Senate Budget and Fiscal Review

Subcommittee No. 4 Pt 1 2007 Agendas

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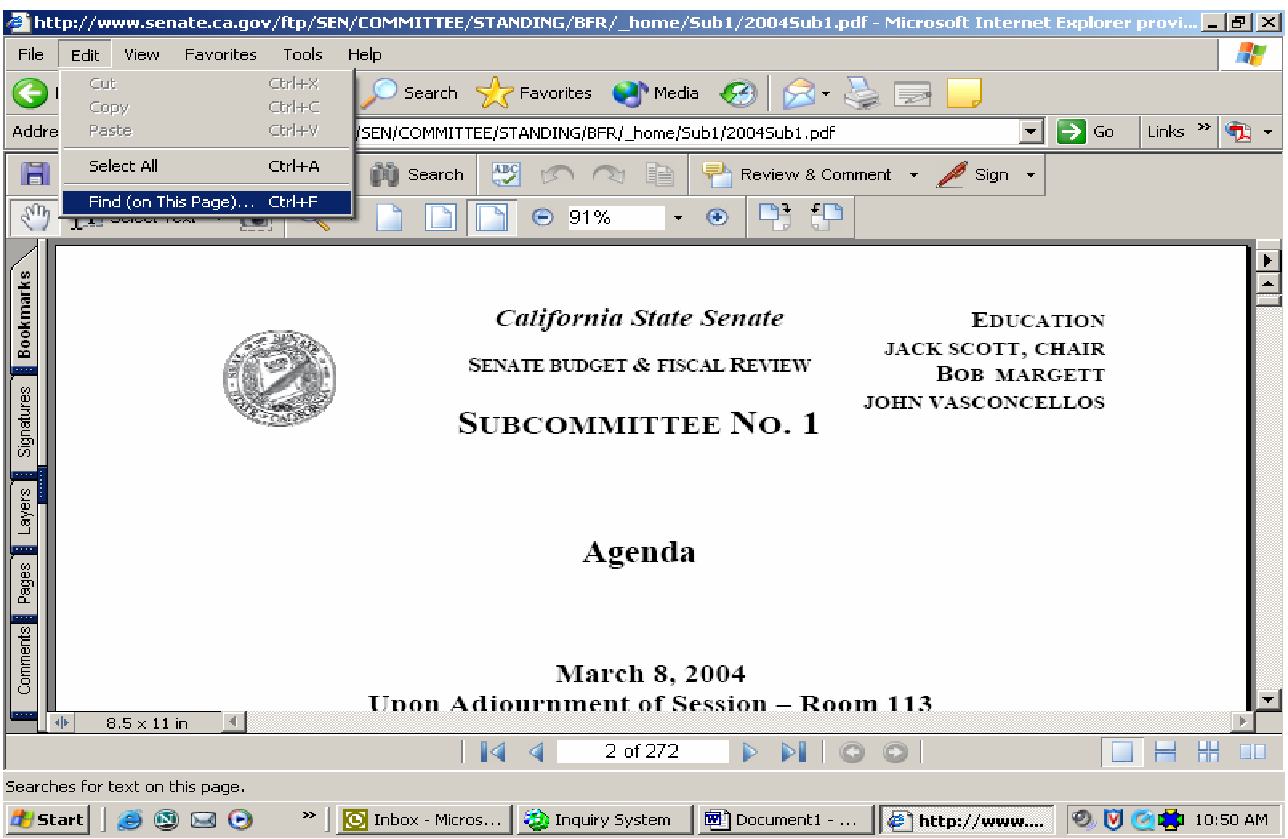


SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Senate Budget and Fiscal Review Subcommittee #4 on State Administration, General Government, Judicial and Transportation

February 21, 2007
9:30 a.m.
Room 112

Governor's Adult Offender Realignment Proposal: Practical and Policy Issues

1. *James Tilton*, Secretary
   California Department of Corrections and Rehabilitation
   - Presentation of Governor's Adult Offender Realignment Proposal

2. *Daniel Carson*, Director
   Legislative Analyst's Office
   Brian Brown, Senior Fiscal and Policy Analyst
   Legislative Analyst's Office
   - Identified Issues

3. *Barry Krisberg*, President
   National Council on Crime and Delinquency
   - Research Supporting Community Corrections Model

4. *Gary Penrod*, Sheriff
   San Bernardino County
   - Impacts of Proposal from Larger County Perspective

   Dennis Downum, Sheriff
   Calaveras County

- Impacts of Proposal from Smaller County Perspective

5. *Jerry Powers*, Chief Probation Officer
   Stanislaus County
   - Impacts of Proposal on Local Probation

6. *James Provenza*, Deputy District Attorney
   Los Angeles District Attorney's Office
   - Impacts on District Attorney's Offices

7. *Michael Johnson*, County Administrator
   Solano County
   Larry Spikes, Chief Administrative Officer
   Kings County
   - Fiscal Impacts of Proposal on Local Government

8. Public Comment

Summary of Selected Adult Corrections Proposals from the 2007-08 Governor's Budget

Adult Offender Realignment Proposal

Governor's Budget Proposal. The Governor has proposed to enact legislation to realign certain offenders from state prison to local jail. The proposal would change the statutory sentence for ten offenses so that those offenders would serve their sentence in jail and not prison. The proposal would not realign offenders that have already been sentenced to prison, but would impact offenders committed after July 1, 2008.

All of the offenses realigned to local jail are felonies and currently carry sentences of three years or less. The length of the sentence and the definition of these offenses as felonies would not be impacted by the Governor's proposal. Offenders serving terms for the following offenses would serve their sentences in local jail under the Governor's proposal:

- Petty Theft with a Prior
- Driving Under the Influence
- Other Property Offenses
- Hashish Offenses
- Forgery/Fraud
- Receiving Stolen Property
- Drug Possession for Sale
- Drug Possession
- Vehicle Theft
- Grand Theft

The Governor's proposal would exclude strikers, lifers, sex registrants, and offenders whose current or prior offense was serious or violent as defined in Penal Code 1192.7(c), 1192.8 or 667.5(c). The proposal excludes parole violators that are returned to custody (PV-RTCs), but would include parole violators returned with new terms (PV-WNTs) if they are not excluded by other criteria.

The Governor's proposal states that it would not change parole requirements for the offenders serving time in local jail. Therefore, when these offenders are released from local jails they will be placed under state parole supervision. *(Footnote: Further discussions with the administration indicate that this component of the proposal is incorrect and that the intent is that the offenders spending time in jail become a local responsibility and would not be placed on parole supervision. Placement on probation would be determined by local jurisdictions.)*

State Fiscal Impact. The California Department of Corrections and Rehabilitation (CDCR) estimates that there are approximately 25,000 offenders that are annually committed under the ten offenses listed above less those that are specifically excluded. They further estimate that the number of offenders will grow to about 27,000 by 2010-2011. The CDCR estimates about $500 million in annualized institution savings from this proposal when it is implemented. However, because the Governor's proposal would not go into effect until July 1, 2008 no savings are built into the 2007-08 budget.

Local Fiscal Impact. In the Governor's 2007-087 Budget Summary the administration recognizes that there will be increased operating costs at the local level related to this proposal. However, the Governor does not propose transferring revenues to the local level to support these increased costs in the budget year.

Other Related Budget Proposals

Revenue Bond for Local Infrastructure. The Governor has proposed $5.5 billion for local jails and juvenile facilities, including $4.4 billion from state lease revenues bonds and $1.1 billion in local matching funds. The administration estimates that this will provide 45,000 local jail beds and 5,000 juvenile beds. The proposal envisions the following mix of new beds:

- Juvenile Beds – 5,000 beds estimated at $100,000 per bed for a total of $500 million.
- Adult Dormitory Beds – 17,000 beds estimated at $100,000 per bed for a total of $1.7 billion. These beds with overcrowding will accommodate 25,500 inmates.
- Adult Jail Cells – 16,500 cells estimated at $200,000 per cell for a total of $3.3 billion. These cells with overcrowding will accommodate 24,750 inmates.

The administration indicates that the additional new beds will be used to accommodate the 25,000 additional offenders that will no longer be serving their sentence in state prison, as well as help relieve current overcrowding and prepare for future population growth.

New Local Probation Grant. The Governor's budget proposes a new probation grant to target the at-risk 18-to 25-year-old probation population. The 2007-08 budget includes $50 million for this new grant. The Governor proposes that the grant will grow to $100 million in 2008-09. The Corrections Standards Authority within CDCR would administer the grant with $275,000.

Under the Governor's budget proposal, the grants would be allocated to local probation departments that submit an action plan to address adult probation services for the 18-25 year old population. The program will require the local probation department to identify the implementation of a validated risk needs assessment tool and will require a plan to use services and programs to address drug treatment, mental health treatment, cognitive behavior skills, and educational/vocational needs. Each county after the submission of the required action plan will receive a minimum $100,000 grant plus a per capita share.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Senate Budget and Fiscal Review Subcommittee #4 on State Administration, General Government, Judicial and Transportation

February 7, 2007
1:30 p.m.
Room 4203

Oversight of Correctional Health Care and Related Lawsuit Compliance

1. Robert Sillen, Federal Receiver
   California Prison Health Care Receivership Corporation
   - General Health Care: *Plata v. Schwarzenegger*

2. Dr. Peter Farber-Szekrenyi, Director
   Division of Correctional Health Care Services
   California Department of Corrections and Rehabilitation
   - Mental Health Care: *Coleman v. Schwarzenegger*
   - Dental Health Care: *Perez v. Tilton*

3. Todd Jerue, Program Budget Manager
   Department of Finance
   - Correctional Health Care Budget
   - Five-Year Infrastructure Plan and Correctional Health Care

4. Public Comment

Summary of Major Correctional Health Care Lawsuits

General Health Care - *Plata v. Schwarzenegger*

Lawsuit Summary. In April 2001, *Plata v. Davis* was filed in federal court contending that the California Department of Corrections and Rehabilitation (CDCR) was in violation of the Eighth (prohibits cruel and unusual punishment) and Fourteenth (right to due process and equal protection) Amendments to the United States Constitution by providing inadequate medical care to prison inmates. Some specific examples of key issues raised in the case include: (1) the lack of nationally recognized medical guidelines for managing inmates with chronic illnesses; (2) inappropriate and inconsistent medical follow-up visits; (3) inadequate number of registered nurses; and (4) poor coordination between medical and custody staff.

