Oakland District Office building seismic retrofit. An April Finance Letter (CO FL #1) increases the estimated cost of this project to $39.6 million, but only requests initial funding of $2.2 million to cover working drawings. To complete the project, the Administration would have to request construction funding of approximately $37.4 million in a future budget.

   Background: The building was constructed in 1991 and was designed utilizing the seismic provisions of the 1988 Uniform Building Code. While it is surprising that a building constructed in 1991 would rate a seismic level V, Caltrans reports that designers and construction firms associated with the 1991 project bear no liability, since the building was constructed to the codes at the time. Funding of $1.3 million was approved in the 2004 Budget Act to fund preliminary plans for this project.

   March 16, 2005, Hearing: CO BCP #1 was previously heard and the issue was kept open. The Subcommittee requested that Caltrans provide additional information on why building designers and contractors bear no liability for a 1991 building that now requires seismic retrofit.

   Administration Response: Caltrans provided additional information explaining their position that the building designers and contractors bear no liability.

   Staff Comment: The Administration is requesting that the Legislature approve the Finance Letter, which would, in effect, back out the funding of $34.5 million requested in the BCP, and add funding of $2.2 million to cover just the working drawings.

   Staff Recommendation: Approve the Finance Letter.

2. **San Diego District Office Building (FL 1 & 2**). The Administration requests 2005-06 funding of $920,000 ($72,000 in 2006-07, and $52,000 in 2007-08 and ongoing) for network infrastructure (FL #1); and 2005-06 funding of $607,000 ($2.6 million in 2006-07, and $1.3 million in 2007-08 and ongoing) for building commissioning, operations and maintenance (FL #2).

   Background & Detail: The 2002 Budget Act appropriated $72.6 million for the Construction phase of the San Diego District 11 office building replacement project. Additionally, the 2002 Budget Act approved swing space funding totaling $11.2 million over a four-year period. The construction phase was augmented by $7.7 million by Executive Order C 03/04 – 56. The construction of the building is being financed with lease-revenue bonds. Construction of the facility is currently scheduled for completion in June 2006.

   Network Infrastructure – Network infrastructure is not included in the construction budget. The department indicates that the existing information technology equipment in the District office is currently six years old and antiquated by current standards. A Feasibility Study Report for this request has been approved by the Department of Finance.

   Commissioning, operations, and maintenance – Commissioning activities include inspections, testing, adjustments, verification and documentation of new equipment and systems and training of facilities staff. The ongoing maintenance cost is the net of existing funding and the total cost for operations at the new facility. The Department of General Services (DGS) will maintain this facility and Caltrans will lose a total of three positions for work transferred to DGS.

   The Subcommittee should anticipate another San Diego Office Building project BCP next year to fund move-in costs.

   March 16, 2005 Hearing: The subcommittee heard and approved BCP #1 (on a 2-1 vote with Senator McClintock voting no) which provided two-year limited-term funding for San Diego “swing space” office space. At the time of that hearing, the Administration had not submitted Finance Letters 1 and 2.

   Staff Recommendation: Approve this request.

   Vote:

3. **Sacramento Building Maintenance Services (FL 11).** The Administration requests $277,000 and 4 positions to provide additional staffing for maintenance at Caltrans' headquarters and four other department-occupied buildings in Sacramento. Caltrans has experienced staff reductions during the previous two fiscal years: two positions in 2002-03 and two positions in 2003-04. As a result, Caltrans building maintenance staffing levels are below the Department of General Services (DGS) recommended staffing levels necessary to maintain state buildings.

   Detail: Caltrans indicates that, currently, 31 DGS staff and 6 Caltrans staff are employed maintaining these Sacramento facilities (the headquarters building on N Street, the Transportation Lab on 34th Street, the Materials Warehouse on Royal Oaks, and the "DOT-TOT" Childcare Center on 12th Street). Approval of this Finance Letter would increase, by 4, the number of Caltrans staff, and increase the total Caltrans/DGS maintenance staff to 41. The Administration is requesting the addition of two Electricians, one Maintenance Mechanic, and one Supervisor of Building Trades.

   Staff Comment: Since DGS is the entity charged with providing centralized building maintenance services, it is unclear why Caltrans staff are performing this work. The Administration indicates that it choose to retain the joint Caltrans/DGS staffing, because shifting all the work to DGS would cost Caltrans an additional $300,000 annually. It is explained that the DGS is charging more for overhead and supplies than Caltrans is scoring.

   It seems unlikely that DGS is $300,000 less efficient in providing maintenance than Caltrans, and seems more likely that the difference is due to Caltrans undercounting overhead and related costs, or DGS undercounting existing supplies and equipment that Caltrans could transfer. If DGS is $300,000 less efficient at providing these services, that should be addressed by improving DGS, not shifting the building maintenance responsibility to Caltrans.

   Staff Recommendation: Augment Caltrans by $277,000, as requested, but deny the four new positions and, additionally, abolish the six Caltrans positions that are doing work that DGS would otherwise perform. Caltrans would use base funding, and the $277,000 augmentation, to contract with DGS to perform this work. A corresponding adjustment in the DGS budget would also be necessary.

4. **Specialty Building Facilities (Committee-staff issue).** Caltrans plans to spend $212 million through 2007-08 on non-office-building facilities. Caltrans operates 28 equipment facilities, 304 maintenance facilities, and 15 material labs across the state. Additionally, all of Caltrans' districts operate some type of a traffic management center – either as a stand alone facility or as part of another facility. While funding for office-building projects is specifically approved by the Legislature, that is not the case for non-office-building facilities.

   Funding and Approval Process: Non-office-building facilities are funded using the State Highway Operation Protection Program (SHOPP) Budget-Act appropriations, which primarily fund highway projects. Under the current process, when the Legislature approves the SHOPP budget, it does not know what portion of this money will be used for facility projects off the highway system.

   Cost of Non-office-building Projects: The 2004 SHOPP (covering the period of 2004-05 through 2007-08) programs $187 million for maintenance, equipment and lab facilities, and $25 million for a new traffic management center in San Bernardino.

   March 16, 2005 Hearing: The Subcommittee left this issue open and asked staff to look at creating a separate appropriation for these facilities.

   Administration Response: Caltrans indicates that specialty building facility expenditures for 2005-06 are now planned at $14.0 million. Both the California Transportation Commission and Caltrans have sent letters in opposition to a new appropriation item for specialty facilities.

   Staff Comment: To track specialty building facility expenditures and increase legislative oversight, the Subcommittee may want to consider separately appropriating funds for these expenditures. The new item could include flexibility to transfer these building facility funds to highway expenditures – should the California Transportation Commission decide highway projects are a higher priority. A separate appropriation will also maintain an ongoing record of specialty facility expenditures in the "Reconciliation with Appropriations" section of the Governor's Budget.

   Staff Recommendation: Adopt provisional language and adjust appropriations, to separately appropriate specialty facility expenditures. These actions do not alter the total funding requested by the Administration.

   <u>Funding Adjustments:</u>
   - Reduce item 2660-302-0042 by $14.0 million.
   - Add item 2660-303-0042 and appropriate $14.0 million.

<u>New Language:</u>

- Add the following language as Provision 4 to both items 2660-302-0042 and 2660-302-0890:

  No funds appropriated in this item are available for expenditure on specialty building facilities. For the purpose of this item, specialty building facilities are equipment facilities, maintenance facilities, material labs, and traffic management centers.

- Add the following language as Provision 1 of the new item 2660-303-0042:

  2660-303-0042—For capital outlay, Department of Transportation, specialty building facilities, payable from the State Highway Account, State Transportation Fund……………………………………………………$14,000,000
  Provisions:
  1. *For the purpose of this item, specialty building facilities are equipment facilities, maintenance facilities, material labs, and traffic management centers.*
  2. *Notwithstanding any other provision of law, funds appropriated in this item may be transferred to Item 2660-101-0042, 2660-102-0042, 2660-301-0042 or 2660-302-0042. These transfers shall require the prior approval of the Department of Finance and the California Transportation Commission.*

Vote:

3. **Transportation Funds – Budgetary Accounting (LAO issue)**. The LAO recommends that the Legislature approve amendments to statute, through a budget trailer bill, to remove the special authority for the Director of Finance to select the accounting and reporting systems for four transportation funds. The Director of Finance has chosen to display these accounts on a “modified-cash” basis instead of the “modified-accrual” basis, which is standard for most state funds.

   Cash versus accrual accounting: Most funds in the Governor’s Budget are displayed on a “modified-accrual” basis, which shows funds as expended when the State commits to making the payments, instead of when the cash is actually transferred out of the fund. Cash accounting shows funds as expended when the cash actually leaves the funds. Because many transportation projects expend funds over several years, the modified-accrual accounting would show all expenditures in the first year, instead of over several years as the contractors are actually paid. For transportation funds, using modified-accrual accounting would sometimes result in a negative fund balance, when the funds may have several hundred million dollars in cash balances.

   LAO recommendation: In the *Analysis of the 2005-06 Budget Bill*, the LAO recommends that transportation funds be budgeted using a modified-accrual accounting treatment, and that statute be accordingly amended. The LAO argues that showing all of Caltrans' funds on the same accounting basis as the rest of the budget would allow the Legislature and the public to accurately determine the size of Caltrans' budget, track changes over time, and compare Caltrans' expenditures to those of other programs. This would greatly enhance legislative oversight and provide the Legislature with a firmer basis on which to make Caltrans budget decisions.

   March 16, 2005 Hearing: The Subcommittee kept this issue open and asked staff to work further with the Department of Finance and the LAO on a solution.

   Compromise Language: The Department of Finance and the LAO have agreed to compromise accounting treatment. All budget detail will utilize the standard modified-accrual treatment; however, Finance will be authorized to add a line to the Fund Condition Statements to show unliquidated encumbrances. The official “fund balance” will include the unliquidated encumbrances adjustment and therefore be adjusted to tie to cash. Trailer bill language (See Attachment II, at the back of this agenda) would specify this treatment for the affected four transportation accounts and reduce the discretion of the Administration in displaying this fiscal detail.

   Staff Recommendation: Approve the compromise trailer bill language.

   Vote:

4. **Highway Maintenance Funding (BCP #6).** The Administration requests a permanent increase of 38.0 positions and $45.8 million for highway infrastructure preservation ($42.3 million) and to implement the statewide culvert inspection and repair program ($3.5 million).

Background: The 2004 Budget Act included a one-time augmentation of the same amount ($45.8 million) and associated budget trailer legislation (SB 1098) required Caltrans to provide the Legislature with a five-year maintenance plan by January 31, 2005.

March 16, 2005 Hearing: The Subcommittee held this issue open pending receipt of the Caltrans' maintenance report.

Administration Response: The Maintenance Report was delivered to staff on May 5th. The report recommends approval of maintenance funds at the level requested in the Governor's Budget. The report presents three options for funding and indicates the future State Highway Operations and Protection Program (SHOPP) cost avoidance associated with each option. The table below summarizes these options with dollars in millions.

Option	Description	Cost	SHOPP Cost Avoidance	Net Benefit
1	Status Quo (growing backlog)	Governor's Budget ($147M)	$1,113M	$966M
2	No Backlog Growth	Gov Budget + $105M	$2,020M	$1,768M
3	Liquidate Backlog over 5 years	Gov Budget + $250M	$3,247M	$2,850M

The Department indicates it will reevaluate the SHOPP project strategies to emphasize preservation and consider diverting about $105 million to this effort in 2006-07. The report also indicates that the Administration would consider expanding the Maintenance Program in 2007-08 when the governor is proposing Proposition 42 funding.

Staff Comment: The figures in the report suggest that a $1 increase in preventative maintenance today would reduce future road rehabilitation costs by $6 to $12 dollars. Thus, it would seem prudent to increase maintenance expenditures, even at the cost of delay to some capacity-enhancement projects.

Suggested Question: If the Administration stands by the cost figures in this report, why isn't the Administration proposing an increase in maintenance funding (even at the delay of other SHOPP or State Transportation Improvement Program projects)?

(Maintenance BCP continued)

Culvert Inspections and Fish Passage Assessments: Senate Budget Subcommittee #2 has discussed Caltrans' Culvert Inspection Program in the context of the State Coastal Conservancy and fish passage assessments. Caltrans previously performed fish passage assessments in part of the North Coast region with federal grant funds. This BCP request to implement the Culvert Inspection Program does not include funding for additional fish passage assessments. However, Caltrans' Director Kempton has indicated he will use new grant funds or redirected funds to continue the fish passage work. Caltrans estimates completing the highest-priority fish passage work would cost in the range of $6 million to $9 million. Senate Bill 857 (Kuehl) would specify additional requirements for fish passage assessments. The following budget bill provisional language is supported by Subcommittee #2 for inclusion in the Caltrans' budget.

Provision X:
Of the funds appropriated by this item, $3,450,000 shall be used to implement the statewide culvert inspection and repair program. As part of this program, and using these funds or other redirected funds or grant funds, the Department of Transportation shall assess these sites, as applicable, for barriers to migratory fish passage. Coastal watershed assessments shall receive a higher priority than inland watersheds in scheduling fish passage assessments.

Staff Recommendation: Hold this issue open to the May Revision hearing. New information on transportation revenue should be available at that time to better assess the ability of transportation funds to support a maintenance augmentation.

Vote:

5. **Bridge Safety Inspections (FL #4).** The administration requests a permanent increase of $3.4 million and 17.2 personnel years for workload associated with federally-required bridge inspections. Caltrans indicates the frequency of inspections has been increased by federal regulation from once every four years to once every two years.

   Background / Detail: Caltrans conducts safety inspections on 24,000 publicly-owned bridges statewide to look for any potential structural problems – about half of these bridges are state-owned, and half are owned by local governments. While Caltrans will do the work on these local bridges, the Department indicates they will receive federal bridge funds for 80 percent of the cost and those federal funds would otherwise go to locals. Since Caltrans is receiving some of the "local share" of federal bridge funds, no reimbursement from locals is included in this request.

   Staff Comment: This new workload is driven by federal requirements and is non-discretionary.

   Staff Recommendation: Approve this request.

   Vote:

6. **Historic Property Maintenance (BCP #12).** Caltrans requests a permanent increase in expenditure authority of $1.5 million (Historical Property Maintenance Fund) to fund repairs and maintenance on historic properties that Caltrans owns for highway right-of-way purposes. The amount requested matches annual expenditures in 2003-04 and 2004-05, which were authorized on a limited-term basis.

Background: Caltrans owns residential and other properties that were purchased as right-of-way for highway construction. In some cases, the properties include houses that have been declared historically-significant and as such state and federal law requires their preservation. Many of these properties are located on the Route 710 corridor in Pasadena, and have been owned by Caltrans for over 40 years.

March 16, 2005 Hearing: The Subcommittee held this issue open pending receipt of a Caltrans' report required by the 2001 Budget Act.

Administration Response: To date, the report has not been provided.

Staff Recommendation: Keep this issue open pending the Route 710 report.

Vote:

7. **Fuel and Insurance Cost Escalations (BCP #5).** The Administration requests $13.1 million in additional expenditure authority to fund various Caltrans programs for price increases for fuel and insurance. The increase for fuel is $9.8 million (to $26.5 million – a 59 percent increase) and the increase for insurance is $3.2 million (to $8.8 million – a 58 percent increase). Caltrans indicates that it has not received a fuel price increase since 2001-02. In 2001-02, fuel prices averaged $1.38 per gallon, and Caltrans projects fuel prices will average $2.01 per gallon in 2005-06. Caltrans indicates the cost of insurance has increased 61 percent since 2003-04.

   March 16, 2005 Hearing: The Subcommittee held this issue open and directed staff to further examine the appropriateness of these inflation adjustments.

   Administration Response: The Department of Finance reexamined the gasoline price assumptions in the BCP and found the request should be increased by $396,000 to tie to the Finance in-house forecast. Additionally, the Department of General Services revised Caltrans' insurance premium, such that the augmentation requested in the BCP now exceeds the need by $727,000.

   Staff Recommendation: Approve BCP request minus $331,000 – this is the net of the $395,000 gasoline price increase and the $727,000 insurance price reduction.

   Vote:

8. **Transportation Permits Management System (FL #3 & #8).** The Administration requests a permanent augmentation of $551,000 (special fund, with out-year escalations as noted below) for maintenance and operation of the Transportation Permits Management System (TPMS) as it begins production use (FL #3), and a reappropriation to extend the liquidation period of funds approved to implement the system (FL #8).

Background / Detail: The TPMS is the automated system which approves routes and issues permits for oversized loads. TPMS is designed to increase highway safety by reducing human error in the permit generating process. TPMS is scheduled to be in full production use in the fall of 2005. Caltrans is requesting escalating funding for TPMS maintenance and operations as follows (dollars are in thousands):

Fiscal Year	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Funding	$551	$735	$779	$790	$816	$825

February 9, 2005 Hearing: The Subcommittee held a special oversight hearing in February to assess the progress Caltrans has made toward implementing the TPMS system. Caltrans indicated that production use of TPMS was being delayed until the fall of 2005 in order to ensure adequate staff training.

Suggested Questions:
1. ***Is Caltrans moving forward with the same implementation plan it discussed with the Subcommittee on Feb 9?***
2. ***The Finance Letter requests do not extend the 7.0 limited-term double checkers. Will Caltrans be redirecting staff to continue any of the double-checking work?***

Staff Comment: The LAO indicates this IT project does not have an approved Special Project Report (SPR). The Department of Finance is currently reviewing this SPR and may be able to approve it soon. The Subcommittee may wish to hold this issue open until next week's hearing pending approval of the SPR.

Staff Recommendation: Hold both of these Finance Letter requests open until next week's hearing pending receipt of the SPR.

Vote:

9. **Alternative Fuel Vehicles (FL #5):** The Administration requests a one-time increase of $3.7 million for Caltrans' Equipment Services Program to fund the incremental increase in cost of replacing a portion of its fleet of street sweepers and heavy-duty trucks with alternative-fuel powered vehicles or installing exhaust filter trap devices. The department also requests a permanent increase in 2006-07 of $302,717 for the Maintenance and Equipment Programs for the rental and maintenance of the alternative fuel vehicles and exhaust filter traps.

   Background / Detail: The South Coast Air Quality Management District passed new clean air regulations that require any owner of a diesel fleet when replacing diesel powered street sweepers or heavy-duty trucks to do so with vehicles powered by alternative fuels. According to the department, the department operated 41 diesel highway sweepers and 519 heavy-duty diesel trucks, of which 23 diesel highway sweepers and 74 heavy-duty diesel trucks are scheduled for replacement or modification in fiscal year 2005-06. While this request is for one-time funding, this is an ongoing requirement and Caltrans will likely return next year with another funding request.

   Staff Comment: The LAO has looked at the Caltrans' cost estimates for these vehicles and is checking the costs relative to information from the Energy Commission. The Subcommittee may want to ask LAO if they have completed this review.

   Staff Recommendation: Approve this request, pending LAO information on the reasonableness of the cost estimates.

   Vote:

10. Performance Measurement System (FL # 7): The Administration requests a two-year limited term increase of $557,000 and 4.0 positions to deploy and maintain the production version of the Performance Measurement System (PeMS). PeMS will assist Caltrans with the monitoring and evaluation of real-time traffic data and allow Caltrans to more effectively report comprehensive highway system performance measures.

Background / Detail: PeMS was initially developed as a research project, to develop standard reports for volume, speeds, travel time, delay and developing a fluent user group. The Performance Measurement System is currently operational in six urban districts: District 3 (Sacramento); District 4 (San Francisco Bay Area); District 7 (Los Angeles); District 8 (Inland Empire); District 11 (San Diego); and District 12 (Orange County). Plans are underway to connect District 6 (Fresno) soon and District 10 (Stockton) eventually. The Finance Letter would not be instrumental in adding these two districts, but would rather improve the existing base system.

Staff Comment: The Feasibility Study Report (FSR) associated with this project is still under review by the Department of Finance, Office of Technology Review, Oversight, and Security. The standard practice is for Finance to approve a FSR prior to submission of a budget change proposal to the Legislature. If the Legislature approves a project prior to Finance approval of the FSR, some aspects of the projects may still change – as Finance may require changes to the FSR plan. The Subcommittee may want to ask the Administration why they are requesting Legislative approval for this project prior to the approval of the FSR.

Staff Recommendation: Hold this issue open, pending Finance approval of the FSR.

Vote:

11. **Project Resourcing and Schedule Management Reappropriaton (FL #9).** The Administration requests the reappropriation of $7.1 million for the Project Resource and Scheduling Management (PRSM) information technology system. Funding for the PRSM project was originally approved by the Legislature with the 2001 Budget Act. This project would allow improved reporting and scheduling of transportation projects and is also intended to allow Caltrans to meet statutory project reporting requirements. The 2001 appropriation only provided partial funding, and it is anticipated Caltrans will request an additional appropriation of approximately $6.5 million in the future to complete the project.

Background / Detail: The 2000 Feasibility Study Report (FSR) associated with this project estimated project costs at $13.4 million. Caltrans received bids for this project in 2002, and the lowest bid was $26.1 million. Instead of requesting additional funding to award the contract, the Administration decided to reject the bid and rescope and rebid the project.

The project has been down-scoped by Caltrans and the Department of Finance to reduce the PRSM timekeeping requirements. This change results from the fact that the Department now has a modern timekeeping system that it did not have when the FSR was prepared. According to Caltrans, the rescoping of the project has reduced costs, bringing the estimate closer to the original 2002 estimate of $13.4 million.

In conjunction with this proposal, Caltrans is scheduled to submit a Special Project Report (SPR) to the Department of Finance in December 2005.

Staff Comment: While this project is intended to address statutory requirements, it has been rescoped since it was originally approved by the Legislature and no Special Project Report exists to inform the Legislature of new project details. The Subcommittee may want to weigh the tradeoff between approving this Finance Letter, which may allow the project to be awarded to a vender in 2005-06, and denying this request with the understanding that the Administration would return next year with complete and approved project documents and a new funding request.

Staff understands the LAO has requested additional detail and is still examining project documents.

Staff Recommendation: Hold this issue open, at the request of the LAO.

Vote:

Attachment I

Amendments to Government Code that relate to proposed changes the financing of economic development areas. (See Issue #3 on page 17 of this agenda).

1) Amend Section 7076(c) and (d) of the Government Code to read:

(c) The department may establish, charge, and collect a fee as reimbursement for the costs of its administration of this chapter. The department shall assess each enterprise zone *and manufacturing enhancement area* a fee of not more than ten dollars ($10) for each application ~~it accepts~~ for issuance of a certificate pursuant to *subdivision (j) of Section 17053.47,* subdivision (c) of Section 17053.74, ~~of the Revenue and Taxation Code and~~ subdivision (c) of Section 23622.7, *or subdivision (i) of Section 23622.8* of the Revenue and Taxation Code. The enterprise zone *or manufacturing enhancement area* administrator ~~may~~ *shall* collect this fee at the time ~~it accepts~~ an application *is submitted* for issuance of a certificate. ~~This subdivision shall become inoperative on July 1, 2006, and shall have no force or effect on or after that date.~~
~~(d) Any fee assessed and collected pursuant to subdivision (c) shall be refundable if the certificate issued by the local government pursuant to subdivision (c) of Section 17053.74 of the Revenue and Taxation Code and subdivision (c) of Section 23622.7 of the Revenue and Taxation Code is not accepted by the Franchise Tax Board.~~ *This subdivision shall become inoperative on July 1, 2009, and shall have no force or effect on or after that date.*

2) Amend Government Code Section 7086(d) as follows:

(d) The department shall adopt regulations governing the imposition and collection of fees pursuant to ~~subdivisions (c) and (d)~~ *subdivision (c)* of Section 7076, and the issuance of certificates ~~by local governments~~ pursuant to *subdivision (j) of Section 17053.47,* subdivision (c) of Section 17053.74, ~~of the Revenue and Taxation Code and~~ subdivision (c) of Section 23622.7*, or subdivision (i) of Section 23622.8* of the Revenue and Taxation Code. The regulations shall provide for a notice or invoice to fee payers as to the amount and purpose of the fee. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall remain in effect for no more ~~that~~ than 360 days unless the agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 as required by subdivision (e) of Section 11346.1.

3) Amend Government Code Section 7097 by adding subdivision (g) as follows:

(g)(1) The department may establish, charge, and collect a fee as reimbursement for the costs of its administration of this chapter. The department shall assess each targeted tax area a fee of not more than ten dollars ($10) for each application for issuance of a certificate pursuant to

subdivision (d) of Section 17053.34 of the Revenue and Taxation Code and subdivision (d) of Section 23634 of the Revenue and Taxation Code. The targeted tax area administrator shall collect this fee at the time an application is submitted for issuance of a certificate. This paragraph shall become inoperative on July 1, 2009, and shall have no force or effect on or after that date.

(2) The department shall adopt regulations governing the imposition and collection of fees pursuant to this subdivision and the issuance of certificates ~~by local governments~~ pursuant to subdivision (d) of Section 17053.34 of the Revenue and Taxation Code and subdivision (d) of Section 23634 of the Revenue and Taxation Code. The regulations shall provide for a notice or invoice to fee payers as to the amount and purpose of the fee. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall remain in effect for no more ~~that~~ than 360 days unless the agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 as required by subdivision (e) of Section 11346.1.

4) Add Section 7114.2 to the Government Code as follows:

7114.2(a) The department may establish, charge, and collect a fee as reimbursement for the costs of its administration of this chapter. The department shall assess each LAMBRA a fee of not more than ten dollars ($10) for each application for issuance of a certificate pursuant to subdivision (c) of Section 17053.46 of the Revenue and Taxation Code and subdivision (c) of Section 23646 of the Revenue and Taxation Code. The LAMBRA administrator shall collect this fee at the time an application is submitted for issuance of a certificate. This subdivision shall become inoperative on July 1, 2009, and shall have no force or effect on or after that date.

(b) The department shall adopt regulations governing the imposition and collection of fees pursuant to this section and the issuance of certificates ~~by local governments~~ pursuant to subdivision (c) of Section 17053.46 of the Revenue and Taxation Code and subdivision (c) of Section 23646 of the Revenue and Taxation Code. The regulations shall provide for a notice or invoice to fee payers as to the amount and purpose of the fee. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall remain in effect for no more ~~that~~ than 360 days unless the agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 as required by subdivision (e) of Section 11346.1.

5) Amend Rev and Tax Code 17053.34(d) to read:

(d) The qualified taxpayer shall do both of the following:

(1) Obtain from ~~either~~ the Employment Development Department, as permitted by federal law, ~~or~~ the local county or city Job Training Partnership Act administrative entity, ~~or~~ the local county GAIN office

or social services agency, *or the local government administering the targeted tax area* ~~as appropriate~~, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. ~~The Employment Development Department shall develop a form for this purpose.~~ *The Department of Housing and Community Development shall develop regulations governing the issuance of certificates ~~by local governments~~ pursuant to paragraph (3) of subdivision (g) of Section 7097 of the Government Code and shall develop forms for this purpose.*

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

6) Amend Rev and Tax Code 17053.46(c) to read:

(c) For qualified disadvantaged individuals or qualified displaced employees hired on or after January 1, 2001, the taxpayer shall do both of the following:

(1) Obtain from ~~either~~ the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office, or social services agency, *or the local government administering the LAMBRA* ~~as appropriate~~, a certification that provides that a qualified disadvantaged individual or qualified displaced employee meets the eligibility requirements specified in subparagraph (C) of paragraph (4) of subdivision (b) or subparagraph (A) of paragraph (6) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. ~~The Employment Development Department shall develop a form for this purpose.~~ *The Department of Housing and Community Development shall develop regulations governing the issuance of certificates ~~by local governments~~ pursuant to subdivision (c) of Section 7114.2 of the Government Code and shall develop forms for this purpose.*

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

7) Amend Rev and Tax Code 17053.47 by adding subdivision (j) to read:

(j) The qualified taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the manufacturing enhancement area, a certification that provides that a qualified disadvantaged individual meets the eligibility requirements specified in of paragraph (5) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates ~~by local governments~~ pursuant to subdivision (d) of Section 7086 of the Government Code and shall develop forms for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

8) Amend Section 23622.8 of the Rev & Tax Code by adding subdivision (i) as follows:

(i) The qualified taxpayer shall do both of the following:
(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the manufacturing enhancement area, a certification that provides that a qualified disadvantaged individual meets the eligibility requirements specified in of paragraph (5) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates ~~by local governments~~ pursuant to subdivision (d) of Section 7086 of the Government Code and shall develop forms for this purpose.
(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

9) Amend Rev and Tax Code Section 23634(d) to read:

(d) The qualified taxpayer shall do both of the following:
(1) Obtain from ~~either~~ the Employment Development Department, as permitted by federal law, ~~or~~ the local county or city Job Training Partnership Act administrative entity, ~~or~~ the local county GAIN office or social services agency, ~~as appropriate~~ *or the local government administering the targeted tax area*, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. ~~The Employment Development Department shall develop a form for this purpose.~~ *The Department of Housing and Community Development shall develop regulations governing the issuance of certificates ~~by local governments~~ pursuant to paragraph (3) of subdivision (g) of Section 7097 of the Government Code and shall develop forms for this purpose.*
(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

10) Amend Rev and Tax Code Section 23646(c) to read:

c) For qualified disadvantaged individuals or qualified displaced employees hired on or after January 1, 2001, the taxpayer shall do both of the following:
(1) Obtain from ~~either~~ the Employment Development Department, as permitted by federal law, the administrative entity of the local county or city for the federal Job Training Partnership Act, or its successor, the local county GAIN office~~,~~ or social services agency, *or the local government administering the LAMBRA* ~~as appropriate~~, a certification that provides that a qualified disadvantaged individual or qualified displaced employee meets the eligibility requirements specified in subparagraph (C) of paragraph (4) of subdivision (b) or subparagraph (A) of paragraph (6) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. ~~The Employment Development Department shall develop a form for this~~

~~purpose.~~ *The Department of Housing and Community Development shall develop regulations governing the issuance of certificates ~~by local governments~~ pursuant to subdivision (c) of Section 7114.2 of the Government Code and shall develop forms for this purpose.*

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

Attachment II – Trailer Bill Language Related to Caltrans Budgeting (provided by the LAO)

April 20, 2005

LAO
60 YEARS OF SERVICE

Recommended Accounting Code Changes

Streets and Highways Code Section 183 (c)

Notwithstanding any other provision of law, the Department of Finance may ~~establish~~ adjust the budgeting, accounting and reporting system ~~used to determine the expenditures, cash needs, and balance of~~ for the State Highway Account such that unliquidated encumbrances are not reflected in the fund balance or financial statements.

Streets and Highways Code Section 188.10 (e)

Notwithstanding any other provision of law, the Department of Finance may ~~establish~~ adjust the budgeting, accounting and reporting system ~~used to determine the expenditures, cash needs, and balance of~~ for the account such that unliquidated encumbrances are not reflected in the fund balance or financial statements.

Government Code Section 14556.5 (b)

Notwithstanding any other provision of law, the Department of Finance may ~~establish~~ adjust the budgeting, accounting and reporting system ~~used to determine the expenditures, cash needs, and balance of~~ for the fund such that unliquidated encumbrances are not reflected in the fund balance or financial statements.

Public Utilities Code Section 99310.6

Notwithstanding any other provision of law, the Department of Finance may ~~establish~~ adjust the budgeting, accounting and reporting system ~~used to determine the expenditures, cash needs, and balance of~~ for the Public Transportation Account such that unliquidated encumbrances are not reflected in the fund balance or financial statements.

LEGISLATIVE ANALYST'S OFFICE

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Tom McClintock
Christine Kehoe

Wednesday, May 11, 2005
1:30 p.m.
Room 2040

Consultant: Dave O'Toole

"C" AGENDA

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

0840 State Controller

The State Controller is the Chief Financial Officer of the state. The primary functions of the State Controller’s Office (SCO) is to provide sound fiscal control over both receipts and disbursements of public funds; to report periodically on the financial operations and condition of both state and local government; to make certain that money due the state is collected through fair, equitable, and effective tax administration; to provide fiscal guidance to local governments; to serve as a member of numerous policy-making state boards and commissions; and to administer the Unclaimed Property and Property Tax Postponement Programs. Total proposed budget expenditures are $124.7 million, of which $72.7 million is from the General Fund.

1. **Local Government E-Claims.** The State Controller’s Office proposes to buy and install a commercial software product that would enable state mandate claimants and consultants to enter mandated cost claims directly into the SCO’s main database via the Internet, using e-forms and digital signatures. The SCO additionally requests two permanent positions and one limited-term position to provide application development, technical support, internal consulting, and other ongoing support.

   The SCO has submitted a feasibility study report which has been approved by the Department of Finance and reviewed by the Legislative Analyst’s Office.

   The SCO will not mandate the use of this technology for mandate claimants and paper filings will still be permitted.

   Staff Comment: A web-based system for filing mandates is appropriate, if somewhat overdue. Mandate information filed online will provide better processing, evaluation, and auditing of the claims. The SCO reports that they are currently able to audit only about 5 percent of the 60,000 paper claims they receive annually. With the addition of electronic filing, the SCO expects to audit closer to 40 percent of total filings. The SCO expects considerable savings in the future based on this new technology: approximately $14 million beginning in 2006-07. Budget year savings could not be reliably quantified.

   Consistent with action taken in the April 13 hearing, this BCP should be adjusted to reflect a five percent salary savings. For this request, a reduction of $5,000 will adjust salary savings from 2.4 percent to five percent.

   In order to keep the Legislature apprised of the fiscal and policy impact of the new Local Government E-Claims (LGEC) system, the State Controller should report back to the Legislature on the project status and savings realized by the LGEC system.

   Staff Recommendations:
   A. Approve the Finance Letter, amended for a five percent salary savings reduction (total funding of $1.210 million)

   B. Adopt Supplemental Report Language to require annual April 1 reports for 3 years regarding project performance and savings realized.

   VOTE:

2. **Property Tax Postponement Program Staffing Augmentation.** The Governor’s Budget includes an augmentation of $4.7 million to the Senior Citizens’ Property Tax Deferral Program, an increase that is linked to a $40 million reduction to property tax assistance for seniors. This decrease is budgeted in Item 9100, Tax Relief. The Administration concluded that a reduction in property tax assistance would result in a corresponding surge in property tax postponement applications. These applications are processed by the State Controller’s Office.

   On April 27, 2005, the Subcommittee, on a 3-0 vote, rejected the Administration’s proposal to reduce the Senior Citizens’ Property Tax Assistance Program.

   Staff Comment: By restoring the property tax assistance program, the need to augment the SCO’s tax postponement staffing is removed. The April 1 Finance Letter to add budget bill language to allow the SCO to add positions in accordance with tax deferral workload does not need consideration by the Subcommittee.

   Staff Recommendation: Reduce the State Controller’s budget by $100,000 and two positions, to reflect rejection of the Property Tax Postponement Program staffing augmentation.

   VOTE:

3. **Offsetting Revenues for Mandate Auditors.** The State Controller receives nearly 75,000 claim forms from local agencies and schools for reimbursement for state mandated activities. As it is often noted, due to unclear claiming guidelines, overzealous applicants, and other factors, actual costs are sometimes much lower than the total claim submitted. The SCO conducts detailed “desk” audits to detect costs that are outside the scope of the mandate on approximately 5 percent of the 75,000. This five percent is made up of large dollar and new claims. Existing mandates of moderate or low cost are not desk audited, but do receive a quick arithmetic check and scan for obvious flaws.

   At the April 13th hearing, the Subcommittee adopted a proposal to augment the SCO budget by $996,000 and 11 positions (10 associate management auditors and 1 staff services analyst) to conduct mandate claims audits on a two-year limited-term basis. The anticipated benefit-to-cost ratio will be as high as 45-1.