In January 2002, the state entered into a settlement agreement, committing to significant changes in the delivery of health care services to inmates. Generally, the settlement agreement focuses on improving inmate access to health care, as well as the quality of health care services provided in the prisons. Under the agreement, independent court-appointed medical experts monitored the implementation of the agreement, and periodically reported to the court on the state's progress in complying with the agreement.

In September 2004, the federal court issued an order finding significant deficiencies in the department's efforts to implement the terms of the settlement agreement and in June 2005, the federal court decided to appoint a Receiver to manage CDCR's health care system. The Receiver will manage CDCR's health care system until the department proves to the court that it is capable and willing to manage a constitutional health care system or contract out for a similar level of care. The current Receiver, Robert Sillen, was appointed by the federal court in February 2006.

Summary of Funding for the Settlement Agreement. In the 2002-03 Budget Act, a seven-year funding proposal was approved to implement the *Plata* settlement agreement signed by the state. So far, $200 million has been added to CDCR's budget in the past five budget years to implement the settlement agreement.

The Governor's 2007-08 budget proposal includes $24.6 million in additional expenditures to implement the *Plata* settlement agreement.

(The past funding listed above for the Plata settlement agreement is an estimate and may not reflect actual historical expenditures. The administration is currently in the process of gathering and refining this data.)

Summary of Funding Directed by the Receiver. The 2006-07 Budget Act also included $100 million in unallocated health care expenditures to fund other actions directed by the Receiver. To date, the Receiver has allocated about half of the $100 million ($50.3 million) to implement various efforts to improve health care in the state prison system. These expenditures have generated $54.6 million in ongoing costs that have been built into the 2007-08 Governor's budget proposal. The following table shows what these monies have funded:

Litigation-Driven Expenditures: *Plata v. Schwarzenegger*
Expenditures Directed by the Receiver
2006-07
(Dollars in Millions)

Summary	One-Time	Ongoing
Court order to increase medical staff salaries, except for doctors	$24.7	$29.6
Establish 300 LVN positions	12.3	18.4
Software and services to implement the Health Care Contracts Document Management system	5.7	1.0
Receiver's operating budget	3.1	-
Establish 41 positions at San Quentin for the Receiver's project at San Quentin	3.0	3.4
Establish 16 RN positions at the Correctional Training Facility	1.2	1.9
Establish various other positions at San Quentin	0.2	0.2
Establish two nurse positions at Corcoran	0.1	0.2
Total	**$50.3**	**$54.8**

The administration has recently proposed an additional $50 million in unallocated health care expenditures to be directed by the Receiver in 2006-07. This will provide the Receiver a total of $150 million for 2006-07 to implement various efforts to improve health care in the state prison system.

The Governor's 2007-08 budget proposal includes an unallocated $150 million for the Receiver to direct in his efforts to improve health care in the state prison system. This is in addition to the $55 million that has been built into the base budget for ongoing actions directed by the Receiver in the current year.

Mental Health Care – *Coleman v. Schwarzenegger*

Lawsuit Summary. In June 1991, *Coleman v. Wilson* was filed in federal court contending that CDCR was in violation of the Eighth (prohibits cruel and unusual punishment) and Fourteenth (right to due process and equal protection) Amendments to the United States Constitution by providing inadequate mental health care to prison inmates. *Coleman v. Wilson* alleged that the department's mental health care system was inadequate in several areas, including intake screening, access to care, treatment, and record-keeping.

As a result, in 1994, the Federal Court ordered the department to develop a remedial plan to correct these deficiencies. The plan developed by the department is referred to as the Mental Health Services Delivery System (MHSDS). The intent of the MHSDS is to provide timely, cost-effective mental health services that optimize the level of individual functioning of seriously mentally disabled inmates and parolees in the least restrictive environment. At this time the court also appointed a Special Master to oversee the implementation of the plan. The current Special Master is J. Michael Keating Jr.

In 1997, CDCR issued a preliminary version of the MHSDS Program Guide, which established preliminary policies and procedures to provide constitutionally adequate mental health services at all CDCR institutions. This Program Guide has been amended several times since 1997 under directives by the federal court. The court has found that successful implementation of the MHSDS Program Guide will require capital improvements at many institutions. The department has developed a Mental Health Bed Plan to address the capital outlay improvements that are needed. An amended version of the Mental Health Bed Plan was released at the end of January 2007.

Summary of Past Funding for the Settlement Agreement. The Legislature has allocated $207 million since 1995-96 to fund settlement of the *Coleman* lawsuit. The funding has supported changes outlined in the MHSDS plan and other specific court orders under the lawsuit.

At the end of the 2006 legislative session, SB 1134 (Budget) was passed to appropriate $35.5 million to fund about 550 new positions found by the court to be needed to implement the revised MHSDS Program Guide. Included in this legislation was a provision for a workload study to justify the need for these additional positions. This study is due to the Legislature on April 1, 2007.

(The past funding listed above for the Coleman settlement is an estimate and may not reflect actual historical expenditures. The administration is currently in the process of gathering and refining this data.)

Governor's Budget. The Governor's budget includes $77.8 million for 2007-08 to fund: (1) salary enhancements for mental health workers; (2) retrofitting of Administrative Segregation Unit Intake Cells for suicide prevention; (3) full year costs associated with the additional positions needed to implement the revised MHSDS Program Guide; and (4) full year costs to implement an Enhanced Outpatient Program at Reception Centers.

Dental Health Care – *Perez v. Tilton*

Case Summary. In December 2005, *Perez v. Hickman* was filed in federal court contending that CDCR was in violation of the Eighth amendment of the United States Constitution by providing inadequate dental care to prison inmates. Some specific examples of key issues raised in the *Perez* class-action lawsuit include: (1) inadequate numbers of dentists and dental assistants; (2) lack of proper training and supervision of staff; (3) insufficient dental equipment such as examination chairs and x-ray machines; (4) poorly organized inmate dental records; and (5) unreasonably long delays for inmates to receive dental treatment, including prisoners with dental emergencies.

The lawsuit was filed concurrently with a settlement agreement reached between the state and the plaintiffs. The agreement committed the state to implement significant changes in the delivery of dental care services to inmates. The agreement requires the department to implement a number of newly developed policies and procedures at all 33 state prisons over a six-year period, beginning with 14 prisons in July 2006. The agreement focuses on improving inmate access to dental care, as well as the quality of dental care services provided in the prisons. For example, the policies and procedures require the department to treat inmates within specified time frames according to the severity of the dental problem and set standards of care that prison dental staff must provide.

In August 2006, the federal court issued a revised order that, among other things, required a lower dental staff to inmate ratio. Currently, there are 950 inmates to one dentist and one dental assistant. The court has ordered this ratio lowered to 515 inmates. The order also directed the department to prepare a revised implementation plan for complying with the settlement agreement.

Generally, the policies and procedures modify or reiterate existing state regulations. For example, under the agreement the department is required to provide a dental examination to inmates within 90 days of arriving at an institution from a reception center and provide subsequent examinations annually for inmates over 50 years of age and biennially for inmates under 50. Title 15 of the California Code of Regulations currently requires examinations within 14 days of an inmate’s arrival; current requirements for subsequent inmate dental examinations are consistent with the settlement agreement. According to the department, none of the 33 prisons currently complies with the policies and procedures.

Summary of Past Funding for the Settlement Agreement. The Legislature has allocated \$56.7 million since 2005-06 to fund settlement of the *Perez* lawsuit. The funds have been used to implement the Inmate Dental Services Program, which is the plan stipulated by the settlement agreement to bring the department into compliance with the United States Constitution.

Governor’s Budget. The Governor’s budget proposal includes \$87.7 million to continue to implement the Inmate Dental Services Program. These funds are to comply with the new lowered dental staff to inmate ratio and for salary enhancements for dental staff.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Thursday, March 1, 2007
10:00 a.m. - Room 112

State Administration—General Government—Judiciary—Transportation

8830 California Law Revision Commission

Background. The California Law Revision Commission (CLRC) was given the responsibility for substantive review of California statutory and decisional law. The Commission studies the law in order to discover defects and anachronisms and recommends legislation to make needed reforms. The Commission studies topics that have been authorized by the Legislature.

The Commission consists of the following members:
- A Senator appointed by the Rules Committee
- An Assembly Member appointed by the Speaker
- Seven members appointed by the Governor with the advice and consent of the Senate
- The Legislative Counsel, who is an ex officio member

Governor's Budget. The Governor's budget proposal includes $743,000 to support the CLRC in 2007-08. This is about the same level of expenditures as in the current year.

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Type of Expenditure				
Commission	$741	$743	$2	0.3
Total	$741	$743	$2	0.3
Funding Source				
General Fund	$726	$728	$2	0.3
Budget Total	*726*	*728*	*2*	*0.3*
Reimbursements	15	15	0	0.0
Total	$741	$743	$2	0.3

Current Study Topics. The CLRC is actively working on the following projects that were approved by the Legislature:
- **Civil Procedure and Court Administration.** Continues work on issues related to the restructuring of the trial courts and making improvements to civil discovery rules, including discovery in unlawful detainer cases.
- **Criminal Law.** Working on a reorganization of the Deadly Weapon Statutes.
- **Real Property.** Working on an overhaul of the Mechanics Lien Law and a reorganization of Common Interest Development Law.
- **Estate Planning.** Working on the creation of a revocable transfer on death deed for real property. This work has been introduced as legislation in the current legislative session (AB 250, DeVore). The CLRC is also reviewing the law governing "no contest clauses"

in estate planning instruments and reviewing the law governing classes of persons who are disqualified from being a beneficiary in an estate planning instrument.

- **Other.** The CLRC is also working on other miscellaneous revisions to state law that will clarify and simplify the statutes. Some of their work is being carried in legislation in the current session (AB 310, Silva).

Staff Recommendation. Staff recommends that the Subcommittee approve the budget for the CLRC as budgeted.