   Staff Comment: In a subsequent Assembly Budget Subcommittee #4 hearing, that committee adopted a revenue estimate of $2.211 million (General Fund) in 2005-06, offsetting the $996,000 cost by $1,215,000. That revenue estimate was based on the determination that 2004-05 claims due and payable in 2005-06 will be the first priority for audit consideration. Based on the assumptions of auditor recovery rates noted above, a conservative 2005-06 revenue estimate of $2.211 million was adopted.

   Staff Recommendation: Adopt savings of $2.211 million General Fund due to reduced mandate reimbursement costs in 2005-06 from audit findings and reflect those assumptions as a Change Book adjustment for statewide savings. (This action would conform with an earlier Assembly action.)

   VOTE:

4. **Administrative Costs for Mandate Claims.** Provision 7 of Item 0840-001-0001 stipulates how mandate claim preparation expenses can be paid. The item says that independently contracted mandate preparers may charge the lesser cost of either (a) preparation by the local agency or education authority, or (b) up to ten percent of the total mandate cost for their services, with exceptions when supported by documentation. In practice, independent mandate claim filers

frequently charge ten percent of the total mandate cost or provide documentation to have that limit waived.

During difficult fiscal times, the State has made a practice of suspending or deferring payment of mandate claims. With the passage of Proposition 1A in November, 2004, the state now faces an imminent requirement to start paying back, in 2006-07, the local agency share of the estimated $2.8 billion mandate repayment backlog.

Staff Comment: DOF representatives have informed staff that provision 7 was unintentionally left in the SCO's budget and that they intended for that language to be removed from that budget item in accordance with their proposal to suspend the mandate reimbursement process mandate.

The State Controller has expressed a related concern that current law precludes them from fully auditing the mandate reimbursement process mandate. This is because the statute of limitations declares that auditing may occur no later than three years after a claim was filed. Because this mandate (and many others) have been deferred in recent years (a process which provides for nominal $1000 appropriation in the budget bill) the SCO cannot audit claims 3 years beyond the last time it was deferred. A proposed solution to this problem is addressed in the Commission on State Mandates item in this agenda.

Staff Recommendation: Delete provision (7) of the 0840-001-0001 item.

VOTE:

0845 Department of Insurance

Under the direction of the Insurance Commissioner, the Department of Insurance (DOI) regulates the largest insurance market in the United States with over $115 billion in direct premiums written in the state. The Department conducts examinations and investigations of insurance companies and producers to ensure that operations are consistent with the requirements of the Insurance Code and that insurance companies are financially able to meet their obligations to policyholders and claimants.

1. **Replacement of Personal Computers, Servers, and Printers.** The DOI requests $729,000 (Insurance Fund) to fund ongoing replacement of personal computers, servers, and printers on a regular cycle of three to five years, depending on the equipment. Technology equipment replacement is not typically funded as part of this department's operating expense budget, but instead is funded by redirections from other sources. The DOI had previously redirected funds from excess salary savings to pay for upgrades and replacements. However, recent position eliminations, and other reductions have eliminated that funding source.

   Staff Comment: According to the state's Department of General Services, a computer and related equipment replacement rate of four years is consistent with industry best practice. However, it is not unusual for that rate to be pushed to five years or more during difficult fiscal periods.

   On April 13, 2005, the Subcommittee requested that the Department of Insurance submit a five-year technology refresh plan, which has been provided. Based on the information provided, it appears the department would disagree with the LAO assertion that capacity and other advancements in personal computers and accessories have slowed in recent years and replacement schedules should reflect that development.

   Staff Recommendation:

   A. Approve the Budget Change Proposal, reduced by $48,682.

   (This reduction reflects implementation of a four-year replacement schedule for notebook users [-$27,842] and "power" users [-$6,800], and reduced funding for the replacement of 44 printers in the budget year [-$14,040]. If the department desires a replacement schedule that is more aggressive than statewide practice, it may consider redirecting funds as it has done in prior years.)

   VOTE:

0860 State Board of Equalization

The State Board of Equalization (BOE), the Franchise Tax Board (FTB), and the Employment Development Department are the state's major tax collection agencies. The BOE collects state and local sales and use taxes and a variety of business and excise taxes and fees, including those levied on gasoline and diesel fuel, alcoholic beverages and cigarettes, as well as others. The BOE also assesses utility property for local property tax purposes, oversees the administration of the local property tax by county assessors, and serves as the appellate body to hear specified tax appeals, including FTB decisions under the personal income tax and bank and corporation tax laws. Total proposed budget expenditures are $364.9 million, of which $209.5 million is from the General Fund.

1. **Electronic Funds Transfer.** The Board of Equalization annually processes more than $33 billion in sales and use tax and other tax remittances. Of that amount, approximately 60 percent are paid through free electronic funds transfers (EFT). The BOE offers the Automated Clearing House debit method which allows taxpayers to transfer funds by authorizing the BOE to electronically debit their bank account when their payment information is submitted.

   The remaining funds come through cash, check, or credit card payment. These non-EFT payments can be made at office locations throughout the state, but are more often submitted by mail to the central processing facility. Credit card payments can be made online or by telephone through an Interactive Voice Response (IVR) System. The credit card processing vendor charges a convenience fee of 2.5% of the transaction amount. Payments under $40 are subject to a minimum fee of $1. In fiscal year 2003-04 the BOE received over $44.6 million (approximately 1.5 percent of total revenues) by credit card.

   For both special taxes and sales and use taxes, all holders of sales and use tax permits whose average monthly tax payments are $20,000 or more are required to pay their taxes by EFT. This $20,000 threshold has been unchanged for nearly a decade.

   For the taxpayer, the most significant deterrent to paying BOE by EFT is the fact that tax form filing is still largely unautomated. Because these documents are usually sent by mail, it's generally more convenient to file a tax form with the remittance, rather than submit one by mail and the other by computer. In comparison, when the FTB implemented electronic filing, electronically filed *remittances* grew from 0.8 million to 1.2 million, a 50 percent increase. The BOE will make an electronic filing opportunity available to 700,000 accounts starting next year.

   At the April 27, 2005, Subcommittee hearing, the BOE stated that it would report back on the impact of lowering the EFT threshold to $10,000 or $5000, in particular the revenue impact, number of new EFT payers, and other considerations.

   Staff Comment: EFT payments are a standard business practice in collections of any value, but particularly so for those with routine collections above $5000. The benefits to the collector include more reliable payments, fewer payment disputes, decreased staff workload, and additional interest income.

   In their reply to the Subcommittee, the department expressed concerns about lowering the EFT threshold, specifically the effect on workload and potential for higher EFT processing costs for the Treasurer.

   In the same letter, the BOE reported that it was initiating two activities that would affect EFT filings. Specifically, the department is planning to initiate a targeted public education campaign involving letters, mail inserts, and articles to encourage taxpayers with monthly tax liabilities between the range of $15,000 and $19,999 to pay by EFT. The letter further notes that the new e-filing tax return requirement available to 700,000 taxpayers actually requires (regardless of liability level) that payment be made by EFT. Expanded EFT can actually complement e-filings as the EFT requirement would encourage some taxpayers to “fully automate” their dealings with BOE and utilize the e-file system.

The BOE reports that additional interest earnings of $192,000 and $344,000 will be generated annually for lowering the EFT filing threshold to $10,000 and $5000, respectively.

Staff Recommendations:
DISCUSSION: Request comment from the BOE on the following:

A. The impact of increased EFT automation on BOE’s manual check cashing staff workload.

B. Costs associated with the planned publicity campaign.

C. The reduced incidence of bounced checks associated with EFT and associated revenue effects.

D. The overall effect of a lowered EFT threshold on taxpayer compliance.

ACTION
A. Adopt the revisions to Revenue and Tax Code Section 6479.3 (see attached) and direct the BOE to reduce the EFT threshold from $20,000 to $10,000

B. Direct the BOE to redirect resources from the campaign to notifying selected taxpayers of the EFT option to publicizing the new $10,000 threshold.

C. Direct the BOE report to the Subcommittee by April 1, 2006, on the effect of this change on taxpayer compliance and revenues.

2. **Supplemental Reporting Language of the 2004 Budget Act: Field Office Consolidations.** The 2004 Budget Act included Supplemental Reporting Language (SRL) for the following:

> *The BOE shall provide to the Chair of the JLBC and the chairs of the fiscal committees of the Legislature by December 1, 2004, a report containing the following information: (1) unit costs of providing taxpayer services and audit and collection activities at the BOE’s 27 field offices; (2) net annual budgetary benefits of consolidating or closing four BOE field offices (one in each BOE district); (3) estimated impact on all BOE-collected tax revenues from field office consolidations or closures identified in (2) above; and (4) net annual benefits of reducing or eliminating the Houston office of BOE. Data provided shall include one-time and ongoing budgetary and revenue impacts. The information shall also be provided to the DOF.*

On December 1, 2004, the BOE provided a report that, rather than identifying four offices for closure, provided summary information on the costs to close all field offices.

The report notes that BOE has closed 32 offices in the last 11 years, 28 of which were closed between 1994 and 1996. Over the last eight years, there has been a relative freeze on field office closures, with one closed in 1997, two in 1998, and one in 2004—with three offices opened during the same period.

Staff Comment: The dramatic rise in the general public’s use of information technology resources in the last eight years has vastly diminished the public’s need to visit a field office. Filing forms can now be easily downloaded online and questions answered by phone or e-mail. According to the BOE, their Information Center receives over 350,000 telephone inquiries and 12,000 e-mails per year, with an overall average wait time of 90 seconds. Additionally, at prior budget hearings the BOE has reported how it intends to broaden its use of EFT and e-file technologies, with the latter tax forms online. BOE will offer this service to 700,000 eligible businesses in December of this year.

In recognition of the reduced need for street front presence, staff developed criteria to identify four offices for closure—the SRL direction that was not met. Using the data supplied in the BOE report, staff compared program cost per visitor, revenue per visitor, revenue per program cost, revenue per staff person, visitors per staff person, permits per staff person, and first year cost per savings ratio. The last ratio was double weighted to reflect the relative importance of cost savings. Consistent with past practice on office closures, no offices where investigations, tax collections, and fuel taxes were considered for closure. Based on that analysis, the following four offices should be considered for closure:

Office	Number of Staff	First Year Cost	Potential Annual Savings
Long Beach	2.5	$183,077	$65,141
Ventura	50	$704,030	$219,442
West Covina	84	$1,045,682	$355,052
Kearny Mesa	1.5	$27,540	$1,998
TOTAL	136.5	$1,960,329	$576,492

If these offices were closed, several alternate offices would be available in the Los Angeles and San Diego regions.

BOE has stated that no staff reductions will occur as a result of office closures. The “first year cost” reportedly includes costs to move staff, buy out leases, increase travel budgets (as necessary), and pay for other incidentals associated with the move.

It is not clear that first year costs reflect lease savings and other savings associated with closing down a field office. Given the extremely tight state office building occupancy rates (99 percent, according to DGS), other state departments may be eager for the space. The discussion questions below are suggested to clarify first year closure costs.

Whatever the amount, closing offices would incur an expense in the first year. To pay those costs, the BOE could potentially absorb the expense. Staff notes that the BOE did not participate in the unallocated reduction drill that is reflected in most departments’ 2005-06 budgets. For example, the FTB took an ongoing reduction of $7.8 million to their budget (a 1.1 percent of their budget), none of which will affect revenue generating activities. The closure costs outlined above would constitute a smaller amount and smaller share of their budget (.5 percent), relative to the FTB unallocated reduction. Additionally, unlike the FTB reduction, the BOE reduction would not be ongoing.

In order to better reflect the diminished necessity of street front presence and generate savings for the state, it is recommended that the Subcommittee consider closing four BOE field offices.

Staff Recommendation: Request the BOE report on:

A. How specifically the potential annual savings associated with closing these offices was calculated.

B. The specific offsetting lease savings for space that will be re-let.

C. Actual costs for the Torrance office closure, the number of staff affected, current disposition of those staff, and the revenues generated annually by that office prior to closure.

D. The status of downsizing the New York field office and associated savings (this was mentioned in the SRL).

E. As an alternative to closing the Long Beach, Ventura, West Covina, and Kearny Mesa field offices, request that the BOE report on any other offices that should be closed instead.

0890 Secretary of State

The Secretary of State (SOS) is the chief election officer of the State and is responsible for the administration and enforcement of election laws. The office is also responsible for the administration and enforcement of laws pertaining to filing documents associated with corporations, limited partnerships, and the perfection of security agreements. In addition, the office is responsible for the appointment of notaries public, enforcement of notary laws, and preservation of certain records with historical significance. All documents filed with the office are a matter of public record and of historical importance. The Secretary of State's executive staff determines policy and administration for Elections, Political Reform, Business Programs, Archives, Information Technology and Management Services Divisions. Total proposed budget expenditures are $76.4 million, of which $30.3 million is from the General Fund.

1. **Special Items of Expense.** The Governor's Budget includes an expenditure of $3.02 million for special items of expense to cover anticipated election costs in the budget year, i.e., the June 2006 election. These expenses include paying for the ballot pamphlet, voter registration cards, and election night reporting. This annual expense has been left unbudgeted for the last several years, resulting in the Secretary of State having to submit deficiency requests to pay the expenses—a practice inconsistent with the "unanticipated" criteria of deficiency requests.

   Staff Comment: A county's 2005-06 voter registration card (VRC) needs include both the restocking of existing cards to meet HAVA requirements and filling counties' quarterly replacement orders, a total roughly approximated at 20 million cards. The HAVA plan described previously includes only an expense item for restocking 10 million new cards and removing the current voter registration cards from circulation for the June 2006 election.

   An alternative to funding the quarterly replacements with General Fund would be to fully fund the 2005-06 voter registration card replacement with federal HAVA funds.

   At the April 27 hearing, staff was directed to explore, with Legislative Counsel, any legal issues involving the shift of all VRC replacement costs in 2006-07 to federal HAVA funds. In consultations with Legislative Counsel and an attorney with the Election Assistance Commission, it was determined that the proposed usage is most likely consistent with HAVA direction to improve the administration of elections for federal office. (A separate issue regarding the deadline to spend the funds was raised, which precluded a definitive answer.) In general, to the extent that the VRCs serve as a new or improving function in the administration of federal elections, the VRCs could be reimbursed out of HAVA funds.

   Staff Recommendation: Approve the budget change proposal for special items of expense, reduced by $521,000, to reflect removal of the voter registration card funding. (Note: Because HAVA funding is one-time only, the Secretary of State's office will likely request funding next year to pay for the quarterly voter registration card requests.)

   VOTE:

1730 Franchise Tax Board

The Franchise Tax Board (FTB) administers state personal income tax and corporation taxes for the State of California, collects debt on behalf of other state agencies and local entities, and performs audits of campaign statements and lobbyist reports authorized by the Political Reform Act of 1974. The FTB is tasked to correctly apply the laws enacted by the Legislature; to determine the reasonable meaning of various code provisions in light of the legislative purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view. Total proposed budget expenditures for the Franchise Tax Board are $699.6 million, of which $512.3 million is from the General Fund.

1. **Revenue Collection Activities.** The collection activities of the Franchise Tax Board (FTB) involve collection on accounts receivable that the department establishes by its self-assessment, audit, settlement, and filing activities. In their *FY 2004/05 AND 2005/06 Report to the Senate and Assembly Budget Committees FTB Audit and Collection Activities*, the Franchise Tax Board (FTB) notes that 47 limited-term collections staff will expire at the end of 2004-05. The FTB reports that if these positions were extended, they would be able to generate ongoing revenues of $12.6 million.

   Staff Comment: With the approximate cost of $2.8 million annually to extend these positions and revenues of $12.6 million, the benefit-to-cost ratio is 4.5 to 1. This rate is consistent with current and past revenue-to-cost ratios.

   Staff Recommendation: Extend the existing 47 positions for two years and direct the Department of Finance to score the additional $12.6 million in new revenues in Change Book.

   VOTE:

2. **Misdemeanor Program.** The Franchise Tax Board staff proposed to their Board, but subsequently withdrew, a proposal to establish a misdemeanor program in FTB's Investigations Bureau. The primary purpose of this program would be to step-up deterrence by prosecuting grossly errant taxpayers and publicize the cases. This proposal would involve utilizing new technologies against the underground economy by focusing on taxpayers who participate in tax evasion and the underground economy but don't warrant felony prosecution.

   The Franchise Tax Board proposed 14 positions and $1,226,000 to implement this program. Anticipated revenues in the first year are $2.5 million, rising to $4-$5 million in subsequent years.

   Staff Comment: At the April 27 hearing, the issue was raised as to whether defendants in a misdemeanor case will be entitled to trial. Revenue and Taxation Code Section 19701 provides that a $5000 penalty may be applied for failure to file returns, pay tax or provide required information, or for fling false returns. Under this code section, these actions are considered a misdemeanor. If charged with a misdemeanor, all defendants will have the opportunity to go to trial.

   Notwithstanding the possibility for a case to be contested, the FTB proposes extraordinary measures to secure the strength of their misdemeanor cases. The FTB has already identified more than 10,000 cases that meet the misdemeanor criteria which includes: (1) the case has a balance of more than $15,000, (2) there has been no response to collection or filing enforcement contacts over two years or more, and (3) the Investigations Program has agreed to work the case.

   Of the potential universe, FTB would begin working up to 500 cases in 2005-06 and anticipates closing approximately 200 cases a year. This activity is expected to generate $2.5 million in the first year and $4 million thereafter. The balance of 300 cases will be in progress in any given year. Of the 200 cases closed, the FTB expects to prosecute only half, from which the $2.5 million to $4 million will be generated. Some of those cases not selected for prosecution will be referred to the Audits division for potential follow up and some will be dismissed.

The proposed misdemeanor program is a deterrent program with a 4-1 benefit-cost ratio. The deterrent effect on other taxpayers who might otherwise not pay their taxes (presumably enhanced by the publicity component of this proposal) has not been measured, but known revenues are estimated at 4-1. Staff notes that the first year benefit-to-cost ratio of 2.5 to 1 is consistent with components of the Administration's tax gap BCP, which range from .65 to 1, to 7 to 1.

Staff Recommendation: Augment the Franchise Tax Board budget by 14 positions and $1.226 million to implement the misdemeanor program and direct the Department of Finance to reflect the additional $2.5 million in 2005-06 revenues in Change Book.

VOTE:

3. **Settlement Revenue.** In 2002 the Franchise Tax Board hired four limited-term positions to help expedite the completion of settlement cases. During the 2004-04 year, these positions were estimated to generate $15 million in accelerated revenues but actually generated $219.2 million. These positions are set to expire on June 30, 2005.

Staff Comment: At staff request, the FTB has provided information related to extending two of the positions for three additional years. Estimated accelerated revenues for the next three years are $5.8 million, $7.8 million, and $12.6 million.

Staff Recommendation: Extend two of the existing attorney positions for an additional three years and direct the Department of Finance to reflect in changebook the additional revenues of $5.8 million (General Fund) in 2005-06.

VOTE:

4. **Discovery Audits.** The Franchise Tax Board has historically utilized "Discovery Audits" to unearth valuable information in the areas of tax abuse and noncompliance. Discovery audits generally explore avenues of tax evasion that are new or not fully understood by the tax agency. Those findings are then referred to other auditing and collection programs that use that information to generate revenues many times the department's cost. Income underreporting, which accounts for 80 percent of the tax gap, is the primary focus of discovery efforts.

According to the LAO, in recent years the FTB's discovery audit resources have been diverted to combat the explosive growth of abusive tax shelters. In 1999-00, FTB spent 23,000 hours on discovery audits. In the current year, only 5,000 hours will be spent on that activity. Discovery audits do not generally reach the 5-1 benefit-to-cost ratio previously described.

At the April 27 hearing, the Franchise Tax Board reported to the Subcommittee on past Discovery Audit activities and the assumptions behind their estimated effectiveness.

Staff Comment: The FTB has stated that it would require a total of 20 positions at a cost of $1.7 million (full year costs) to fully implement a multidisciplinary compliance discovery program. FTB anticipates at least several million dollars annually of additional revenue. Accordingly, it would be conservative to budget offsetting revenues equal to the cost of the program.

Staff Recommendation: Augment the FTB budget by 20 discovery audit positions at a cost of $1.7 million for two years limited-term.

VOTE:

1760 Department of General Services

The Department of General Services (DGS) provides management review and support services to state departments. The DGS is responsible for the planning, acquisition, design, construction, maintenance, and operation of the state's office space and properties. It is also responsible for the procurement of materials, data processing services, communication, transportation, printing, and security. Total proposed budget expenditures for the Department of General Services are $970.2 million.

1. **Capital Outlay Finance Letters for Reappropriation.** In Capital Outlay Finance Letters, the Department of Finance proposed the following reappropriations:

   A. Sacramento Central Plant Renovation—Acquisition, preliminary plans, working drawings and construction. The Department of General Services (DGS) seeks reappropriation due to delays in completing environmental documents and site acquisition, resulting in the project not being ready to proceed to bid.

   B. Department of Corrections, San Quentin Building 22—working drawings. DGS requests an extended liquidation period for working drawings for the seismic retrofit of the San Quentin Building 22.

   C. Department of Corrections, Tracy Hospital Building—Structural Retrofit Construction. DGS seeks reappropriation due to delays in completing the HVAC component of this project. This delay has led to the department's inability to award the construction contract by June 30, 2005.

   D. Department of Corrections, Tehachapi Dormitories F5, F6, F7, and F8—Construction. DGS seeks reappropriation due to contractual delays that will extend the working drawings schedule beyond July 2005. Consequently, DGS cannot proceed to bid until August 2005.

   E. Department of Corrections, Tehachapi Dormitories E1, E2, E3, and E4—Construction. DGS seeks reappropriation to maintain project consistency with the F5-F8 dormitories identified in (D) above. The department is bidding the two projects together in order to realize project savings.

   F. Department of Transportation, Marysville Office Building—Construction. DGS has encountered site selection problems which have delayed the department's plan to proceed to bid by June 30, 2005.

   Staff Recommendation: Approve the Finance Letters for reappropriation.

   VOTE:

2. **Capital Outlay Finance Letters for Augmentation.** The Department of General Services seeks to augment Item 1760-301-0660 by $35,426,000 and add provisional language to reflect increased costs for the following two projects:

   - Sacramento Office Buildings 8 and 9 (714 and 744 P Street) - $26,844,000. This request represents a 26.56 percent increase in construction costs over the budget estimated at the preliminary plans stage. DGS attributes the cost increase to (1) the availability of more detailed drawings (i.e. working drawings) upon which to base estimates for various building systems, and (2) rapid escalation in costs of raw materials and increased labor rates. Total project cost has increased from $110 million to $135 million.

- Replacement of CalTrans' Marysville Office Building - $8,582,000. This increase represents a 15.17 percent increase over the currently appropriated of $56,575,000. Project cost increases have been attributed to higher materials and labor costs, as well as significant increases in projected industry escalation rates.

Staff Recommendation:

DISCUSSION: Request DGS report on:
A. The effect of increased materials, labor, and other project costs on other state projects currently or soon to be under construction.

B. Steps taken to decrease the incidence of project cost underestimates based on insufficient drawings.

ACTION: Approve the two Finance Letters and associated budget bill language.

VOTE:

3. **Office Building 10 Renovation: 721 Capitol Mall.** The Department of General Services requests reappropriation of $23,738,000 of construction funds for the education building at 721 Capitol Mall.

Staff Comment: The reappropriation language includes a two-year extension on approval to bid, from June 30, 2005, to June 30, 2007. A two-year extension would be unusual and does not appear necessary. Reappropriations are usually granted for one year at a time.

Staff Recommendation: Amend the proposed budget bill language to reflect reappropriation through June 30, 2006.

4. Notwithstanding Section 2.00 of the Budget Act, the funds appropriated by Item (1), Schedule (3), of the Public Buildings Construction Fund in this item shall be available for expenditure until June 30, 2008. In addition, the balance of funds reappropriated for construction by Item (1), Schedule (3) of the Public Buildings Construction Fund that have not been allocated, through fund transfer or approval to proceed to bid, by the Department of Finance on or before June 30, 2006, shall revert as of that date to the fund from which the appropriation was made.

VOTE:

4. **Increase Reappropriation for Oakland Police Administration Retrofit.** The Administration requests to reappropriate $500,000 authorized by the Earthquake Safety and Public Building Rehabilitation Bond Act of 1990 (Proposition 122) for the Oakland Police Administration Building Retrofit.

The following budget bill language would implement that change:

1760-492—Reappropriation, Department of General Services. The balance, as of June 30, 2005, of the funds appropriated pursuant to Item 1760-101-0768, Budget Act of 1994 (Ch. 139, Stats. 1994), as reappropriated by Item 1760-492, Budget Acts of 2003 and 2004 (Ch. 157, Stats. 2003 and Ch. 208, Stats. 2004), are reappropriated and shall be available for expenditure through June 30, 2007.

Schedule:
(1) 3116-Richmond, Contra Costa –City Hall………………………………………… 1,149,975
(2) 3117-Richmond, Contra Costa –Hall of Justice …………………………………. 683,613
(3) 4029-Alameda, Oakland Police Administration Retrofit—Oakland……………. 500,000

Provisions:
1. After June 30, 2007, these funds will no longer be available for expenditure and shall not be reappropriated.

As background, on April 1 the Department of Finance submitted a Finance Letter seeking to revert the funds associated with this project. This reversion request was withdrawn in a subsequent letter.

Staff Recommendation: Approve the budget bill language (above) provided in the amended Finance Letter request.

VOTE:

5. **Office of State Publishing Reduction.** The Administration proposes a reduction of $6.2 million and 120 positions at DGS' Office of State Publishing (OSP). This proposed reduction follows declining state agency printing contracts and a statewide shift to more digital technology printing and Internet publishing. The OSP has incurred $14.3 million in losses over the last ten years, including a $5.5 million loss in 2003-04 (a 27 percent revenue decrease). The department explains that the OSP's broad range of products preclude it from tailoring services and force it to charge non-competitive rates. These rates naturally drive state agencies to use outside vendors. Under this proposal, "core" OSP services to the Legislature and other state agency clients would be preserved.

In a related proposal, the Administration proposes to extend, for one year, the requirement that state agencies also request a bid from OSP when seeking services that the OSP currently provides. The Subcommittee adopted this language (for one year) during last year's budget hearings.

SECTION 1. Section 14612.2 of the Government Code is amended to read:

14612.2. (a) Notwithstanding Chapter 7 (commencing with Section14850) of Part 5.5 of Division 3 of Title 2 of, or Section 14901 of, the Government Code, no agency is required to use the Office of State Publishing for its printing needs and the Office of State Publishing may offer printing services to both state and other public agencies, including cities, counties, special districts, community college districts, the California State University, the University of California, and agencies of the United States government. When soliciting bids for printing services from the private sector, all state agencies shall also solicit a bid from the Office of State Publishing when the project is anticipated to cost more than five thousand dollars ($5,000).

(b) This section shall remain operative only until the effective date of the Budget Act of ~~2005~~ *2006* or July 1, ~~2005~~ *2006*, whichever is later, and as of January 1, ~~2006~~ *2007*, is repealed, unless a later enacted statute that is enacted before January 1, ~~2006~~ *2007*, deletes or extends the dates on which it becomes inoperative and is repealed.

The Subcommittee first heard this issue on April 27 and left it open.

Staff Comment: No job loss is expected with this reduction. One hundred and eighteen of one hundred and twenty affected employees have already found other positions or retired and the remaining two are expected to resolve their status in the coming weeks.

In analyzing this proposal, it was learned that an operating expense reduction that would normally accompany a staff reduction had been omitted from the proposal. Specifically, the general expense category did not show a corresponding reduction associated with the positions. To reflect this reduction fully and accurately, an additional reduction of $60,000 should be included.

Staff Recommendations:

A. Approve the budget change proposal with an amendment to reflect an additional reduction of $60,000 in general expense. (Reduce Item 1760-001-0666 by $60,000)

B. Approve the proposed trailer bill language shown above.

VOTE:

6. **Reduce State Travel Costs by Booking Online.** The Governor's California Performance Review (CPR) provided a recommendation that DGS should: (1) establish new travel policies to limit travel agents, book online, and find the best possible fare and (2) take advantage of deals offered in Southwest's SWABIZ program and United Airlines Travel Program (UTAP) for business customers. Estimated savings for adapting these changes are $14.9 million annually, based on shifting to making 80 percent of bookings online and saving 30 percent on online fares.

Subsequent to the release of the CPR, DGS initiated a pilot project to study the savings that could be achieved by shifting more bookings to SWABIZ online. During two three-month periods DGS compared contract fares and SWABIZ fares over 1,200 flight segments (one-way flight) and discovered that significant state savings were possible. Specifically, DGS found that based on the 134,000 transactions executed in 2004, a potential $7.1 million in savings could be generated.

Staff Comment: Without a consistent statewide approach to airline bookings, the state is subject to an unnecessarily high cost for airline tickets. Furthermore, with department budgets built with a set blanket travel sum, the incentives to save are sometimes insufficient. High-level direction to use an online filing portal, coupled with an economical airline, is a prudent first step in minimizing travel costs.

The three key components of a fundamental process change would be:

- STATE OF CALIFORNIA TRAVEL PORTAL. The Department of General Services should create an airline booking website for all departments to utilize when buying in-state tickets. This system would facilitate buying tickets on Southwest Airlines (the state's primary in-state carrier) and require (with exceptions) that tickets be purchased at least two weeks before the flight. Estimated costs to build the portal are $100,000.

- MANAGEMENT MEMO DIRECTIVE: The Administration should provide a directive to departments introducing them to the new policy and provide information on the use of the travel portal web site, compliance requirements, and waivers to the 14-day advance purchase rule.

- ANALYSIS AND TRAINING: In order to facilitate implementation, staff and training resources would be needed. Staff activities would include tracking progress, training departments, analyzing travel data, providing reports to department officials, and maintaining the portal web site. Approximate costs for a research analyst-level staff person (with benefits and operating expenses) are $100,000. Departmental training activities and associated travel cost approximately $50,000. These latter costs are expected to decline significantly after the first year.

To fund the up to $250,000 first-year cost for this proposal, it is suggested that a small fee per ticket transaction be established. Based on the 358,000 airline ticket transactions booked using the Office of Fleet Administration's travel contracts, a small fee (likely less than $1) per transaction would cover the initial costs. After 2005-06, when the portal is in place and departments trained, the fee would be reduced accordingly.

Staff notes that the proposed changes are for in-state travel only and that additional savings may be generated if these practices are applied to out-of-state travel. The travel portal could be altered to book out-of-state tickets, as well as in-state. The California Performance Review suggests savings of approximately $7 million for applying reforming out-of-state travel purchasing practices.

Staff Recommendations:
DISCUSSION: Request DGS and the Department of Finance comment on estimated savings (fund and amount) for this proposal.

ACTION
A. Direct DGS to initiate the travel portal and associated support staff and training, at a cost not to exceed $250,000 and authorize the establishment of a transaction fee to pay for those activities.

B. Direct DGS to initiate a study of out-of-state airline travel costs and utilize the findings of such a study to implement cost saving measures consistent with those outlined in this issue.

C. Request that the Administration issue a management directive on the revised airline booking policies and the travel portal.

8885 Commission on State Mandates

The Commission on State Mandates (CSM) is a quasi-judicial body that makes the initial determination of state mandated costs. The Commission is tasked to fairly and impartially determine if local agencies and school districts are entitled to reimbursement for increased costs mandated by the state. Total proposed budget expenditures for the Commission on State Mandates are $1.6 million, all of which is state General Fund.

1. **Mandate Reimbursement Process.** As was previously described in a State Controller's Office (SCO) budget issue, the CSM Item 8885-001-0001 had, in prior years, contained a provision stipulating how mandate claim preparation expenses can be paid. The item said that independently contracted mandate preparers may charge the lesser cost of either preparation by the local agency or education authority, or up to ten percent of the total mandate cost for their services, with exceptions when supported by documentation.

   DOF representatives have informed staff that the provisional language was removed from the CSM budget as part of the Administration's proposal to suspend the mandate reimbursement process mandate.

   Staff Comment: The Commission on State Mandates should reconsider the mandate process reimbursement mandate. In that reconsideration, the Commission should specifically address the matter of developing a simpler system for review of test claims and providing mandate reimbursements. A reconsideration could be accomplished with the following language:

   > *Notwithstanding any other provision of law, the Commission on State Mandates shall reconsider its test claim decision regarding the Mandate Reimbursement Process program (CSM-4204) enacted by Chapter 486 of the Statutes of 1975 and Chapter 1459, Statutes of 1984, to determine whether the statutes are a reimbursable mandate under Section 6 of Article XIII B of the California Constitution and in light of federal and state statutes enacted and federal and state court decisions rendered since the test claim statute was enacted. If a new test claim is filed on Chapter 890, Statutes of 2004,*[1] *the Commission shall, if practicable, hear and determine the new test claim at the same time as this reconsideration.*
   >
   > *The commission, if necessary, shall revise its parameters and guidelines on the Mandate Reimbursement Process program (CSM-4485) to be consistent with this reconsideration and the Controller shall revise the appropriate claiming instructions to be consistent with this act. Any changes by the commission to the original statement of decision (CSM-4204) shall be deemed effective July 1, 2006.*

   In the event that a mandate is determined, it is important for claimants to know exactly what are allowable costs. In preparing the revised parameters and guidelines, the Commission should specify in simple terms using unit cost measures, exactly what allowable costs are. This determination is commonly referred to as a "reasonable reimbursement methodology."

   In a related development, the State Controller's Office expressed concern that current law precludes them from fully auditing mandates. This is because the statute of limitations declares that auditing may occur no later than three years after a claim was filed or amended. Because this mandate (and many others) have been deferred in recent years (a process which provides for nominal $1000 appropriation in the budget bill) the SCO cannot audit claims 3 years beyond the last time it was

[1] See AB 2856-Laird.

deferred. A proposed solution to this problem would be to enact trailer bill amending the statute of limitations in Government Code section 17558.5 to permit audits beyond 3 years after filing or amendment for mandates that were not fully funded.

Staff Recommendations: Direct staff to work with the Legislative Analyst to draft budget trailer bill legislation that will:

A. Direct the Commission to reconsider the mandate reimbursement process mandate in accordance with the language provided above,

B. Direct the Commission to develop a simple and reasonable reimbursement methodology for the mandate reimbursement process mandate based on unit costs (if the Commission determines that a mandate exists), and

C. Authorize the SCO to initiate an audit of all mandates for three years beyond the existing time period provided for in Government Code 17558.5.

9210 Local Government Financing

Local governments receive a variety of subventions from the state for designated purposes such as health, welfare, and public safety programs. The state provides other assistance to local governments, primarily counties, through other direct programs contained in other items in the budget. For example, Health and Human Services has numerous programs where the state and counties jointly provide funding for services. State funding is also included in Public Safety for such issues as local crime labs and suppression of high intensity drug trafficking areas. Local Government Financing proposed in 2005-06 totals $157.4 million, all of which is General Fund.

1. **Juvenile Justice Grants.** The Governor's Budget eliminates $100 million in General Fund support for the Juvenile Justice Crime Prevention Act (JJCPA) program, a program that provides discretionary funding for juvenile justice activities to counties on a per capita basis. In what the Administration regards as a corresponding augmentation, the Budget diverts $25 million to the Board of Corrections "for distribution to local governments."

   The Governor's Budget Summary reports that negotiations are occurring between the Administration and local governments on all statewide changes in the Juvenile Justice system. These negotiations will consider funding for all corrections activities affecting minors. The outcome of those meetings as they address JJCPA funding is expected to be presented in the May Revision.

   Trailer bill language is attached.

   Staff Comment: The JJCPA (Chapter 333, Statutes of 2000) established a stable funding source for local juvenile justice programs. The programs have a carefully documented record of curbing crime and delinquency among at-risk youth and young offenders. The JJCPA supports 193 collaborative programs in 56 counties to address tailored needs and responses to juvenile crime.

   Based on research conducted by the California Board of Corrections, the JJCPA Programs as a whole are making a significant difference in curbing crime and delinquency. In analysis comparing juveniles who receive program services versus those who don't, it was found that:

   - An average 21.8 percent of program juveniles were arrested vs. 32.5 percent in the reference group
   - An average 18.2 percent of program juveniles were incarcerated vs. 23.4 percent for the reference group
   - An average 56.3 percent of program juveniles completed court-ordered community service vs. 39.4 percent for the reference group

   (Source: California Board of Corrections Annual Report of the Juvenile Justice Crime Prevention Act)

   The Governor's Budget proposal not only unfunds JJCPA programs, it also de-links them from the Citizen's Option for Public Safety (COPS) program. The two discretionary crime funding programs had been linked in an arrangement intended by the Legislature in the authorizing legislation (AB 1913, 2000) to equally fund crime deterrence (JJCPA) and crime prosecution (COPS) activities.

   Staff Recommendation: Reject the Governor's proposed elimination of the JJCPA funding and augment Item 9210-001-0001 by $100 million to reflect full restoration of the program

   VOTE:

2. **Mandate: Open meetings.** The Administration proposes to restructure the Open Meetings mandate and provide $2 million in 2005-06 funding, a funding level significantly below the $15 million expense expected in the current year. In a recent staff meeting, the Department of Finance provided *draft* trailer bill language and explained that the language is expected to support a much narrower scope of printing costs and postage (approximately $2 million).

   Staff Comment: At the April 13 hearing, the Subcommittee heard testimony from the LAO on the role of the purpose of the Open Meetings Act and their proposal to make the Open Meetings Act optional. The Department of Finance in turn reported that the trailer bill that would implement their proposed reduction Open Meetings Act funding—a component of the January 10 budget—was not yet available. Assuming that proposal became available after the hearing, the LAO was asked to verify costs associated with the Department of Finance proposal. An approved Open Meetings Act trailer bill still has not been provided.

   Staff Recommendation:
   DISCUSSION: The Department of Finance should report on anticipated costs for this mandate.

   ACTION: In the absence trailer bill language to consider, reject the Administration’s proposal to amend the Open Meetings Act and restore funding for that mandate.

   VOTE:

3. **Mandate: Photographic Records of Evidence.** This mandate requires local law enforcement agencies to provide photographs, chemical analyses, and other substitutes for evidence that a court determines poses a health, safety, security, or storage problem. In their mandate claims, local agencies typically request reimbursement for purchases of high-tech digital imaging and printing equipment. The Administration proposes to suspend this mandate in the budget year.

   Staff Comment: At the April 13 hearing, the Subcommittee heard testimony from the LAO on their concerns related to this mandate, specifically that suspending the Photographic Rules of Evidence Mandate would add ambiguity to laws of evidence and increase court costs. Testimony from the Administrative Office of the Courts suggested that cost state costs may actually increase based on increased court costs to accommodate more cumbersome and/or dangerous physical evidence. Staff understands that the Department of Finance and the Administrative Office of the Courts have consulted but been unable to develop consensus language to amend the mandate and restrain costs.

   Staff Recommendation:
   DISCUSSION: The Department of Finance should report on anticipated costs for this mandate.

   ACTION: Reject the Administration’s proposal to suspend the Photographic Records of Evidence Mandate and restore funding for that mandate.

   VOTE:

Proposed Control Section 8.53

1. **Notice of Federal Audits**. The federal government periodically audits states to verify that federal funds are appropriately utilized. When their audits find ineligible or inappropriate expenditures, the federal government issues an audit describing the reasons for and amount of reduction. Under current practice, the Legislature is notified of the amounts of audited reductions only after budget reductions have occurred.

   Staff Comment: A recent federal audit of Medi-Cal expenditures resulted in a more than $5 million General Fund reduction to the current-year budget. Based on recent federal trends, the frequency of audits is expected to grow, particularly in the area of Medi-Cal expenditures.

   In order to keep the Legislature abreast of current-year budget developments and enable appropriate oversight on the use of federal funds, it is recommended that departments provide the Joint Legislative Budget Committee with copies of final audits and letters of deferral.

   Staff Recommendation: Adopt Control Section 8.53 with the following language.

   > *It is the intent of the Legislature that reductions to the enacted budget resulting from federal audits be communicated to the Legislature in a timely manner. Notwithstanding any other provision of law, final federal audits and letters of deferral shall be provided to the Chairperson of the Joint Legislative Budget Committee not less than 30 days after any state agency, department, or other state entity receives a copy of that federal audit or deferral letter. Notification shall include a copy of the final federal audit or deferral letter.*

   Vote:

TRAILER BILL

BOARD OF EQUALIZATION TRAILER BILL
ELECTRONIC FUNDS TRANSFER THRESHOLD

6479.3. (a) Any person whose estimated tax liability under this part averages ~~twenty~~ *ten* thousand dollars ~~($20,000)~~ *($10,000)* or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board. Any person who collects use tax on a voluntary basis is not required to remit amounts due by electronic funds transfer.

(b) Any person whose estimated tax liability under this part averages less than ~~twenty~~ *ten* thousand dollars ~~($20,000)~~ *($10,000)* per month or any person who voluntarily collects use tax may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 6451) and Article 1.1 (commencing with Section 6470). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

(e) (1) Except as provided in paragraph (2), any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.
(2) A person required to remit prepayments pursuant to this article who remits a prepayment by means other than an appropriate electronic funds transfer shall pay a penalty of 6 percent of the prepayment amount incorrectly remitted.

(f) Except as provided in Sections 6476 and 6477, any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages ~~twenty~~ *ten* thousand dollars ~~($20,000)~~ *($10,000)* or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) Except as provided in subdivision (i), the penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due, exclusive of prepayments, for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 6591.

(i) The penalties imposed with respect to paragraph (2) of subdivision (e) and Sections 6476 and 6477 shall be limited to a maximum of 6 percent of the prepayment amount.

(j) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

Local Government Financing Language:
Elimination of the Juvenile Justice Crime Prevention Act Programs

Section 30061 of the Government Code is amended to read:

30061. (a) There shall be established in each county treasury a Supplemental Law Enforcement Services Fund (SLESF), to receive all amounts allocated to a county for purposes of implementing this chapter.

(b) In any fiscal year for which a county receives money to be expended for the implementation of this chapter, the county auditor shall allocate moneys in the county's SLESF, including any interest or other return earned on the investment of those moneys, within 30 days of the deposit of those moneys into the fund, and shall allocate those moneys in accordance with the requirements set forth in this subdivision. However, the auditor shall not transfer those moneys to a recipient agency until the Supplemental Law Enforcement Oversight Committee certifies receipt of an approved expenditure plan from the governing board of that agency.

(1) ~~Five and fifteen one-hundredths percent (5.15%)~~ Ten and three tenths percent (10.3%) to the county sheriff for county jail construction and operation. In the case of Madera, Napa, and Santa Clara Counties, this allocation shall be made to the county director or chief of corrections.

(2) ~~Five and fifteen one hundredths percent (5.15%)~~ Ten and three tenths percent (10.3%) to the district attorney for criminal prosecution.

(3) ~~Thirty-nine and seven-tenths percent (39.7%)~~ Seventy nine and four tenths percent (79.4%) to the county and the cities within the county, and, in the case of San Mateo, Kern, Siskiyou, and Contra Costa Counties, also to the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District, in accordance with the relative population of the cities within the county and the unincorporated area of the county, and the Broadmoor Police Protection District in the County of San Mateo, the Bear Valley Community Services District and the Stallion Springs Community Services District in Kern County, the Lake Shastina Community Services District in Siskiyou County, and the Kensington Police Protection and Community Services District in Contra Costa County, as specified in the most recent January estimate by the population research unit of the Department of Finance, and as adjusted to provide a grant of at least one hundred thousand dollars ($100,000) to each law enforcement jurisdiction. For a newly incorporated city whose population estimate is not published by the Department of Finance but which was incorporated prior to July 1 of the fiscal year in which an allocation from the SLESF is to be made, the city manager, or an appointee of the legislative body, if a city manager is not available, and the county administrative or executive officer shall prepare a joint notification to the Department of Finance and the county auditor with a population estimate reduction of the unincorporated area of the county equal to the population of the newly incorporated city by July 15, or within 15 days after the Budget Act is enacted, of the fiscal year in which an allocation from the SLESF is to be made. No person residing within the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, or the Kensington Police Protection and Community Services District shall also be counted as
residing within the unincorporated area of the County of San Mateo, Kern, Siskiyou, or Contra Costa, or within any city located within those counties. The county auditor shall allocate a grant of at least one hundred thousand dollars ($100,000) to each law enforcement jurisdiction. Moneys allocated to the county pursuant to this subdivision shall be retained in the county SLESF, and moneys allocated to a city pursuant to this subdivision shall be deposited in a SLESF established in the city treasury.

~~(4) Fifty percent (50%) to the county or city and county to implement a comprehensive multiagency juvenile justice plan as provided in this paragraph and to the Board of Corrections for administrative purposes. Funding for the Board of Corrections, as determined by the Department of Finance, shall not exceed two hundred seventy-five thousand dollars ($275,000). For the 2003-04 fiscal year, of the two hundred seventy-five thousand dollars ($275,000), up to one hundred seventy-six thousand dollars ($176,000) may be usedfor juvenile facility inspections. The juvenile justice plan shall be developed by the local juvenile justice coordinating council in each county and city and county with the membership~~

~~described in Section 749.22 of the Welfare and Institutions **Code**. If a plan has been previously approved by the Board of Corrections, the plan shall be reviewed and modified annually by the council. The plan or modified plan shall be approved by the county board of supervisors, and in the case of a city and county, the plan shall also be approved by the mayor. The plan or modified plan shall be submitted to the Board of Corrections by May 1, 2002, and annually thereafter.~~

~~(A) Juvenile justice plans shall include, but not be limited to, all of the following components:~~

~~(i) An assessment of existing law enforcement, probation, education, mental health, health, social services, drug and alcohol and youth services resources that specifically target at-risk juveniles, juvenile offenders, and their families.~~

~~(ii) An identification and prioritization of the neighborhoods, schools, and other areas in the community that face a significant public safety risk from juvenile crime, such as gang activity, daylight burglary, late-night robbery, vandalism, truancy, controlled substances sales, firearm-related violence, and juvenile substance abuse and alcohol use.~~

~~(iii) A local juvenile justice action strategy that provides for a continuum of responses to juvenile crime and delinquency and demonstrates a collaborative and integrated approach for implementing a system of swift, certain, and graduated responses for at-risk youth and juvenile offenders.~~

~~(iv) Programs identified in clause (iii) that are proposed to be funded pursuant to this subparagraph, including the projected amount of funding for each program.~~

~~(B) Programs proposed to be funded shall satisfy all of the following requirements:~~

~~(i) Be based on programs and approaches that have been demonstrated to be effective in reducing delinquency and addressing juvenile crime for any elements of response to juvenile crime and delinquency, including prevention, intervention, suppression, and incapacitation.~~

~~(ii) Collaborate and integrate services of all the resources set forth in clause (i) of subparagraph (A), to the extent appropriate.~~

~~(iii) Employ information sharing systems to ensure that county actions are fully coordinated, and designed to provide data for measuring the success of juvenile justice programs and strategies.~~

~~(iv) Adopt goals related to the outcome measures that shall be used to determine the effectiveness of the local juvenile justice action strategy.~~

~~(C) The plan shall also identify the specific objectives of the programs proposed for funding and specified outcome measures to determine the effectiveness of the programs and an accounting for all program participants, including those who do not complete the programs. Outcome measures of the programs proposed to be funded shall include, but not be limited to, all of the following:~~

~~(i) The rate of juvenile arrests per 100,000 population.~~

~~(ii) The rate of successful completion of probation.~~

~~(iii) The rate of successful completion of restitution and court-ordered community service responsibilities.~~

~~(iv) Arrest, incarceration, and probation violation rates of program participants.~~

~~(v) Quantification of the annual per capita costs of the program.~~

~~(D) The Board of Corrections shall review plans or modified plans submitted pursuant to this paragraph within 30 days upon receipt of submitted or resubmitted plans or modified plans. The board shall approve only those plans or modified plans that fulfill the requirements of this paragraph, and shall advise a submitting county or city and county immediately upon the approval of its plan or modified plan. The board shall offer, and provide if requested, technical assistance to any county or city and county that submits a plan or modified plan not in compliance with the requirements of this paragraph. The SLESF shall only allocate funding pursuant to this paragraph upon notification from the board that a plan or modified plan has been approved.~~

~~(E) To assess the effectiveness of programs funded pursuant to this paragraph using the program outcome criteria specified in subparagraph (C), the following periodic reports shall be submitted:~~

~~(i) Each county or city and county shall report, beginning October 15, 2002, and annually each October 15 thereafter, to the county board of supervisors and the Board of Corrections, in a format specified by the Board of Corrections, on the programs funded pursuant to this chapter and program outcomes as specified in subparagraph (C).~~

~~(ii) The Board of Corrections shall compile the local reports and, by March 15, 2003, and annually thereafter, make a report to the Governor and the Legislature on program expenditures within each county and city and county from the appropriation for the purposes of this paragraph, on the outcomes as~~

~~specified in subparagraph (C) of the programs funded pursuant to this paragraph and the statewide effectiveness of the comprehensive multiagency juvenile justice plans.~~

(c) Subject to subdivision (d), for each fiscal year in which the county, each city, the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District receive moneys pursuant to paragraph (3) of subdivision (b), the county, each city, and each district specified in this subdivision shall appropriate those moneys in accordance with the following procedures:

(1) In the case of the county, the county board of supervisors shall appropriate existing and anticipated moneys exclusively to provide frontline law enforcement services, other than those services specified in paragraphs (1) and (2) of subdivision (b), in the unincorporated areas of the county, in response to written requests submitted to the board by the county sheriff and the district attorney. Any request submitted pursuant to this paragraph shall specify the frontline law enforcement needs of the requesting entity, and those personnel, equipment, and programs that are necessary to meet those needs. The board shall, at a public hearing held at a time determined by the board in each year that the Legislature appropriates funds for purposes of this chapter, or within 30 days after a request by a recipient agency for a hearing if the funds have been received by the county from the state prior to that request, consider and determine each submitted request within 60 days of receipt, pursuant to the decision of a majority of a quorum present. The board shall consider these written requests separate and apart from the process applicable to proposed allocations of the county general fund.

(2) In the case of a city, the city council shall appropriate existing and anticipated moneys exclusively to fund frontline municipal police services, in accordance with written requests submitted by the chief of police of that city or the chief administrator of the law enforcement agency that provides police services for that city. These written requests shall be acted upon by the city council in the same manner as specified in paragraph (1) for county appropriations.

(3) In the case of the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County, the legislative body of that special district shall appropriate existing and anticipated moneys exclusively to fund frontline municipal police services, in accordance with written requests submitted by the chief administrator of the law enforcement agency that provides police services for that special district. These written requests shall be acted upon by the legislative body in the same manner specified in paragraph (1) for county appropriations.

(d) For each fiscal year in which the county, a city, or the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County receives any moneys pursuant to this chapter, in no event shall the governing body of any of those recipient agencies subsequently alter any previous, valid appropriation by that body, for that same fiscal year, of moneys allocated to the county or city pursuant to paragraph (3) of subdivision (b).

(e) Funds received pursuant to subdivision (b) shall be expended or encumbered in accordance with this chapter no later than June 30 of the following fiscal year. A local agency that has not met this requirement shall remit unspent SLESF moneys to the Controller for deposit into the General Fund.

(f) If a county, a city, a city and county, or a qualifying special district does not comply with the requirements of this chapter to receive an SLESF allocation, the Controller shall revert those funds to the General Fund.

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Christine Kehoe
Tom McClintock

AGENDA PART A

Wednesday, May 18, 2005
1:30 pm
Room 2040

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

Departments Budget Proposed for Discussion

0250 Judicial Branch

Judicial Branch Consent / Vote-Only Items

1. Finance Letter. Reversion of Funds for Two Joint Courthouse Projects.

Finance Letter Request. This Finance Letter proposes language to revert $619,000 to the State Court Facilities Construction Fund. The Budget Act of 2004 included this amount for acquisition and preliminary plans for two projects: one trial court to serve Sierra and Plumas counties, and another to serve Placer and Nevada counties. The Administrative Office of the Courts conducted a study on each of these projects and has determined that these projects are not cost beneficial. More cost-appropriate alternatives are being explored, and until other options are developed, these funds are proposed to be reverted.

2. Finance Letter. Contra Costa County, New Antioch Area Courthouse Project.

Finance Letter Request. This Finance Letter requests an augmentation of $7,237,000 from the State Court Facilities Construction Fund for acquisition and preliminary plans for the Contra Costa County, New Antioch Area Courthouse project. This project will provide a four-room courthouse to meet courthouse needs in the Antioch area. The request also adds provisional language as follows:

> X. Notwithstanding any other provision of law, the Pittsburg-Delta court facility shall transfer to the state prior to the release of funds identified in Schedule (1) of this item.

3. Finance Letter. Budget Bill Language Regarding the State Court Facilities Construction Fund.

Finance Letter Request. This Finance Letter requests that Budget Bill language be added to authorize the Director of Finance to augment funding from the State Court Facilities Construction Fund after Legislative review, should sufficient funds be available. This change is requested in order to accommodate any additional need for resources that may arise as a result of the transfer of local court facilities to the state and other specified court facility activities.

4. Finance Letter. Increased Expenditure Authority from the Trial Court Trust Fund.

Finance Letter Request. This Finance Letter requests increased expenditure authority from the Trial Court Trust Fund of $15,418,000 to maintain the existing level of allocations to local trial courts from the Trial Court Trust Fund. This restores an adjustment included in the 2004-05 budget that reduced Trial Court Trust Fund expenditure authority due to a projected shortfall in revenues.

5. Finance Letter. Court of Appeal, Fifth Appellate District Fresno.
Finance Letter Request. This Finance Letter proposes an augmentation of $4,486,000 in lease revenue funds to fully fund the construction phase of the Court of Appeal, Fifth Appellate District Fresno: New Courthouse project. The Judicial Council indicates that an increase to the construction appropriation is necessary because of project delays, Heating, Ventilation, Air-conditioning (HVAC) system and audio/visual system alterations, and the increased costs of materials and labor. The proposal also includes language to add the design phase in lease revenue financing.

6. Finance Letter. Reappropriation Fresno County Appellate Courthouse.
Finance Letter Request. This Finance Letter requests reappropriation language for the Court of Appeal, Fifth Appellate District Fresno: New Courthouse—Construction. The Judicial Council indicates that reappropriation of funds is necessary to allow for additional construction funding to complete the project. This reappropriation is related to issue #5 above.

7. May Revise. Debt Service Adjustment.
May Revise Request This Finance Letter proposes an increase of $55,000 General Fund and a decrease of $53,000 Reimbursements associated with Lease Revenue Bond debt service adjustments that were reflected in a set-aside Item in the January 10 Budget, related to Control Section 4.30.

8. May Revise. Lease Rental Debt Payments.
May Revise Request. This Finance Letter proposes a decrease of $10,000 General Fund and an increase of $10,000 Reimbursements that will offset lease rental debt payments accordingly, as it is a shift due to an updated debt service payment schedule, for a lease revenue funded project.

9. May Revise. Merced Downtown Courthouse Project.
May Revise Request. This Finance Letter requests that the appropriation from the State Courthouse Facilities Construction Fund be increased by $3,040,000 to reflect the addition of construction funds to support the Merced County, New Merced Downtown Courthouse project. The construction funds will be transferred to the county to complete construction of a seven courtroom courthouse. The county of Merced is providing the remaining funds necessary to construct the project ($16.7 million). Provisional language is also requested stating that should the county of Merced not transfer responsibility and/or title of the court facilities in downtown Merced to the state by January 1, 2007, the county shall reimburse the state for the funds relating to this project.

10. May Revise. Fresno Area Juvenile Delinquency Court Facility Project.
May Revise Request. This Finance Letter requests budget bill language to allow the Judicial Branch to enter into a lease-purchase agreement with the County of Fresno for a New Fresno Area Juvenile Delinquency Court Facility project, subject to Department of Finance approval. The provisional language will request the county transfer responsibility and/or title of the existing Fresno Juvenile Court Facility prior to the approval of the lease-purchase agreement. The project creates a six courtroom facility in a juvenile delinquency campus that consolidates all county juvenile delinquency services. A joint-use building will be constructed by the county that includes courtrooms and necessary courtroom support space, as well as county offices. The lease payments to the county will be equal to the court's proportional share of the project costs, which is estimated at 58.22 percent.

Staff Recommendation. No issues have been raised concerning the items on the Judicial Branch Consent / Vote-Only List. Staff recommends approval of the vote-only issues.

Action.

Judicial Branch Budget Items Proposed for Discussion

1. Cost of Forensic Evaluations.

This request proposes an increase of $5.5 million through an increase in the county obligations associated with the Maintenance of Effort (MOE) payments. The augmentation would address unanticipated cost increases to the trial courts for various forensic evaluations, as specified in a recent California State Attorney General's (AG) opinion regarding whether the counties or the state are responsible for these costs.

The AG's opinion concluded that the costs for five out of seven categories of forensic evaluations are court costs. The Administrative Office of the Courts (AOC) indicates that many counties have continued to pay for the costs of these forensic evaluations, in whole or part. The AG's opinion clarifies the issue of who pays, which has resulted in unfunded cost increases for the trial courts.

Proposed Trailer Bill Language. The proposal includes trailer bill language (included in the appendix) requiring the AOC and CSAC to establish a working group to review information to determine the level of cost changes incurred by the counties and the courts related to fiscal examinations. Based on the review, the working group is required to identify adjustments to be made to county MOEs and report on the adjustments to the State Controller by September 30, 2005.

Staff Comments. The AOC notes that individual county MOE payments may shift either up or down depending on the particular funding arrangement in each county. However, the net result will be a $5.5 million increase for MOE payments statewide. CSAC has indicated that it is opposed to this proposal.

Previous Subcommittee Action. At the March 30, hearing the Subcommittee held this issue open. At the hearing, the AOC and CSAC indicated that they were working on potential resolutions to this issue.

Staff Recommendation. Staff recommends adoption of this proposal in order to send the issue to conference. Staff notes that this proposal has been denied in the Assembly, so that an action to approve the proposal would send the issue to conference, allowing the Judicial Council and the counties additional time to reach an alternate resolution.

Action.

2. Undesignated Fees.

Budget Request. The budget proposes trailer bill language (included in the appendix) to permanently reauthorize the transfer of $31 million from counties to courts in revenue from undesignated fees.

Two years ago, the Legislature enacted statutory changes to distribute these undesignated fees, with direction that the AOC and the CSAC jointly propose a long-term revenue allocation schedule to take effect on July 1, 2005. The proposed trailer bill language would continue the current distribution of the undesignated fees and would no longer require a long–term revenue allocation schedule. The language would also put into place penalties for delayed payments from the counties.

Background. Chapter 850, Statutes of 1997, shifted primary fiscal responsibility for support of the trial courts from the counties to the state. Chapter 850 and other recent trial court funding legislation made changes in the distribution and amount of court-related fees. An important part of the financing mechanism for the state's new fiscal responsibility for the trial courts was the requirement that local governments transfer a variety of court-related fees collected by trial courts and local governments to the state's trust fund. However, Chapter 850 did not designate which entity—the state or local governments—would retain a number of court-related fees. Some of these undesignated court fees include fees paid for trial postponement, change of venue, filing for Writ of Execution, and civil assessment fees.

Staff Comments. CSAC has indicated that it is opposed to this proposal.

Previous Subcommittee Action. At the March 30, hearing the Subcommittee held this issue open. At the hearing, the AOC and CSAC indicated that they were working on potential resolutions to this issue.

Staff Recommendation. Staff recommends adoption of this proposal in order to send the issue to conference. Staff notes that this proposal has been denied in the Assembly, so that an action to approve the proposal would send the issue to conference, allowing the Judicial Council and the counties additional time to reach an alternate resolution.

Action

3. Uniform Civil Fees.

In order to address the complexity and lack of uniformity in the existing civil fee structure, the Judicial Council, in late 2003, formed a working group of diverse stakeholders to undertake a comprehensive review of the existing civil fees and to make recommendations for developing a uniform civil fee structure. Based on the findings and recommendations of the working group, the court is developing legislation to streamline the existing civil fee structure and achieve uniformity in the level of fees charged by courts and counties statewide. Generally, this proposal would involve collapsing a number of existing fees into a single fee, as well as raising certain fees.

The court security fee which was imposed two years ago and will expire in July 1, 2005, which would create a $16.8 million shortfall in the Trial Court Trust Fund. Revenues from the new fee would be deposited into the Trial Court Trust Fund.

Proposed statutory language would increase the filing fee to $180 from limited jurisdiction civil cases under $10,000, to $300 for limited jurisdiction cases between $10,000 -$25,000, and $320 for unlimited jurisdiction cases. It is estimated that the uniform filing fee would provide sufficient revenue to offset the $16.8 million that will be reduced with the sunset of the court security. In addition, the AOC estimates that the fee will generate an additional $28.2 million in new revenues. These new revenues would be allocated as follows: to the Equal Access Fund ($3.8 million), for technology projects ($10.8 million), for facilities (9.9 million), and as a set aside for county law libraries fee increases ($3.7 million).

Staff Recommendation. Staff recommends adoption of placeholder trailer bill language to create the uniform civil fees. This action would send the issue to the conference committee.

Action.

4. May Revise. State Appropriations Limit.
May Revise Request. This Finance Letter requests that the funding for the trial courts be increased by $24,360,000, to provide funding for the statutorily required adjustment for trial court funding equal to the percentage change in the State Appropriations Limit (SAL). This augmentation would fund the difference between that earlier estimate and the current SAL estimate of 6.0 percent for 2005-06.

Updated Information. The DOF has reported that the final SAL May Revise calculation was 6.64 percent. DOF is asking that the subcommittees adopt and augment the SAL Adjustment by a total of $37,362,000. This amount includes the additional adjustment of $13,002,000 on top of the requested $24,360,000 as part of the May Revision letter. The $13 million raises the SAL adjustment from the previous 6 percent to the final of number of 6.64 percent. The total funding for the SAL would be $134.8 million. The Governor's Budget previously included funding for a 4.8 percent increase, or $97.4 million.

Background. The amount was computed by multiplying specific trial court operational costs, including all expenses for court operations, court employee salaries and salary-driven benefits, by an estimated growth factor of 6.0 percent. The calculation does not include the costs of compensation for judicial officers, subordinate judicial officers, or funding for the assigned judges program.

The AOC indicates that the Judicial Council is working on a SAL allocation methodology. The SAL funding would be allocated according to the following priorities:

- Statewide programs – such as the court interpreter program and the court appointed counsel program
- Mandatory costs – such as increased retirement costs
- Judicial Council Priorities
- Inflation
- Population Growth
- Productivity

Staff Recommendation. Staff recommends approval of the revised SAL amount.

Action.

5. Expansion of SAL to the Judiciary Budget.

The Governor's Budget Summary mentions a proposal that would add a growth factor based on the State Appropriations Limit (SAL) for the state judiciary items starting in fiscal year 2007-08. This growth factor would be similar to the SAL growth factor for the trial courts.

The following budget bill language would require Judicial Council to draft trailer bill language next year to expand the application of the SAL to include funding for judicial compensation, and funding for the Supreme Court, Courts of Appeal, the Administrative Office of the Courts, and the Habeas Corpus Resource Center.

> In order to ensure that funding for judicial branch services, operations, and programs is not eroded, staff are directed to develop trailer bill language that would, effective fiscal year 2006-2007, expand the application of the annual State Appropriations Limit adjustment to include funding for judicial compensation and funding for the Supreme Court, Courts of Appeal, the Judicial Council/Administrative Office of the Courts, and the Habeas Corpus Resource Center. This adjustment will result in an adjustment based upon the annual change in the State Appropriations Limit and would apply to funding for judicial branch operations, programs, administrative services, local assistance grants, and the operation, maintenance, and repair of judicial branch facilities, not to include the cost of programs that are reimbursed through other sources.

Action.

6. Judges Retirement Study

The following supplemental report language has been provided to the Subcommittee, directing the Judicial Council to assess the effectiveness of the Judges' Retirement System II.

> The Judicial Council shall assess the effectiveness of the Judges' Retirement System II based on the ten years of experience under the new system. The Judicial Council shall submit a report to the Legislature no later than January 3, 2006. The report shall include, but is not limited to, the impact of trial court unification on the judges' retirement systems and the resulting increase in the judges' age at the start of their judicial service.

Staff Recommendation. Staff recommends approval of the supplemental report language.

Action.

7. Finance Letter. Reappropriation Orange County Appellate Courthouse.
Finance Letter Request. This Finance Letter requests reappropriation language for the Court of Appeal, Fourth Appellate District, Orange County: New Courthouse—Acquisition. The proposed language provides that the funds shall be available for expenditure until June 30, 2006. The Finance Letter request indicates that reappropriation of funds is necessary because a site is still being determined for this project.

Staff Comments. The AOC has indicated that it is moving forward with acquisition for this project. The AOC has indicated that to the extent there are any excess funds from the acquisition phase, the excess funds will revert to the General Fund once the acquisition is approved by the State Public Works Board.

Staff Recommendation. Staff recommends approval of the reappropriation language.

Action

0820 Department of Justice

Consent / Vote-Only Issues

1. Finance Letter. Santa Rosa Laboratory

Finance Letter Request. This Finance Letter proposes an increase of $1,199,000 from lease revenue funds for the Santa Rosa Replacement Laboratory—Construction. This request would increase the construction phase of the project from $8.6 million to $9.8 million. The Finance Letter indicates that the revised cost estimates are based on bid results from another laboratory currently under construction.

2. May Revise. Lease Revenue Adjustment

May Revise Request. This proposal requests a decrease of $29,000 associated with Lease Revenue Bond debt service adjustments that were reflected in a set-aside Item in the January 10 Budget, related to Control Section 4.30.

3. May Revise. Updated Debt Service Payments.

May Revise Request. This proposal requests a decrease of $15,000 to reflect a reduction in base rental fees due to an updated debt service payment schedule for a lease revenue funded project.

4. May Revise. Proposition 69 Workload.

May Revise Request. This May Revise Finance Letter requests a General Fund increase of $1,972,000, and an increase of $4.7 million from DNA Identification Fund revenue for workload associated with the voter approved, DNA Fingerprint, Unsolved Crime and Innocence Protection Act. This augmentation is in addition to the amount included in the Governor's Budget – a total of $11.2 million ($7 million from a General Fund loan). The Department of Justice (DOJ) indicates that this augmentation is necessary as a result of an increase in revised revenue estimates for the DNA Identification Fund and projected DNA samples to be processed. Previously, the estimated number of samples to be processed was 135,000 in the budget year. This request indicates that the estimated number of samples to be processed in the budget year has increased by 110,000.

Staff Recommendation. No issues have been raised on these issues. Staff recommends approval of the Vote-Only items.

Action

DOJ DISCUSSION ISSUE

Custody of Minors/Child Abduction and Recovery Mandate (Ch. 1399, Stats. 1976).

The budget proposes to suspend the Custody of Minors/Child Abduction and Recovery mandate. This mandate has been deferred in 2002-03, 2003-04, and 2004-05. The DOF reports that the cost of this mandate is approximately $13.6 million annually, based on claims received by the State Controllers Office (SCO) in 2003-04. Due to the passage of Proposition 1A, mandates can no longer be deferred.

According to the claiming instructions published by the SCO, this mandate requires local law enforcement agencies to actively assist in the resolution of child custody problems and the enforcement of custody decrees. Reimbursable activities are obtaining compliance with court orders and costs for out-of-jurisdiction cases (foster care and transportation costs). No costs for criminal prosecution are covered under this mandate.

DOF Rationale for Suspending the Custody of Minors Mandate. The DOF indicates that the activities reimbursed under this mandate, while important, are local responsibilities and should be prioritized within the resources of the local law enforcement and foster care systems.

Previous Action. At the hearing on March 30, the Subcommittee approved the mandate suspension.

Staff Comments. A number of local district attorney offices oppose the suspension of this mandate, citing the importance of this issue. Abductions are most often carried out by people who know the child. The funds from the mandate help pay for specifically trained investigators who are dedicated to protecting the custody rights of parents and legal guardians. The Subcommittee may wish to reconsider this issue.

Action.

8940 Military Department

Military Department Issues for Consent / Vote-Only

1. Finance Letter. Roseville Armory Addition and Renovation.

Finance Letter Request. This Finance Letter proposes an increase of $627,000 in federal funds to budget additional federal fund expenditure authority provided for the Roseville: Armory Additions and Renovations—Construction. The requested increase results from the unanticipated rise in construction costs. The total proposed costs for this project are $6.6 million, of which $3.5 million is General Fund and $3.1 million is federal funds.

2. Finance Letter. State Active Duty Pay Increase.

Finance Letter Request. This Finance Letter proposes an augmentation of $432,000 from the General Fund and $659,0000 from federal funds to pay for the full year impact of a Congressionally-mandated State Active Duty pay increase effective January 1, 2005.

Staff Recommendation. No issues have been raised on the Vote-Only issues. Staff recommends approval of the items on the vote-only list.

Action.

Military Department Issues for Discussion

1. Funding for the Oakland Military Institute.

The budget requests an additional $1.3 million in General Fund support for the Oakland Military Institute (OMI). The request would reestablish 12 positions that were eliminated in the 2003-04 and 2004-05 budgets.

In 2002-03, OMI had a General Fund budget of $2.4 million. Budget reductions in 2003-04 and 2004-05 reduced OMI's budget—resulting in a General Fund appropriation of $1.3 million in 2004-05. Due to these budget reductions, the Military Department reduced its OMI-assigned staff by 12 positions to its current level of 10 positions. Even with these budget reductions, OMI increased its enrollment this year by 100 additional students. In the budget year, OMI plans to include an 11th grade for the first time.

Analyst's Recommendation. The OMI continues to conduct its programs with reduced Military Department personnel. The LAO indicates that if OMI chooses to expand in the budget year, it should do so with resources other than the General Fund. The LAO notes that a denial of additional General Fund dollars for OMI does not preclude Oakland Unified School District (OUSD) or the City of Oakland from using existing charter school funds or other sources (including local funds and private donations) to expand the school. Consequently, the LAO recommends that the Legislature reject the proposed augmentation.

Staff Comments. The Military Department indicates that the estimated Proposition 98 funding for OMI in the budget year is $6,311 per ADA, similar to funding for other charter schools. This level of funding does not include any funding for special education services which are provided directly through the Oakland Unified School District. Staff notes that fully funding the Military Department's proposal in the budget year would provide an additional $5,200 per ADA for OMI on top of Proposition 98 funding – for a total of $11,511 per ADA. The Military Department indicates that the General Fund, provided in its budget, provides for assistant teachers in the classrooms to teach military customs and military history, and for extra-curricular activities such as physical education, drill and ceremonies, leadership, and team development.

Staff Recommendation. Staff recommends adoption of the LAO recommendation and rejection of the $1.3 million augmentation. Without these funds, the OMI will still receive its normal allocation of Proposition 98 funds (approximately $6,300 per ADA) and an additional $2,500 per ADA in General Fund.

Action

2. Santa Ana Armory.

The armory in Santa Ana was built in 1957. It currently houses a rifle company with approximately 100 national guardsmen. It is used as a training site one weekend per month. The remainder of the month it is used primarily for vehicle and equipment storage.

The armory is on a 3.5-acre site between an elementary school and a park. Both the elementary school and the park were developed after the armory was built.

If the armory were moved, the armory would need to be larger and upgraded to current standards. The funding for construction of a new armory would be split between the federal government and the state government. The City of Santa Ana is currently searching for a site for the new armory.