8840 California Commission on Uniform State Laws

Background. In conjunction with other states, the commission 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 the following members: a member of the Senate, a member of the Assembly, six appointees of the Governor, the Legislative Counsel, and two other life-time members. The Legislative Counsel serves as the unofficial executive officer of this commission. The commission generally meets twice annually, once in December and once in July for the national meeting.

Governor's Budget. The Governor's budget proposal includes $149,000 for the Commission on Uniform State Laws in 2007-08. This is the same level of funding as is estimated for expenditure in the current year. The majority of these monies are to fund the national dues to the National Conference of Commissioners on Uniform State Laws. Other monies are used to support per diem costs and travel to the annual national meeting.

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Type of Expenditure				
Commission	$149	$149	$0	0.0
Total	$149	$149	$0	0.0
Funding Source				
General Fund	$149	$149	$0	0.0
Budget Total	*149*	*149*	*0*	*0.0*
Reimbursements	0	0	0	0.0
Total	$149	$149	$0	0.0

Staff Recommendation. Staff recommends that the Subcommittee approve the Governor's budget proposal for the California Commission on Uniform State Laws.

8550 California Horse Racing Board

Background. The California Horse Racing Board (CHRB) licenses racing industry participants, enforces racing rules related to drugs and other offenses, administers efforts to protect racing horses, and oversees programs to improve the health of jockeys and other industry employees. The CHRB regulates operations at 14 racetracks, 20 simulcast facilities, and advance deposit wagering services (available via telephone or on-line).

Governor's Budget. The Governor's budget proposal includes $10.8 million to support the CHRB in 2007-08. This is about 4 percent more than is estimated for expenditure in the current year due to one-time information technology hardware purchases proposed in the budget year.

Excess revenues from unclaimed pari-mutuel tickets (Racetrack Security Fund, also called the Special Deposit Fund) are transferred to the General Fund. The Governor's Budget estimates that $300,000 will be available for transfer to the General Fund.

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Type of Expenditure				
California Horse Racing Board	$10,392	$10,818	$426	4.1
Administration	7,011	8,115	1,104	15.7
less distributed Administration	*-7,011*	*-8,115*	*-1,104*	*0.0*
Total	$10,392	$10,818	$426	4.1
Funding Source				
Special Funds	$8,969	$9,287	$318	3.5
Budget Total	*8,969*	*9,287*	*318*	*3.5*
Special Deposit Fund	1,423	1,531	108	7.6
Total	$10,392	$10,818	$426	4.1

1. Information Technology Backup Plan

Governor's Budget. The Governor's budget proposes $98,500 one-time from the Special Deposit Fund to implement an information technology backup plan for the board's operations.

The funding will be used to acquire software ($16,356), hardware ($42,993), and the expertise of a hardware consultant ($39,152). The board indicates that it currently has no contingency or redundancy plan and this money will enable the board to do the following:

- Establish a new and secure disaster recovery site at the Department of Information Technology Services Datacenter; and
- Back up critical information at a secure datacenter site and recover/restore critical data in a timely manner if the data systems are compromised.

Staff Comments. Staff finds that this proposal would provide for a system of information technology backup that is consistent with other state agencies. Furthermore, staff finds that information technology backup is an important part of maintaining and operating information technology systems. However, staff would note that approving this proposal will directly reduce the amount of revenues available for transfer to the General Fund in the budget year.

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

2. Encryption of Portable Data Processing

Governor's Budget. The Governor's budget proposes $18,000 one-time from the Special Deposit Fund to purchase 15 new laptops for the board's investigative staff.

Justification. The board's investigative staff needs to be able to encrypt data that is transmitted electronically to a variety of law enforcement agencies. The age of the current laptops do not enable the use of enhanced encryption software. Therefore, the board needs to update its hardware so that it can utilize encryption software.

Staff Comments. Staff finds that there is a need to upgrade the hardware utilized by the board's investigative staff. However, staff would note that approving this proposal would directly reduce the amount of revenues available for transfer to the General Fund in the budget year.

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

3. Equine Drug Testing—Informational Item

Background. The CHRB currently performs drug testing of all winners in all races; the first three finishers in stakes races where the purse exceeds $75,000; and six to nine random horses chosen daily. On average, about 20 percent of the horses are post-race tested on any race day under the current program.

The 2006-07 Budget Act included $851,000 million from the Special Deposit Fund to expand the existing equine drug testing program. These monies were accompanied by budget bill language that required the board to report back to the legislature with additional detail on its equine testing program before these monies could be expended.

Governor's Budget. The Governor's budget does not propose any changes to the equine drug testing program funded in the current year.

Report Received. On January 23, 2007, the Legislature received the report required by budget bill language in the 2006-07 Budget Act. This report details the CHRB's plans to expand its drug testing strategy to include several new programs. The board indicates that it plans on implementing a new out-of-competition testing program that will be the first of its kind in the United States. The CHRB indicates that certain performance enhancing drugs can be administered days and weeks before a competition and by race time the drug is gone but the drug's effects may still be present. The board indicates that this is a major risk with certain hormones and blood doping agents. Their current plan includes testing of all horses nominated for graded stakes races approximately 7-10 days prior to the competition.

The board also indicates that it will employ the following tactics to reduce illegal substances:

- Freeze samples for retroactive testing.
- Conduct an in-depth supplemental analysis of some routine samples to detect certain performance enhancing drugs such as Oxyglobin.
- Develop a proteomic and designer drug methodology for Growth Hormone drugs. Currently, the U.S. does not have reference levels for these substances, but they are screened in several European racing jurisdictions.
- Employ pre-race testing to catch certain drugs that are more detectable before the race.

Staff Comments. Staff does not find any issues with the report that has been submitted at this time. However, staff would note that California's testing program is one of the most extensive in the entire United States and is not cheap. Furthermore, the board's report identifies "need" for "at least an additional $1 million" in funding to further upgrade their testing program. Staff finds that the board does not have excess revenues on-budget available at this time to fund this size of an expansion to the drug testing program.

8140 State Public Defender

Background. The Office of the State Public Defender was originally created to represent indigent criminal defendants on appeal. However, since 1990, the mandate of the office has been refocused to death penalty cases. The primary focus of the Office of the State Public Defender is to represent defendants in post capital conviction appeals. The Office has handled habeas corpus appeals in the past, but at present focuses primarily on appeals.

Governor's Budget. The Governor's budget proposal includes $12 million to support the Office of the State Public Defender. This is approximately the same level of funding as is estimated for expenditure in the current year.

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Type of Expenditure				
State Public Defender	$11,988	$12,040	$52	0.4
Total	$11,988	$12,040	$52	0.4
Funding Source				
General Fund	$11,988	$12,040	$52	0.4
Total	$11,988	$12,040	$52	0.4

Current Workload. The Office of the State Public Defender currently has 140 appeal cases and 10 legacy habeas corpus cases. The office indicates that there are over 100 inmates on death row with no counsel for post capital conviction appeal.

Staff Comments. Staff finds that the office currently does not have enough staff to provide counsel to all of the inmates on death row that do not have counsel. Furthermore, staff finds that the office lost 12 legal positions in the mid 2000s during budget reductions that further reduced their ability to cover the workload. In addition, staff finds that the office will be facing a number of retirements in the next few years and needs to recruit additional staff to handle this specialized caseload.

Staff Recommendation. Staff recommends that the Subcommittee:
- Approve the budget for the Office of the State Public Defender.
- Request additional information from the Office of the State Public Defender on efforts to improve recruitment of new legal staff.

1870 Victim Compensation and Government Claims Board

Background. The California Victim Compensation and Government Claims Board's (VCGCB) primary functions are to compensate victims of violent crime and consider and settle civil claims against the state. The Board consists of three members: the Director of General Services who serves as the chair, the State Controller, and a public member appointed by the Governor.

The board also determines equitable travel allowances for certain government officials, responds to protests against the state alleging improper or unfair acts in the procurement process, and provides reimbursement of counties' special election expenses.

Governor's Budget. The Governor's budget proposal includes $139.5 million to support the VCGCB's activities. This is a slight decrease from estimated expenditures in the current year due to one-time payments to reimburse local governments for a special election in the current year. The budget does not propose any General Fund expenditures for the board in the budget year.

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Type of Expenditure				
Citizens Indemnification	$130,125	$128,713	-$1,412	-1.1
Quality Assurance and Rev Recovery Div	8,795	9,489	694	7.9
Disaster Relief Claim Program	19	-	-	-
Civil Claims Against the State	1,364	1,318	-46	-3.4
Citizens Benefiting the Public	20	20	0	0.0
Administration	9,097	9,197	100	1.1
less distributed Administration	*-9,488*	*-9,704*	*-216*	*0.0*
Executive Office Administration	391	507	116	29.7
Counties' Special Education Reimb	1,765	-	-	-
Total	$142,088	$139,540	-$2,548	-1.8
Funding Source				
General Fund	$1,765	-	-	-
Special Funds	106,716	106,035	-681	-0.6
Budget Total	*108,481*	*106,035*	*-2,446*	*-2.3*
Federal Trust Fund	32,224	32,187	-37	-0.1
Reimbursements	1,383	1,318	-65	-4.7
Total	$142,088	$139,540	-$2,548	-1.8

1. Trauma Recovery Center Pilot

Current Year Spending Changes. The Governor's budget reflects an increase in spending in the current year of $1.3 million from the Restitution Fund. These monies were appropriated in AB 50 (Leno) in the 2006 Legislative session to fund the reauthorization of an interagency agreement between the board and the University of California, San Francisco, for the operation of the Trauma Recovery Center at San Francisco General Hospital. This center is a pilot project of the University designed to develop and test a comprehensive model of care as an alternative to fee-for-service care reimbursed by victim restitution funds. This model is attempting to improve access to services for poor people, homeless people, and people with mental health needs that are victims of violent crime.

Staff Comments. Staff finds that the has insufficient formal strategies for reaching out to victims of crime that are poor or homeless and may not understand or be able to practically access the process for accessing monies from the VCGCB. The board indicates that it does work through informal working relationships with counties and victim groups to get the word out about services, but recognizes that some populations are difficult to reach.