Staff Recommendation. Staff recommends adoption of supplemental report language that directs the Military Department to provide a detailed report on the Santa Ana Armory relocation efforts.

> By January 1, 2006, the Military Department shall report to the Joint Legislative Budget Committee and the chairs of the legislative budget committees with a detailed report on relocation efforts for the Santa Ana Armory, including an analysis of the options for new locations given the programmatic needs for the armory, the criteria being used to determine a suitable location, a list of potential sites that are being explored, the status of any ongoing discussions, and a list of sites that have been rejected and the reason why those sites were rejected.

Action.

3. Finance Letter. Use of the Armory Fund for Armory Repairs.

Finance Letter Request. This Finance Letter proposes to appropriate $1.5 million from the Armory Fund to allow the Military Department to complete necessary repair projects at various armories throughout the state. The request includes budget bill language to make the appropriation available for encumbrance during fiscal years 2005-06 and 2006-07.

This funding would help correct building deficiencies and code violations at 99 armory sites. The Department notes that over 80 percent of the armories were constructed in the 1940's and 50's and have seriously deteriorated due to lack of maintenance and repair. The Department indicates that its armory maintenance budget is under $100,000 and that armories have become hazards with leaking roofs, failing mechanical systems and obsolete electrical systems. The Department indicates that the backlog of maintenance and repairs is over $43 million.

Staff Recommendation. Staff recommends approval of the Finance Letter.

Action.

4. Finance Letter. Military Department Headquarters Complex

Finance Letter Request. This Finance Letter proposes $7.2 million General Fund for acquisition of approximately 30 acres for a headquarters complex that would consolidate several divisions throughout the state. The total cost of the new Headquarters complex is currently estimated at $92.5 million. Of that amount, the federal share would be $62.7 and the state share would be $29.8. The department indicates that it intends to pursue lease revenue bond financing for the state's share of design and construction costs.

Staff Recommendation. Staff recommends rejection of the Finance Letter. Given all the infrastructure deficiencies in the armories, capital outlay expenditures a better priority may be repairing the armory facilities.

Action.

Addendum to Agenda Part A
May 18, 2005 Hearing

Department Budget for Discussion.

0855 Gambling Control Commission

Local Mitigation of Gaming

Pursuant to the compacts, the monies in the Special Distribution Fund (SDF) are subject to legislative appropriation for the following statewide purposes:

- Reimbursement for state regulatory costs associated with implementation of the compacts.
- Payment of shortfalls that may occur in the Revenue Sharing Trust Fund.
- Grants for gambling addiction programs.
- Grants to state and local agencies affected by tribal government gaming.
- Any other purpose specified by the Legislature.

The budget proposes the following expenditures:

- $20.7 million from the SDF for the state regulatory costs at DOJ and the GCC.
- Transfer of $50.5 million to the Revenue Sharing Trust Fund
- $3 million for gambling addiction programs.
- $30 million for local mitigation of gaming.

The Gambling Control Commission has indicated that the amount currently appropriated for transfer to the Revenue Sharing Trust Fund ($50.5 million) is the amount needed to cover the shortfall in that fund. The fund condition statement for the Special Distribution Fund in January assumed that the reserve at the end of the budget year would be $88.7 million.

Staff Recommendation. Staff recommends augmenting the amount appropriated for local mitigation of gaming by $20 million on a one-time basis. Pursuant to statute, any funds not expended within the budget year for mitigation would revert back to the Special Distribution Fund.

Action

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Tom McClintock
Christine Kehoe

Agenda – Part B

Wednesday, May 18, 2005
1:30 p.m.
Room 2040

(Consultant: Brian Annis)

Issues Proposed for Consent / Vote Only

1100 California Science Center

1. **Los Angeles Coliseum Lease Negotiations (May Finance Letter (FL)).** The Administration requests an augmentation of $150,000 (Exposition Park Improvement Fund) to reflect the costs for legal services related to the Los Angeles Coliseum lease negotiations. The Coliseum is in Exposition Park, and is budgeted in the Exposition Park Management Program within the Science Center budget item. The State's 50-year lease with the Los Angeles Memorial Coliseum Commission (Commission), a Joint Powers Authority, expires December 31, 2005. The Commission exercised their right to renew the lease for 49 years, and negotiations are ongoing. The State and the Commission are also engaged in discussions with the National Football League on the use of the Coliseum.

2. **Lease Revenue Bond Debt (May FL).** The Administration requests adjustments to the General Fund budget bill appropriation for Lease Revenue Bond debt service to reflect a decrease of $7,000 to the item, include a decrease in reimbursements of $3,000.

3. **Science Center Phase II (May FL).** The Administration requests trailer bill language and a budget bill reversion to allow, in effect, the private/non-profit California Science Center Foundation (Foundation) to fund anticipated cost escalations for the Science Center Phase II building construction project. Recently, the project received bids that were in excess of legislatively-authorized appropriation levels. As an alternative to the state funding, the Foundation has agreed to fully fund the construction phase of this project as long as the state agrees to lease the state-owned site to the Foundation and enter into a lease-purchase agreement to lease the Phase II facility from the Foundation upon completion of the project. The intent is that the value of the lease payments would be no more than what the state would have paid in annual debt service payments for the project. Specifically, the requested trailer bill language would authorize the California Science Center to enter into a site and lease-purchase agreement with the Foundation for the purpose of developing, constructing, equipping, furnishing and funding the Phase II project.

1110 Board of Barbaring and Cosmetology

4. **January Governor's Budget.** The Governor's January Budget proposed funding of $14.4 million (special fund) and 82.1 positions for the Board of Barbering and Cosmetology. The Board's budget was held open at the April 6, 2005, hearing to address a constituent concern. No Finance Letters have been submitted by the Administration for the Board. Staff recommends approving the proposed budget.

1110 Medical Board

5. **Conforming Action to Subcommittee #3.** The Senate Budget Subcommittee #3 approved a transfer of $3 million from the Managed Risk Medical Insurance Program to the Medically Underserved Account, Contingent Fund of the Medical Board of California. The Medically Underserved Account was created to repay student loans for physicians who have committed to work in underserved areas, as per agreements made with physicians under the terms of the Steven M. Thompson Physician Corps Loan Repayment Program. Conforming action is needed to amend statute (Business and Professions Code 2154.4) to include the $3 million in transferred funds in the existing continuous appropriation authority. The trailer bill language is Attachment I to this agenda.

1111 Office of Privacy Protection

6. **Staff Augmentation (May FL).** The Administration proposes an augmentation of $446,000 (General Fund) and 4.7 positions to implement the recommendations resulting from the statewide summit entitled "Locking Up the Evil Twin: A Summit on Identity Theft Solutions" held on March 1, 2005. This augmentation would allow the Office of Privacy Protection to increase identity theft education and outreach efforts to consumers, community-based organizations, the legal community, institutions of higher learning, and law enforcement agencies. This request would more than double the existing staff of 3.8 positions.

1920 California State Teachers Retirement Board

7. **CalSTRS Budget.** The Subcommittee rejected the Governor's proposal to eliminate the State two-percent contribution for teachers' retirement at the May 11 hearing. The remainder of the CalSTRS budget was held open while a concern of another Senator was being addressed. Staff recommends the Subcommittee approve the remainder of the CalSTRS budget (excluding the teachers contribution proposal which has already been rejected).

2150 Department of Financial Institutions

8. **Elimination of the Credit Union Advisory Committee (May FL).** The Administration requests a $1,000 budget reduction and approval of trailer bill language to reflect the elimination of the Credit Union Advisory Committee. The Committee is composed of seven members all appointed by the Secretary of Business, Transportation and Housing Agency. The purpose of the Committee is to advise the Commissioner of the Department of Financial Institutions, and statute requires quarterly meetings. The Administration indicates there is no longer a need to have a formalized advisory body.

2180 Department of Corporations

9. **Elimination of the Mortgage Bankers Advisory Committee (May FL).** The Administration requests a $1,000 budget reduction (special fund) to reflect the elimination of the Mortgage Bankers Advisory Committee. The purpose of the Committee is to advise the Commissioner of the Department of Corporations. The Administration indicates there is no longer a need to have a formalized advisory body.

2320 Department of Real Estate

10. **Elimination of the Real Estate Advisory Commission (May FL).** The Administration requests a $8,000 budget reduction (special fund) and approval of trailer bill language to reflect the elimination of the Real Estate Advisory Commission. The Commission is composed of ten members, all appointed by the Real Estate Commissioner. The purpose of the Commission is to advise the Real Estate Commissioner regarding changes to regulations and real estate market conditions. The Administration indicates there is no longer a need to have a formalized advisory body.

2400 Department of Managed Health Care

11. **Elimination of the Clinical Advisory Panel and the Managed Care Advisory Committee (May FL).** The Administration requests a $37,000 budget reduction (special fund) and approval of trailer bill language to reflect the elimination of these two advisory bodies. The Clinical Advisory Panel consists of five members appointed by the Director of the Department and the purpose of the Panel is to advise the Director on clinical issues. The Managed Care Advisory Committee consists of 20 members (six appointed by the Legislature). Most of the statutorily-defined responsibilities of the Committee deal with the creation of the Department. Both bodies are statutorily required to meet quarterly. The Administration indicates there is no longer a need to have these formalized advisory bodies.

2720 Department of California Highway Patrol

12. **Lease Revenue Bond Debt Service Adjustments (May FL).** The Administration requests adjustments to budget bill appropriations to reflect minor changes in lease revenue bond debt service payments and related reimbursements. These changes are of a technical nature and total less than $40,000 (special fund).

9650 Health and Dental Benefits to Annuitants

13. **Adjustment Related to the Medicare Modernization Act (May FL).** A May Finance Letter requests to increase the budgeted Health and Dental Benefits to Annuitants by $34.5 million because previously anticipated savings from the federal Medicare Modernization Act are now *not* expected to accrue in 2005-06. This issue was heard at the April 27, 2005, hearing, but held open for the May Revision adjustment. The Health and Dental Benefits for Annuitants budget item provides the State's contribution for the cost of a health benefits plan and dental care premiums, for annuitants and other employees, in accordance with requirements of Government Code. The cost of this benefit is estimated by the California Public Employees' Retirement System (CalPERS). The Governor's January Budget budgeted the amount of $861 million (all General Fund) – an increase of $65 million from the current year. According to CalPERS, this expenditure forecast is traditionally updated in June and both the Administration and Legislature are notified. The budget bill is updated to reflect the new estimates through a Department of Finance technical correction, upon approval by the Legislature.

9800 Augmentation for Employee Compensation

14. **Adjustment to Reflect Updated Cost Estimates (May FL).** A May Finance Letter requests a $36.2 million decrease in the General Fund appropriation (decreasing the item to $161.7 million) and requests a $55.1 million increase to the special fund appropriation (increasing the item to $111.1 million) to reflect new estimates of 2005-06 augmentations to implement the provisions of existing bargaining-unit contracts. This issue was heard during the April 27, 2005, hearing, but held open for the May Revision adjustment.

Control Section 4.01 Employee Compensation Savings

15. **Authority for Budget Adjustments for Employee Compensation Savings (Governor's Budget).** Control Section 4.01 provides authority for the Director of Finance to adjust Budget Act appropriations for any reductions in employee compensation costs (subject to memoranda of understanding negotiated with bargaining units) and for savings from the Alternative Retirement Program. The control section is written with general language and does not specify any particular level of savings. This issue was discussed at the April 27 hearing and held open. No such item was included in the 2004 Budget Act. The Administration indicates it is proposing this item to facilitate budget adjustments for any realized savings in the specified areas.

Staff Recommendation: Approve the budgets of the entities listed above.

Vote:

Departments with Issues for Discussion and Vote

0520 Secretary for Business, Transportation and Housing

Vote-Only Issue (This issue was discussed at the May 11 hearing)

1. **Manufacturing Technology Program (Staff Issue).** The Governor's Budget includes reimbursements of $2.1 million to support the Manufacturing Technology Program (MTP). This program supports the efforts of the Corporation for Manufacturing Excellence (MANEX) in Northern California and the California Manufacturing Technology Center (CMTC) in Southern California. These entities provide consulting services to small manufacturers to improve their efficiency and to retain these firms in the state. Staff has learned that it is unlikely the Agency will receive the budgeted reimbursements in 2005-06 to support the program.

   Staff Comment: The Subcommittee should be aware that the Manufacturing Technology Program will most likely *not* receive funding in 2005-06, contrary to what is indicated in the Governor's Budget. The only two budgetary avenues to restore funding that staff is aware of is to restore the provisional language requiring ETP funding in the EDD budget, or fund the MTP with General Fund. During last year's ETP discussion, the use of ETP funds for the MTP program was opposed by the California Manufacturers & Technology Association and the California Labor Federation.

   Staff Recommendation: Since the budget reimbursements are unlikely to be realized to support the Manufacturing Technology Program, the Subcommittee may want to consider adding General Fund support for the program.

   Vote:

Vote-Only Issue (This issue was discussed at the May 11 hearing)

2. Film Commission Fee Report (Staff Issue). The Film Commission has statutory authority to charge fees for film permits on State property, but has not exercised this authority to institute fees. The Film Commission is currently funded with a General Fund appropriation of $886,000. Last year, the LAO recommended the General Fund support for the Commission be eliminated and that the Commission become fee supported. The BT&H Agency requested and received additional time to study fees, and provisional language was added to the 2004 Budget Act that required the Agency to report to the Legislature by April 1, 2005, with a cost-recovery fee plan. This report was provided to Committee staff on May 13, 2005.

Staff Comment: The Film Commission report recommends continued General Fund support for the Commission and recommends that the State continue the practice of issuing free film permits. The report indicates that no other states charge film permit fees, and that some other states and countries offer film production incentives that exceed those of California. The report indicates that the Los Angeles Film Office charges a permit processing fee of $450. The report presents four fee options, including a flat fee, and various sliding scale fees based on perceived ability to pay or days of production.

Staff Recommendation: Maintain General Fund support for the Film Commission at the budgeted level. (no action is required)

Vote:

Issues for discussion and vote

3. **CinemaScout Digital Library Technology Project (May FL).** The California Film Commission (within the Business, Transportation, and Housing Agency) requests a one-time augmentation of $500,000 (General Fund), and $50,000 ongoing, to upgrade the CinemaScout server and software. The Agency indicates that CinemaScout makes over 11,000 images of state property available online for film production companies to use in selecting potential film location sites. The requested funding would be used to improve and modify the existing web-based system, enhance and simplify its functions, and bring the digital data up-to-date. The Feasibility Study Report (FSR) for this project has not been approved and requested provisional language would make expenditure of fund contingent on Department of Finance approval of the FSR.

   Staff Comment: This is the second consecutive year that the Film Commission has submitted a May Finance Letter requesting an augmentation for an information technology project that is lacking an approved FSR. Last year, the Commission requested and received approval for a $600,000 (General Fund) augmentation to develop a new film-permitting information technology project. The nature of this project does not suggest a new or unanticipated need justifying a May Finance Letter submission instead of a Governor's January Budget request. Additionally, the urgency-level of the project does not suggest legislative approval cannot wait for an approved FSR.

   Staff Recommendation: Reject this request.

   Vote:

4. **Tourism Funding (April FL).** The Administration requests $7.3 million in new General Fund support for the California Travel and Tourism Commission. Currently, the Commission does not receive General Fund support, although statute cites the intent of the Legislature to appropriation at lease $7.3 million annually. The Commission is otherwise supported by fees from the tourism industry. The BT&H Agency estimate these fees will produce revenue of $7.3 million in 2004-05 and $10.9 million in 2005-06. The Commission approves a market plan for expenditure of the funds to promote California tourism.

   Staff Comment: This issue was *not* heard at the May 11, 2005, hearing with the intent that this issue would be further discussed by the Conference Committee. The Assembly approved the Administration's funding request.

   Staff Recommendation: The Subcommittee may want to consider some level of State funding for the Tourism Commission. Note, if no action is taking this issue goes to Conference (because of the Assembly Action).

   Vote:

5. **Small Business Advocate Position. (Member Issue).** The Subcomittee may want to consider an augmentation of $150,000 and 1.0 position and the adoption of trailer bill language to move the Small Business Advocate Position from the Office of Policy and Research (OPR) to the Business, Transportation, and Housing Agency. Conforming action would also be required in the OPR budget.

   Background / Detail: AB 505 (Statutes of 2000, Wright) established the Small Business Advocate Position within OPR to act as a conduit between the Administration and California's small business community. Since its establishment in statute, the Small Business Advocate Position, except for a brief period in 2002, has remained vacant within OPR. Though the position was established in statue, no additional funding was ever provided to OPR. Instead, it was expected that the position would be filled from OPR's existing resources.

   Since the dismantling of the Technology Trade and Commerce Agency, the Business Transportation and Housing Agency has taken the lead role in the running of our state's economic development programs. The Small Business Advocate position was intended to coordinate with the state's diverse network of economic development programs and serve as a conduit between those programs, their recipients and the Administration. However, because this position has not been filled consistently, the state has been unable to take advantage of these opportunities.

   Staff Recommendation: The Subcommittee may wish to consider relocating this position to the Office of the Secretary of BTH to better take advantage of the Agency's cumulative experience with economic development programs and appropriate funding to support the position.

   Vote:

6. **Chrome Plating Pollution Prevention Account (Member Issue).** The Subcommittee may want to consider approval of a new appropriation item to provide expenditure authority of $2 million (special fund revenue) for a chrome plating pollution prevention program that would be implemented by future legislation. Assembly Bill 721 (Nunez), currently contains provisions for such a program. Under this proposal, remaining funds from the Hazardous Waste Reduction Loan Account would be transferred to the newly-created Chrome Plating Pollution Prevention Account. Funding would be used to fund the activities outlined in AB 721: loan and loan guarantee programs and associated activities. Currently, there is $2.2 million in the Hazardous Waste Reduction Loan Account.

   Add new item 0520-001-XXX.

   For support of the Business Transportation and Housing Agency, for payment to Item 0520-001-0044, payable from the Chrome Plating Pollution Prevention Account……………………..$2,000,000

   Provisions:
   1. *Funds appropriated from this item shall be expended to address the various environmental issues posed by the metal plating industry while preserving its economic vitality.*
   2. *Funds shall not be available until January 1, 2006.*

   Amend item 0520-001-0044 to conform to the above item.

   Add trailer bill language that creates the Chrome Plating Pollution Prevention Account and authorizes the transfer of remaining funds from the Hazardous Waste Reduction Loan Account (see attached).

Staff Recommendation: The Subcommittee may wish to consider adopting the new Budget Act appropriation and language.

Vote:

1111 Bureau of Security and Investigative Services

Issue for Discussion / Vote:

1. **Efficiency gains, Bureau activity, and fee levels (Staff Issue):** The Bureau reports that increased electronic processing, including both license applications and finger printing, have reduced workload hours for these activities. At the same time, program revenues are outpacing expenditures by approximately $800,000 annually. The Bureau indicates it is considering moving some positions freed-up from processing efficiencies to enforcement activity. Additionally, a fee reduction is being considered. Private security officers currently pay an initial registration fee of $50.

   Staff Comment: The Service Employees International Union, which represents private security officers, has suggested that the public would be better served by increased Bureau activity instead of a fee reduction. The following areas have been suggested for increased activity:

   - Enforcement and Auditing – including monitoring of training requirements.
   - Outreach – including the orientation of new security firms to the laws of the State, more coordination with local law enforcement entities, and consumer education concerning the State's oversight role for private security firms.

   The California Associate of Licensed Security Officers, Guard, and Associates, which is the major employer organization for security firms in the state, also sent a letter requesting an augmentation in the Bureaus budget to add positions to speed license processing and improve enforcement.

   The Bureau indicates that it currently visits about 45 security firms per month for audit and investigative work (including compliance visits related to training requirements). With approximately 2,800 firms in the State, the Bureau would visit about 540 (or 19 percent) in a year. Each new Associate Governmental Program Analyst would allow another 180 field visits and cost approximately $94,000.

   Staff Recommendation: Augment the Bureau's budget by 3 positions and $283,000 ($42,000 one-time). The Bureau is supported by fees paid by employees and employers and both groups, through their representative organizations, support an augmentation.

   Vote:

1880 State Personnel Board

Issue for Discussion:

1. **Peace Officer Procedural Bill of Rights Mandate (May FL).** The Administration requests funding of $18.2 million to cover reimbursements to locals for their costs of administering the Peace Officer Procedural Bill of Rights (POBOR). This mandate has been deferred in every budget since 2002-03. The $18.2 million figure represents the cost of the mandate claims in 2002-03; however, the LAO indicates the estimated annual cost has increased to $31 million. The Governor's January Budget has proposed to defer the mandate, which continues the legal requirements, but delays, into future years, the State's reimbursement to locals.

   Staff Comment: Proposition 1A, which was approved by voters in 2004, exempts mandates pertaining to labor relations (including POBOR) from its annual funding requirement. The LAO indicates that the State faces the constitutional responsibility to pay approximately $69 million in 2005-06 mandate claims that are currently unfunded in the budget. The LAO recommends that the unfunded mandates that cannot be deferred, be funded prior to those mandates that can be deferred under Proposition 1A.

   Staff Recommendation: Reject the May Finance Letter.

   Vote:

1955 Department of Technology Services

The Department of Technology Services (DTS) represents the Governor's reorganization proposal to consolidate the Stephen P. Teale Data Center (Teale), the Health and Human Services Data Center (HHSDC), and certain telecommunications functions of the Department of General Services (DGS).

Proposed Budget: The Governor's January Budget proposed total expenditures for DTS of $235.4 million (funded by reimbursements from State departments, including General Fund departments, that use the services). The table below shows the base 2004-05 funding for the existing three entities and the 2005-06 funding proposed for DTS. Note, the Systems Integration Division (SID) of the Health and Human Services Data Center is excluded from the DTS consolidation and is proposed to be transferred to the Health and Human Services Agency. No position savings is proposed in the short-term from the consolidation.

Proposed Budget: The Department of Technology Services (in 1,000)

	Teale Data Center	Health & Human Services Data Center (less SID)	DGS - Office of Network Services	Totals
2004-05 Budget	$101,063	$120,874	$10,408	$232,345
Compensation Adjustments	2,055	1,453	203	3,711
Negative Baseline Adjustments	-11,640	-3,449	0	-15,089
Miscellaneous Baseline Adjustments	45	2,776	62	2,883
Provision 5	na	1,966	na	1,966
Capacity BCPs	8,077	1,553	0	9,630
Total 2005-06 (DTS Budget)	**$99,600**	**$125,173**	**$10,673**	**$235,446**

Status of the Reorganization Plan. The official reorganization plan has been received by the Legislature, but it is also still under review by the Little Hoover Commission. The issue before the Subcommittee is whether to approve the "contingent" budget for DTS, that includes provisions for the contingency that the Legislature rejects the Reorganization Plan. A Legislative hearing to review the Reorganization Plan itself will likely occur in June.

Issues for Discussion and Vote:

1. **Addition of Budget Act Appropriations (May FL):** The Administration requests to add a budget bill appropriation for DTS, and "contingency" appropriations for Teale, HHSDC, and DGS, to become effective if the Reorganization Plan is rejected, or if the plan is approved after July 1, 2005. In the Governor's January Budget, the Administration proposes a continuous appropriation for the DTS, in contrast to the current practice of Budget Act appropriations for the existing data centers. The Administration is now supportive of a Budget Act appropriation for DTS. A Budget Act appropriation is responsive to concerns raised by the LAO in the *Analysis of the 2005-06 Budget Bill* and discussed at the March 2, 2005, hearing.

   Staff Recommendation: Approve the addition of the budget bill appropriations for DTS and related contingency appropriations/language for Teale, HHSDC, and DGS. Add trailer bill language to delete the continuous appropriation authority in the statutory language proposed for DTS – as it is the intent of the Legislature and Administration to appropriate DTS funding through annual budget bills, the continuous appropriation authority is unnecessary.

   Vote:

2. **Settle-up Expenditure Authority (May FL).** The Administration proposes a technical adjustment of -$9.9 million to settle excess expenditure authority that has accumulated since 2001-02 in the Health and Human Services Agency Data Center's Cannery (Program 25) operations. Savings occurred primarily due to equipment purchases made at a lower than budgeted cost. The $9.9 million is a reduction relative to the figures in the Governor's January Budget and the adjustment is incorporated into the budget bill appropriation discussed in Issue #1 above.

   Staff Recommendation: Approve the Finance Letter "Settle-up" adjustment to the budget bill appropriation.

   Vote:

3. **CWS/CMS Application Re-Hosting Project Budget Bill Language. (May FL).** The Administration requests that provisional language be added to Item 1955-001-9730 to allow the Department of Finance to make positive or negative expenditure authority adjustments to the Child Welfare Services/Case Management System (CWS/CMS) Application Re-Hosting project costs. The CWS/CMS application is an automated case management system used by counties to administer Child Welfare Service programs. As part of the CWS/CMS Go-Forward Plan (GFP), application hosting activities will be transferred from an IBM facility to a state-run data center. This will increase competition for future bids to maintain or reprocure the system. The requested provision would allow the Department of Finance to adjust DTS expenditure authority to support application re-hosting activities. This would be done with a 30-day notice to the Legislature, following Finance review and approval, in accordance with the current approved project or any subsequent project document. The DTS would recover costs according to its billing rate structure after the CWS/CMS application is hosted at the DTS and fully operational.

   Staff Recommendation: Approve the Finance Letter request.

   Vote:

2100 Department of Alcoholic Beverage Control

Department of Alcoholic Beveral Control (ABC) Issue for Discussion

1. **Office Renovations (Budget Change Proposal (BCP) #1).** The Department requests a total of $246,000 (special fund) in one-time funding - $100,000 for renovations in the Van Nuys State Building and $220,000 for renovations in the Santa Ana State Building. The request also includes headquarters office renovations and savings from new leases such that the request totals $246,000. Improvements include new modular workstations as well as changes to doors and walls.

   Staff Comment: This issue was previously heard at the March 2 Subcommittee hearing. At the hearing, ABC indicated that it would be their preference to move to other facilities, however, the Department of General Services (DGS) requires the identification a replacement tenant as a condition of the move and no replacement tenant has been identified. This issue was held open and placed in this hearing with the DGS budget so DGS would be available to testify on this issue.

   DGS Response: In response to questions from staff, DGS indicates these state-owned facilities are in “good operating condition.” DGS states it is acting in compliance with the State Administrative Manual Section 1310.3, which says “Existing state-owned or state-controlled space will be utilized before the leasing of additional space is considered.” DGS has been working with ABC for five years to find a replacement for the Santa Ana facility.

   Discussion Questions: The Subcommittee may wish to ask DGS and ABC the following questions:
   DGS – What further efforts can DGS make to find a backfill tenant for ABC and then find more suitable office space for ABC? What is the prospect for success?
   ABC – If the BCP for Office Renovations is approved, will ABC continue to request to move into new office facilities?

   Staff Recommendation: Approve the BCP request.

   Vote:

2240 Department of Housing and Community Development

Budget Changes proposed for Vote Only

1. **Community Development Block Grants – Disaster Recovery (May FL).** The Administration requests a budget augmentation of $10.5 million ($211,000 for state operations and $10.3 million for local assistance) to reflect federal grants that have become available through the federal Department of Housing and Urban Development to address recovery efforts related to the Southern California wildfires, San Simeon earthquake, and the San Joaquin levee break.

2. **Transfer to General Fund (May FL).** The Administration requests that $1.7 million in California Homebuyer Downpayment Assistance Program (CHDAP) funds from California Housing Finance Agency (CalHFA) be transferred to the General Fund. Program funding was provided by a 2000 Budget Act General Fund appropriation. CalHFA originated over $25.0 million in loans under this provision before balances for the program were reverted to the General Fund. An amount was retained in the program to complete contractual obligations and commitments to fund Self-Help Housing. Those obligations have been completed and the program can now be funded from Proposition 46 down payment assistance funds.

   Staff Recommendation: Approve these two May Finance Letters.

   Vote:

Housing and Community Development Issues for Discussion / Vote

3. **Governor's Chronic Homeless Initiative (May FL).** The Administration requests a one-time General Fund augmentation of $1 million and trailer bill language, which would be combined with up to $40 million in existing Proposition 46 housing bonds and $10 million from the California Housing Finance Agency, to create 400-500 units of permanent housing with services for chronic mentally ill populations. The proposal would also include the use of $2.4 million in Proposition 63 (the Mental Health Services Act) bond funds. The General Fund portion of this proposal would be expended as follows:

   - $250,000 to create an interagency council on homelessness to improve coordination among state departments.
   - $750,000 for predevelopment loans to fund upfront housing project costs.

   LAO Recommendations: The Legislative Analyst's Office (LAO) makes the following recommendations regarding this proposal:

   - **Reject Council Funding.** The LAO recommends rejecting the $250,000 requested for the Governor's Interagency Council on Homelessness, indicating the Administration should be able to do this within existing resources.
   - **Other Funding Sources for Predevelopment Loans.** The LAO recommends replacing General Fund support of $750,000 with Proposition 63 mental health funds set aside for administration. Funding from this source could be made available through Budget Bill Language in the Department of Mental Health item.
   - **Prop. 46 Housing Bond Funds Already Available.** The Administration is proposing to redirect Proposition 46 housing bond funds designated for housing preservation. The LAO indicates this change is not necessary to implement this proposal, because there are sufficient funds designated for supportive housing already. Consequently, LAO recommends not adopting the proposed TBL because HCD can proceed using existing authority.

   Staff Recommendation: Consistent with the Assembly action: **(1)** Reduce the General Fund augmentation for Council funding from $250,000 to $125,000; **(2)** Reject the $750,000 General Fund augmentation for Predevelopment Loans and use Proposition 63 funds (A conforming action would be needed in Budget Subcommittee #3 to achieve this); **(3)** Adopt placeholder trailer bill language and direct staff to draft new language that would allow a portion of the housing preservation money to be redirected to this purpose; and **(4)** Use the General Fund savings from this recommendation to restore Emergency Housing Assistance Program Funding (see next issue).

   Vote:

4. Emergency Housing Assistance Program (EHAP) - Funding. The Administration proposes an EHAP funding reduction of $864,000 – to $3.1 million (General Fund). The Emergency Housing Assistance Program (EHAP) provides funds for homeless shelter programs through minimum county allocations of $30,000. The Program funds basic homeless shelter operating costs such as rent, utilities, and salaries of core administrative staff. A history of program funding is outlined in the following table.

Funding for Emergency Housing Assistance (in millions)								
	1998-99*	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05**	2005-06***
Funding	$2.0	$2.0	$39.0	$13.3	$5.3	$5.3	$4.0	$3.1

* Supported with special funds in 1998-99, General Fund thereafter.
** Funding was augmented by the Legislature to $5.3 million, but vetoed by the Govenor
*** Proposed by the Governor

Staff Comment: The Administration indicates the funding reduction for the budget year is a policy, not a caseload, decision. Homeless programs are primarily funded at the local level. HCD estimates that $3.1 million would serve 4,700 persons per day, while $4.0 million would serve 6,100 persons per day. The Department indicates federal homeless funding is expected to increase from $6.7 million in 2004-05 to $7.3 million in 2005-06; however, the 2005-06 figure is an estimate.

Staff Recommendation: If the Subcommittee adopts the Staff Recommendation for issue #4 on the prior page, a General Fund saving of $875,000 will result (relative to the Governor's proposal). Staff recommends using this savings to restore EHAP funding to the 2004-05 level of $4 million. The staff-recommended action on these two issues, would not increase General Fund costs relative to the Governor's homeless proposals, but should result in an allocation of funds that would increase the benefit to the homeless population.

Vote:

5. **New Grant for the Regional Housing Needs Assessment (Staff Issue).** The Chair of the Transportation and Housing Committee, Senator Tom Torlakson, has requested that the Budget Committee consider adding a General Fund item to appropriate $1 million for a grant program to offset the cost to Councils of Governments (COGs) for assessing localities their share of the regional housing need.

Background: Statute requires COGs to assess a locality its share of the regional housing need. As part of its general plan, every city and county is required to prepare a "housing element" which assesses the conditions of its housing stock and outlines a five-year plan for housing development. In 1981, the Board of Control determined that the housing-element requirement imposes a reimbursable mandate. Last year, the LAO estimated the annual cost to the State at approximately $4 million (General Fund). Last year, the Legislature approved a budget trailer bill (SB 1102), which asked the Commission on State Mandates to reconsider the 1981 finding based on federal and state statutes enacted and federal and state court decisions rendered since the 1981 finding. On March 30, 2005, the Commission on State Mandates adopted a Statement of Decision that the housing element mandate does not require state reimbursement under the provisions of Article XIIIB, section 6, of the California Constitution.

Staff Comment: While the decision by the State Mandates Commission means the state has no obligation to reimburse COGs for their "housing element" cost, the Subcommittee may still want to consider funding a portion of the cost of these activities which support a statewide need to increase the housing supply.

Staff Recommendation: The Subcommittee may want to consider a General Fund augmentation of $1 million to fund grants to locals for the preparation of the Regional Housing Needs Assessment.

Vote:

2660 Department of Transportation

Caltrans Budget Changes proposed for Consent / Vote Only

1. **Lease Revenue Bond Debt Service Adjustments (May FL).** The Administration requests a net increase of $357,000 (State Highway Account) to the budget bill appropriation that authorizes lease revenue bond debt service payments. These changes are of a technical nature and relate to revised estimates for base rental payments, fees, and insurance costs.

2. **Reappropriation of Federal Safety Grants (May FL #15).** The Administration requests a reappropriation to extend the period of availability for federal "Corridor Improvement and Formula Section 163 grants." The 2004 Budget Act appropriated $31.0 million for this purpose under an unclassified appropriation, which is available for state operations, local assistance, or capital outlay. Historically, funding in this appropriation is transferred to other budget items through a budget revision, once the expenditure classification is determined. This year, the Department of Finance determined that there was insufficient authority in existing provisional language to continue making these transfers. The Department indicates the funds would revert back to the federal government if the period of availability were not extended beyond the end of this fiscal year.

3. **Storm-water Workload (May FL #14).** The Administration requests a permanent increase of 82 positions and $25.9 million (of this, $14.8 million is limited-term) for the maintenance of storm-water structural treatment best management practices. Caltrans' storm-water activities are driven by requirements of the federal Clean Water Act, requirements of the State Water Resources Control Board and various regional boards, and legal settlements. This specific request relates to requirements of a recent legal settlement with the Natural Resources Defense Council. At the March 16, 2005 hearing, the Subcommittee discussed this issue and rejected a related BCP, because Caltrans indicated that they were preparing updated workload figures that would be provided in a Finance Letter.

4. **Proposed Trailer Bill Language to Eliminate the Transportation Development Advisory Committee (May FL).** The Administration proposes trailer bill language to eliminate the Transportation Development Advisory Committee and requests a related budget reduction of $1,000. Existing law prescribes two responsibilities to the Committee: advise Caltrans in the preparation of legislatively-required reports, and to advise Caltrans on planning and design standards for development and designation of official scenic highways. Because the primary function of this committee was to provide advice to the Director, the Administration indicates this function can more efficiently be provided on an ad hoc basis, rather than on a statutory basis.

5. **Transportation Permits Management System (April FL #3 & #8).** The Administration requests a permanent augmentation of $551,000 (special fund, with out-year escalations as noted below) for maintenance and operation of the Transportation Permits Management System (TPMS) as it begins production use (FL #3), and a reappropriation to extend the liquidation period of funds approved to implement the system (FL #8). Caltrans is requesting escalating funding for TPMS maintenance and operations as follows (dollars are in thousands):

Fiscal Year	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Funding	$551	$735	$779	$790	$816	$825

The Subcommittee held this issue open at the May 11 hearing at the request of the LAO, because the Feasiblity Study Report (FSR) for this project had not been approved by the Department of Finance. The Department of Finance approved the project FSR on May 12.

6. **Operational Savings (May FL**) The Administration requests to revert $51.6 million in operational savings in 2004-05 and reflect an unallocated state operations savings of $50.0 million during 2005-06. Caltrans indicates that the current year savings were generated by a combination of salary savings ($38.0 million), delaying contract awards ($9.0 million), Teale Data Center cost savings ($9.0 million), and elimination of leased space ($600,000). The Administration proposes to use this savings to augment the capital outlay appropriation item and increase 2005-06 expenditures for the State Highway Operations and Protection Program.

Staff Recommendation: Approve vote-only issues 1-6 listed above.

Vote:

Caltrans issues for Discussion / Vote

7. Proposition 42. With the May Revision, the Governor withdrew his January proposal to suspend Proposition 42. Proposition 42 revenue is estimated by the Department of Finance at $1.3 billion. This May Revision proposal would increase 2005-06 General Fund expenditures by $1.3 million and the funding would be allocated, pursuant to statute, as follows:

- $678 million for Traffic Congestion Relief Program (TCRP) projects.
- $254 million for cities and counties for local streets and roads.
- $254 million for the State Transportation Improvement Program.
- $63 million for State Transit Assistance.
- $63 million for other mass transit programs.

No action is needed to restore Proposition 42 funding, because that transfer is required by the California Constitution unless the transfer is suspended by a proclamation of the Governor and a two-thirds vote of the Legislature. All Proposition 42 expenditures out of the Transportation Investment Fund (TIF) are continuously appropriated in statute, upon appropriation by the Legislature, except the portion that is transferred to the Public Transportation Account (PTA). Therefore, a budget action is required to appropriate the TIF expenditures and transfers, and expend the PTA funds (including expenditure of $63 million for State Transit Assistance and $63 million for other mass transit programs). The Department of Finance also requests to make other related technical budget adjustments

The Administration requests that three existing Administration-sponsored policy bills (AB 850, AB 1266, and SB 705) be considered budget trailer bills and link their passage to the availability of the Proposition 42 funds. These bills expand toll roads, design-sequencing, and design-build, respectively. These bills do not directly affect the 2005-06 budget, and their subject matter makes them better-suited for the policy bill process.

Staff Recommendation: Appropriate the Proposition 42 funds in the Transportation Investment Account for expenditure or transfer in accordance with the allocations specified by Proposition 42. Approve the augmentations in the Public Transportation Account appropriation items related to the Proposition 42 transfer. Approve any additional technical corrections necessary to correctly budget the Proposition 42 transfer, upon concurrence by Committee Staff and Republic Fiscal Staff. Reject the conversion of AB 850, AB 1266, and SB 705 into a budget trailer bill.

Vote:

8. **Tribal Securitization Revenue (May Finance Letter).** The Administration requests budget adjustments to reflect a $222.0 million reduction in bond revenue from tribal gaming revenue securitization. This reduces budgeted revenue from $1.2 billion to $1.0 billion in 2005-06. This revenue would repay outstanding Traffic Congestion Relief Fund (TCRF) loans made to the General Fund. Due to the statutory distribution of this TCRF revenue, the Administration also requests to reduce the 2005-06 Public Transportation Account capital outlay appropriation by $152.5 million, and reduce the 2005-06 distribution to cities and counties by $69.5 million.

   The Administration requests related trailer bill amendments to do the following:
   - Specify the outstanding TCRF loans to the General Fund, which are not repaid by the tribal gaming bonds ($222 million), shall be repaid by "future gaming revenues, additional securitizations against those revenues, or pursuant to any future constitutional or statutory provision related to special fund loans to the General Fund."
   - Adjust statute to reflect an additional interest obligation of $8 million due to the delayed issuance of the bonds.

   Staff Recommendation: Approve the trailer bill language but amend the language to clarify that any outstanding TCRF loans to the General Fund that are not repaid with tribal gaming revenue, remain a debt of the General Fund.

   Vote:

9. **Public Transportation Account Spillover (Governor's Budget Proposal).** The Administration requests approval of trailer bill language that would suspend the 2005-06 transfer of "spillover" gasoline sales tax revenue to the Public Transportation Account, and instead retain approximately $380 million in the General Fund. Under current statute, all spillover revenue would be transferred to the Public Transportation Account, with half of that then transferred to the State Transit Assistance budget item. The "spillover" only occurs in years when gasoline prices are high relative to the prices of other goods. No spillover occurred during the period of 1994-95 through 2000-01; however, a spillover of $11.3 million occurred in 2001-02. The past two budgets have included trailer bill language to use spillover revenue for General Fund relief. The Public Transportation Account and the State Transportation Account also receive a portion of Proposition 42 revenues.

   Staff Recommendation: Approve the trailer bill language.

   Vote:

10. **Highway Maintenance Funding (BCP #6).** The Administration requests a permanent increase of 38.0 positions and $45.8 million for highway infrastructure preservation ($42.3 million) and to implement the statewide culvert inspection and repair program ($3.5 million).

Background: The 2004 Budget Act included a one-time augmentation of the same amount ($45.8 million) and associated budget trailer legislation (SB 1098) required Caltrans to provide the Legislature with a five-year maintenance plan by January 31, 2005. The Maintenance Report was delivered to staff on May 5, 2005. The report recommends approval of maintenance funds at the level requested in the Governor's Budget. The report presents three options for funding and indicates the future State Highway Operations and Protection Program (SHOPP) cost avoidance associated with each option. The table below summarizes these options (dollars in millions).

Option	Description	Cost	SHOPP Cost Avoidance	Net Benefit
1	Status Quo (growing backlog)	Governor's Budget ($147M)	$1,113M	$966M
2	No Backlog Growth	Gov Budget + $105M	$2,020M	$1,768M
3	Liquidate Backlog over 5 years	Gov Budget + $250M	$3,247M	$2,850M

The Department indicates it will reevaluate the SHOPP project strategies to emphasize preservation and consider diverting about $105 million to this effort in 2006-07. The report also indicates that the Administration would consider expanding the Maintenance Program in 2007-08 when the governor is proposing ongoing Proposition 42 funding.

Staff Comment: The figures in the report suggest that a $1 increase in preventative maintenance today would reduce future road rehabilitation costs by $6 to $12 dollars. Thus, it would seem prudent to increase maintenance expenditures, even at the cost of delay to some capacity-enhancement projects.

Culvert Inspections and Fish Passage Assessments: Senate Budget Subcommittee #2 has discussed Caltrans' Culvert Inspection Program in the context of the State Coastal Conservancy and fish passage assessments. Caltrans previously performed fish passage assessments in part of the North Coast region with federal grant funds. This BCP request to implement the Culvert Inspection Program does not include funding for additional fish passage assessments. However, Caltrans' Director Kempton has indicated he will use new grant funds or redirected funds to continue the fish passage work. Caltrans estimates completing the highest-priority fish passage work would cost in the range of $6 million to $9 million. Senate Bill 857 (Kuehl) would specify additional requirements for fish passage assessments. The following budget bill provisional language is supported by Subcommittee #2 for inclusion in the Caltrans' budget.

Provision X:
Of the funds appropriated in this item, $3,450,000 shall be used to implement the statewide culvert inspection and repair program. Using redirected or grant funds, the Department of Transportation shall assess coastal streams outside of Mendocino, Humboldt, and Del Norte counties, for barriers to migratory fish passage. The Department shall coordinate its culvert inspection program activities to facilitate these fish passage assessments. Priority shall be given to coastal watersheds for culvert inspections and passage assessments.

Staff Recommendation: Approve the request and augment the budget by an additional $20 million to fund more major maintenance contracts. (The Maintenance Report suggests expenditure of this $20 million will save $120 million to $240 million in future highway rehabilitation costs.) Approve the provisional language related to fish passage assessments.

Vote:

11. **Performance Measurement System (FL # 7):** The Administration requests a two-year limited-term increase of $557,000 and 4.0 positions to deploy and maintain the production version of the Performance Measurement System (PeMS). PeMS will assist Caltrans with the monitoring and evaluation of real-time traffic data and allow Caltrans to more effectively report comprehensive highway system performance measures.

    Background / Detail: PeMS was initially developed as a research project, to develop standard reports for volume, speeds, travel time, delay and developing a fluent user group. The Performance Measurement System is currently operational in six urban districts: District 3 (Sacramento); District 4 (San Francisco Bay Area); District 7 (Los Angeles); District 8 (Inland Empire); District 11 (San Diego); and District 12 (Orange County). Plans are underway to connect District 6 (Fresno) soon and District 10 (Stockton) eventually. The Finance Letter would not be instrumental in adding these two districts, but would rather improve the existing base system.

    Staff Comment: This issue was heard at the May 11 hearing and held open, because the Department of Finance has not approved the project Feasibility Study Report (FSR). The standard practice is for Finance to approve a FSR prior to submission of a budget change proposal to the Legislature. If the Legislature approves a project prior to Finance approval of the FSR, some aspects of the projects may still change – as Finance may require changes to the FSR plan.

    LAO Language: The LAO has developed budget Control Section language that places new requirements for projects that receive budget approval prior to approval of a FSR.

    Staff Recommendation: Approve the Finance Letter, but also approve the LAO's Budget Control Section language and conforming changes to Caltrans' provisional language. The language is Attachment II to this agenda.

    Vote:

12. **Equipment Program (BCP #16).** The Administration requests one-time funding of $75,000 (Equipment Service Fund) to reimburse the Department of Finance, Office of State Audits and Evaluation, to serve in an advisory function as the Department develops record keeping systems for the Equipment Program to meet federal and state reporting requirements.

Background. A number of changes to the Equipment Program were instituted in 2000-01 with BCP 16. Most significantly, the Equipment Service Center Internal Service Fund was established and Caltrans was provided the authority to rent idle equipment to local agencies to recover costs. Staff understands that no Caltrans vehicles are currently being leased to other public agencies, and that few vehicles are shared among programs and districts. If vehicles are not being shared across agencies and Caltran's programs, it may be possible to simplify the Department's equipment accounting system and reduce costs.

March 16, 2005 Hearing: The Subcommittee approved this request on a 2-1 vote with Senator McClintock voting no.

New Information: In April, Committee staff and Assembly staff met with the Caltrans Equipment Program and the Department of Finance to discuss in more detail the advising services that would be provided by the Office of State Audits and Evaluation (OSAE). Prior to the March 16 hearing, staff had understood that the scope of the consulting services would also include advice on the appropriateness of the accounting system relative to the way the Equipment Program actually operates. At the April meeting, OSAE indicated the review would be more narrow and only include advice on complying with the existing accounting model. OSAE indicates the broader look at the accounting model would cost an additional $22,000. The Assembly amended provisional language to clarify the product of the OSAE audit and require Caltrans to absorb the additional cost.

Staff Recommendation: Conform to the Assembly action, which approves the $75,000 augmentation requested by the Administration, but amends the provisional language to specify the scope of the consulting; requires Caltrans to absorb the additional $22,000 cost of the expanded OSAE study; and adds a legislative reporting requirement. The amendments to the provision are Attachment III to this agenda.

Vote:

13. **Environmental Enhancement and Mitigation (EEM) Program (Committee-staff issue).** The Administration is proposing no funding for the EEM program in 2005-06. The EEM Program funds grants for projects such as hiking and biking trails, landscaping, and the acquisition of park and wildlife areas.

Background: The EEM Program was initiated by Chapter 106, Statutes of 1989, which provided for annual transfers of $10 million from the State Highway Account (SHA) to the EEM Fund for a ten-year period. At the expiration of the ten-year period, the Legislature decided to continue funding at the $10 million level and current statute cites the intent of the Legislature to allocate $10 million annually to the EEM Program. Due to declining SHA balances, no transfers were made from the SHA to the EEM Fund in 2003-04 and 2004-05. However, there was an existing balance in the EEM Fund of about $10 million, and appropriations were included in the 2003-04 and 2004-05 Budget Acts to allow for EEM Program grants of $5 million in each year.

Staff Comment: The EEM Fund balance is expected to fall to under $1 million at the end of 2004-05. Therefore, the program cannot continue at the 2004-05 level without a transfer of about $4.2 million from the SHA.

Staff Recommendation: Restore program funding to its historic base level of $10 million. This action would require two additional budget bill items: (1) a $10 million transfer from the State Highway Account to the EEM Fund; and (2) a $10 million EEM appropriation.

Vote:

14. **Regional Blueprint Planning (May FL**). The Administration requests a $5 million augmentation in federal expenditure authority to institute a new local grant program to encourage metropolitan planning organizations to produce regional "blueprint" planning documents. The Administration indicates these plans will guide future development and land use decisions to promote economic development, while protecting the environment, promoting healthy cities, and reducing unnecessary travel demand.

LAO Concerns: The LAO recommends this request be denied because the current plan lacks detail on eligibility criteria and performance measures. Additionally, this proposal would create a new program, and as such, it may be more appropriate first create the program through a policy bill.

Staff Recommendation: Reject the request.

Vote:

15. **Capital Outlay Support: Non-Project Specific Contracts (BCP #14)**. The Administration requests a permanent increase of $11.7 million (to $23.6 million – a 98 percent increase) for non-project-specific contracts. Services include document reproduction, photography and satellite imagery, environmental studies, and training.

Capital Outlay Support Service Contract Budgets ($ in millions)			
	2003-04	2004-05	2005-06*
Non-Project-Specific Contracts	$18.0	$11.9	$23.6
Project-Specific Contracts	$4.1	$7.6	$7.6
Total	$22.1	$19.5	$31.2
* Proposed. The Administration may request an adjustment to the Project-Specific-Contract budget in a May Finance Letter.			

Staff Comment: This issue was held open at the March 16 hearing, and Caltrans offered to provide additional detail on these projects. A detailed project list was provided to staff on May 16 that includes a revised need of $6.9 million. Staff understands the Administration does not object to the Subcommittee reducing the funding request to meet the revised need assessment.

Staff Recommendation: Approve the BCP request minus $4.8 million (to tie to the Departments revised need estimates).

Vote:

16. Capital Outlay Support: Project Workload (May Finance Letter). The Administration requests staffing, contract and operations adjustments related to the current estimate of project workload. The Administration has submitted the following three separate Finance Letter requests:

Workload Description	Change to State Staff	Change to full-time equivalent: contract-work and overtime	Dollar Budget Change (in millions)
Base	0	-237	-$2.4
Tribal Bond Revenue	141	542	$96.7
Proposition 42	175	453	$79.9
Total	**316**	**758**	**$174.2**

At the time this agenda was written, the Administration had only submitted detail on the “Base” request. Therefore, detail does not exist for staff to determine the split between contract-out work and overtime and compare those figures with state staff and historic workload distribution among these groups.

Staff Recommendation: Since the detail has not been provided on the “Tribal Bond Revenue” and “Proposition 42” workloads , Staff recommends the Subcommittee approve a motion of Finance Letter minus $1,000 for each of these three Finance Letter requests to put the issue in Conference. The Administration should provide the detail as soon as possible.

Vote:

2640 Special Transportation Programs

Issue for Discussion and Vote:

1. **Proposition 42 Funding for Special Transportation Programs (May FL).** The Special Transportation Program provides funding to the State Controller for allocation to regional transportation planning agencies for mass transportation operations and projects. Funding comes from the Public Transport Account, which obtains its revenue from a portion of the sales tax on fuel, including some Proposition 42 funds. The Governor's January Budget proposed funding of $137.3 million for Special Transportation Programs – an increase of $19.9 million (17 percent) over current-year funding. The May Revision proposes to restore Proposition 42 funding, which would increase Special Transportation Program revenues by an additional $65 million. The Administration continues to propose that Public Transportation Account "spillover" revenue be retained in the General Fund. See additional information on the "spillover" revenue in the Department of Transportation section of this agenda.

   Staff Recommendation: Approve the $65 million augmentation to this item related to Proposition 42. Approve any additional technical corrections necessary to correctly budget the Proposition 42 transfer, upon concurrence by Committee Staff and Republican Fiscal Staff.

   Vote:

2665 High-Speed Rail Authority

Budget Changes proposed for Vote-only

1. **Reappropriation of Federal Funds (May FL).** The Administration requests a reappropriation of federal funds originally appropriated in the 2003 Budget Act. The High-Speed Rail Authority (HSRA) indicates that $359,832 of the $1.2 million total funding was not encumbered by June 30, 2004. Federal funding was provided to support the final environmental impact report and environmental impact statement (EIR/EIS). These funds are needed to pay contractors to respond to remaining comments from the public following presentation of the draft EIR/EIS. If these funds are not reappropriated, the authority to spend them will be lost.

2. **Legal Defense of the Program Environmental Impact Report (part of BCP 1).** The HSRA is requesting a one-time augmentation of $500,000 (Public Transportation Account) to prepare an administrative record for the defense of the EIR as well as respond to all lawsuits filed regarding the EIR.

   Last year, the HSRA indicated additional funding was needed to complete the EIR, and the Legislature augmented the HSRA budget by $720,000. The Governor vetoed this augmentation. The HSRA indicates that the EIR was delayed, which also delayed legal costs – $300,000 budgeted in 2004-05 for legal costs was instead redirected to cover the cost of the completing the EIR.

3. **Next-Tier Environmental Impact Report (part of BCP 1).** The HSRA is requesting a one-time augmentation of $1.7 million (Public Transportation Account) for the preparation of the "next-tier" program EIR to study the Central Valley to San Francisco Bay Area portion of the planned high-speed train route. If the State does move forward with construction of the high-speed rail system, a project-specific EIR will be required.

   Staff Comment: While most of the proposed high-speed rail route map is detailed in the existing EIR, the Central Valley to San Francisco Bay Area portion was left unspecified due to controversy over some of the route options cutting through park land. The product of this request would be additional public hearings and a determination of the preferred route.

Staff Recommendation: Approve request the Administration's budget requests numbered 1, 2, and 3 above.

Vote:

HSRA Budget Changes proposed for Discussion and Vote

4. Financing Plan (part of BCP 1). The HSRA is requesting a one-time augmentation of $500,000 (Public Transportation Account) to prepare a financing plan for the high-speed train system. Current law provides for a proposition on the November 2006 ballot to provide $9.95 billion in general obligation bonds for the high-speed rail and related rail projects.

Staff Comment: The HSRA indicates the bond was not an element in the Business Plan completed in 2000, and, therefore, no complete financing plan exists that includes the bonds. The bond for the project was originally scheduled for November 2004, before legislation delayed the election date to 2006. Current proposed legislation (AB 713, Torrico) would move the bond vote to 2008. If the bond vote is delayed, the benefit of a Financing Plan produced in 2005-06 is reduced, because it will become outdated, overtime (like the 2000 Business Plan).

Staff Recommendation: Staff recommends that the request be approved, but that provisional language be added that would prohibit expenditure of these funds if legislation is enacted in calendar year 2005 to postpone the 2006 bond vote.

Vote:

5. Southern San Joaquin Valley Study (Member Issue) The Chair received a letter signed by Senator Ashburn, and Assembly Members Maze, Villines, Parra, Arambula, and McCarthy requesting funding for an alignment/station study for the Southern San Joaquin Valley. The current HSRA alignment plan does not include a station between Fresno and Bakersfield. This issue was also heard at the March 16, 2005, hearing and no action was taken. The HSRA indicates the study would cost $650,000 and take 9 months to complete

The Assembly took an action to provide $325,000 (Public Transportation Account) for this purpose, with the remainder of costs to be funded from reimbursements from local sources. The Assembly also added 0.5 positions for the HSRA.

Staff Recommendation: Conform to the Assembly Action.

Vote:

2740 Department of Motor Vehicles

<u>Budget Changes proposed for Discussion / Vote</u>

1. **Vehicle Insurance Reporting (May FL).** The Administration requests an augmentation of $4.1 million (special funds) and 9.5 positions to establish a new financial responsibility reporting and vehicle registration suspension program, pursuant to Chapter 920, Statutes of 2004 (SB 1500) and Chapter 948, Statutes of 2004 (AB 2709). Chapter 920 requires the DMV to verify insurance has been obtained within 30 days after issuance of a registration card and to suspend, cancel, or revoke the registration of a vehicle when it is determined that the vehicle insurance was canceled and not replaced. Chapter 948 requires the DMV to develop methods by which law enforcement officers may electronically verify that an insurance policy or bond has been issued for the vehicle. This funding will enable the DMV to expand insurance reporting capability for more insurers, develop a new registration suspension program, and construct a reliable interface with that information for use by law enforcement. The intent of this program is to reduce the number of uninsured motorists in California as well as vehicle insurance costs.

   Budget Trailer language is proposed to postpone the implementation of the registration suspension provisions until the automated systems are ready.

   The expenditure of these funds is also proposed to be subject to approval of a Feasibility Study Report by the Department of Finance.

   Staff Comment: Staff in Senator Speier's Office who worked on SB 1500 indicate that the bill will result in savings to the State due to incentives that will increase the number of insured drivers and keep more uninsured drivers off the roads. This is expected to result in major savings in state Medi-Cal expenditures because more hospital costs will be paid by insurance companies instead of the State.

   Staff Recommendation: Approve the Finance Letter funding and position request, but reject the trailer bill language that would postpone the implementation date for this Legislation.

   Vote:

2920 Commission of the Californias/Office of CA-Mexico Affairs

Issue for Discussion and Vote

1. **Elimination of the Commission of the Californias and the Office of California-Mexico Affairs (May FL).** The Administration requests approval of trailer bill language to delete statutory language related to these two bodies. The Commission of the Californias consists of 18 commissioners, including five Senators, five Assembly Members, the Lieutenant Governor, and seven appointments of the Governor. The Governor serves as Chair. The Office of California-Mexico Affairs (Office) incorporates the Commission of the Californias and the California Office of the Southwest Boarder Regional Conference. The general charge of the Office is to develop favorable economic, educational, and cultural relations with Baja California, Baja California Sur and other states and territories with the Republic of Mexico, and coordinate with other American boarder states. The Office was part of the Technology, Trade and Commerce Agency, and lost its funding and positions when that Agency was eliminated by Chapter 229, Statutes of 2003.

   Staff Recommendation: Direct staff to draft trailer bill language to eliminate the Commission of the Californias, but to retain the Office of California-Mexico Affairs and move it into the Business, Transportation and Housing Agency.

   Vote:

8320 Public Employment Relations Board

Issue for Discussion and Vote

1. **Public Employer-Employee Relations Trailer Bill (Governor's Budget).** The Administration requests approval of trailer bill language related to public employer-employee relations. Among other provisions, this bill would do the following:

   - Existing law authorizes the Governor and a recognized state employee organization, if, after a reasonable time, they fail to reach agreement, to mutually agree upon the appointment of a mediator, or either party to request the Public Employment Relations Board to appoint a mediator. This proposal would instead authorize the parties to request the Division of Conciliation of the Department of Industrial Relations to appoint a mediator.
   - Existing law provides that if the Public Employment Relations Board appoints the mediator, the costs of the mediation shall be paid by the board. This bill would split the costs one-half to the state and one-half to the recognized employee organization.

   Staff Comment: The policy committee process seems more appropriate for this bill than the Budget Committee.

   Staff Recommendation: Reject this trailer bill.

   Vote:

8380 Department of Personnel Administration

Issue for Vote Only:

1. **Medicare Part B Augmentation (May FL).** The Administration requests an augmentation of $1.1 million (General Fund) to reflect additional eligible employees and an increase in amounts paid for annuitants' Medicare Part B premiums in the Rural Health Care Equity Program.

   Staff Recommendation: Approve the Finance Letter.

   Vote:

Issues for Discussion and Vote:

2. **Rural Health Care Equity Program Reversion (May FL).** The Administration requests the reversion of approximately $15.3 million in unexpended funds appropriated in past budget acts to support the Rural Health Care Equity Program. This program provides the subsidization and reimbursement of premium costs, deductibles, coinsurance, and other out-of-pocket health care expenses paid by employees and annuitants living in rural areas that would otherwise be covered if the state employee or annuitant was enrolled in a board-approved health maintenance organization plan. The Administration proposes trailer bill language to continuously appropriate $15.3 million for continued claims against these funds, but indicates it is not expected there will be any expenditures from this new appropriation.

   Staff Comment: While the Administration's proposal would continue the availability of the $15.3 million for the Rural Health Care Equity Program, the LAO notes that existing Memorandums of Understanding (MOUs) with bargaining units specify a rollover of surplus funds rather than reversion to the General Fund. The benefit of this proposal is scoring General Fund savings, but this presumes no changes will occur in the future to increase claims on these funds. If these funds were fully expended in the future, the benefit of this proposal is unclear.

   Staff Recommendation: Reject this Finance Letter proposal.

   Vote:

3. **Salary and Benefit Survey Funding (Staff Issue).** The Subcommittee may want to consider an augmentation of $482,000 ($241,000 General Fund) and 5.0 positions to allow the DPA to implement a comprehensive salary survey. This issue was discussed at the April 27 hearing and held open.

   Background / Detail: DPA indicates that current law requires the Department to perform the following compensation surveys: an annual survey of occupations comparable to State civil service classifications (Government Code section 19826); and specific surveys included in the MOU's for the California Association of Professional Engineers (Unit 9) and the California Association of Professional Scientists (Unit 10), the annual Unit 5 Highway Patrol survey (Government Code section 19826).

   To conduct a comprehensive survey of public and private employers, DPA indicates it would need 5.0 additional positions. Staffing at this level would allow DPA to complete surveys of 15 occupation-specific classifications per year, with detail comparable to the March 2005 Registered Nurses survey. The Nurses survey included regional data and "add-ons" to measure total compensation, not just salary. Since some of the workload would involve surveys of special-fund positions, DPA indicates the special funds could fund half of the cost.

   Staff Recommendation. Augment the DPA budget by $482,000 and 5.0 positions for the purpose of completing a comprehensive salary survey. Add provisional language to require DPA to report to the Legislature by March 1, 2006, on the specific positions surveyed in 2005-06 and the Department's plan for surveys in 2006-07.

   Vote:

9955 Reduction for Employee Compensation

The employee compensation reductions proposed by the Governor for 2005-06, are included in the Governor's Budget as item 9955 "Employee Compensation Reform." These savings include reductions due to: (1) the adoption last year of the Alternative Retirement Program, which reduces the State's costs for employees staying with the state less that two years; and (2) cuts to employee compensation such as shifting retirement costs to employees and authority to furlough employees without pay.

The Administration indicates that total savings of $886.3 million ($487.5 million General Fund) would be realized in 2005-06 if the proposals are approved in their entirety. These figures are adjusted from the Governor's Budget based on an April 1 Finance Letter from the Administration that reduced the anticipated 2005-06 savings from the Alternative Retirement Program by $10.4 million. Savings from the Alternative Retirement program is an adjusted $145 million ($80 million General Fund) and savings from the cuts to employee compensation are $741 million ($407 million General Fund).

Issue for Consent / Vote Only

1. **Savings from the 2004 Alternative Retirement Program.** The Governor proposes to budget savings of $145 million ($80 million General Fund) from the Alternative Retirement Program enacted in August 2004 (SB 1105, Committee on Budget and Fiscal Review). The Administration requests the authority for the Director of Finance to reduce department budgets to capture this savings.

   The Alternative Retirement Program generated long-term budget savings to support the issuance of pension obligation bonds that would provide General Fund relief in 2004-05. The Administration now expects the bonds to be sold in 2005-06 instead of 2004-05, and expects bond revenues to be $560 million instead of $929 million.

   The program generates savings because, during the first 24 months of employment, neither the employer nor the employee make contributions to the California Public Employees' Retirement System. Instead, the employee contributes a portion of their salary to the Alternate Retirement Program. These funds are placed in a 401(a) account. The employer does not make a contribution to this plan, thus saving approximately 17 percent of its salary costs for the average miscellaneous employee. At the end of the 24-month period, the employee would be enrolled in the PERS system that would include both employer and employee contributions.

   Staff Comment: This issue was heard at the April 27 hearing and held open.

   Staff Recommendation: Approve this request.

   Vote:

Issue for Discussion

1. **Cuts to Employee Compensation.** The Governor proposes budget savings of $741 million ($407 million General Fund) from cuts to employee compensation. These reductions would be phased in as union contracts are renegotiated. The proposals are as follows:

   - **Defined-benefit retirement plan changes for existing employees.** Beginning in 2005-06, the Governor proposes to require employees to pick up one-half of the total retirement charges approved by CalPERS (both the “normal cost” – current cost of future benefits and the unfunded liability). This would shift $374 million ($206 million General Fund) from the state to employees in 2005-06. Additionally, the Governor proposes to allow employees to opt out of CalPERS, with an estimated savings to the state of $164 million ($90 million General Fund).
   - **Five-day furlough of state employees.** The Governor proposes a five-day furlough of state employees to save the state an estimated $109 million ($60 million General Fund) in 2005-06.
   - **Eliminate leave from the overtime calculation**. The Governor proposes to eliminate holiday, sick leave, vacation, annual leave, and compensating time off, from the calculation of overtime. The Administration estimates this will generate 2005-06 savings of $36.4 million ($20 million General Fund).
   - **Health-benefit reductions.** The Governor proposes the following reductions to generate total 2005-06 savings of $55.3 million ($30.0 million General Fund):
     - New employees must work 6 months before health care is provided.
     - Enroll employees retired from the military in the federal health care program.
     - Reduce the amount the state contributes to health care by $14.20/month. (Additional savings of $102 million ($37 million General Fund) related to this proposal are included in budget item 9800).
   - **Eliminate two state holidays.** The Governor proposes to eliminate two state holidays to save the state an estimated $3.1 million ($1.7 million General Fund).
   - **Cap the accrual of vacation and annual leave.** The Governor proposes to cap the accrual of vacation and annual leave at 640 hours. The Administration does not score any 2005-06 budget savings from this proposal.

   Staff Comment: The Subcommittee may want to reject the trailer bill language and the related savings because this savings depends on the outcome of collective bargaining between the Administration and the state-employee bargaining units. It may be better to await the conclusion of contract negotiations and make any necessary statutory change in concert with legislative considerations of the MOUs.

   Staff Recommendation: Reject the Administration’s trailer bill language and budgeted savings.

   Vote:

Control Section 3.60 Contributions to Public Employees' Retirement Benefits

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

Staff Comment: The State's contribution fluctuates from year to year as the performance of investment assets fluctuates with the market. At their April 19, 2005, meeting, the CalPERS Board adopted a new policy that spreads the System's market value asset gains and losses over 15 years rather than the current three years. This action will lower the volatility of employer's contributions and will adequately preserve the funded status of the plans. The Department of Finance reported in the May Revision that this new CalPERS policy will result in 2005-06 savings of $251.5 million ($152.7 million General Fund) – down from the $2.7 billion ($1.5 billion General Fund) included in the Governor's January Budget.

Staff Recommendation: Approve Control Section 3.60 with the revised CalPERS rates.

Vote:

Attachment I
Medical Board: Medially Underserved Account Amendments

Business and Professions Code

2154.4. (a) The Medically Underserved Account is hereby created in the Contingent Fund of the Medical Board of California.

(b) The sum of three million four hundred fifty thousand dollars ($3,450,000) is hereby authorized to be expended from the Contingent Fund of the Medical Board of California on this program. These moneys are appropriated as follows:

(1) One million one hundred fifty thousand dollars ($1,150,000) shall be transferred from the Contingent Fund of the Medical Board of California to the Medically Underserved Account on July 1, 2003. Of this amount, one hundred fifty thousand dollars ($150,000) shall be used by the Medical Board of California in the 2003-04 fiscal year for operating expenses necessary to manage this program.

(2) One million one hundred fifty thousand dollars ($1,150,000) shall be transferred from the Contingent Fund of the Medical Board of California to the Medically Underserved Account on July 1, 2004. Of this amount, one hundred fifty thousand dollars ($150,000) shall be used by the Medical Board of California in the 2004-05 fiscal year for operating expenses necessary to manage this program.

(3) One million one hundred fifty thousand dollars ($1,150,000) shall be transferred from the Contingent Fund of the Medical Board of California to the Medically Underserved Account on July 1, 2005. Of this amount, one hundred fifty thousand dollars ($150,000) shall be used by the Medical Board of California in the 2005-06 fiscal year for operating expenses necessary to manage this program.

(c) Funds placed into the Medically Underserved Account shall be used by the board to repay the loans per agreements made with physicians.

(1) Funds paid out for loan repayment may have a funding match from foundation or other private sources.

(2) Loan repayments may not exceed one hundred five thousand dollars ($105,000) per individual licensed physician.

(3) Loan repayments may not exceed the amount of the educational loans incurred by the physician applicant.

(d) Notwithstanding Section 11005 of the Government Code, the board may seek and receive matching funds from foundations and private sources to be placed into the Medically Underserved Account. The board also may contract with an exempt foundation for the receipt of matching funds to be transferred to the Medically Underserved Account for use by this program.

(e) Funds in the Medically Underserved Account ~~appropriated in subdivision (b) or received pursuant to subdivision (d)~~ are continuously appropriated for the repayment of loans per agreements made between the board and the physicians.

Attachment II

Information Technology Projects Without Department of Finance Approval Budget Control Section

1. Adopt the following Budget Control Section:

> SEC. XX.XX It is the intent of the Legislature that departments follow state policy for requesting and approving new or modified information technology projects. It is the intent of the Legislature that the use of this budget control section is not a substitute for the submission of funding requests for information technology projects through the annual budget process. This budget control section shall be in use for only one year. For the 2006-07 budget, it is the intent of the Legislature to not approve additional funding for new or modified information technology projects that have not been approved by the Department of Finance prior to budget submission to the Legislature. Whenever an appropriation is made in this act for an information technology project which is more than the 2004-05 budget act appropriation for that project and the Department of Finance has not approved the project or its modifications prior June 1, 2005, the increased appropriation is authorized not sooner than 45 days after notification in writing by the Department of Finance to the chairperson of the budget committee in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee of its approval. The notification shall include, but is not limited to, (1) a description of the information technology project, (2) the approved project costs for 2005-06 and future years, and (3) the project's start and implementation dates.
>
> (a) Consistent with state policy, departments are required to provide the information technology project documents to the Legislative Analyst's Office at the same time that the documents are provided to the Department of Finance.
>
> (b) Information technology projects are exempted from this section if the Department of Finance, prior to June 1, 2005, directed the department responsible for managing the project to provide information technology project documents after the completion of specific project events.
>
> (c) If the amount approved by the Department of Finance is less than the amount appropriated in this act, the department responsible for managing the project shall only spend up to the amount approved by the Department of Finance. Any remaining funds shall revert to the fund of appropriation at the time of project approval.
>
> (d) On or before January 10, 2006, the Department of Finance shall report to the chairperson of the budget committee in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee of its actions to ensure that information technology projects are submitted and approved prior to submission to the Legislature for

budget action. The report shall include, but is not limited to, (1) identification of any new procedures it has implemented to ensure departments' compliance to the state's budget and information technology policies, and (2) actions it has taken to ensure that projects are approved prior to submission of budget proposals to the Legislature.