Furthermore, the Governor in his signing message of AB 50, directed the VCGCB and DOF to assess the cost of replicating the Trauma Recovery Center at San Francisco General Hospital on a statewide basis to identify appropriate funding sources to fund this proposal. The VCGCB indicates that this report is being developed and has not been completed.

Staff Recommendation. Staff recommends that the Subcommittee request that the board submit the report requested by the Governor in the AB 50 signing message so that the subcommittee can evaluate the feasibility of replicating the Trauma Recovery Center at San Francisco General Hospital.

0280 Commission on Judicial Performance

Background. The Commission on Judicial Performance is an independent agency responsible for investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges pursuant to the California Constitution. The Commission is composed of 11 members: three judges appointed by the Supreme Court; two attorneys appointed by the Governor; and six lay citizens, of whom two are appointed by the Governor, two are appointed by the Senate Committee on Rules, and two are appointed by the Speaker of the Assembly.

Governor's Budget. The Governor's budget includes $4.4 million from the General Fund to support the Commission in the budget year. This is approximately the same level of funding as estimated for expenditure in the current year. There are no budget change proposals for the Commission.

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Type of Expenditure				
Commission	$4,378	$4,400	$22	0.5
Total	$4,378	$4,400	$22	0.5
Funding Source				
General Fund	$4,379	$4,401	$22	0.5
Budget Total	*4,379*	*4,401*	*22*	*0.5*
Judicial Branch Workers' Comp Fund	-1	-1	0	0.0
Total	$4,378	$4,400	$22	0.5

Staff Recommendation. Staff recommends that the Subcommittee approve the budget for the Commission on Judicial Performance as budgeted.

0390 Contributions to the Judges' Retirement System

Background. The Judges' Retirement System (JRS) funds retirement benefits for California's Supreme, Appellate, and Trial Court Judges. Currently there are two systems, one for judges first appointed or elected before 1994 (JRS I) and one for judges first appointed or elected after November 9, 1994 (JRS II). Both of these systems are administered by the California Public Employees' Retirement System (CalPERS).

JRS I Overview. The JRS I system is funded by the following sources:
- Member contributions statutorily set at 8 percent of salary.
- Employer contributions statutorily set at 8 percent of salary.

This plan is a "pay as you go" system and member and employer contributions and interest earnings are insufficient to pre-fund this plan. Therefore, current law requires additional contributions from the General Fund to make up the difference between existing contributions and the required benefit payments to retired judges.

This plan currently has 824 active and inactive members and is paying benefits to 1,667 retirees, survivors, and beneficiaries.

The maximum service retirement formula is 75 percent of active judicial salaries with 20 years of service at age 60. The minimum vesting requirement is five years of service.

JRS II Overview. The JRS II system is funded by the following sources:
- Member contributions statutorily set at 8 percent of salary.

- Employer contributions based on an actuarial valuation that is currently 19.9 percent.

This plan currently has 836 active members and is paying benefits to 11 retirees, survivors, and beneficiaries.

The maximum defined benefit service retirement formula is 75 percent of the average monthly salary during the last 12 months on the bench with 20 years of service at age 65. The minimum vesting requirement is five years of service.

Governor's Budget. The Governor's budget proposal includes $334 million ($175 million General Fund) to support the two judges' retirement systems in the budget year. The budget estimates that $137.5 million from the General Fund will be needed to make up the difference between existing contributions and the actual benefit payments for JRS I in the budget year. Increased benefit payments from JRS I are driving the need for additional General Fund monies and are up about 14 percent over estimated current year levels.

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Type of Expenditure				
State Operations	$3,050	$3,050	$0	0.0
Local Assistance	152,656	171,716	-	-
Unclassified	149,066	159,321	10,255	6.9
Total	$304,772	$334,087	$29,315	9.6
Funding Source				
General Fund	$155,706	$174,766	$19,060	12.2
Budget Total	*155,706*	*174,766*	*19,060*	*12.2*
Judges' Retirement Fund	147,628	157,445	9,817	6.6
Judges' Retirement System II Fund	1,438	1,876	438	30.5
Total	$304,772	$334,087	$29,315	9.6

Staff Comments. There has been a significant amount of discussion in recent years regarding modification of the current retirement system for judges to ensure that the benefits are adequate for retaining experienced judges. Recently, the Chief Justice announced at the State of the Judiciary that he would like to see a change in benefits to lower the retirement age to 63 and require only ten years of service to reach maximum defined benefit service retirement formula. Changes such as these would increase the total state costs to fund judges' retirement.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open to provide for additional time to evaluate the changes to the judges' retirement system.

0250 Judicial Branch

Background. The California Constitution vests California's judicial authority in a three part court system composed of the Supreme Court, the Courts of Appeal, and the Trial Courts (also referred to as Superior Courts). The budget for the Judicial Branch is divided between two main segments, the State Judiciary and the Trial Courts. The State Judiciary encompasses the activities of the following entities:

- **Judicial Council—**The Judicial Council of California administers the state's judicial system. The Administrative Office of the Courts is the administrative arm of the Judicial Council and oversees the Judicial Branch Facility Program.
- **Supreme Court—**The highest court in the state judicial system reviews legal questions of statewide importance and appeals of all death penalty judgments.
- **Courts of Appeal—**The six district Courts of Appeal hear appeals in all areas of civil and criminal law.
- **Habeas Corpus Resource Center—**This center provides legal representation for defendants in death penalty habeas corpus proceedings in the Supreme Court and in the federal courts.

The largest component of the budget for the Judicial Branch is local assistance for California's 58 Trial Courts (one in each county). Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle) shifted primary fiscal responsibility for these courts from the counties to the state. Under this law, the state now funds the Trial Courts above a fixed county contribution.

Additional legislation and a voter initiative have further reshaped the Trial Courts since 1998. Proposition 220, passed by the voters in 1998 unified the county's superior and municipal courts into a one-tier trial court system. Chapter 1010, Statutes of 2000 (SB 2140, Burton) gave the courts the status of independent employers, making Trial Court staff employees of the court. Finally, Chapter 1082, Statutes of 2002 (SB 1732, Escutia), set up a framework to transfer the courthouses from the county to the state. The Judicial Branch is currently in the process of making these transfers and current law allows facilities to be transferred until the end of the 2006-07 fiscal year.

Governor's Budget. The Governor's budget proposes $3.7 billion to support the Judicial Branch, which is 3.6 percent greater than estimated expenditures in the current year. General Fund support for the Judiciary is $2.3 billion, which is about 12 percent greater than estimated expenditures in the current year. The increase in the budget year is primarily due to the year-over-year growth in the State Appropriations Limit and the full-year costs of 50 new judgeships approved in the 2006-07 Budget Act.

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Type of Expenditure				
Supreme Court	$43,332	$44,924	$1,592	3.7
Courts of Appeal	190,781	203,610	12,829	6.7
Judicial Council	121,823	127,529	5,706	4.7
Judicial Branch Facility Program	34,727	36,387	1,660	4.8
State Trial Court Funding	3,091,911	3,265,197	173,286	5.6
Habeas Corpus Resource Center	13,344	14,263	919	6.9
Capital Outlay	87,498	19,527	-67,971	-77.7
Total	$3,583,416	$3,711,437	$128,021	3.6
Funding Source				
General Fund	$2,007,914	$2,251,581	$243,667	12.1
Special Funds	1,489,097	1,394,804	-94,293	-6.3
Budget Total	*3,497,011*	*3,646,385*	*149,374*	*4.3*
Federal Trust Fund	6,371	6,391	20	0.3
Judicial Branch Workers' Comp Fund	2	2	0	0.0
Public Building Construction Fund	21,178	0	-	-
Reimbursements	58,855	58,659	-196	-0.3
Total	$3,583,417	$3,711,437	$128,020	3.6

1. State Appropriations Limit Adjustment

Background. According to state law, the Trial Court Funding program is to receive annual adjustments in funding concurrent with the annual increase in the State Appropriations Limit (SAL). The trial courts receive SAL adjustments for their baseline operations, but these adjustments are to exclude funding provided for judicial officers. Specifically, the SAL statute applies the SAL growth rate annually to the following funding sources for the trial courts:

- Specified General Fund appropriations for the trial courts;
- Maintenance of Effort payments by the counties (set at $698,068,000 in statute);
- Historical state funding shift of revenues from the Trial Court Improvement Fund (fines and penalties) to the Trail Court Trust Fund to cover trial court operations (set at $31,563,000 in statute);
- Funding deposited in the Court Facility Trust Fund (county facility payments) for court facilities that have transferred to the state not less than two years earlier.
- Court filing fees and surcharges deposited into the Trial Court Trust Fund in the 2005-06 fiscal year (set at $369,672,000 in statute).

In 2006, the Judicial Council proposed that the entire Judicial Branch be adjusted annually by SAL. The Legislature rejected this proposal and instead approved legislation to only provide a SAL growth adjustment to the trial courts as outlined above.

Governor's Budget. The Governor's budget proposal would provide that the entire Judicial Branch be adjusted by SAL at a cost of $146.8 million General Fund. This includes $130.1 million for the trial courts consistent with the statutory requirement and $16.7 million for the State Judiciary. The year-over-year change in the State Appropriations Limit for the budget year is 5.36 percent.

Staff Comments. Current law does not require the SAL adjustment to be applied to the budget for the State Judiciary. Nevertheless, the Governor's budget has funded a variety of budget proposals that add up to an amount equal to the SAL adjustment. It is unclear to staff, at this time, whether the budget proposals submitted for the State Judiciary reflect actual needs or if they were backed into after calculating the SAL adjustment amount.

LAO Recommendation. The LAO found a technical error in the SAL computation that overstates the augmentation by $584,000 General Fund. The LAO finds that the AOC did not exclude all salaries of judicial officers from the base as state law provides.

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

Trial Courts

1. Maintenance of Effort Payment Adjustment – Los Angeles County

Background. As part of transfer of the trial court system from county funding to state funding, an annual Maintenance of Effort (MOE) payment by the counties was determined. These payments were based on 1994-95 court baseline costs. The computation of baseline costs for the trial court in Los Angeles County did not reflect retirement costs for the court employees, as the county employee retirement plan had excess funding to offset these costs for several years. Nevertheless, this factor understated the MOE payment for Los Angeles County.

Governor's Budget. The Governor's budget proposes to increase the expenditure authority from the Trial Court Trust Fund by $23.5 million to reflect an increase in the MOE payments from Los Angeles County. The budget proposes making this adjustment in the current and budget years.

Judicial Council Wants SAL on MOE Adjustment. The Judicial Council requests that the SAL statute be amended to reflect the new MOE payment from Los Angeles County. This would trigger an increase in General Fund expenditures of $1.3 million to cover the SAL adjustment on the additional MOE payments. The SAL legislation applied the SAL growth rate to a specific level of MOE payments from the county so legislation would need to be enacted to change this amount.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open since it is related to SAL.

2. New Trial Court Judgeships

Background. In 2006, the Governor proposed adding 150 judges over a three-year period and the Legislature approved 50 new judgeships. The 2006-07 Governor's budget provided one month of funding ($5.5 million) for the 50 new judgeships. To date, the Governor has not made any appointments to fill the new judgeships. The Judicial Council has approved a plan for allocating the 50 judgeships to the following counties:

- Butte – 1
- Contra Costa – 1
- Fresno – 4
- Kern – 2
- Los Angeles – 2
- Madera – 2
- Merced – 2
- Monterey – 1
- Orange – 1
- Placer – 1
- Riverside – 7
- Sacramento – 5
- San Bernardino – 8
- San Joaquin – 3
- Shasta – 1
- Solano – 1
- Sonoma – 2
- Stanislaus – 3
- Tulare – 2
- Ventura – 1

Governor's Budget. The Governor proposes $27.8 million in the budget year and $74.3 million in 2008-09 to add 100 new judgeships over a two-year period beginning in April 2008. This proposal also supports the conversion of up to 162 judicial officers to judgeships, as the positions become vacant, funded from within existing resources. The expenditure of these funds is restricted until legislation authorizing new judgeships is enacted.

Allocation of New Judgeships. The Judicial Council recently approved the allocation of new judgeships requested in the 2007-08 Governor's budget. The planned allocation for new judgeships in the 2007-08 budget year is as follows:

- Butte – 1
- Contra Costa – 1
- Del Norte – 1
- Fresno – 4
- Kern – 3
- Kings – 1
- Los Angeles – 1
- Madera – 1
- Merced – 2
- Monterey – 1
- Orange – 1
- Placer – 2
- Riverside – 7
- Sacramento – 6
- San Bernardino – 7
- San Joaquin – 3
- Shasta – 1
- Solano – 1
- Sonoma – 1
- Stanislaus – 2
- Tulare – 2
- Yolo – 1

The planned allocation of judgeships for the 2008-09 budget year is as follows:

- Contra Costa – 1
- Fresno – 3
- Humboldt – 1
- Kern – 2
- Los Angeles – 1
- Merced – 2
- Monterey – 1
- Orange – 2
- Placer – 2
- Riverside – 6
- Sacramento – 5
- San Bernardino – 7
- San Diego – 1
- San Joaquin – 3
- San Luis Obispo – 1
- Santa Cruz – 1
- Shasta – 1
- Solano – 2
- Sonoma – 1
- Stanislaus – 2
- Sutter – 1
- Tulare – 2
- Ventura – 1
- Yuba - 1

Furthermore, the courts have also identified the subordinate judicial officers that it proposes to convert to judgeships. These officers are located in the following counties:

- Alameda – 6
- Contra Costa – 6
- El Dorado – 2
- Fresno – 3
- Imperial – 1
- Kern – 2
- Los Angeles – 78
- Marin – 2
- Merced – 2
- Napa – 1
- Orange – 14
- Placer – 1
- Riverside – 6
- Sacramento – 5
- San Diego – 7
- San Francisco – 9
- San Luis Obispo – 2
- San Mateo – 2
- Santa Barbara – 2
- Santa Cruz – 1
- Solano – 3
- Sonoma – 2
- Stanislaus – 1
- Tulare – 2
- Yolo - 2

Staff Recommendation. Staff recommends that the subcommittee hold this issue open.

3. Trial Court Security Baseline Adjustments

Background. The 2006-07 Budget Act included $19 million General Fund ongoing to add 97 new entrance screening stations for trial court facilities that currently do not have a permanent and full-time screening station and provide enough funding to establish a five-year equipment replacement schedule. This request was based on a survey of the courts to determine what was needed to provide at least one full-time screening station at each court.

Governor's Budget. The Governor's budget proposal requests $632,000 ($120,000 one-time) from the General Fund to fund screening stations in Del Norte, Modoc, and Stanislaus Counties. The AOC indicates that these three courts failed to identify all of their needs in the survey done last year. This augmentation would be subject to the SAL adjustment in future years.

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

4. Omnibus Conservatorship and Guardianship Reform Act of 2006

Background. The Omnibus Conservatorship and Guardianship Reform Act of 2006 (AB 1363, Jones), was passed in 2006 to reform the conservatorship and guardianship system, including significantly increasing court oversight. These reforms were initiated after evidence that the state's conservatorship system for elderly and dependent adults was fraught with fraud and abuse.

Governor's Budget. The Governor proposes $17.4 million ($3.3 million one-time) General Fund to implement the Conservatorship and Guardianship Reform Act of 2006. This Act increases court oversight over the conservatorship and guardianship system for elderly and dependent adults. These funds are proposed on a two-year limited-term basis so that the courts can better estimate the total costs to implement this new law.

Staff Comments. Staff finds that the legislation that enacted the Omnibus Conservatorship and Guardianship Reform Act of 2006 also requires a report to the Legislature by January 1, 2008, on the findings of a study measuring court effectiveness in conservatorship cases. This report will provide the Legislature with information that measures the effectiveness of this program and whether changes need to be made to ensure that the original intent of the legislation is carried out. This reporting requirement is set out in Probate Code 1458. However, this reporting requirement does not include workload data to determine the appropriate staffing and funding level to implement this program.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve the budget request, and
- Request that the AOC, DOF and LAO work with staff to develop a reporting requirement to ensure that the Legislature receives actual workload data related to this program prior to the approval of permanent staff for this program.

5. Access to Justice Pilot Program

Background. Numerous nonprofit legal aid providers throughout the state assist the poor with various civil legal issues, such as domestic violence and landlord-tenant disputes. The legal aid provided by these programs includes direct legal representation of poor clients who could not otherwise afford an attorney. In 2003, the most recent year for which complete data are available, California legal aid centers received $182 million from state, federal, and private sources. The state provides a relatively small portion of the overall funding for legal aid through the Equal Access Fund, which was created by the Legislature in 1999. These funds are distributed to legal aid agencies through the State Bar's Legal Services Trust Fund Program and are overseen by the Judicial Council.

The state also operates several programs within the trial courts that do not provide legal representation, but do assist self-represented litigants in properly navigating through the court system. Through the Model Self-Help Program, numerous courts provide basic information about the legal process and help individuals properly fill out legal forms to process their court cases. The Family Law Facilitator and Family Law Information Center programs, which are also operated by the courts, provide assistance to self-represented litigants in divorce, child/spousal support, and custody cases.

Governor's Budget. The Governor's budget proposal allocates $5 million from the General Fund to implement a pilot project in three Trial Courts to identify and provide representation to unrepresented litigants on civil matters who need more assistance than what is now available through the self-help programs. The program will help to develop models for providing representation to civil litigants who require representation.

This proposal is in addition to $16 million included in the Governor's budget for the Equal Access Fund and $14 million in state and federal funds for various self-help programs and programs run by the Family Law Facilitator and Family Law Information Center.

LAO Recommendation. The LAO finds creating a new pilot program is not the most efficient means of expanding civil legal services to the poor and that a more efficient approach to expand the civil legal services available to the poor is to provide funding directly to legal aid agencies. Furthermore, the LAO is concerned that this pilot project could lead to significant new costs if expanded to fund legal services for all poor unrepresented litigants in civil cases on a statewide basis. A recent report by the Commission on Access to Justice, a group of lawyers, judges, and community leaders appointed by the State Bar and other state agencies, estimated, in a 2002 report, that an additional $384 million annually would be needed to provide legal services for all the poor in California.

Given the above, the LAO recommends rejecting the Governor's proposal to create a new Access to Justice Legal Representation pilot project.

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

Judicial Council/Administrative Office of the Courts

1. Federal Grants

Background. The Administrative Office of the Courts has a grant unit assigned to stay up-to-date on available grants suitable to fund projects and research at the AOC and/or courts.

Governor's Budget. The Governor's budget proposes expenditures of $1 million in additional federal funds in the budget year. The AOC has been successful in receiving three federal grants from the Federal Health and Human Services Agency and the Federal Department of Justice. These grants were awarded in October 2006 and will continue through September 2010. The AOC will fund the following projects with these grant monies:

- **Child Data Collection –** This grant will help the courts improve their data analysis and collection in child abuse and neglect and foster care cases. It is intended to help jointly plan for the collection and sharing of relevant data and information to ensure safe and timely permanency decisions between the courts and child welfare agencies on the local and state levels.
- **Judge and Attorney Training –** This grant will improve the courts' training of judges and attorneys.
- **Study of Elder Courts –** This grant will assess how courts are processing elder abuse cases through surveys and data collection. The grant will also be used to fund stakeholder focus groups to determine best practices and recommend models for improvement.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve the budget request, and
- Request that the AOC provide additional information on the total amount of the grants and the timeline for the product or projects that are being funded by these monies, including additional information on the type of training being developed and provided.

2. Administrative and Information Technology Services – Technical Adjustment

Background. In the 2006-07 Budget Act, the Legislature deleted $12.3 million in funding from the Trial Court Improvement Fund and the Trial Court Trust Fund for development and implementation of several information technology systems for the trial courts because it was determined to not be needed in the current budget year because of revised implementation schedules. The 2006-07 Budget Act also included budget bill language that allowed the AOC to increase the amount they expended in the current year to implement these projects.