2. Revise the following BBL for item 2660-001-0042:

   XX. Of the funds appropriated in Schedule (6) of this item, $577,000 is for the deployment and maintenance of the Performance Measurement System. ~~These funds may not be encumbered or expended until the Director of Finance approves the Feasibility Study Report. The funds shall be made consistent with the amount approved by the Director of Finance, based upon the approval of the Feasibility Study Report.~~

Attachment III

Caltrans Equipment Program

2660-002-0608
Provision 2:
Of the funds appropriated in this item, ~~$75,000~~ *$97,000* shall be used for the reimbursement of the Office of State Audits and Evaluations within the Department of Finance by the Department of Transportation for consulting services related to the accounting and administration of the Equipment Services Program within the Department of Transportation. *The consulting services shall include an evaluation of the appropriateness of operating the Equipment Services Program as an Internal Service Fund. On or before January 10, 2006, the Department of Finance shall report to the appropriate fiscal and policy committees in the Legislature and the Legislative Analyst concerning their findings on whether the Internal Service Fund should be: (a) retained as is; (b) retained but modify; (c) discontinued, but retain certain features; or (d) discontinued completely.*

Senate Budget and Fiscal Review—Wesley Chesbro, Chair

SUBCOMMITTEE NO. 4 Agenda

Joseph Dunn, Chair
Tom McClintock
Christine Kehoe

Wednesday, May 18, 2005
1:30 p.m.
Room 2040

Consultants: Dave O'Toole, Danny Alvarez

"C" AGENDA

ISSUES PROPOSED FOR VOTE ONLY (page 3)

0110 Senate
0120 Assembly
0130 Legislative Analyst
0500 Governor's Office
0750 Lieutenant Governor's Office
2.00 Availability of Appropriations
11.52 Transfer of Unencumbered Bal. of Various Funds to the General Fund
12.00 State Appropriations Limit (SAL)
12.30 Special Fund for Economic Uncertainties
13.00 Legislative Counsel Bureau
25.25 21st Century Project
34.00 Constitutional Severability
35.50 Estimated General Fund Revenue pursuant to ACA 5 of the 5th Extraordinary Session
36.00 Provides that Budget Act is for Usual and Current Expenses
37.00 Urgency Clause
99.00 Alphabetical Organization Index
99.50 Numerical Control Section Index

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

DISCUSSION ITEMS

Issues Proposed for Vote Only:

ITEM	ISSUE	STAFF RECOMMENDATION
0110—Senate	State Appropriations Limit Adjustment	Adopt technical budget adjustment to increase schedule (4) of this item by $1,041,000
0120—Assembly	State Appropriations Limit Adjustment	Adopt technical budget adjustment to increase schedule (4) of this item by $1,412,000
0130—Legislative Analyst's Office	State Appropriations Limit Adjustment	Adopt technical budget adjustment to adjust 0130-021-0001schedules as follows: (1) $220,000 (2) -$35,000 (3) -$35,000 (4) -$150,000 (Provision 4 reflects a schedule for reimbursements)
0500—Governor's Office	(none)	Approve as budgeted
0750—Lieutenant Governor's Office	(none)	Approve as budgeted
Control Section 2.00:	Availability of Appropriations	Adopt as amended to reflect Senate Budget and Fiscal Review Committee changes to SB 52
Control Section 11.52	Transfer of Unencumbered Balance of Various Funds to the General Fund	Approve as budgeted
Control Section 12.00	State Appropriations Limit (SAL)	Reduce item by $1,000,000 (for the purpose of ensuring this item goes to conference for a subsequent revision)
Control Section 12.30	Special Fund for Economic Uncertainties	Approve as budgeted
Control Section 13.00	Legislative Counsel Bureau	Approve as budgeted
Control Section 25.25	21st Century Project	Approve as budgeted
Control Section 34.00	Constitutional Severability	Approve as budgeted
Control Section 35.50	Estimated General Fund Revenue pursuant to ACA 5 of the Fifth Extraordinary Session	Adopt as amended to reflect Senate Budget and Fiscal Review Committee changes to SB 52
Control Section 36.00	Provides that Budget Act is for Usual and Current Expenses	Approve as budgeted
Control Section 37.00	Urgency Clause	Approve as budgeted
Control Section 99.00	Alphabetical Organization Index	Adopt as amended to reflect Senate Budget and Fiscal Review Committee changes to SB 52
Control Section 99.50	Numerical Control Section Index	Adopt as amended to reflect Senate Budget and Fiscal Review Committee changes to SB 52

VOTE:

0160 Legislative Counsel

The Legislative Counsel Bureau provides legal assistance to the two houses of the Legislature, their members and its committees by resolving a large volume of complex legal problems arising in connection with the legislative process. The legal services furnished include rendering opinions, drafting bills, counseling, attendance as counsel at meetings of legislative committees, and representing the Legislature in litigation. In addition, the Bureau prepares and provides necessary indices and appropriate tables necessary to identify legislative measures and compiles and indexes statutes and codes. The Bureau operates the Legislative Data Center, which provides information technology services in support of the legislative information system and the processing of legislative measures.

1. Enterprise Strategic Initiative. The Legislative Counsel requests $1,000,000 (General Fund) for development of an Enterprise Strategic Initiative (ESI) project to replace the existing data collection and distribution system. Key risks associated with not replacing the existing system are that technologies will become unsupported, bills may not get done, constituents won't be represented, negative constituent opinion, emergency measures in time of disaster may be prohibited, unable to meet public disclosure mandates.

Key enhancements of the ESI will include:

- Enterprise data repository for immediate and reliable access to critical information
- Reduced risks of service outages that impact legislative business operations resulting from using current and proven technology
- Improved data recovery capability due to consolidated and controlled data services, minimizing down time should a service interruption occur
- Trusted, reliable environment to store critical information within systems that directly support the legislative process
- Better performance through the use of current technologies
- Enterprise design and use of technologies and application services for cost-effective purchases of equipment and software

Staff Recommendation: Augment Item 0160-001-0001 by $1,000,000 and add the following provisional language:

1. Of the appropriation authorized by this item, $1,000,000 is intended as an initial expenditure to support the Enterprise Strategic Initiative project, which is designed to replace information technology applications that are critical to the mission of the Legislative Counsel Bureau. It is the intent of the Legislature to make additional budget augmentations to fund this project in future fiscal years.

VOTE:

0595 PROPOSED: Office of the State Inspector General

1. **Establishment of Office of the State Inspector General**. The Administration proposes to establish an Office of the State Inspector General (OIG) to conduct audits, investigations, and program reviews for the Executive Branch. This office would differ from the Office of State Audits and Evaluations in that it would conduct investigations on its own initiative, without having received a directive from the Administration. The Department of Corrections (with its own Inspector General) will be excused from the purview of this new office.

   Within 60 days of the end of the fiscal year, the Inspector General would issue an annual report detailing audit, review, and investigative activities completed in that fiscal year.

   The Administration expects that approximately 50 percent of the costs for this Office will be generated by assessments on special and federal funds. Approximately 20 percent of the proposed Office of the State Inspector General’s budget would be devoted to consultant services, the majority of which will be paid to private consultants.

   Trailer Bill for this proposal is attached.

   LAO Comment: Chapter 251, Statutes of 2004, (SB 1437, Speier) established in the Bureau of State Audits (BSA) a program to audit and issue reports on state agencies identified by the auditor as being at high risk for waste, fraud, abuse, and mismanagement. These are the same types of audits being proposed for OIG. The OIG would essentially duplicate reviews already authorized to be performed by the BSA.

   Staff Comment: Numerous statutes require the Department of Finance’s Office of State Audits and Evaluations (OSAE) to perform audits of various state funds and/or programs. The Department’s broad oversight responsibilities result in a wide variety of work being conducted, including financial audits, financial related audits, performance audits, information technology audits, internal control reviews, compliance audits, consulting, quality assurance reviews, and budgetary reviews. Additionally, the Department monitors and coordinates the implementation of the Financial Integrity and State Manager's Accountability Act (FISMA), and issues Audit Memos instructing internal audit organizations on audit policies, procedures, and requirements.

   FISMA and Government Code 13400 require each state agency to maintain effective systems of internal accounting and administrative controls. As the Governor’s California Performance Review (CPR) notes, many state agencies have neglected to comply with the state law requiring effective systems of internal controls. Consequently, the risk of fraud, waste and abuse increases when internal controls are lacking. Additionally, financial statement reliability may also be compromised if independent validation and verification are not performed. According to the CPR, many agencies ignore FISMA; OSAE monitoring efforts have not been effective to ensure compliance – with 35 percent out of 161 state agencies submitting certification letters for the biennial period ending December 31, 2003.

   As discussed in the CPR, the OSAE audit chief, while aware of the noncompliance by many agencies, stated that OSAE does not have the proper enforcement authority to ensure all agencies comply. Neither FISMA nor SAM establishes enforcement responsibilities or sanctions. As a result, OSAE has limited its monitoring and coordination to recording the state agencies which file their certification letters and audit reports. In the past, OSAE performed more internal control audits of agencies without internal auditors. However, due to continuing budgetary constraints, OSAE has refocused its efforts to emphasize reimbursement work and has discontinued many of its FISMA related audits unless requested and paid for by the agencies. OSAE agrees that an agency level internal audit function would benefit the state because it would provide broader audit coverage through risk assessments of the agencies’ departments and offices.

Staff Recommendations:

A. Reject the May Revision Finance Letter.

B. Augment the Bureau of State Audits budget by $1.15 million to provide staffing and associated resources for expanded audits in accordance with the authority provided in Chapter 251, Statutes of 2004, (SB 1437, Speier).

C. Augment the Department of Finance budget by $1.15 million to provide staffing and associated resources for audits by the Office of State Audits and Evaluations.

D. Adopt the following budget bill language in Item 8860-001-0001:

> *It is the intent of the Legislature that newly reorganized departmental entities maintain effective systems of internal accounting and administrative control as an integral part of its management practices. No less than $1,150,000 in this item shall be used for the purpose of assessing and strengthening the systems of internal accounting and administrative control to minimize fraud, errors, abuse, and waste of government funds within any department or agency reorganized in the 2005-06 Legislative Session. The Department shall report to the fiscal committees of Legislature by December 1, 2005 on its preliminary review of the reorganized departmental entities, with a final report due no later than April 15, 2006.*

VOTE:

0650 Office of Planning and Research

The Office of Planning and Research (OPR) assists the Administration with planning, research and liaison with local governments. OPR also oversees programs for small business advocacy, rural policy, environmental justice, and helps implement decisions made within the Administration. In addition, the office oversees responsibilities pertaining to state planning, California Environmental Quality Act assistance, environmental and federal project review procedures, and oversees the California Service Corps. Total proposed budget expenditures are $47.2 million, of which $4.1 million is from the General Fund.

1. **Trailer Bill: Elimination of the Small Business Reform Task Force**. The Administration proposes to repeal Section 65054.5 of Government Code related to the Small Business Reform Task Force in the Office of Planning and Research. This elimination is a part of the Governor’s proposal to eliminate “nonessential” Boards, Commissions, and task forces. Funding and staffing for the Office of the Small Business Advocate would be unaffected by this proposal.

   The section proposed for deletion reads as follows:

   65054.5. (a) There is hereby created a Governor's Small Business Reform Task Force. The task force shall be chaired by the Director of the Office of Small Business Advocate and shall include representatives appointed by the Governor from the California Small Business Association, other small business associations, and agency secretaries or their designees from state agencies heavily involved
   in small business regulation.
   (b) The task force shall identify problems and ideas from the small business community concerning the regulation, communication, and assistance of state government with small business. The task force shall create a website to solicit public input, as well as, conduct at least four public hearings around the state to seek advice and recommendations.
   (c) The task force shall conduct a study to consider the problems encountered by small businesses working with different levels of government, different offices in state and local government, and multiple jurisdictions, especially in the context of applying for and obtaining required permits and licenses. The study may include participation by the California League of Cities, county boards of supervisors, and small business representatives.
   (d) The task force shall prepare and submit a report on or before May 1, 2002, to the Governor and the budget committee of each house of the Legislature with a discussion of its findings and recommendations.

   Staff Recommendation: Approve May Revision Finance Letter issue.

   VOTE:

2. **April Finance Letter: Support for the Office of the Secretary for Education.** The Administration has requested augmentation of the Office of Planning and Research and Office of the Secretary for Education budgets by $67,000 and $68,000, respectively, to expend grant funds received from the Broad, Gates, and Walton Family foundations. These grant funds are to be used to continue funding for two positions related to implementation of the Governor's Initiative to Turn Around Failing Schools. This request seeks the second year of an expected three years of funding for these positions.

   Staff Comment: This issue will also be taken up in Senate Subcommittee #1 on Wednesday, May 18.

   Staff Recommendation: Conform with Senate Subcommittee #1 actions as they relate to the foundation expenditures.

   VOTE:

3. **Support for the Office of Planning and Research and the Office of the Secretary for Education.** The Administration requests to increase funding in the Office of Planning and Research and Office of the Secretary for Education budgets by $91,000 and $90,000, respectively, to provide compensation for the Secretary of Education. Total compensation would be $181,000.

   The Administration further requests to increase reimbursement authority in the Office of the Secretary for Education and Office of Planning and Research for grants received from private foundations to support the Governor's Advisory Committee on Education Excellence. The Governor has convened a committee to focus on the issues of distribution and adequacy of education funding, the functioning and effectiveness of governance structures, teacher recruitment and training, and the preparation and retention of school administrators.

   Staff Comment: A corresponding augmentation is proposed in the Office of Secretary of Education budget.

   Staff Recommendation: Approve the May Revision Finance Letter.

   VOTE:

0840 State Controller

The State Controller is the Chief Financial Officer of the state. The primary functions of the State Controller's Office (SCO) is to provide sound fiscal control over both receipts and disbursements of public funds; to report periodically on the financial operations and condition of both state and local government; to make certain that money due the state is collected through fair, equitable, and effective tax administration; to provide fiscal guidance to local governments; to serve as a member of numerous policy-making state boards and commissions; and to administer the Unclaimed Property and Property Tax Postponement Programs. Total proposed budget expenditures are $124.7 million, of which $72.7 million is from the General Fund.

1. **Reappropriation of Funding for Apportionment Payment System.** The Administration requests that the State Controller's Item 0840-490 be added to reappropriate the unencumbered balance of funds appropriated by Control Section 25.50, Budget Act of 2004, for the Apportionment Payment System project. The Apportionment Payment System is a three-year project being developed to better accommodate modifications to apportionment formulas and ensure that payments to localities are not jeopardized by an aging disbursements system. The project is currently scheduled to award the vendor contract on June 8, 2005, at which time a payment will be due. If there is a vendor protest, the award date will be pushed into 2005-06, and this funding will be needed in 2005-06. The reappropriation language is as follows:

   0840-490 – Reappropriation, State Controller's Office
   The balance of the appropriation in Control Section 25.50, Budget Act of 2004, is reappropriated for purposes provided for in that appropriation and shall be available for encumbrance or expenditure until June 30, 2006.

   Staff Recommendation: Adopt the proposed budget bill language.

   VOTE:

2. **Human Resources Management System—21st Century Project.** The Administration requests that a portion of the funding provided for the 21st Century Project be shifted from Personal Services to Operating Expenses and Equipment (OE&E). The 21st Century Project involves the development of an integrated commercial-off-the-shelf human resources management system/payroll system to replace the state's existing payroll, employment, position management, and leave accounting systems, to develop a statewide time and attendance capability.

   Due to contract issues, non-compliant proposals, and other reasons, the Human Resources Management System (HRMS) project is at least six months behind schedule. As a result, State Controller's Office (SCO) will require a net reduction of seven positions in 2005-06 and certain OE&E costs will be pushed out to future years. In addition, the bid for the software portion of the project came in significantly below estimates. Due to these factors, SCO will now pay for the software license and one year of maintenance in full in 2005-06, rather than financing these costs over six years as originally planned. Overall funding for 2005-06 is unchanged.

   Beginning in 2006-07, General Fund costs, which were originally assumed to be vendor financed, will instead be paid as costs are incurred. While this will result in higher General Fund costs in the next three years, it will eliminate financing costs and thus reduce the overall cost of the project. General Fund costs in 2006-07 are currently estimated to be $15.3 million.

   Staff Recommendation: Approve the May Revision Finance Letter issue.

   VOTE:

3. **Audits for Handicapped/Disabled Student Programs and Seriously Emotionally Disturbed Pupil Programs.** The State Controller requests two-year limited term funding of $468,000 (General Fund) and 5.0 positions in support of auditing reimbursable state mandate claims filed by local government for audits for handicapped and disabled student programs and seriously emotionally disturbed pupil programs. The audits would determine whether costs claimed are supported by appropriate source documents, are ineligible for other funding sources, and are otherwise appropriate.

   Staff Comment: In the April 13 hearing, the Subcommittee adopted a staff proposal to augment the State Controller's budget by ten positions for the purpose of auditing state mandate claims. Presumably, those auditors could work on the workload identified in this Finance Letter.

   It is unclear how the proposed use for the five proposed auditors merits special consideration. If the State Controller believes that costs claimed are routinely ineligible for those mandates, an alternative would be to work with other state agencies and claimants to develop a reasonable reimbursement methodology.

   Staff Recommendation:
   DISCUSSION**:** The State Controller should report whether AB 3632 mandate claims deserve a higher priority for audit relative to other mandates.

   ACTION**:** Reject the May Revision Finance Letter issue.

   VOTE:

4. **Clarified Authority to Audit.** The State Controller's Office expressed concern that current law precludes them from fully auditing mandates. This is because the statute of limitations declares that auditing may occur no later than three years after a claim was filed or amended. Because this mandate (and many others) have been deferred in recent years (a process which provides for nominal $1000 appropriation in the budget bill) the SCO cannot audit claims 3 years beyond the last time it was deferred. A proposed solution to this problem would be to enact trailer bill amending the statute of limitations in Government Code section 17558.5 to permit audits beyond 3 years after filing or amendment for mandates that were not fully funded.

   Staff Comment: This issue was first addressed in a May 11 hearing. Because of uncertainty regarding the authority for the SCO to audit claims submitted prior to the existing time period (recommendation #3, below), the issue was left open. It has since been concluded that the new authority should be provided on a prospective basis only.

   Staff Recommendation: Authorize the SCO to initiate an audit of all mandates for three years beyond the existing time period provided for in Government Code 17558.5. This new authority will apply on a prospective basis only.

   VOTE:

0860 State Board of Equalization

The State Board of Equalization (BOE), the Franchise Tax Board (FTB), and the Employment Development Department are the state's major tax collection agencies. The BOE collects state and local sales and use taxes and a variety of business and excise taxes and fees, including those levied on gasoline and diesel fuel, alcoholic beverages and cigarettes, as well as others. The BOE also assesses utility property for local property tax purposes, oversees the administration of the local property tax by county assessors, and serves as the appellate body to hear specified tax appeals, including FTB decisions under the personal income tax and bank and corporation tax laws. Total proposed budget expenditures are $364.9 million, of which $209.5 million is from the General Fund.

1. **Special Tax Jurisdiction Workload Increase.** The Administration requests that Item 0860-001-0001 be amended by increasing Reimbursements by $2,262,000 to provide the Board of Equalization with resources sufficient to add 27.7 positions for workload associated with the creation of 24 new Special Tax Jurisdictions during the 2004 election. These new positions will support local communities in collecting taxes pursuant to the recently enacted special taxes. The BOE is statutorily required to support the Special Taxing Jurisdictions. The 24 new Special Tax Jurisdictions are in addition to 35 that the Board currently administers.

   Staff Recommendation: Adopt the May Revision Finance Letter issue.

   VOTE:

2. **Supplemental Reporting Language of the 2004 Budget Act: Field Office Consolidations.** On May 11, the Subcommittee briefly discussed the Supplemental Reporting Language (SRL) accompanying the Budget Act of 2004, which required the BOE to report as follows:

   > *The BOE shall provide to the Chair of the JLBC and the chairs of the fiscal committees of the Legislature by December 1, 2004, a report containing the following information: (1) unit costs of providing taxpayer services and audit and collection activities at the BOE's 27 field offices; (2) net annual budgetary benefits of consolidating or closing four BOE field offices (one in each BOE district); (3) estimated impact on all BOE-collected tax revenues from field office consolidations or closures identified in (2) above; and (4) net annual benefits of reducing or eliminating the Houston office of BOE. Data provided shall include one-time and ongoing budgetary and revenue impacts. The information shall also be provided to the DOF.*

   The report provided pursuant to the SRL notes that BOE has closed 32 offices in the last 11 years, 28 of which were closed between 1994 and 1996. Over the last eight years, there has been a relative freeze on field office closures, with one closed in 1997, two in 1998, and one in 2004—with three offices opened during the same period. However, at that the May 11 hearing, the Board reported that a savings of $337,000 would be generated in the budget year related to closing the Stockton, Torrance, and Eureka offices. The BOE further expects to downsize the New York Office for a savings of $400,000, although this downsizing has not been finalized.

   Staff Comment: Based on the information contained in the report, measures of performance vary greatly among the field offices considered. Public counter staff in the 27 field offices assist between 200 and 2000 members of the public per year, depending on location. Program costs per visitor range from $24 per visitor (El Centro) to $425 per visitor (San Francisco). Number of permits issued by staff range from 376 (Ventura) to 5,246 (Eureka). These variances suggest that public counters are inconsistently utilized by the public across the state.

   The dramatic rise in the general public's use of information technology resources in the last eight years and availability of online materials suggests a diminished need for the public to visit a field office. Filing forms can be easily downloaded online and questions answered by phone or e-mail. According to the BOE, their Information Center receives approximately 650,000 telephone contacts; over 350,000 of which are responded to by a customer service representatives and 13,000 e-mails per year, with an overall average wait time of 90 seconds.. Additionally, at prior budget hearings the BOE has reported how it intends to broaden its use of EFT and e-file technologies, with the latter tax forms online. BOE will offer this service to 700,000 eligible businesses in December of this year.

Given these trends, it is recommended that the Subcommittee continue to monitor the evolving need for field offices. The following budget bill language is suggested:

The BOE shall provide to the Chair of the Joint Legislative Budget Committee and the chairs of the fiscal committees of the Legislature by April 1, 2006, a report containing the following information: (1) actual closure or consolidation information for the Torrance, Stockton, Eureka, and New York Offices, including: relocation costs, lease buy-out costs, the number of staff affected, current disposition of those staff, and the revenues generated annually by each office prior to closure, (2) A comprehensive description of the decision criteria used to close or consolidate those field offices, (3) the estimated impact on all BOE-collected tax revenues from field office consolidations or closures identified in (1) above. (4) the procedures for ongoing evaluation of field office performance and potential for consolidation and closures (5) the department's strategic plan for district office facilities as it relates to growth in electronic filing and processing. The BOE shall also report on the number of single entity electronic filers, subdivided by the closest field office. Data provided shall include one-time and ongoing budgetary and revenue impacts. The information shall also be provided to the Department of Finance.

Staff Recommendations:
DISCUSSION
Request the BOE report on the status of the New York City consolidation and expected savings.

ACTION
A. Reduce Item 0860-001-0001 by $337,000 to reflect closure and consolidation savings associated with closing the Stockton, Eureka, and Torrance offices.

B. Adopt the proposed budget bill language for reporting on office consolidation and closing processes.

VOTE:

3. **Electronic Filing.** Electronic tax filings (or submissions that can be scanned and converted to digital form) represent a small share of total tax returns to the BOE. The workload at BOE tends to be largely paper-driven, as submissions of documentation are generally still conducted through paper methods and, as a result, the processing of such submissions tends to be manually intensive.

The board began accepted e-filing over the Internet since 2001, but for the first half of 2004-05, BOE received only about 7,218 e-returns from a total of about 700,000 eligible retailers, in part this low participation is because e-filing must be done through private companies that charge fees. BOE now plans to develop a free in-house e-filing option for retailers that it will have on-line by December 2005. BOE has a target of a 10-percent increase in the number of electronic returns filed as a result of this free in-house e-filing option.

Budget year funding needs for the initial e-filing project is estimated to cost several thousand dollars. As an information technology project, the e-filing system requires approval of a feasibility study report, which has not yet been provided. Before the project proceeds, the FSR must be approved by the Department of Finance and reviewed by the LAO.

For the future, BOE indicates that it plans to allow e-filing of special taxes in addition to the Sales and Use Tax by 2008. The board also is planning to expand e-filing to include multiple-location retailers (only single-location businesses now qualify) by 2009.

The deployment of free e-filing capability by BOE in December 2005 will be a significant step forward. However, most large retailers have multiple locations and will not be able to e-file. The BOE does not plan to have an e-filing option in place for these large retailers until 2009. Also, e-filing for special taxes will not be available until 2008 under the board's schedule.

Staff Recommendations:
DISCUSSION: Request the BOE report on the status of an FSR for the e-filing project.

ACTION: Adopt Supplemental Report Language expressing intent for BOE to complete the expansion by 2007 (2 years earlier than currently planned) and direct the BOE to report on its progress by January 2006.

VOTE:

4. **Addressing the Sales and Use Tax gap.** The "tax gap" represents the shortfall between taxes owed and taxes paid. The BOE estimates that the 2003-04 tax gap for the sales and use tax totaled $1.18 billion annually, of which the state General Fund share was $1.1 billion. Aside from the $2.6 million from the consumer use tax proposal discussed in Issue 3, the BOE has no budget proposals to address the SUT tax gap. The BOE has recently testified on means to close the tax gap. These methods include:

   - Increasing use tax compliance by businesses. According to the BOE, the largest single component of the SUT tax gap results from failure of businesses to pay their use tax liability on purchases from out-of-state sellers. Noncompliance is a particular problem for businesses that are not registered with the BOE because they are not in the business of retailing.

   - Better control over the use of resale certificates. BOE has indicated that it will conduct an exploratory audit of resale certificates accepted by a sample of large retailers in order to determine the extent of tax evasion due to abuse of resale certificates. This would help to determine the scope of the problem.

   The following Supplemental Report Language would provide important information for identifying the scope of tax gap and initial solutions.

   > *The Board of Equalization shall report to the Legislature by December 1, 2005 on the Sales and Use Tax Gap-- the shortfall between taxes owed and taxes paid. The report shall update the board's estimate of the gap, and identify its major components. The report also shall identify specific strategies and steps for reducing the tax gap, estimate revenues that would be produced by and the cost of implementing each approach, and recommend those actions that the board determines would be most cost-effective and feasible. In addition, to the extent that the information is not provided in the December 1 report, the board shall report to the Legislature by February 1, 2006 on the methodology and findings of its pilot audit of the use of resale certificates, including the extent of compliance problems found by the audit and any options for improving compliance.*

   One manner in which the sales tax gap is widened is in abuse of resale certificates. Retailers with seller's permits may legally purchase goods for resale without paying the sales and use tax (SUT). However, there are few controls in place to prevent abuse of this tax exemption. For example, to avoid paying sales tax, the purchaser need only present a "resale certificate." These certificates are easily purchased or printed over the Internet. The purchase must fill out their seller's permit number and the nature of their business. The seller must keep a copy of the resale certificate, but there is no requirement to verify that the permit number and the nature of their business.

Staff Recommendations:

A. Adopt the Supplemental Report Language provided above.

B. In an action to conform to an earlier Assembly budget decision, the BOE should execute an exploratory audit of the use of resale certificates.

VOTE:

5. **E-Waste Recycling Fee.** The Governor's Budget included a BOE request for 80 positions and $5,715,000 (reimbursements and special funds) to implement the new electronic waste recycling fee. Chapter 863, Statutes of 2004 (SB 50, Sher) required the BOE to collect the "e-waste" recycling fee.

Based on updated workload projections, the BOE has submitted revised fiscal detail information amending the original e-waste BCP to 69 positions and $4,999,000 (total reduction of 11 positions and $716,000).

LAO Comment: In terms of the other special taxes and fees that the BOE collects, the department's proposed budget for e-waste collections (as it appears in the Governor's Budget) appears to be on the high side. The existing Tire Recycling Fee Program provides a good comparison of costs, since, like the e-waste waste recycling fee, it is collected largely from retailers. For the Tire Recycling Fee Program, the BOE has about 16 positions and collects about $32 million, or one position for every $1.9 million collected. For the e-waste waste recycling fee, the BOE will have 77 positions in order to collect fees of $78 million, or one position for every $1 million collected. Although some start-up costs are expected with such a program, these seem excessive given costs associated with other special fee programs.

Staff Recommendation:

DISCUSSION:
Request the BOE report on the share of proposed expenditures that are attributable to set up costs, versus ongoing operating costs.

ACTION:
Reduce the BOE by a share of positions and funding to reflect a revised forecast of projected 2005-06 workload.

VOTE:

0890 Secretary of State

The Secretary of State (SOS) is the chief election officer of the State and is responsible for the administration and enforcement of election laws. The office is also responsible for the administration and enforcement of laws pertaining to filing documents associated with corporations, limited partnerships, and the perfection of security agreements. In addition, the office is responsible for the appointment of notaries public, enforcement of notary laws, and preservation of certain records with historical significance. All documents filed with the office are a matter of public record and of historical importance. The Secretary of State's executive staff determines policy and administration for Elections, Political Reform, Business Programs, Archives, Information Technology and Management Services Divisions. Total proposed budget expenditures are $76.4 million, of which $30.3 million is from the General Fund.

1. **Lease Revenue Bond Debt Service Adjustments.** The Administration requests that Item 0890-003-0001 be increased by $1,528,000 and Reimbursements be decreased by $1,557,000, associated with Lease Revenue Bond debt service adjustments reflected in a set aside Item in the January 10 Budget, related to Control Section 4.30 (Lease Revenue Payment Adjustments). The Administration further requests that the Secretary of State's Business Fees Fund item be increased by $482,000, and Reimbursements be decreased by $492,000, associated with Lease Revenue Bond debt service adjustments reflected in a set-aside Item in the January 10 Budget, related to Control Section 4.30.

   Staff Recommendation: Approve the May Revision Finance Letter issue.

   VOTE:

2. **Proposed Budget Bill Language to Provide Reappropriation for Help America Vote Act of 2002 Funds.** The Administration requests that Item 0890-490 be added to provide the Secretary of State reappropriation authority to continue the implementation of the Help America Vote Act of 2002. The proposed Budget Bill language is as follows:

   8260-490—Reappropriation, Secretary of State.
   The balance of the appropriations provided in the following citations is reappropriated for the purposes provided for in the appropriations and shall be available for encumbrance or expenditure until June 30, 2006:

   0890-Federal Trust Fund
   (1) Item 0890-001-0890, Budget Act of 2004 (Ch. 208, Stats. 2004).
   (2) Item 0890-101-0890, Budget Act of 2004 (Ch. 208, Stats. 2004).

   The spending plan approved by the Legislature and Administration provide funding of $201.5 million in 2004-05, $8.7 million in 2005-06, and $50.8 million in 2006-07

   LAO Comment: The LAO has raised several concerns regarding the amount and use of the proposed reappropriation. In general, the reappropriation does not conform to the expenditure plan provided by the Secretary of State and Administration. Key problems include:
   - Excessive authority sought in the reappropriation
   - Budget Change Proposals/Finance Letter analysis not provided
   - Additional detail on administrative costs not provided
   - Statewide database development would proceed without Legislative oversight

   As an alternative to approving the reappropriation, the LAO recommends the Legislature:
   - Limit the requested appropriation to match the spending plan

- Withhold action on $10 million of the request without the benefit of a Budget Change Proposal
- Reduce the budget for administrative expenses
- Add provisional language to provide for Legislative oversight of the statewide database

Staff Comment: The LAO has suggested provisional language to address their concerns. The following language would address some of the concerns identified above.

Provisions:
1. Funds shall be used consistent with the March 11, 2005 Help America Vote Act spending plan as approved by the Department of Finance. The amounts spent on each activity shall not exceed the following maximums:
   (a) County voting equipment grants … 195,000,000
   (b) voter registration cards …. 590,000
   (c) voting system review … 25,000
   (d) punch card replacement … 3,205,657
   (e) Disabilities grants … 2,357,711
2. Not withstanding any other provision of law, any funds not needed for an activity authorized in Provision 1 shall not be redirected to other activities and are not authorized for expenditure.
3. The Secretary of State shall forward to the Chairperson of the Joint Legislative Budget Committee copies of quarterly reports sent to the Department of Finance.
4. At the time of authorizing any reappropriation under this item, the Department of Finance shall report to the Chairperson of the Joint Legislative Budget Committee the amount and the designated activities of the funds.

(LEGISLATIVE OVERSIGHT OF DATABASE)
To add to reappropriation provision:
5. Funds designated in provision 1 (f) for the statewide database shall be authorized for expenditure by the Department of Finance not sooner than 30 days after notification in writing by the Department of Finance to the Chairperson of the Joint Legislative Budget Committee of its approval of a feasibility study report. The notification shall include a copy of the approved report, any conditions of the approval, and detailed information regarding how the funds designated in provision 1 (f) shall be used.
6. Not withstanding any other provision of law, the Secretary of State shall not enter into a contract for the development of a new statewide voter registration database prior to May 1, 2006. During 2005-06, the Secretary of State may contract for assistance in the development of any necessary procurement documents.

Staff Recommendations:
A. Approve the May Revision Finance Letter.

B. Adopt the LAO provisional language provided above, as amended to reflect under provision 1, approval of the statewide database for $1.6 million and Source Code Review for $1.2 million (add these items under as (f) and (g)).

VOTE:

3. Trailer Bill to eliminate the California Heritage Preservation Commission. The Administration proposes to eliminate the California Heritage Preservation Commission through the following trailer bill actions. This elimination is a part of the Governor's proposal to eliminate "nonessential" Boards, Commissions, and task forces:

Repeal Government Code Section 12231.

~~12231. (a) In carrying out the provisions of this article, the Secretary of State shall consult with and give consideration to the recommendations of the California Heritage Preservation Commission, which for such purpose shall serve in an advisory capacity to the Secretary of State.~~
~~(b) This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.~~

Amend Government Code Section 12232 is amended to read:

12232. The Secretary of State shall utilize the ~~California Heritage Preservation Commission and the~~ California State Library to advise, encourage, and coordinate the activities of the county historical records commissions, either designated or appointed by the county boards of supervisors pursuant to Section 26490. The chairman or his designate of each county historical records commission may attend an annual meeting with the ~~named state representatives~~*California State Library*, at state expense, to receive advice in the preservation of local government archives and public library collections of historical materials.

Staff Recommendation: Approve the May Revision trailer bill for repeal of the California Heritage Preservation Commission.

VOTE:

0985 California School Finance Authority

1. **Increased Federal Fund Expenditure Authority for Construction of Charter School Facilities.** The Administration requests that Item 0985-101-0890 be added in the amount of $19,475,000 to provide expenditure authority for new federal fund grant awards for the lease or construction of charter school facilities (Issue 560). The California School Finance Authority (CSFA) has secured a grant for 5 years beginning in the current federal fiscal year, therefore, it is proposed that two federal years of funding be appropriated in the budget year. One-half of the amount is proposed to be used for reimbursement of costs incurred for the 2004-05 fiscal year, and the remainder for facility costs for the 2005-06 fiscal year. The budget also proposes to match this grant with additional Proposition 98 Reversion Account Funds in the amount of $9.0 million (see State Department of Education May Revision letter, Item 6110-685, Issue 001 and related Non-Budget Act Item 6110-605-0001) to meet the annual need estimated at over $18.0 million for lease costs for charter schools receiving facility assistance in the current year pursuant to Chapter 892, Statutes of 2001.

   To implement this change, the following budget bill language would be added to Item 0985-101-0890.

   > *1. Of the amount appropriated in this Item, $9,725,000 shall be used to reimburse charter schools for facility costs incurred in 2004-05. The remainder shall be used to reimburse charter schools for facility costs anticipated in 2005-06. These funds shall only be available for reimbursing 2004-05 costs and 2005-6 costs if $9.0 million is made available as matching funds for charter facility lease costs through Item 6110-485 of this Act and trailer bill legislation is enacted to codify regulations consistent with this provision. No charter school receiving funds under the program authorized under this provision shall receive funding in excess of 75 percent of annual lease costs through this program or in combination with any other source of funding provided in this or any other act.*

   The Administration further requests that Item 0985-001-0890 be added in the amount of $225,000 for external contract consultants to provide state operations assistance for the administration of the federal charter school grant program.

   Staff Recommendation: Approve the May Revision Finance Letter.

   VOTE:

1730 Franchise Tax Board

The Franchise Tax Board (FTB) administers state personal income tax and corporation taxes for the State of California, collects debt on behalf of other state agencies and local entities, and performs audits of campaign statements and lobbyist reports authorized by the Political Reform Act of 1974. The FTB is tasked to correctly apply the laws enacted by the Legislature; to determine the reasonable meaning of various code provisions in light of the legislative purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view. Total proposed budget expenditures for the Franchise Tax Board are $699.6 million, of which $512.3 million is from the General Fund.