Governor's Budget. The Governor's budget proposes to restore $11.6 million in special funds in the budget year to continue implementation of several administrative and information technology systems for the trial courts. This adjustment includes a $8.4 million increase from the Trial Court Improvement Fund and a $3.2 million increase from the Trial Court Trust Fund.

The budget also proposes to restore $11.6 million in the current year.

The funding will be used to support staffing and related costs associated with the following statewide trial court administrative and information technology services:

Administrative and Information Technology Systems
In Thousands

System/Office	Function	Costs
Court Accounting and Reporting System	Implements an information technology system that enables the trial courts to report timely and accurate financial information.	$5,765
California Case Management System	Supports project management oversight for continued design and development of an integrated trial court case management solution for all case types.	1,782
Court Human Resources Information System	Supports continued design and development of a statewide trial court human resources information system and administrative support.	902
California Courts Technology Center	Supports infrastructure for centralizing court facility technology services, including hosting e-mail, help desk and other services.	728
Data Integration	Supports ongoing efforts to integrate data systems to allow courts to communicate with the counties and the Administrative Office of the Courts.	249
Enhanced Revenue Collection	Supports design and development of an automated fees and collection system within the Case Management System.	547
Regional Office Assistance Group	Supports positions that provide legal advice and assistance directly to the trial courts.	1,615
Total		**$11,588**

Staff Comments. The AOC is required to provide annual reports to the Legislature on the status of the California Case Management System and the Court Accounting and Reporting System (now referred to as the Phoenix Statewide Financial System) and includes the Court Human Resources Information System. The Legislature received the latest report on January 24, 2007, and staff is still in the process of reviewing this report.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open pending additional review of the report submitted to the Legislature.

3. AOC Staffing: Emergency Response and Security Unit

Background. The Emergency Response and Security Unit of the AOC is responsible for assisting the trial courts with emergency planning and security.

Governor's Budget. The Governor's budget proposes an augmentation of $238,000 from the General Fund to add two positions (Administrative Secretary and Administrative Coordinator II) to augment the Emergency Response and Security Unit at the AOC.

Staff Comments. Staff finds that the Governor's budget proposal includes additional positions for several divisions within the AOC, including the Emergency Response and Security Unit. Staff finds that some of these positions may be justified, but needs additional time to review the proposals. These positions are part of the Governor's proposal to provide the SAL adjustment to the State Judiciary. These comments also apply to the next eight items in the agenda.

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

4. AOC Staffing: Appellate and Trial Court Judicial Services Division

Background. The Appellate and Trial Court Judicial Services Unit manages the court-appointed counsel program; provides comprehensive and timely staff support services to the Administrative Presiding Justices Advisory Committee and its subcommittees; acts as a liaison to appellate court justices and staffs; and implements the policies of the Chief Justice for the Assigned Judges Program. The unit also manages the administrative activities related to processing petitions for civil case coordination and compiles and disseminates the vexatious litigant's list.

Governor's Budget. The Governor's budget proposes an augmentation of $131,000 from the General Fund to add one new position (Senior Administrative Coordinator) to the Appellate and Trial Court Judicial Services Division at the AOC.

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

5. AOC Staffing: Office of the General Counsel

Background. The Office of the General Counsel is the division of the AOC responsible for the provision of legal services to the judicial branch of California, including the trial courts, the Courts of Appeal, and the Supreme Court.

Governor's Budget. The Governor's budget proposes an augmentation of $572,000 from the General Fund to add three new positions to the Office of the General Counsel. A new position is requested to support each of the following functions in the Office of the General Counsel:

- **Legal Opinion Services –** New position will provide legal opinions to the courts and to other divisions within the AOC and will also be the primary attorney responsible for developing subject matter expertise in the area of court records management and retention.
- **Probate and Mental Health Law –** New position will join the Rules and Project Unit and will provide legal services to the Judicial Council and to the courts in the area of probate and mental health law.
- **Criminal Law and Traffic Law –** New position will join the Rules and Project Unit and will address the increasing need of the courts and the Judicial Council relative to criminal law and traffic law programs.

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

6. AOC Staffing: Center for Families, Children, and the Courts

Background. The Center for Families, Children and the Courts works to improve the quality of justice and services to meet the diverse needs of families, youth, children, and self-represented litigants in the California courts. Many of the center's projects relate to family, juvenile, child support, custody, visitation, and domestic violence law and procedure. Ongoing projects include developing rules, forms, and standards; providing training, education, and grants; and coordinating research and statistical analysis. The center also initiates projects involving issues of juvenile dependency, victim reconciliation, and court access.

Governor's Budget. The Governor's budget proposes an augmentation of $758,000 for the Center for Families, Children and the Courts to establish four new positions to support the following efforts:

- **Juvenile Delinquency –** Two new positions will address juvenile delinquency state-level policy development and implementation as well as provide support for delinquency court programs.
- **Self-Help Programs –** Two new positions will administer, coordinate, support, and evaluate the self-help programs administered by the trial courts.

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

7. AOC Staffing: Education Division

Background. The Education Division serves as the council's educational resource for the judicial branch, offering a comprehensive educational program to judges, court staffs, and the agency. The division offers a comprehensive statewide educational program to judges and judicial branch staff at the superior and appellate court levels. The division also provides the

AOC with editing and graphics services, copy and production, mail, transportation, travel, conference services, clerical assistance, and records retention through its Administrative Services Unit.

Governor's Budget. The Governor's budget proposes an augmentation of $767,000 from the General Fund to support four new positions to support the following efforts:

- **Probate and Conservatorship Education –** Recent legislation (AB 1363, Jones), enacted in 2006, requires the AOC to provide training to probate investigators, probate examiners, and probate attorneys in addition to judges and subordinate judicial officers related to new laws related to probate and conservatorship.
- **Trial Court Software –** The AOC is in the process of implementing several statewide information technology systems that will require staff training to ensure proper implementation of the new systems.
- **Audio Visual Operations –** The AOC has recently expanded their audiovisual and teleconferencing capabilities and needs additional staff to assist in the operation and ongoing maintenance of these efforts. These systems are used routinely to provide statewide distance education programs.

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

8. AOC Staffing: Executive Office Programs

Background. The Executive Office Programs Division provides support for the Executive Office and other parts of the agency, and includes the Center for Court Research, Planning and Effective Practices; Court Programs Services; Office of Communications; and Secretariat.

Governor's Budget. The Governor's budget proposes $597,000 from the General Fund to support four new positions to support the following efforts:

- **Data Oversight –** Two of the new positions will provide ongoing data auditing and quality control of trial court operational data.
- **New Judgeship Performance Metrics –** One of the new positions will develop judicial administration standards and measures that promote the fair and efficient administration of justice as required by legislation (SB 56, Dunn), enacted in 2006.
- **Appellate Workload –** One of the new positions will work on creating workload standards and measures for the Courts of Appeal.

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

9. AOC Staffing: Finance Division

Background. The Finance Division provides an integrated program of budget planning, asset management, accounting, procurement, contract management, and facility coordination to the judicial branch and the superior courts.

Governor's Budget. The Governor's budget proposes $305,000 from the General Fund to support three new positions to support the following functions:

- **Budget Division –** One additional position is requested (to be hired on January 1, 2008) to perform statewide budget workload that is currently being performed by regional budget analysts.
- **Accounting and Business Services –** Two additional positions are requested (one to be hired on January 1, 2008) to assist in the daily accounting and procurement processes of the AOC.

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

10. AOC Staffing: Information Services Division

Background. The Information Services Division coordinates and supports court technology statewide, manages centralized statewide technology efforts, and optimizes the scope and accessibility of accurate statewide judicial branch information.

The 2006-07 Budget Act added 17 two-year limited-term positions to the Information Services Division to implement various statewide information technology projects.

Governor's Budget. The Governor's budget proposes a reduction of $456,000 in General Fund for the Information Services Division. The budget proposes to eliminate six two-year limited-term positions added in the current year to implement various statewide information technology projects. The budget also proposes to convert the remaining 11 positions added in the current year from limited-term to permanent positions. The AOC has had a difficult time filling these positions because they are limited-term. Furthermore, the budget also proposes to add two new positions to handle increased budget and contract work related to information technology projects.

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

11. AOC Staffing: Human Resources Division

Background. The Human Resources Division provides a full range of human resources services to the judicial branch, as well as direct support to the superior courts, in the areas of recruitment, classification, and compensation; pay and benefits administration; labor and employee relations; integrated disability management; personnel policy development; court interpreter recruitment, certification, and continuing education; and human resources information systems.

Governor's Budget. The Governor's budget proposes $304,000 from the General fund to fund two new positions to develop and implement a plan to provide services currently obtained through an external Third Party Administrator for the benefits program for court employees.

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

Supreme Court

1. California Appellate Project – San Francisco

Background. The Supreme Court of California is required to review the conviction of every person sentenced to death. Currently there are approximately 650 persons on death row awaiting execution and each is entitled to be represented by counsel. Representation in direct appeals is provided by private court-appointed counsel and the Office of the State Public Defender. Representation in death penalty habeas corpus matters is handled by private court-appointed counsel and the Habeas Corpus Resource Center.

The California Appellate Project – San Francisco (CAP-SF) is under a contract with the Supreme Court to provide private court-appointed counsel in the cases referenced above with training and assistance. The CAP-SF also monitors and supervises the progress of counsel during the appellate process, alerting court staff to difficulties that counsel may be encountering during the preparation of the litigation. CAP-SF also assists the court in identifying, recruiting, appointing and retaining qualified private counsel to represent persons condemned to death.

Governor's Budget. The Governor's budget proposal includes an augmentation of $199,000 from the General Fund to fund increased staff and overhead costs for CAP-SF in the budget year. This is in addition to the general price increase being provided to the entire Judicial Branch that will result in a $400,000 increase for the CAP-SF contract in the budget year. The increases being proposed in the budget year would bring the CAP-SF contract to $5.8 million in the budget year.

Staff Comments. Staff finds that there are over 100 inmates on death row that do not have representation for post capital conviction appeals and there are over 270 inmates on death row that do not have habeas corpus representation. These cases are complex and require experience and unique training. Furthermore, the pool of private attorneys and attorneys working for the Office of the State Public Defender expect significant retirements in the next several years that will exacerbate these backlogs if new attorneys are not trained and hired. There is a significant need to attract and train additional attorneys that can handle these specialized caseloads.

Furthermore, staff finds that various overhead costs for CAP-SF have increased that have required reductions in staffing and operating reserves.

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

2. California Judicial Center Library

Background. The California Judicial Center Library (CJCL) is the law library of the California Supreme Court and the California Court of Appeal, First Appellate District. The Administrative Office of the Courts and the attorneys of the Office of the General Counsel also use CJCL. Seven additional law libraries throughout the state support the remaining Courts of Appeal and the Habeas Corpus Resource Center.

Governor's Budget. The Governor's budget proposal includes an augmentation of $43,000 from the General Fund to support the CJCL. This is in addition to the general price increase being provided to the entire Judicial Branch that will result in a $27,329 increase to CJCL's budget.

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

Courts of Appeal

1. Court Appointed Counsel for Children in Dependency Cases

Background. The Child Abuse Prevention and Treatment Act (CAPTA) authorized federal funding of state child protective services programs subject to various conditions. The state must satisfy certain conditions to be eligible for these federal monies. Among those conditions a state must ensure are appointment of a specially trained *guardian ad litem* (person appointed by the court to look out for the best interests of the child during legal proceedings) in every judicial proceeding involving an abused or neglected child. The courts are ineligible to receive these federal funds so the Court Appointed Counsel program has historically been funded by the General Fund.

In 2005, the California Supreme Court found that the *guardian ad litem* requirement of CAPTA extended to appeals. Recent legislation (AB 2480, Evans), in 2006, made this court decision state law.

Governor's Budget. The Governor's budget proposes $1.4 million from the General Fund to support implementation of AB 2480. The courts estimate that providing a *guardian ad litem* for every child in appellate judicial proceedings will grow to $1.7 million in 2008-09.

The courts bases their estimate on the following data from 2004-05:

- There were 1,288 dependency appeals in which a *guardian ad litem* was not appointed for children.
- Of these cases, 10 percent were fully briefed cases and 90 percent were cases in which counsel submitted letter briefs.
- The average cost per case for full briefs was $3,336 and the average cost per case for cases with letter briefs was $1,836.

The courts assume that the *guardian ad litem* will recommend separate appellate counsel for children in all of the cases that are currently fully briefed. It is further estimated that the *guardian ad litem* will recommend separate appellate counsel for children in 25 percent of the cases in which letter briefs are filed.

The funding will be allocated to the following functions:

Function	**Costs**
Cost of Appellate Counsel for Fully Briefed Cases	$430,355
Cost of Appellate Counsel for Letter Briefed Cases	531,981
Workload for Appellate Project	198,187
Training Costs for Trial and Appellate Dependency Panel Attorneys	100,000
Workload for Trial dependency Counsel (*guardian at litem)*	113,260
Total	**$1,373,783**

Staff Comments. Staff finds that the AOC has had to make several assumptions regarding how this new law will impact the workload of the courts. However, because the courts do not have actual data from a pilot project in which to base these assumptions there may be some inherent error in the funding provided. Staff finds that the legislation that enacted this new program requires a report to the Legislature by July 1, 2008, to provide a status of appellate representation of dependent children. However, this report will not provide specific data that would help the Legislature determine appropriate budget resources based on experience and actual data.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve the budget request, and
- Request that the AOC, DOF and LAO work with staff to develop a reporting requirement to ensure that the Legislature receives actual data for this program so that it may review the funding budgeted for this program.

2. Court Appointed Counsel Program

Background. California has a constitutional mandate to provide adequate legal services to indigents in criminal and juvenile matters before the Courts of Appeal. The Courts of Appeal have a Court Appointed Counsel Program to ensure adequate legal representation for these individuals. In 2005-06, 9,168 appointments were made from a pool of over 800 private attorneys.

The attorneys are selected, trained, and mentored by five non-profit appellate projects that contract with the Courts of Appeal to oversee the attorneys' work on each individual case to ensure competency, efficiency, and cost effectiveness. The projects also recommend payment for each case based on the complexity of the case, the experience of the attorney, and the guidelines developed by the Judicial Council's Appellate Indigent Defense Oversight Advisory Committee.

Governor's Budget. The Governor's budget proposal includes a $1.6 million augmentation from the General Fund to support increased costs related to the Court Appointed Counsel Program.

Staff Comments. Over the past two years, hourly rates for court appointed counsel have been increased by $15. This has helped to bring the hourly rates for the attorneys from the pool more in-line with compensation provided by the federal courts ($92 per hour). However, the program continues to have difficulty in attracting new lawyers into the pool and over half of the attorneys in the pool are close to retirement age. Therefore, additional steps may be needed to ensure that there is a sizeable pool of qualified attorneys available to provide court appointed counsel on criminal and juvenile matters before the Courts of Appeal.

Furthermore, staff has additional questions regarding how these funds are proposed to be allocated in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open pending further review.

3. Information Technology Upgrades

Background. The Information Services Division of the Courts of Appeal does not currently have permanent funding allocated in its base budget for periodic replacement and refreshes of aged network equipment that is past its useful life. Therefore, common practice is for each appellate court to redirect its general funds to purchase necessary equipment.

Governor's Budget. The Governor's budget proposes $1.1 million from the General Fund to support the ongoing replacement costs of 11 local network servers for the Courts of Appeal and Supreme Court. The proposal will fund local file and print server refresh and maintenance ($810,000) and network infrastructure refresh ($300,000). This proposal would provide the Information Services Division of the Courts of Appeal a base budget for periodic maintenance and replacement of network equipment that is past its useful life.

LAO Recommendation. The LAO finds that the Courts of Appeal and Supreme Court currently do not have ongoing funding to replace network servers. However, the LAO finds that the AOC has not provided detailed justification as to how the $1.1 million requested in this proposal was calculated. Therefore, absent justification as to how the amount of proposed funding was calculated, the LAO withholds recommendation on this amount pending additional information from AOC.

Staff Recommendation. Staff recommends that the Subcommittee hold this issue open pending further review of information provided to staff this week.

4. Equipment for New Courthouse - Fourth Appellate District

Background. Construction of a new court facility for the Fourth Appellate District, Division Three (Orange County) is scheduled to begin in March of 2007. The new facility will be 53,000 square feet and will replace approximately 34,000 square feet of leased space in two buildings that the court is currently using. Construction of the new building is scheduled to be completed by July 2008.

Governor's Budget. The Governor's budget proposal includes $1.6 million from the Appellate Court Trust Fund. The majority of this funding is one-time and will fund essential non-capital furniture, equipment, and fixtures needed to make the building operational as an appellate court. (Of the total amount, $2,000 is proposed for ongoing maintenance of equipment.) The proposal will fund the following items:

Item	**Costs**
Telephone System	$448,000
Data (Computing) Infrastructure	112,000
New Free Standing Furniture	450,000
Reused or Refurbished Free Standing Furniture (Judges Furniture)	28,000
Bookshelves	198,000
High Density File Storage	272,000
Office Equipment (Copiers and Faxes)	41,000
Audio Visual Equipment	192,000
Security and Access Control Equipment	133,000
Ongoing Maintenance	2,000
Moving and Relocation	120,000
less Architectural Revolving Funds	*-400,000*
Total	**$1,596,000**

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

5. Staffing Augmentation – Fourth Appellate District

Background. Recent legislation (SB 56, Dunn), authorized 50 additional judges to be allocated to various county superior courts based on population and caseload growth. The trial courts that feed the Fourth Appellate District, Division Two (Riverside County) will receive 15 of the new judges reflecting the significant increases in filings in this region of the state.

Governor's Budget. The Governor's budget proposes $108,000 from the General Fund to establish one deputy clerk in the Fourth District Court of Appeal, Division Two (Riverside).

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

6. Staffing Augmentation – Fifth Appellate District

Background. A new courthouse is being constructed for the Fifth Appellate District Court of Appeal in Fresno. Currently, the court is housed in a leased facility in downtown Fresno. The court is scheduled to complete construction and occupy the new courthouse in July 2007.

Governor's Budget. The Governor's budget proposes $173,000 from the General Fund to establish two custodian positions to support the workload and operations of the new courthouse for the Fifth Appellate District Court of Appeal.

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

Habeas Corpus Resource Center

1. Caseload Tracking

Background. The state currently has over 270 inmates on death row that do not have habeas corpus counsel appointed. This caseload continues to grow by 15 to 30 annually. The counsel does not have adequate legal staff to handle all of these cases, and has historically recruited private counsel to handle additional caseload.

Governor's Budget. The Governor's budget proposes $292,000 ($26,000 one-time) in General Fund monies to establish three positions to support capital case docketing and workload tracking functions.

Staff Comments. Staff finds that hiring additional staff to oversee the tracking of the habeas corpus caseload would free up attorney time to do the legal work needed for the habeas corpus appeals. This should improve the overall efficiency and number of cases the Habeas Corpus Resource Center (HCRC) is able to take in a given year.

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

Administrative Office of the Courts: Office of Court Construction and Management

Background. The Office of Court Construction and Management was established in August 2003 as a division of the AOC to implement the Trial Court Facilities Act of 2002, Chapter 1082, Statutes of 2002 (SB 1732, Escutia), that shifts governance of California's courthouses from the counties to the state. The office is responsible for the following activities:

- **Court Facilities Transfers.** The office is responsible for managing the transfer of responsibility and title for more than 450 court facilities from the counties to the state. The Judicial Council and the AOC represent the state in all aspects of transfer negotiations, assume responsibility for the administration and maintenance of court facilities following transfer, and administer all court construction and improvement projects.