1. **Overview of General Fund Revenues in the Governor’s May Revision.** This informational item will be presented by the Legislative Analyst’s Office.

   The following figure shows the administration's estimate of the General Fund budget condition in 2004-05 and 2005-06 after taking account of the May Revision budget proposals.

Governor’s May Revision General Fund Condition

(In Millions)

	2004-05	2005-06
Prior-year fund balance	$7,200	$6,714
Revenues and transfers	79,495	83,867
Deficit financing bond	2,012	—
Total resources available	$88,707	$90,581
Expenditures	$81,993	$88,525
Ending fund balance	$6,714	$2,056
Encumbrances	641	641
Reserve	**$6,073**	**$1,415**
2006-07 amnesty-related revenue reductions		($900)
Remaining reserve		($515)

Detail may not total due to rounding.

2004-05. As shown in Figure 2, the prior-year balance is estimated at $7.2 billion, which is more than double the $3.5 billion balance estimated in January. The improvement is almost entirely due to higher-than-expected cash payments directly and indirectly associated with the state's tax amnesty program that concluded in early April. As discussed in the box, under the state's current accounting system, these current-year cash collections are attributed back to the tax years prior to 2003 that were covered by the amnesty program. Also, of this May Revision increase all but $180 million will be offset by lower audit collections and higher refunds in 2004-05 through 2006-07.

In other developments, revenues in the current year are estimated to total $79.5 billion, or about $2.5 billion less than the $82 billion in expenditures. Most of the difference is covered by the proceeds of last year's sale of $2 billion in deficit-financing bonds. After accounting for year-end encumbrances, the current year is projected to conclude with a reserve of $6.1 billion.

2005-06. In the budget year, the administration projects revenues of $83.9 billion, while expenditures are proposed to total $88.5 billion, thus generating an operating shortfall (revenues minus expenditures) of $4.6 billion during the year. This draws the current-year reserve of $6.1 billion down to $1.4 billion by the close of the budget year. The administration notes, however, that $900 million of this reserve will be needed to fund the revenue reductions anticipated in 2006-07 attributable to amnesty-related refunds and auditing changes (see box). This leaves an uncommitted reserve of $515 million, which is about the same as the level proposed in January.

ASSESSMENT:
Amnesty-Related Estimates Reasonable. The May Revision's estimates of the direct and indirect impacts of amnesty-related payments and refunds are reasonable. It is our understanding that the protective claims payments (which account for $3.4 billion of the total payments) are concentrated among large companies that are routinely audited by the Franchise Tax Board. Payments associated with these audits were assumed to occur over the next several years. Thus, their acceleration implies that future audit-related collections will be less than previously forecast. In the case where companies are successful in appealing state audit claims, the protective claims payments will need to be refunded, which also reduces net revenues to the state, and the forecast incorporates this.

Current-Year Revenue Estimate Overstated. While we agree that recent favorable payment trends portend higher revenues in both the current year and budget year, the administration has seriously overstated the 2004-05 year-end accrual adjustments that will be made to the personal income tax. Using the administration's own estimates of personal income tax payments and refunds during the second half of calendar-year 2005 (and which are accrued back to the current year), we estimate that the overestimate is approximately $625 million. After accounting for some offsetting gains from other revenue sources, we therefore believe that revenues will be $600 million below the May Revision estimate in 2004-05. With respect to the budget year, however, our forecast of revenues is similar to the administration's revised estimate.

How Much of Revenue Gain Is Ongoing? The administration has asserted that virtually all of the roughly $4 billion revenue increase is one-time relative to its January estimate, and thus will not help the state's structural budget shortfall. The administration has not provided its updated longer-term fiscal estimates, and thus we cannot comment on this assertion directly. However, relative to our own February forecast (which was above the administration's January estimate by $1.4 billion in the current year and $0.8 billion in 2005-06), we estimate that the ongoing increase is about $0.5 billion per year, suggesting that a significant portion of the increase is ongoing relative to our estimates.

Staff Comment: In accordance with Chapter 226, Statutes of 2004 (SB 1100, Committee on Budget and Fiscal Review) the Franchise Tax Board carried out a comprehensive tax amnesty program between February 1 and March 30, 2005. The tax amnesty provided an opportunity for individuals to pay past tax debts and the associated interest. All penalties were waived under the amnesty program. Accompanying the amnesty program was a broad public awareness campaign (*It was probably just and oversight…*).

Those who were eligible for amnesty but opted not to participate now face significant penalties. Penalties include a new 50 percent penalty on accrued interest and an increased accuracy-related penalty for filers who understate their amount due. Expected gross revenues from tax amnesty was $555 million from both individual and corporation income tax filers.

Staff Recommendation: Request that the Legislative Analyst's Office, Franchise Tax Board, and Department of Finance comment on
(1) the success of the amnesty program and
(2) the current year revenue estimate discrepancy.

2. Finance Letters Proposed for Vote-Only.

A. PHASE III OCCUPANCY COST ADJUSTMENT. The Administration requests that the Franchise Tax Board's budget be augmented to reflect updated estimates of the moving costs associated with occupying the Franchise Tax Board's (Board) Phase III Office Complex on Butterfield Way. Adjustments are as follows:

- Item 1730 001 0001: Augmentation of $3,371,000
- Item 1730 001 0044: Augmentation of $32,000
- Item 1730 001 0064: Augmentation of $60,000
- Item 1730 001 0242: Augmentation of $96,000
- Item 1730 501 0995: Augmentation of $295,000

The FTB had requested in an April Finance Letter that budget year funding for Phase III be augmented by $7.6 million to facilitate the final stages of staff relocation and operations to a new state office building and to renovate and occupy existing office buildings at the Butterfield Campus in Sacramento. The $3.7 million reduction relative to the April Finance Letter request is largely attributable to delays in the construction schedule, which in turn led to occupancy delays.

B. PHASE III OFFICE COMPLEX DEBT-SERVICE PAYMENTS. The Administration requests that Item 1730-001-0001 be increased by $1,927,000 to account for debt-service payments the FTB will make to the Department of General Services for the bonds that were issued to pay for construction of the Phase III Office Complex.

C. CALIFORNIA CHILD SUPPORT AUTOMATION SYSTEM (CCSAS) CARRYOVER ADJUSTMENT. The Administration requests that Item 1730-001-0001 be amended by a net of $673,000 for CCSAS related activities. The requested adjustment consists of the following elements:

- A reduction of $1,158,000 General Fund to reflect the availability of this amount of carryover funding from 2004-05. The availability of this carryover amount is primarily attributable to project savings.

- An increase of $1,831,000 in reimbursement authority to reflect a loss of federal funding provided by the Department of Child Support Services from 2004-05 due to delay of current-year project deliverables. These delays are expected to have no impact on the overall project timeline.

D. LEASE REVENUE PAYMENT ADJUSTMENT PER CONTROL SECTION 4.30. The Administration requests that Item 1730-002-0001 be decreased by $99,000 and Reimbursements be decreased by $35,000 to reflect Control Section 4.30 (Lease Revenue Payment Adjustments) changes made in the fall.

E. LEASE REVENUE PAYMENT ADJUSTMENT. The Administration requests that Item 1730-002-0001 be decreased by $30,000 and reimbursements increased by $30,000 for lease revenue payments in accordance with Control Section 4.30.

Staff Recommendation: Approve the May Revision Finance Letter issues A through E above.

VOTE:

3. **Solar or Wind Energy Systems Tax Credit.** The existing solar and wind energy tax credit provides a 7.5 percent tax credit, after deducting the value of any financial incentives, for taxpayers who purchase solar or wind energy systems for installation and electrical generation in California. A primary purpose for this credit is to encourage taxpayers to utilize alternative energy sources as opposed to traditional gas and electric utilities. Additionally, for property tax lien dates from the 1999-2000 to 2004-05 fiscal year, the term "newly constructed" as used in the California Constitution does not include the construction or addition of any active solar energy system. The credit will expire on January 1, 2006.

Senate Bill 1017 (Campbell, 2005-06) would extend the operative date of this credit to January 1, 2017, and extend the operative date of the solar property tax exclusion to June 30, 2017. These provisions would provide an expanded opportunity for realizing the benefits of solar and wind energy systems. Proposed trailer bill is shown in the appendix.

According to the Franchise Tax Board, estimated revenue loss is less than $250,000 in the budget year, and will grow to $2 million in 2006-07, and $4 million in 2007-08. These estimates are built on a static model of taxpayer response, and no growth factor is included.

Staff Recommendation: Adopt the provisions of SB 1017 as trailer bill.

VOTE:

1760 Department of General Services

The Department of General Services (DGS) provides management review and support services to state departments. The DGS is responsible for the planning, acquisition, design, construction, maintenance, and operation of the state's office space and properties. It is also responsible for the procurement of materials, data processing services, communication, transportation, printing, and security. Total proposed budget expenditures for the Department of General Services are $970.2 million.

1. Issues Proposed for Vote Only:

A. REPAYMENT OF ENERGY EFFICIENCY REVENUE BONDS. The Administration requests that Item 1760-001-0666 be revised to include Budget Bill language (below), requiring DGS to transfer $1,186,000 to the General Fund on an annual basis for 10 years beginning in 2005-06. Chapter 7, Statutes of 2004 (AB 156), provided deficiency funding for energy efficiency projects in state buildings due to the inability to issue energy efficiency revenue bonds pursuant to Government Code Sections 15814.1015814.27.

This funding was used to repay loans from the Pooled Money Investment Account (PMIA) that provided interim financing for these projects. These loans were made with the expectation that they would be repaid by the proceeds from the energy efficiency revenue bonds. Since these bonds could not be sold and these projects are completed, an alternative funding source was needed to repay these loans.

The transfer from the Department's budget to the General Fund represents the amount needed to repay the General Fund over a 10 year period plus five percent interest. These funds are from the utility savings that are being generated from the energy efficiency projects.

> *X. Notwithstanding any other provision of law, due to the inability to issue energy efficiency revenue bonds pursuant to Government Code Sections 15814.1015814.27, in order to repay the General Fund for the cost of completing energy efficiency projects on specified buildings, the Department of General Services shall recover an amount sufficient to repay with costs associated with completed energy efficiency projects within 10 fiscal years plus 5% interest, through utility rates charged to tenants and on August 1 of each fiscal year beginning with 2005-06, the Department of General Services shall transfer that amount to the General Fund. Once the General Fund has been fully repaid, the Department of General Services shall adjust utility rates for all tenants to accurately reflect the current rates.*

B. CAPITOL SECURITY SERVICES. The Administration requests that Item 1760-001-0666 be increased by $429,000 to fund increased security costs at the State Capitol building.

C. STRUCTURAL ASSESSMENT OF THE CAPITOL BUILDING. This request would augment the DGS budget by $1,000,000 General Fund to enable the DGS to conduct an assessment of structural repair needs for the State Capitol Building.

D. OFFICE OF PUBLIC SCHOOL CONSTRUCTION (OPSC): ADDITIONAL STAFFING FOR SCHOOL FACILITIES PROGRAM WORKLOAD AND FOR WILLIAMS SETTLEMENT EMERGENCY REPAIR PROGRAM WORKLOAD. The Administration requests four positions (three permanent and one two-year limited term) and $318,000 ($79,000 General Fund) to provide resources to continue management of the School Facility Program (Leroy F. Greene School Facilities Act of 1998), and to address an appropriate level of resources for the implementation of the *Williams vs. State of California* case. During 2004-05 budget development, the OPSC received 12 positions for these activities, with the understanding that additional positions would be sought as workload needs were refined.

E. DEPARTMENT OF GENERAL SERVICES (TELECOMMUNICATIONS DIVISION) APPROPRIATION**.** The Administration requests that language be added to Item 1760-001-0666 to authorize the Director of Finance to increase this item by up to $10,673,000 and associated positions, for the Office of Network Services within the Telecommunications Division of the Department of General Services, for any period prior to the Governor's Reorganization plan, or similar legislation, intended to create the Department of Technology Services, becoming law.

> *X. The Director of Finance is authorized to increase this item by up to $10,673,000 and associated positions for the Office of Network Services within the Telecommunications Division, for any period prior to the Governor's Reorganization plan, or similar legislation, intended to create the Department of Technology Services, becoming la w.*

F. LEASE-REVENUE BOND DEBT SERVICE ADJUSTMENTS. The Administration requests the following changes associated with Lease Revenue Bond debt service adjustments that were reflected in a set aside Item in the January 10 Budget, related to Control Section 4.30. Provision 1 of Item 1760-002-0003 and Item 1760-002-0666, would also be amended to reflect the following changes:

- Decrease Item 1760-002-0666 by $1,306,000.
- Increase Item 1760-003-0666 by $9,000.
- Decrease Item 1760-002-0003 by $6,000.
- Increase reimbursements to Item 1760-001-0666 by $13,073,000.

G. UPDATED DEBT SERVICE PAYMENT SCHEDULE. The Administration requests the following changes to reflect changes in base rental payments, fees, and insurance costs, as well as a decrease to reimbursements due to an updated debt service payment schedule for a lease revenue funded project:

- Increase Item 1760-002-0003 by $4,000.
- Increase Item 1760-002-0666 by $4,987,000.
- Decrease reimbursements to Item 1760-001-0666 by $14,471,000.

H. LOWERING THE STATE'S COST FOR PRESCRIPTION DRUGS. On May 11, the Subcommittee adopted provisional language related to information sharing on drug purchasing activities. Recently, the University of California has requested a clarification related to the information that may be shared. That clarification is as follows:

> It is the intent of the Legislature that the Department of General Services, University of California, and the Public Employees Retirement System share information on a regular basis with regards to each agency's drug purchasing activities. The sharing of information shall include, but is not limited to, prices paid for the same or similar drugs and information regarding drug effectiveness <u>*unless such sharing is prohibited by law or contract*</u>. It is the intent of the Legislature that the agencies meet, share information, and identify and implement joint cost savings activities that are mutually beneficial to the participating agencies. By January 10, 2006, and annually thereafter, the Department of General Services shall report to the Chairperson of the Joint Legislative Budget Committee and the chairs of the fiscal committees of both houses of the Legislature on the collaboration activities that the Department of General Services, University of California, and the Public Employees Retirement System conducted in the last 12 months and the savings attributable to joint drug cost savings from those activities. It is not the intent of the Legislature for the Department of General Services to disclose information which may adversely affect potential drug procurements conducted by the participating agencies.

Staff Recommendation: Approve issues A through H above.

VOTE:

2. Special Education Alternative Dispute Resolution Program. The Administration requests that Item 1760-001-0666 be increased by $9,254,000 and 65.7 Personnel Years to provide resources which will allow the Department of General Services (DGS) to take over the Special Education Alternative Dispute Resolution Program from the McGeorge School of Law. The McGeorge School of Law provides mediation conferences and due process hearings for parents of students with disabilities.

Staff Comment: The basis for this request stems from a Governor's California Performance Review proposal and a recent State Personnel Board decision that cited state practice to not contract with private entities to perform work that the state has historically and customarily performed and can perform adequately and competently.

Notwithstanding the SPB decision, it is not clear that the McGeorge School of Law is not already the more economical and appropriate provider. The CPR proposal compared different periods of time and did not account for the McGeorge School's record of keeping cases from going to court. Having the Office of Administrative Hearings handle cases may result in more cases going to higher courts—at greater state cost. Additional information is required to validate the comparison and consideration of the SPB decision.

Staff Recommendation: Reject the May Revision Finance Letter issue.

VOTE:

3. **Office of State Publishing Reduction.** The Administration proposes a reduction of $6.2 million and 120 positions at DGS' Office of State Publishing (OSP). This proposed reduction follows declining state agency printing contracts and a statewide shift to more digital technology printing and Internet publishing. The OSP has incurred $14.3 million in losses over the last ten years, including a $5.5 million loss in 2003-04 (a 27 percent revenue decrease). The department explains that the OSP's broad range of products preclude it from tailoring services and force it to charge non-competitive rates. These rates naturally drive state agencies to use outside vendors. Under this proposal, "core" OSP services to the Legislature and other state agency clients would be preserved.

In a related proposal, the Administration proposes to extend, for one year, the requirement that state agencies also request a bid from OSP when seeking services that the OSP currently provides. The Subcommittee adopted this language (for one year) during last year's budget hearings.

> SECTION 1. Section 14612.2 of the Government Code is amended to read:
>
> 14612.2. (a) Notwithstanding Chapter 7 (commencing with Section14850) of Part 5.5 of Division 3 of Title 2 of, or Section 14901 of, the Government Code, no agency is required to use the Office of State Publishing for its printing needs and the Office of State Publishing may offer printing services to both state and other public agencies, including cities, counties, special districts, community college districts, the California State University, the University of California, and agencies of the United States government. When soliciting bids for printing services from the private sector, all state agencies shall also solicit a bid from the Office of State Publishing when the project is anticipated to cost more than five thousand dollars ($5,000).
>
> (b) This section shall remain operative only until the effective date of the Budget Act of ~~2005~~ *2006* or July 1, ~~2005~~ *2006*, whichever is later, and as of January 1, ~~2006~~ *2007*, is repealed, unless a later enacted statute that is enacted before January 1, ~~2006~~ *2007*, deletes or extends the dates on which it becomes inoperative and is repealed.

The Subcommittee first heard this issue on April 27 and left it open.

Staff Comment: No job loss is expected with this reduction. One hundred and eighteen of one hundred and twenty affected employees have already found other positions or retired and the remaining two are expected to resolve their status in the coming weeks.

In analyzing this proposal, it was learned that an operating expense reduction that would normally accompany a staff reduction had been omitted from the proposal. Specifically, the general expense category did not show a corresponding reduction associated with the positions. To reflect this reduction fully and accurately, an additional reduction of $60,000 should be included.

Staff Recommendations:

A. Approve the budget change proposal with an amendment to reflect an additional reduction of $60,000 in general expense. (Reduce Item 1760-001-0666 by $60,000)

B. Approve the proposed trailer bill language shown above.

VOTE:

4. **California State Travel Portal.** The Subcommittee on May 11 adopted a proposal to improve the timing and manner in which the state purchases airline tickets. The Subcommittee action was to authorize the DGS to develop an information portal for purchasing in-state tickets, require ticket purchases for non-emergency flights no less than two weeks before the flight, and direct the DGS to pursue out-of-state ticket purchasing efficiencies. Subsequent information provided by the department suggests that the proposed travel portal would be better focused on facilitating travel by the state's primary in-state carrier (Southwest Airlines), which also flies a much lower share of out-of-state routes. DGS would still be directed to develop opportunities for ticket purchase efficiencies with all other carriers. Working with the DGS, the LAO, and DOF, the following budget bill language has been developed:

X. The Director of General Services shall, by June 30, 2006, establish a California State Travel portal for travel bookings. Up to $250,000 and 1.0 position from the amount appropriated in this item may be used for this purpose, which may include staff support, travel, and training costs associated with the establishment of the portal. The Director of General Services is authorized to charge a fee to clients using the State travel contracts sufficient to recover the costs of its establishment, operations, and maintenance, as well as any associated costs, such as training.

(a) All departments shall utilize the California State Travel Portal for their travel bookings and shall revise departmental airline ticket booking policies to facilitate purchase of non-emergency tickets at least two weeks before the flight date.

(b) The Director of General Services shall study the feasibility of expanding the California State Travel Portal to other airlines and other alternative approaches to reduce travel costs and report to the Legislature no later than June 30, 2006. This study shall be completed within existing resources as provided in this appropriation.

Staff Recommendation: Approve the budget bill language.

VOTE:

8860 Department of Finance

By statute, the Director of Finance serves as the Governor's chief fiscal policy advisor with emphasis on the financial integrity of the State and maintenance of a fiscally sound and responsible Administration. The objectives of the Department of Finance are to prepare, present, and support the annual financial plan for the State; to assure responsible and responsive State resource allocation within resources available; to foster efficient and effective State structure, processes, programs, and performance; and to ensure integrity in State fiscal databases and systems.

1. REDIRECTION FOR GOVERNOR’S WEB-BASED BUDGET

Description: The Governor’s budget, as amended in the May Revise, requests permanent funding to provide support for the workload associated with the change in publication format for the Governor’s Budget and related budget documents from print to a web-based presentation. This request would provide 1.8 Personnel Years (PYs) and $484,000 General Fund for the evaluation, continuing development, and enhancement of the Governor’s Budget Presentation System. In addition, the Department of Finance (DOF) requests authority to continue the contract with a web development firm through the end of 2005-06 and increase the contract by $250,000.

Background: In the current year, the Legislature authorized, through Control Section 4.45, a $750,000 transfer from the Department of General Services to the DOF for costs associated with producing the Governor’s budget through electronic or other media and printed hard copies as necessary.

The 2005 Governor’s budget presentation is the initial application of web-based presentation. Subsequent to that presentation, the DOF surveyed various entities that utilized the web-based budget on how to improve and modify the 2005 presentation.

The following provisional language is requested to implement the web-based presentation and provide sufficient print copies for distribution.

From the funds appropriated in Schedule 3 of this item for the purpose of evaluating and continuing development and enhancement of the Governor’s Budget Presentation System (GBPS) the following provisions apply:

(a) From time to time, but no later than December 1 of each year, the Department of Finance shall update the Legislature on anticipated changes to the GBPS. In addition, the Department of Finance shall (1) no later than the approximate same time the Governor’s Budget is formally presented in electronic or any other web-based form, provide printed and bound hard copies of the Governor’s Budget and Governor’s Budget Summary as follows: to the Legislative Analyst Office – 45 copies, the Office of the Legislative Counsel – 6 copies, offices of the members of the Legislature – 120 copies, and the fiscal committees of the Legislature – 60 copies, and (2) no later than 4 weeks after the Governor’s Budget is formally presented in electronic or any other web-based form, 135 printed and bound hard copies of the Governor’s Budget and Governor’s Budget Summary shall be provided as follows: 2 copies to the State Library, to ensure that the State Librarian maintain at least one public copy and one for the permanent research collections, and 133 copies: one copy to each depository public library in the state. Additional copies, either bound or unbound, will be available for purchase by the public based on the cost of producing the documents requested.

(b) Notwithstanding any other provision of law, the Department of Finance may amend its existing contract with the web development firm to augment and continue consulting

services through 2005-06 for the purpose of providing continuity of services and to avoid delays in producing the Governor's Budget.

Recommendation: Approve the Administration's request, augmented by $10,000 General Fund to ensure bound and hard copies are printed as specified, and adopt the budget bill language above.

VOTE:

2. BUDGET INFORMATION SYSTEM

Description: The Governor's budget, as amended in the May Revise, requests $1,749,000 (General Fund) and 1.9 personnel years to provide support for the workload associated with continued development of a Budget Information System (BIS). The purpose of the BIS is to streamline budget processes and develop a year-round integrated budget system to replace the multiple legacy budget systems.

In order to ensure compatibility between the BIS and any other departmental or statewide management systems that may be developed, the Department of Finance (DOF) would like to develop a universal "chart of accounts" to be used by all such systems. This requested change will allow for the development of a chart of accounts and extend the timeframe from 19 months to 31 months. Second and third year funding will be contingent upon approval of a feasibility study report (FSR).

Background: The State currently lacks a single integrated system for development of the annual budget and for other financial functions, such as accounting and procurement. Existing systems are more than 25 years old and requires significant staff support to maintain. These systems, used today to produce the Governor's Budget and other key budget documents, were first developed in the 1970s to capture the incremental changes to the budget.

Staff Comment: Without an approved FSR, this is a "cart before the horse" proposal. The FSR will validate the IT components which are the central component of the BIS proposal. Without that information, the Legislature should not approve this funding request.

Recommendation: Approve the Finance Letter with provisional language stipulating that expenditure of funds is contingent upon submission of an approved FSR to the Legislature and a 45-day review period.

VOTE:

3. TRAILER BILL LANGUAGE FOR EXECUTIVE COUNCIL FOR BUSINESS MANAGEMENT FUNCTIONS.

Description: The Administration proposes to add trailer bill that would establish the Executive Council for Business Management Functions. Members of the council would meet at least quarterly and include the Director of Finance (chair), State Treasurer, State Controller, Director of the Department of General Services, Director of the Department of Personnel Administration, State's Chief Information Officer, and several cabinet secretaries. The Council would provide coordinated leadership in the planning and development of systems to be used by state agencies to support business management functions. A key activity would involve establishing an enterprise architecture for business management functions by establishing a chart of accounts.

Trailer bill to implement this proposal is attached.

Staff Comment: It is not clear that existing state staff and working groups could not accomplish the same objectives as this proposal. Similar large-scale information technology projects, such as the State Controller's Human Resource Management System (21st Century Project). have been developed without the benefit of an executive council.

Recommendation: Reject the Finance Letter issue and associated trailer bill.

VOTE:

4. COORDINATE IN-HOUSE BOND ACTIVITIES

Description: The Governor's budget requests of 3.0 positions (2.9 personnel years) and an increase in reimbursement authority ($500,000) to fund retainer contracts with financial advisors and bond counsel. In addition, the Department of Finance (DOF) would consolidate bond issuance activities.

Background: Until a few years ago, the bond issuance was predictable and consisted entirely of General obligation and lease revenue bonds. However, there has been a dramatic increase in the number and types of bond issuances in the last few years. In addition, the DOF has become involved in a number of atypical types of bond issuances, such as Pension Obligation Bonds, Economic Recovery Bonds, Fiscal Recovery Bonds, Tobacco Bonds, Tribal Gaming Bonds, and Grant Anticipation Revenue Vehicles (GARVEE) bonds.

As the workload and types of bond issuances have developed, 3 different units at DOF have been assigned the responsibility of various functions related to bond issuance, such as overseeing, tracking, providing analytic support, coordination with agencies/departments and document preparation. The fragmentation of the workload related to bonds has created difficulties to ensure due diligence is performed for each bond issue. Each unit has been tasked with developing a relationship with the State Treasurer's Office, bond counsel, and financial advisors. Since many of the units had little awareness that other units might have contracts with these vendors for similar purposes, no coordination of contracts transpired and inconsistent contract pricing may be occurring. In addition, as service vendors are not on retainer, either the State Treasurer's Office or DOF must locate and contract with vendors for each issue, causing delays in the delivery of a bond issue. At present, DOF estimates total time devoted to all bond activities is approximately 6,600 staff hours or approximately 3.7 positions.

Assuming that the consolidation of activities would result in some efficiencies and reduced workload that would be partially offset by refunding, monitoring, and departmental training activities, DOF requests the addition of 3.0 positions and the retainment of service vendors (such as financial advisors and bond counsel), supported through bond proceeds.

Recommendation: Staff recommends approval of the request, but that the positions are designated as two-year limited term

VOTE:

8885 Commission on State Mandates

The Commission on State Mandates (CSM) is a quasi-judicial body that makes the initial determination of state mandated costs. The Commission is tasked to fairly and impartially determine if local agencies and school districts are entitled to reimbursement for increased costs mandated by the state. Total proposed budget expenditures for the Commission on State Mandates are $1.6 million, all of which is state General Fund.

1. **Mandate Reimbursement Process.** At the May 11 Subcommittee hearing, the Subcommittee considered staff recommendations related to reconsidering the mandate reimbursement process mandate and clarifying a provision of law relating to the authority for the State Controller to audit certain mandates. The issue was left open based on a statute of limitations question related to the latter issue.

   The staff comments were as follows:

   The Commission on State Mandates should reconsider the mandate process reimbursement mandate. In that reconsideration, the Commission should specifically address the matter of developing a simpler system for review of test claims and providing mandate reimbursements. A reconsideration could be accomplished with the following language:

   > *Notwithstanding any other provision of law, the Commission on State Mandates shall reconsider its test claim decision regarding the Mandate Reimbursement Process program (CSM-4204) enacted by Chapter 486 of the Statutes of 1975 and Chapter 1459, Statutes of 1984, to determine whether the statutes are a reimbursable mandate under Section 6 of Article XIII B of the California Constitution and in light of federal and state statutes enacted and federal and state court decisions rendered since the test claim statute was enacted. If a new test claim is filed on Chapter 890, Statutes of 2004,*[1] *the Commission shall, if practicable, hear and determine the new test claim at the same time as this reconsideration.*
   >
   > *The commission, if necessary, shall revise its parameters and guidelines on the Mandate Reimbursement Process program (CSM-4485) to be consistent with this reconsideration and the Controller shall revise the appropriate claiming instructions to be consistent with this act. Any changes by the commission to the original statement of decision (CSM-4204) shall be deemed effective July 1, 2006.*

   In the event that a mandate is determined, it is important for claimants to know exactly what are allowable costs. In preparing the revised parameters and guidelines, the Commission should specify in simple terms using unit cost measures, exactly what allowable costs are. This determination is commonly referred to as a "reasonable reimbursement methodology."

[1] See AB 2856-Laird.

Staff Recommendations: Direct staff to work with the Legislative Analyst to draft budget trailer bill legislation that will:

A. Direct the Commission to reconsider the mandate reimbursement process mandate in accordance with the language provided above,

A. Direct the Commission to develop a simple and reasonable reimbursement methodology for the mandate reimbursement process mandate based on unit costs (if the Commission determines that a mandate exists), and

VOTE:

8910 Office of Administrative Law

The Office of Administrative Law is responsible for reviewing administrative regulations proposed by over 200 State regulatory agencies for compliance with standards set forth in California's Administrative Procedures Act, transmitting these regulations to the Secretary of State, and for publishing regulations in the California Code of Regulations. Budget Year funding for the Office of Administrative Law totals $2.5 million, $2.2 million of which is General Fund.

1. **Enforcement of Underground Regulations.** The Administration requests that Item 8910-001-0001 be increased by $224,000, to provide funding for the Office of Administrative Law to issue determinations as to whether particular state rules, guidelines, and other documents, are in fact, regulations subject to the regulatory review process and to enforce provisions of the Government Code that restrict state agencies from issuing, utilizing or enforcing "underground regulations".

   Staff Comment: This Finance Letter request is similar to one presented in last year's May Revise in that justifies workload by citing Government Code Section 11340.5 (prohibits state agencies from employing rules that do not comply with the Administrative Procedures Act). That request was rejected by the Subcommittee, primarily for reasons related to workload authorization.

   The LAO has raised concerns over the projected workload associated with this proposal and recommended it be denied. An alternative to denial of this request would be to fund the request for one staff counsel position for two years. This two-year limit will offer an opportunity to review workload again, should the OAL desire to extend the position or make other workload adjustments.

   Staff Recommendation: Amend the May Revision Finance Letter to provide funding for one staff counsel position on a two-year limited term basis.

   VOTE:

9100 Tax Relief

California offers a variety of tax relief programs by appropriating funds through a reduction in rates or nonrefundable tax credits. The state also provides the following tax relief through the appropriation of funds for payments to individuals or reimbursement of local agencies. Tax relief proposed in 2005-06 totals $539.4 million, all of which is General Fund.

1. **County Auditor Redevelopment Tax Report Mandate.** On April 27, 2005, the Subcommittee adopted an action to repeal the County Auditor Redevelopment Tax Report mandate.

   During past budget enactment cycles, actions by the Senate subsequent to Subcommittee hearings have sometimes reversed the Subcommittee's action and prevented a mandate from actually being repealed. In these cases, unless that subsequent action provided funding, if the mandate is not shown as suspended in the budget bill, it must be paid. Suspending a mandate in the budget bill (while still proceeding with the proposed repeal in budget trailer bill) will prevent the mandate from being inadvertently funded.

   Staff Recommendation: For the purposes of display in Item 9100-295-0001, suspend the County Auditor Redevelopment Tax Report mandate. (The earlier "repeal" action adopted by the Subcommittee will follow the budget trailer bill process.)

   VOTE:

9210 Local Government Financing

Local governments receive a variety of subventions from the state for designated purposes such as health, welfare, and public safety programs. The state provides other assistance to local governments, primarily counties, through other direct programs contained in other items in the budget. For example, Health and Human Services has numerous programs where the state and counties jointly provide funding for services. State funding is also included in Public Safety for such issues as local crime labs and suppression of high intensity drug trafficking areas. Local Government Financing proposed in 2005-06 totals $157.4 million, all of which is General Fund.

1. **Property Tax Administration Grant Reduction.** The Administration proposes to amend the $5.7 million reduction to the Property Tax Administration Grant Program proposed in the Governor's Budget by offsetting that reduction by a net of $2.5 million. This action would withdraw the previously proposed 9.5 percent reduction across-the-board reduction in Property Tax Administration Grant monies.

   Counties where grant funds result in increased property tax revenues to offset the state's Proposition 98 General Fund costs will be funded at the statutory level. Two counties that do not generate offsetting Proposition 98 savings (Marin and San Mateo) will be decreased by a total of $3,010,000 to reflect the elimination of grant monies. Since all the school districts and community college districts in these counties receive sufficient property taxes to fully fund their basic apportionments, the property tax revenues they would generate with grant monies would not offset the state's Proposition 98 General Fund obligation. Five counties that have not submitted applications since inception of the program recently for the grant funds (Alpine, Inyo, Mariposa, Sierra, and Trinity) will incur a total reduction of $182,000.

   Staff Recommendation: Approve the May Revision Finance Letter issue for Property Tax Administration Grants.

   VOTE:

2. **Expedited Vehicle License Fee "Gap" Repayment.** The Administration proposes to expedite repayment of $593.4 million to cities and counties for the Vehicle License Fee (VLF) revenues not received in 2003-04 due to suspension of the VLF offset. The full VLF "gap" amount of $1,186,830,000 is the shortfall in the VLF payments to localities for registration renewals and new registrations with due dates between July 1 and October 1, 2003.

   The Department of Finance requests the following budget bill language to implement that change:

   9210-106-0001 – For transfer by the Controller…………………... 593,415,000
   Provisions:
   1. For transfer by the State Controller to the Gap Repayment Fund in accordance with Revenue and Taxation Code Section 10754.11, for repayment of the Vehicle License Fee gap loan amounts owed to cities, counties and cities and counties.

   Staff Comment: Revenue and Taxation Code 10754.11 does not appear to allow for a partial repayment and no trailer bill has been provided. Current statute requires that the SCO transfer the gap repayment amount on August 15, 2006, or alternatively, transfer the full amount earlier, if authorized by the Legislature.

Staff Recommendation:
DISCUSSION: Request the Department of Finance report on the need for notwithstanding budget bill language to implement this transfer.

ACTION: Approve the May Revision Finance Letter issue.

VOTE:

3. **Restore Small/Rural Sheriffs' Grants.** The Administration proposes to restore $18.5 million in funding for 37 small and rural counties' law enforcement activities. The 2005-06 Governor's Budget proposed to eliminate these grants, and to delete the applicable Government Code Section, which makes the appropriation.

   To conform to the requested restoration, the Department of Finance requests that trailer bill language, which would delete Government Code Section 30070, be rescinded.

   Staff Recommendation. Approve the May Revision Finance Letter issue.

   VOTE:

4. **Mandate: Open meetings.** The Administration proposes to restructure the Open Meetings mandate and provide $2 million in 2005-06 funding, approximately $13 million less than current year funding. The trailer bill needed to implement those changes is attached.

   LAO Comment: The LAO recommends two alternatives to adopting the Administration's proposal. First, the Open Meetings mandate could be made optional and a state-recommended "best practice." This option would eliminate all costs in the budget year. The other alternative is to fully fund the mandate at the full $16 million.

   Staff Comment: At the May 11 hearing, the Department of Finance provided final trailer bill that would implement the cost reduction by narrowing the scope of the mandate, in particular printing costs and postage. Under the DOF proposal, locals would be reimbursed for copying costs at the state rate of 20 cents per page.

   Staff Recommendation: Adopt the Governor's Budget proposal and associated trailer bill.

   VOTE:

9620 Payment of Interest on General Fund Loans

The Administration requests that Item 9620-002-0001 be reduced by $1.508 million to provide funding for the interest on General Fund budgetary loans. The 2005-06 Governor’s Budget anticipated that $11.325 million would be needed to repay interest on 22 special fund loans in 2005-06. Based on the most recent loan repayment data, it is now estimated that $9.817 million will be needed to repay interest and on 19 special fund loans in 2005-06.

Staff Comment: There may be updated information forthcoming on loan repayment costs that would affect the total costs. Consequently, this issue should be a conference item.

Staff Recommendation: Approve the May Revision Finance Letter at $1 million.

VOTE:

9840 Augmentation for Contingencies and Emergencies

This budget control section provides the mechanism to augment budgets during the budget year when unanticipated expenses arise, i.e. "deficiencies." During 2004-05 budget development, new deficiency funding processes were established to provide a limited amount of designated funding for deficiencies. The amount and requirements for use of this funding was specified in Item 9840. If a department or agency incurred an expense occurred that did not meet the criteria of Item 9840, the department or agency was forced to seek a supplemental appropriation through the normal policy bill process.

1. **Requirements for Supplemental Appropriations Bills**. Recently, concerns have been raised by staff regarding the lack of clear requirements for the supplemental appropriations process. A solution was recommended by requiring supplemental appropriation requests to essentially follow the same guidelines as those proscribed in Item 9840. Key changes to the language would stipulate that:

   - Supplemental appropriation request notification be provided to the Department of Finance
   - No prior year costs, new programs, or capital outlay could be funded by a supplemental appropriation bill
   - Under certain circumstances, a share of the total appropriation item can be exceeded.

   Budget bill language to implement these changes is attached.

   Staff Recommendation: Approve the budget bill changes.

   VOTE:

Trailer Bill for Various Capital Outlay Projects

The Administration requests that trailer bill language be adopted that would: (1) clarify existing State Public Works Board (PWB) authority to issue bonds for any phase of a lease-revenue bond funded project that is appropriated by the Legislature, and (2) clarify that capitalized interest could be included in bond sales for PWB authorized capital outlay project prior to, during and for a period of six months after construction of the public building, facility, or equipment.

During the 2004-05 Spring PWB Bond Sales, the Attorney General’s staff concluded that (1) the appropriations for the projects did not specifically authorize the PWB to issue bonds for all phases, specifically design and equipment phases, of certain University of California capital outlay projects, even though the Budget Act contained funding and clearly intended these phases to be funded from lease-revenue bonds, and (2) the authorizing language did not permit the PWB to capitalize interest beyond the completion of construction. This trailer bill language would clarify that bonds could be issued for any phase of any lease-revenue bond funded project that is appropriated after June 30, 2001. In addition, it would clarify the cutoff point for charging capitalized interest for a lease-revenue bond funded project.

The proposed trailer bill is attached.

Staff Recommendation: Approve the May Revision Finance Letter and associated trailer bill.

VOTE:

Budget Control Sections for Discussion

Control Section 4.10

The Governor's Budget includes unallocated reductions totaling $150 million General Fund. Departments will have the flexibility to use lay-offs, hiring freezes, procurement reductions, or other administrative means to achieve their designated level of savings. The Administration believes that that these reductions will not reduce revenues or affect emergency services.

Staff Comment: Given the uncertainty over how the reductions will be applied, the Legislature should be appropriately informed of the reductions and have the opportunity to review or otherwise respond to the reductions. Accordingly, the following language is recommended:

The Director of Finance shall report to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees of each house by December 10, 2005, on the reductions made pursuant to the unallocated reductions included in the 2005-06 Budget Act. The report shall include: the specific reductions, by department, agency, and program; an indication of whether the reduction is one-time or ongoing; the programmatic effects; the number and description of positions affected; and other descriptive information for each reduction necessary to fully disclose the impact of the unallocated reduction.

Staff Recommendation: Adopt the proposed budget bill language above.

VOTE:

Control Section 8.81

The Administration has proposed a new Control Section 8.81 to appropriate $1.25 million General Fund to map the state’s enterprise-wide business application development efforts. The following budget bill language is recommended:

> *SEC. 8.81. Notwithstanding any other provision of law, one million two hundred and fifty thousand dollars ($1,250,000) is hereby appropriated from the General Fund to the Executive Council for Business Management Functions. The Chairperson of the Executive Council for Business Management Functions may allocate up to $1,000,000 appropriated in this section to either the Department of Finance or the State Controller's Office solely for the purpose of contracting with an outside consultant to develop an enterprise system planning report for coordinating and directing statewide enterprise information technology efforts and business applications. The consultant shall also explore other issues and options, such as implementation strategies, costs and potential funding strategies, statewide architecture, and the governance structure for an enterprise-wide system. The contractor shall submit a report to the Executive Council for Business Management Functions on or before June 30, 2006. Any funds appropriated for the purpose of this section, up to one million dollars ($1,000,000) may be used to contract with an outside consultant experienced in enterprise resource planning systems selected from the Department of General Services Master Services Agreement list.*
> *Any remaining unallocated moneys, or any allocated moneys not fully expended for this purpose shall revert to the General Fund. The Chairperson of the of the Executive Council for Business Management Functions may allocate up to two hundred and fifty thousand dollars ($250,000) appropriated in this section to the Department of Finance and/or the State Controller's Office for the purpose of providing support for this project.*

Staff Comment: Given the ultimate scope and cost of the proposed project, this Control Section cannot be approved without careful deliberation over the long term objective. A first step would be to review departmental analysis for the related California Performance Review (CPR) proposals. CPR recommendations have likely already been analyzed by a number of state departments, including DOF, DGS, and the Controller. The administration should submit these reviews to the Legislature to demonstrate any gaps in the state's knowledge that would benefit from additional consultant costs.

Staff Recommendation: Reject the Control Section 8.81 Finance Letter.

VOTE:

Control Section 25.50

Funding Reallocation for Apportionment Payment System. The Administration requests that Control Section 25.50 be amended to reflect the reallocation of charges among special funds for the Apportionment Payment System. The charges were reallocated among the special funds to reflect more recent 2003-04 data for apportionment payments. Overall funding for the project is unchanged. Below is the revised Control Section 25.50:

SEC. 25.50. Notwithstanding any other provision of law, an amount not to exceed one million six-hundred eighty five thousand dollars ($1,685,000) is hereby appropriated from various funds to the State Controller as specified below for reimbursement of costs for the procurement, development, and implementation of a new Apportionment Payment System:

0046	*Public Transportation Account*	*~~22,000~~*	*$17,000*
0062	*Highway Users Tax Account*	*~~407,000~~*	*525,000*
0064	*Motor Vehicle License Fee Account*	*~~501,000~~*	*34,000*
0330	*Local Revenue Fund*	*~~246,000~~*	*417,000*
0877	*DMV Local Agency Collection Fund*	*~~3,000~~*	*6,000*
0932	*Trial Court Trust Fund*	*~~213,000~~*	*288,000*
0965	*Timber Tax Fund*	*~~4,000~~*	*2,000*
0969	*Public Safety Account*	*~~289,000~~*	*396,000*
	Total, All Funds		*$ 1,685,000*

The Controller shall assess these funds for the costs of the new Apportionment Payment System because apportionment payments in excess of ten million dollars ($10,000,000) are made annually from these funds. Assessments in support of the expenditures for the Apportionment Payment System shall be made monthly, and the total amount assessed from these funds may not exceed the total expenditures incurred by the State Controller for the Apportionment Payment System for the 2005-06 fiscal year.

This Control Section was initially approved by the Committee on April 13. Subsequent to that hearing it was determined that the schedule of reimbursements was inaccurate and would need to be revised.

Staff Recommendation: Approve the amendments to Control Section 25.50 contained in the May Revision Finance Letter.

VOTE:

Control Section 33.50

Strategic Sourcing. The Administration requests that Control Section 33.50 be amended to allow the Department of Finance (DOF) to periodically reduce departmental appropriations as actual savings data becomes available (Attachment I).

The revised control section does not include any pre-determined savings that may result from the state's strategic sourcing efforts but, rather, allows the DOF to reduce department appropriations if savings should occur at some point during the budget year. In addition, it requires DOF to notify the Legislature at least 30 days before reducing those appropriations.

Staff Comment: The proposed budget bill language has been amended to reflect an LAO recommendation to provide for a higher level of detail than previously requested, consistent with making mid-year adjustments.

SEC.33.50 Notwithstanding any other provision of law, the Department of Finance is authorized to periodically reduce amounts in items of appropriation in this act for the 2005-06 fiscal year to reflect actual savings resulting from California's Procurement Initiative for the 21st Century. At least 30 days prior to the reduction of any item of appropriation, the Director shall provide notice to the Chairperson of the Joint Legislative Budget Committee. <u>*The notice shall include, but is not limited to, (1) identification of the departments that received the savings, (2) when and how the savings was achieved, (3) identification of the types of goods and services where savings was achieved, and (4) the methodology used to calculate the savings.*</u>

Staff Recommendation: Adopt the proposed budget bill language as amended above.

VOTE:

TRAILER BILL

Office of the Inspector General

An Act to Establish the Office of State Inspector General

1. Creation of the Office of Inspector General

There is hereby created in California State Government the Office of State Inspector General.

2. Purpose

The purpose of this legislation is to establish a full-time program of audit, investigation and performance review to provide increased accountability, integrity and oversight of the executive branch and to assist in improving agency operations and deterring and identifying fraud, abuse and illegal acts.

3. Legislative Intent

The intent of this legislation is to create a wholly independent Office of the State Inspector General to conduct investigations, audits, evaluations, inspections and other reviews in accordance with those professional standards that relate to the fields of investigation and auditing in government environments.

4. Appointment

The State Inspector General shall be appointed by the Governor, subject to confirmation by the Senate. The State Inspector General is to be selected without regard to political affiliation and on the basis of integrity, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, investigation, or criminal justice administration or other closely related fields. In addition, the Inspector General should possess demonstrated knowledge, skills, abilities and experience in conducting audits and investigations.

5. Term of Office

The State Inspector General is appointed for a term of five years, which may be renewed at the discretion of the Governor.

6. Removal from Office

The State Inspector General may be removed from Office for cause within the five-year appointment by the Governor subject to notifying the Senate of the reasons for removal.

7. Resources

The Office of the State Inspector General will receive funds adequate to meet its mission. The State Inspector General shall establish the organization structure appropriate to carrying out the responsibilities and functions of the Office.

Employees of the Office of the State Inspector General shall be exempt from civil service, appointed by the Governor and serve at the pleasure of the State Inspector General. Within budget limitations, the Inspector General may obtain the services of Certified Public Accountants, qualified management consultants, or other professional experts necessary to independently perform the functions of the office.

8. Organizational Placement

The State Inspector General reports to the Governor and the Legislature, yet is operationally independent such that neither shall not prevent, impair, or prohibit the State Inspector General from initiating, carrying out, or completing any audit, investigation or review.

9. Records Disclosure

The audit and investigation reports of the Office of the State Inspector General shall be public records to the extent that they do not include information that has been made confidential and exempt from release to the public. During the course of audit and investigation activities, all records will be considered deliberative in process and not available for outside review. Names and identities of individuals making complaints and information protected by whistleblower or other legislation will not be disclosed without the written consent of the individual unless required by law or judicial processes. Similarly, the State Inspector General shall maintain the confidentiality of any public records that are made confidential by law and shall be subject to the same penalties as the custodian of those public records for violating confidentiality statutes. Overall, efforts will be made to protect the privacy of individuals or employees whenever possible without interfering in the judicial or administrative processes initiated to protect the public.

10. Reporting Office Activities

The State Inspector General will report the findings of the Office's work to the head of the investigated or audited agency, the Governor, the Legislature and the public. The State Inspector General shall also report criminal investigative matters to the appropriate law enforcement and prosecutorial agencies.

The Office of the State Inspector General shall immediately report to the head of the agency involved whenever it becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the agency or interference with operations of the State Inspector General. Within 60 days of the end of each fiscal year, the State Inspector General shall issue an annual report that separately lists audit and review reports and other investigative or assistance efforts completed during the fiscal year. The report shall describe accomplishments of the Office of State Inspector General. Copies of the report shall be provided to the Governor and the Legislature and shall be made available to the public.

11. Authority

The Office of Inspector General is authorized to engage in the following specific functions:

a) Audit, evaluate, investigate and inspect the activities, records and individuals with contracts, procurements, grants, agreements, and other programmatic and financial arrangements undertaken by executive branch agencies and any other function, activity, process or operation conducted by or on behalf of executive branch agencies.

b) Conduct criminal, civil and administrative investigations.

c) Audit the economy, efficiency, and effectiveness of executive branch operations and functions.

d) Provide information and evidence that relates to criminal acts to appropriate law enforcement officials.

e) Initiate such reviews or audits of executive branch agencies as deemed appropriate.

f) Receive and investigate complaints from any source or upon its own initiative concerning alleged abuses, frauds and service deficiencies including deficiencies in the operation and maintenance of facilities.

g) Engage in prevention activities, including but not limited to: review of legislation; review of rules, regulations, policies, procedures, and transactions; training and education.

h) Refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies.
i) Conduct joint investigations and projects with other oversight or law enforcement agencies.

j) Recommend remedial actions to be taken by the executive branch agencies to overcome or correct operating or maintenance deficiencies and inefficiencies that were identified by the Office.

k) Issue public reports as set forth in section 10.

l) Monitor implementation of recommendations made by the Office and other audit agencies.

m) Establish policies and procedures to guide functions and processes conducted by the Office.

n) Attend any meetings held by executive branch agencies.

o) Maintain information regarding the cost of investigations and cooperate with appropriate administrative and prosecutorial agencies in recouping such costs from nongovernmental entities involved in willful misconduct.

p) Do all things necessary to carry out the functions set forth in this section.

12. Powers

The Office of State Inspector General is provided the following powers to accomplish the intent of this legislation:

a) The right to obtain full and unrestricted access to all offices, limited access or restricted areas, employees, records, information data, reports, plans, projections, matters, contracts, memoranda, correspondence and any other materials, including electronic data of executive branch agencies or any other organization that may be involved with an executive branch agency. This power supersedes any claim of privilege.

b) The authority to subpoena witnesses, administer oaths or affirmations, take testimony and compel the production of such books, papers, records and documents, including electronic data as is deemed to be relevant to any inquiry or investigation undertaken. This power may be delegated to a duly authorized deputy inspector general by the State Inspector General.

c) Have access to the head of any executive branch agency, when necessary for purposes related to the work of the Office.
d) Require employees of executive branch agencies to report to the Office of the State Inspector General information regarding fraud, waste, corruption, illegal acts, and abuse.

13. Quality Review

Audits, investigations, inspections and reviews shall be subject to quality assurance reviews by the Bureau of State Audits every five years. A copy of the written report resulting from this review shall be furnished to the Governor and the Legislature and be made available to the public.

14. Renaming the Office of Inspector General

The existing Office of Inspector General with jurisdiction for youth and adult correctional programs shall be renamed the Office of Inspector General for the Department of Corrections and Rehabilitation.

Franchise Tax Board
Solar and Wind Energy Tax Credit

SECTION 1. Section 73 of the Revenue and Taxation Code is amended to read:

73. (a) Pursuant to the authority granted to the Legislature pursuant to paragraph (1) of subdivision (c) of Section 2 of Article XIII A of the California Constitution, the term "newly constructed," as used in subdivision (a) of Section 2 of Article XIII A of the California Constitution, does not include the construction or addition of any active solar energy system, as defined in subdivision (b).(b) (1) "Active solar energy system" means a system that uses solar devices, which are thermally isolated from living space or any other area where the energy is used, to provide for the collection, storage, or distribution of solar energy.

(2) "Active solar energy system" does not include solar swimming pool heaters or hot tub heaters.

(3) Active solar energy systems may be used for any of the following:

(A) Domestic, recreational, therapeutic, or service water heating.

(B) Space conditioning.

(C) Production of electricity.

(D) Process heat.

(E) Solar mechanical energy.

(c) (1) (A) The Legislature finds and declares that the definition of spare parts in this paragraph is declarative of the intent of the Legislature, in prior statutory enactments of this section that excluded active solar energy systems from the term "newly constructed," as used in the California Constitution, thereby creating a tax appraisal exclusion.

(B) An active solar energy system that uses solar energy in the production of electricity includes storage devices, power conditioning equipment, transfer equipment, and parts related to the functioning of those items. In general, the use of solar energy in the production of electricity involves the transformation of sunlight into electricity through the use of devices ~~such as~~ *, including* solar cells or other collectors. However, an active solar energy system used in the production of electricity includes only equipment used up to, but not including, the stage of the transmission or use of the electricity. For the purpose of this paragraph, the term "parts" includes spare parts that are owned by the owner of, or the maintenance contractor for, an active solar energy system that uses solar energy in the production of electricity and which spare parts were specifically purchased, designed, or fabricated by or for that owner or maintenance contractor for installation in an active solar energy system that uses solar energy in the production of electricity, thereby including those parts in the tax appraisal exclusion created by this section.

(2) An active solar energy system that uses solar energy in the production of electricity also includes pipes and ducts that are used exclusively to carry energy derived from solar energy. Pipes and ducts that are used to carry both energy derived from solar energy and from energy derived from other sources are active solar energy

system property only to the extent of 75 percent of their full cash value.

(3) An active solar energy system that uses solar energy in the production of electricity does not include auxiliary equipment, such as furnaces and hot water heaters, that use a source of power other than solar energy to provide usable energy. An active solar energy system that uses solar energy in the production of electricity does include equipment, such as ducts and hot water tanks, that is utilized by both auxiliary equipment and solar energy equipment, that is, dual use equipment. That equipment is active solar energy system property only to the extent of 75 percent of its full cash value.

(d) This section shall apply to property tax lien dates for the 1999-2000 to ~~2004-05~~ *2016-17* fiscal years, inclusive. For purposes of supplemental assessment, this section shall apply only to qualifying construction or additions completed on or after January 1, 1999.

(e) This section shall remain in effect only until January 1, ~~2006~~ *2018* , and as of that date is repealed, unless a later enacted statute that is enacted before January 1, ~~2006~~ *2018* , deletes or extends that date.

SEC. 2. Section 17053.84 of the Revenue and Taxation Code is amended to read:

17053.84. (a) For each taxable year beginning on or after January 1, 2001, and before January 1, 2004, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the lesser of 15 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar or wind energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar or wind energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(b) For each taxable year beginning on or after January 1, 2004, and before January 1, ~~2006~~ *2017* , there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the lesser of 7.5 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar or wind energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar or wind energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(c) For purposes of this section:

(1) "Applicable dollar amount" means four dollars and fifty cents ($4.50) for any taxable year beginning on or after January 1, 2001, and before January 1, ~~2006~~ *2017* .

(2) "Solar energy system" means a solar energy device, in the form of a photovoltaic system, with a peak generating capacity of up to, but not more than 200 kilowatts, used for the individual function of generating electricity, that is certified by the State Energy Resources Conservation and Development Commission and installed with a five-year warranty against breakdown or undue degradation.

(3) "Wind energy system" means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, with a peak generating capacity of up to, but not exceeding, 200 kilowatts, use for the individual function of generating electricity, that is certified by the State Energy Resources Conservation and Development Commission and installed with a five-year warranty against breakdown or undue degradation.

(4) A credit may be allowed under this section with respect to only one solar or wind energy system per each separate legal parcel of property or per each address of the taxpayer in the state.

(5) No credit may be allowed under this section unless the solar or wind energy system is actually used for purposes of producing electricity and primarily used to meet the taxpayer's own energy needs.

(d) No other credit and no deduction may be allowed under this part for any cost for which a credit is allowed by this section. The basis of the solar or wind energy system shall be reduced by the amount allowed as a credit under subdivision (a) or (b).

(e) No credit shall be allowed to any taxpayer engaged in those lines of business described in Sector 22 of the North American Industry Classification System (NAICS) Manual published by the United States Office of Management and Budget, 1997 edition.

(f) If any solar or wind energy system for which a credit is allowed pursuant to this section is thereafter sold or removed from this state within one year from the date the solar or wind energy system is first placed in service in this state, the amount of credit allowed by this section for that solar or wind energy system shall be recaptured by adding that credit amount to the net tax of the taxpayer for the taxable year in which the solar or wind energy system is sold or removed.

(g) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and the succeeding seven years if necessary, until the credit is exhausted.

(h) This section shall remain in effect only until December 1, ~~2006~~ *2017* , and as of that date is repealed.

SEC. 3. Section 23684 of the Revenue and Taxation Code is amended to read:

23684. (a) For each taxable year beginning on or after January 1, 2001, and before January 1, 2004, there shall be allowed as a credit against the "tax," as defined in Section 23036, an amount equal to the lesser of 15 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar or wind energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar or wind energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.(b) For each taxable year beginning on or after January 1, 2004, and before January 1, ~~2006~~ *2017* , there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to the lesser of 7.5 percent of the cost that is paid or incurred by a taxpayer, after deducting the value of any other municipal, state, or federal sponsored financial incentives, during the taxable year for the purchase and installation of any solar or wind energy system installed on property in this state, or the applicable dollar amount per rated watt of that solar or wind energy system, as determined by the Franchise Tax Board in consultation with the State Energy Resources Conservation and Development Commission.

(c) For purposes of this section:

(1) "Applicable dollar amount" means four dollars and fifty cents ($4.50) for any taxable year beginning on or after January 1, 2001, and before January 1, ~~2006~~ *2017* .

(2) "Solar energy system" means a solar energy device, in the form of a photovoltaic system, with a peak generating capacity of up to, but not more than 200 kilowatts, used for the individual function of generating electricity, that is certified by the State Energy Resources Conservation and Development Commission and installed with a five-year warranty against breakdown or undue degradation.

(3) "Wind energy system" means a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, with a peak generating capacity of up to, but not exceeding, 200 kilowatts, used for the individual function of generating electricity, that is certified by the State Energy Resources Conservation and Development Commission and installed with a five-year warranty against breakdown or undue degradation.

(4) A credit may be allowed under this section with respect to only one solar or wind energy system per each separate legal parcel of property or per each address of the taxpayer in the state.

(5) No credit may be allowed under this section unless the solar or wind energy system is actually used for purposes of producing electricity and is primarily used to meet the taxpayer's own energy needs.

(d) No other credit and no deduction may be allowed under this part for any cost for which a credit is allowed by this section. The basis of the solar or wind energy system shall be reduced by the amount allowed as a credit under subdivision (a) or (b).

(e) No credit may be allowed to any taxpayer engaged in those lines of business described in Sector 22 of the North American Industry Classification System (NAICS) Manual published by the United States Office of Management and Budget, 1997 edition.

(f) If any solar or wind energy system for which a credit is allowed pursuant to this section is thereafter sold or removed from this state within one year from the date the solar or wind energy system is first placed in service in this state, the amount of credit allowed by this section for that solar or wind energy system shall be recaptured by adding that credit amount to the tax of the taxpayer for the taxable year in which the solar or wind energy system is sold or removed.

(g) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and the succeeding seven years if necessary, until the credit is exhausted.

(h) This section shall remain in effect only until December 1, ~~2006~~ *2017* , and as of that date is repealed.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the duties imposed on a local agency or school district by this act were expressly included in a ballot measure approved by the voters in a statewide election, within the meaning of Section 17556 of the Government Code. Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Department of Finance

DRAFT: Executive Council for Business Management Functions

SECTION 1. Chapter 4 (commencing with Section 13370) is added to Part 3 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 4. BUSINESS MANAGEMENT FUNCTIONS

Section 13370. Title

13370. This chapter shall be known and may be cited as the Business Management Functions Act.

Section 13371. Findings and Declarations

13371. The Legislature finds and declares as follows:

(a) Existing state systems do not provide policy-makers and the public with timely, comprehensive and accessible data about important state agency operations such as ongoing expenditures and spending trends, vacancies in positions, the status of state assets, and procurement activity;

(b) The absence of timely, comprehensive and accessible data about state agency operations seriously interferes with proper management and effective oversight of state operations;

(c) Many state agencies have developed their own automated systems to provide their own management with more timely, comprehensive and accessible data about state agency operations, yet those independently developed systems are not interoperable across the enterprise;

(d) The acquisition, adoption and use of statewide data and process standards and statewide systems to support business management functions would substantially improve the state's ability to manage and deploy its human and other resources responsibly, cost-effectively and in accordance with law; and,

(e) Current administrative practices related to business management functions need to be evaluated and, where appropriate, changed to remove redundancy and eliminate counterproductive administrative steps to achieve improved levels of support and functionality.

Section 13372. Definitions

13372. For purposes of this chapter, the following terms shall have the following meanings, unless the context requires otherwise:

(a) "Chart of accounts" means the complete set of standard code definitions used to classify and record common business function transactions in a meaningful way.

(b) "Business management functions" means functions performed by a substantial majority of state agencies including, but not limited to, such functions as planning, budgeting, general accounting, accounts receivable and payable, human resources management, fee collection, asset management, document and records management, workers compensation, purchasing, inventory and vendor control, and grants processing.

(c) "Enterprise architecture for business management functions" means a strategic information base which defines business management functions, the information necessary to operate business management functions, the technologies necessary to support business management functions, and the transitional processes necessary for implementing new business management function technologies.

(d) "Executive Council" means the Executive Council for Business Management Functions established by this chapter.

Section 13373. Executive Council for Business Management Functions

13373. The Executive Council for Business Management Functions is hereby established in state government to provide coordinated leadership in the planning and development of systems to be used by state agencies to support business management functions.

Section 13374. Membership on the Executive Council

13374. The Executive Council shall consist of the following members:

(a) The Director of Finance, who shall serve as chair of the Executive Council;

(b) The Controller;

(c) The Treasurer;

(d) The Secretaries of the Business, Transportation and Housing Agency, the Health and Human Services Agency, the State and Consumer Services Agency, and the Department of Corrections and Rehabilitation,;

(e) The Directors of the Department of General Services and the Department of Personnel Administration; and,

(f) The State Chief Information Officer.

Section 13375. Meetings of the Executive Council

13375. (a) The Executive Council shall meet not less than once each quarter.

(b) For purposes of the Bagley-Keene Open Meeting Act (Article 3 (commencing with Section 11120) of Chapter 2), meetings of the Executive Council shall be limited to meetings convened solely for the specific purpose of carrying out the activities of the Executive Council. The Bagley-Keene Open Meeting Act shall not be construed to apply to any meeting attended by any or all members of the Executive Council in other official capacities convened for other purposes.

(c) A quorum shall consist of six members of the Executive Council. All decisions of the Executive Council shall be made by a majority vote of the voting membership of the full Executive Council.

(d) The Department of Finance shall provide administrative support to the Executive Council.

Section 13376. Enterprise Architecture for Business Management Functions

13376. *(a)* The Executive Council shall establish an enterprise architecture for business management functions.

(b) The Executive Council may require a state agency or all state agencies to use part or all of the enterprise architecture for business management functions under such conditions as the Executive Council may fix.

(c) All state agencies shall cooperate with the Executive Council in establishing the enterprise architecture for business management functions and shall provide such assistance and resources as needed to implement this section.

Section 13377. Chart of Accounts

13377. (a) The Executive Council will begin developing the enterprise architecture for business management functions by establishing a chart of accounts.

(b) The Department of Finance may retain the services of a consultant to assist in the preparation of the chart of accounts.

(c) Notwithstanding Section 10365.5 of the Public Contracting Code, a consultant retained pursuant to this section for the purpose of assisting in the preparation of a chart of accounts shall not be barred from bidding on, or being awarded, any contract to design, develop or implement any business management function system for any state agency.

Section 13378. Enterprise System Planning Report

13378. The Executive Council, or department(s) designated by the Executive Council, may contract with an outside vendor to develop an enterprise system planning report for coordinating and directing statewide enterprise-wide information technology efforts and business applications.

Section 13379. Reporting Requirements of the Executive Council

13379. The Executive Council will report annually on its activities and progress to the Governor and the Joint Legislative Budget Committee. The first report shall be submitted on or before October 1, 2006, and shall include, among other things, a statement of the Executive Council's vision for the acquisition, adoption and use of enterprise-wide data and process standards and enterprise-wide systems to support business management functions.

Local Government Financing

Open Meetings Act

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

SECTION 1. Section 54954.2 of the Government Code is amended to read:

54954.2. (a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall either post an agenda containing a brief general description, generally not to exceed 20 words, of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session, or post an agenda and any nonconfidential materials provided in advance of the meeting to the members of the legislative body. ~~A brief general description of an item generally need not exceed 20 words.~~ The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which amends Section 54954.2 of the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to authorize a legislative body of a local agency to provide to the public the same materials provided to members of the legislative body in advance of a meeting, it is necessary to provide an alternative to requiring the body to post an agenda that contains a brief general description of each item of business on the agenda.

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Item 9840
Augmentation for Contingencies and Emergencies

9840-001-0001—For Augmentation for Contingencies or
Emergencies 50,000,000
Provisions:
1. Subject to the conditions set forth in this item, amounts appropriated by this item shall be transferred, upon approval by the Director of Finance, to augment any other General Fund item of appropriation that is made under this act to an agency, department, board, commission, or other state entity. Such a transfer may be made to fund unanticipated expenses to be incurred for the 2005–06 fiscal year under an existing program that is funded by that item of appropriation, but only in a case of actual necessity as determined by the Director of Finance. For purposes of this item, an ''existing program'' is one that is authorized by law.
2. The Director of Finance may not approve a transfer under this item, *nor may any funds appropriated in augmentation of this item be allocated* ~~or a request to fund a contingency or emergency from a supplemental appropriations bill~~ to fund any of the following: (a) capital outlay, (b) any expense attributable to a prior fiscal year, (c) any expense related to legislation enacted without an appropriation, (d) startup costs of programs not yet authorized by the Legislature, (e) costs that the administration had knowledge of in time to include in the May Revision, or (f) costs that the administration has the discretion to incur or not incur.
3. A transfer of funds approved by the Director of Finance under this item shall become effective no sooner than 30 days after the director files written notification thereof with the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the Senate and Assembly fiscal committees, or no sooner than any lesser time the chairperson of the joint committee or his or her designee may in each instance determine, except for an approval for an emergency expense as defined in Provision 5.
~~*4. The Director of Finance Requests for funding contingencies or emergencies through a supplemental appropriations bill will be considered for inclusion in a bill after the director files written notification thereof with the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the Senate and Assembly fiscal committees.*~~
4. Each notification shall include all of the following: (a) the date the recipient state entity reported to the Department of Finance the need to increase its appropriation, (b) the reason for the expense, (c) the transfer amount approved by the Director of Finance, and (d) the basis of the director's determination that the expense is actually needed.

Each notification shall also include a determination by the director as to whether the expense was considered in a legislative budget committee and formal action was taken not to approve the expense for the 2005–06 fiscal year. Any increase in a department’s appropriation to fund unanticipated expenses shall be approved by the Director of Finance.

5. The Director of Finance may approve a transfer under this item for an emergency expense only if the approval is set forth in a written notification that is filed with the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the Senate and Assembly fiscal committees, no later than 10 days after the effective date of the approval. Each notification for an emergency expense shall state the reason for the expense, the transfer amount approved by the director, and the basis of the director’s determination that the expense is an emergency expense. For the purposes of this item, ‘‘emergency expense’’ means an expense incurred in response to conditions of disaster or extreme peril that threaten the immediate health or safety of persons or property in this state.

6. Within 15 days of receipt, the Department of Finance shall provide, to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the Senate and Assembly fiscal committees, copies of all requests, including any supporting documentation, from any agency, department, board, commission, or other state entity for a transfer under this item. The submission to the Legislature of a copy of such a request does not constitute approval of the request by the Director of Finance. Within 15 days of receipt, the director shall also provide copies to these chairpersons of all other requests received by the Department of Finance from any state agency, department, board, commission, or other state entity *to fund a contingency or emergency through a supplemental appropriations bill augmenting this item.*

7. *(a)* For any transfer of funds pursuant to this item, the augmentation of a General Fund item of appropriation shall not exceed the following during any fiscal year:

(1) 20 percent of the amount scheduled on that line for those appropriations made by this act that are $2,000,000 or less.

(2) $400,000 of the amount scheduled on that line for those appropriations made by this act that are more than $2,000,000 but equal to or less than $4,000,000.

(3) 10 percent of the amount scheduled on that line for those appropriations made by this act that are more than $4,000,000.

~~*(b) Any transfer in excess of the limitations provided in Provision 8 (a) may be authorized not sooner than 30 days after notification in writing of the necessity to exceed the limitations is provided to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or no sooner than any lesser time the chairperson of the joint committee or his or her designee, may in each instance determine.*~~

8. The Director of Finance may withhold authorization for the expenditure of funds transferred pursuant to this item until such time as, and to the extent that, preliminary estimates of potential unanticipated expenses are verified.

9. The Director of Finance shall submit any requests for supplemental appropriations in augmentation of this item to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house. Requests shall include the information and determinations required by provisions 4 and 5. Any amounts appropriated in augmentation of this item shall be subject to each and all of the provisions of this item unless specifically waived by the legislation making the appropriation.

9840-001-0494—For Augmentation for Contingencies or Emergencies, payable from unallocated special funds.. 15,000,000

Provisions:

1. Provisions 1, 2, 3, 4, 5, 6, 7, *8 and 9* of Item 9840-001-0001 also apply to this item, except references to General Fund appropriations shall instead refer to special fund appropriations.
2. For the Augmentation for Contingencies or Emergencies, payable from special funds, there are appropriated from each special fund sums necessary to meet contingencies or emergencies, to be expended only on written authorization of the Director of Finance.

9840-001-0988—For Augmentation for Contingencies or Emergencies, payable from unallocated nongovernmental cost funds 15,000,000

Provisions:

1. Provisions 1, 2, 3, 4, 5, 6, *7, 8, and 9* of Item 9840-001-0001 also apply to this item, except references to General Fund appropriations shall instead refer to nongovernmental cost fund appropriations.
2. For Augmentation for Contingencies or Emergencies, payable from nongovernmental cost funds, there is appropriated from each nongovernmental cost fund that is subject to control or limited by this act, sums necessary to meet contingencies or emergencies, to be expended only on written authorization of the Director of Finance.

Clarification of State Public Works Board Authority to Capitalize Interest and to Issue Lease-Revenue Bonds for any Phase of a Lease Revenue Bond Funded Project

Section 1: Section 15849.6 of the Government Code is amended to read:

15849.6. Notwithstanding any provision of this part to the contrary, the board may issue bonds, notes, or other obligations to finance the acquisition or construction of a public building, facility, or equipment as shall be authorized by the Legislature, in the total amount as shall be authorized by the Legislature, and any additional amount as shall be authorized by the board to pay the cost of financing. This additional amount may include interest during acquisition or <u>interest prior to, during and for a period of six months after</u> construction of the public building, facility, or equipment, interest payable on any interim loan for the public building, facility, or equipment from the General Fund pursuant to Section 15849.1 or from the Pooled Money Investment Account pursuant to Section 16312 or 16313, a reasonably required reserve fund, and the costs of issuance of permanent financing after completion of the construction or acquisition of the public building, facility, or equipment.

This section shall be applicable to, but not limited to, bonds, notes, or obligations of the board which were authorized by appropriations of the legislature made prior to the effective date of this section.

Section 2: Section 15849.7 of the Government Code is added to read:

15849.7. Notwithstanding any other provision of law, including previous specific but more limited grants of authority on or after June 30, 2001, the State Public Works Board is authorized to issue bonds, notes, or bond anticipation notes for any and all phases of any capital outlay project authorized to be financed pursuant to Chapter 5 (commencing with section 15830).

Section 3.

This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to issue lease-revenue bonds for all phases of certain capital outlay projects appropriated after June 30, 2001, it is necessary that this act take effect immediately.