- **Trial Courts Capital Outlay Planning**. Trial court and county leaders collaborate with the office to develop a 20-year facility master plan for each of the 58 superior courts in California. The projects were rated using a procedure approved by the Judicial Council and were subsequently consolidated in the AOC's *Trial Court Five-Year Capital Outlay Plan.*
- **Trial Courts Consultation and Advocacy.** The office directly supports the trial courts' facility planning initiatives. Because the counties are responsible for providing the trial courts with "necessary and suitable" facilities until the transfers are executed, the office assists courts in identifying their facility needs and advocating for their positions with the counties.
- **Trial Courts Operations and Maintenance.** The office manages the delivery of facilities operations and maintenance services to courts following transfer. The office maintains a call center for court staff to report facilities problems and is implementing Computer-Aided Facilities Management, a Web-based system that houses data, documentation, and processes related to the design, construction, operations, and maintenance of court buildings.
- **Appellate Courts Acquisition and Development.** The office will establish a comprehensive five-year capital facilities plan for the appellate courts based on their needs and preexisting programs and will work closely with the courts to meet their space requirements. The office will also oversee design and construction of new appellate courthouses.

1. Court Infrastructure Bond—Informational Item

Governor's Budget. The Governor has proposed $2 billion in general obligation bonds for new and expanded court facilities. The Governor indicates that the $2 billion being proposed will handle the most critical infrastructure needs and allow the courts to leverage private funding through public-private partnerships. Potential partnerships include exchanging outdated court facilities on valuable urban land for new court facilities on less prominently located property, co-locating revenue-generating commercial space in new court buildings, and contracting with private firms to construct and operate court buildings in exchange for lease payments. The Governor has proposed trailer bill language to authorize these public private partnerships.

Identified Needs. As mentioned above, the Judicial Branch has identified $9 billion in trial court projects through a 2.5 year Court Master Plan process that was undertaken for the trial courts in each of the 58 counties. These Master Plans have a 20 year planning horizon. The facility requirements were based on the following guidelines and guiding principles:

- A Judicial Council adopted methodology to project and standardize statewide judicial needs based on a set of judicial workload standards and applied to census-based population data and historical caseload data. This methodology is also being used to project the need for future judgeships.

- Trial Court Facility Guidelines that were developed by a Task Force and adopted by the Judicial Council for developing space requirements. Application of these guidelines results in 8,500 to 10,000 usable square feet per courtroom.
- Local trial court public service objectives were also considered, including the distribution of court cases in each county.

The AOC has also developed a methodology for ranking the trial court capital outlay projects by evaluating four program objectives. All of the projects identified in the Court Master Plan process were prioritized based on the following program objectives:

- Improve Security
- Reduce Overcrowding
- Correct Physical Hazards
- Improve Access to Court Services

Metrics were identified to reflect each of the program objectives and each court facility project was evaluated and given a rating. Based on these ratings, the projects were then categorized into five priority groupings. The court has not attempted to rank the projects within each of the five priority groupings. As mentioned above, the 2007-08 Five-Year Infrastructure Plan has identified $9 billion in court facility projects that are categorized into the following priority groupings:

- Immediate Need - $2.5 billion
- Critical Need - $1.8 billion
- High Need - $2.2 billion
- Medium Need - $1.1 billion
- Low Need - $1.3 billion

LAO Withholds Recommendation on Bond. The LAO withholds recommendation on the Governor's proposal to place a $2 billion bond issue on the ballot for courthouse construction. The LAO indicates that it received little detail to support the bond proposal. However, they do recommend further evaluation if additional detail on which facilities would be built or renovated with this funding and whether this level of expenditure is justified. Furthermore, the LAO recommends that legislation be enacted to limit the availability of bond funding to improving or replacing courthouses that have been transferred to the state.

LAO Rejects Public-Private Partnership Language. The LAO recommends that the Legislature reject the proposed companion legislation to establish public-private partnerships for courthouse expansion and recommends directing the AOC to draft new legislative language that would provide a much more specific legislative framework to govern such arrangements if the administration plans to pursue this proposal. The LAO finds that the current language provides a weak model for legislative control and oversight of these projects.

Staff Comments. Staff finds that the courts have proposed funding from the State Court Facility Construction Fund to start the initial planning phases to build several new courts around the state. Full construction costs for these courts cannot be supported by the State Court Facility Construction Fund. Therefore, if these courts are to be built, a bond or General Fund appropriation will be needed to proceed.

2. Appellate Courts Capital Outlay – Informational Item

2007-08 Five-Year Infrastructure Plan. The AOC completed the 2007-08 Five-Year Infrastructure Plan for the Judicial Branch in early 2006. The plan identifies $23.2 million General Fund in the budget year for initial planning phases to construct two new appellate court facilities to replace leased facilities in San Diego and San Jose. The plan also includes $3.1 million General Fund for construction of a new appellate court in Orange County. In 2005, site selection was approved by the Judicial Council for a new appellate court in Santa Ana, Orange County. Design of the new court is underway. A new appellate court is also under construction in Fresno and is expected to be completed by winter 2007. The plan also proposes funding for an expansion of the Riverside appellate court in 2008-09.

Governor's Budget. The Governor's budget does not provide any new monies to support capital outlay projects for the appellate courts in the budget year.

3. Trial Courts Facilities Transfers and Capital Outlay

Status of Trial Court Facilities Transfers. The counties started transferring court facilities to the state in 2004-05. However, the transfer process has been slow and to date only 20 facilities have been transferred. One of the primary reasons for the delay was that a significant number of the court facilities were in need of seismic upgrades that prevented them from being transferred to the state. Legislation enacted in 2006, SB 10 (Dunn), addresses this issue by allowing buildings that need significant seismic upgrades to be transferred to the state so long as liability for all earthquake-related damage remains with the counties.

Current law requires that the counties transfer the court facilities by the end of the current year and the Administrative Office of the Courts expects that another 70 facilities will transfer by this statutory deadline. This leaves 360 court facilities that will not transfer by the statutory deadline.

2007-08 Five-Year Infrastructure Plan. The AOC completed the 2007-08 Five-Year Infrastructure Plan for the Judicial Branch in early 2006. The plan identifies $151.5 million ($73.5 million General Fund) in expenditures for the budget year for various trial court projects considered "Immediate Need." The remaining projects are proposed for funding from the State Court Facilities Construction Fund, which is funded by selected court fine and fee revenues. Revenues to this fund are about $125 million annually and are dedicated to funding trial court facility needs. In total, the plan identified $9 billion in trial court projects, including $2.5 billion in projects considered Immediate Need. The plan also proposes $1.2 billion for additional trial court capital outlay projects in 2008-09.

Governor's Budget. All of the projects listed above are not proposed for funding in the Governor's budget. Of the totals listed above, $19.5 million from the Trial Court Facilities Construction Fund is proposed for expenditure in the budget year for the Trial Courts. No General Fund monies are proposed for new trial court facilities in the budget year.

The budget proposes funding working drawings for the following three projects:

- **New East Contra Costa County Courthouse.** The Governor's budget proposal includes $3.6 million from the State Court Facilities Construction Fund for working drawings to build a new seven-court courthouse in eastern Contra Costa County. The new courthouse will likely be sited in a government center in the City of Pittsburg, but this has not been approved by the Judicial Council and the local government. Approximately $9.5 million has been appropriated to date for acquisition and preliminary plans related to this project.

  The project will replace a four-court courthouse in eastern Contra Costa County. This facility was transferred to the state in May 2006.

- **New Portola/Loyalton Court.** The Governor's budget proposal includes $346,000 from the State Court Facilities Construction Fund for working drawings to build a new one-court courthouse in the Sierra Valley of Plumas County to serve both Plumas and Sierra Counties. The site for the new courthouse has not been identified to date. Approximately, $706,000 has been appropriated to date for acquisition and preliminary plans related to this project.

  This project will replace a part-time courthouse in Portola and leased space in Loyalton. The Portola courthouse transferred to the state in April 2006.

- **New Mammoth Lakes Court.** The Governor's budget proposal includes $725,000 from the State Court Facilities Construction Fund for working drawings to build a new two-court courthouse in Mammoth Lakes, Mono County. The AOC plans to locate the new facility on land purchased from the U.S. Forest Service in Mammoth Lakes where the Southern Mono Hospital District, town of Mammoth Lakes, and Mono County plan to construct a government complex. Details regarding the acquisition of the land from the U.S. Forest Service have not been finalized. Approximately $2 million has been appropriated to date for acquisition and preliminary plans related to this project.

  This project will replace leased space that the court currently occupies in a shopping mall. The leased space was transferred to the state in September 2005.

The budget proposes funding the acquisition phase of the following four projects. All of these projects are in the AOC's Immediate Need priority group.

- **New Madera Court.** The Governor's budget proposal includes $3.4 million from the State Court Facilities Construction Fund for acquisition to build a new 11-court courthouse in or near the City of Madera. The AOC has not identified a site for the new court building.

  This project will replace the existing Madera courthouse and Family Court Services leased facility. These two facilities combined have seven courtrooms. The existing Madera courthouse and the leased space have not transferred to the state, but transfer is expected by April 2007.

- **New San Bernardino Court.** The Governor's budget proposal includes $4.8 million from the State Court Facilities Construction Fund for acquisition to build a new 36-court courthouse in the City of San Bernardino. The AOC has identified property across the street from the historic San Bernardino courthouse for construction of this property, but the site has not been approved by the Judicial Council or the local government.

  This project will consolidate court operations from nine facilities, seven of which will be vacated due to the project. The following facilities will be vacated after this project is constructed:
  - San Bernardino Courthouse Annex (T-Wing)
  - Court Executive Office
  - Appellate and Appeals North Annex
  - Juvenile Delinquency Courthouse
  - San Bernardino Juvenile Traffic
  - Redlands Courthouse
  - Twin Peaks Courthouse

  The Rialto caseload that is currently being served in the Fontana Courthouse will be transferred to San Bernardino, along with three judicial positions, thereby vacating half of the Fontana Courthouse.

  The county is pursuing the renovation of the historic San Bernardino Courthouse to retrofit the 15-court courthouse into a nine-court courthouse that will handle civil caseloads. The county is also pursing renovation of 303 Third Street for long-term use for two Child Support Commissioners.

  San Bernardino County has agreed to set aside $8.8 million to help fund the 36-court courthouse project. These monies were redirected from a project to rehabilitate the T-Wing of the San Bernardino Courthouse that has been abandoned. The County is also funding the renovation of the historic San Bernardino Courthouse and 303 Third Street property.

  The nine facilities have not been transferred to the state, but are expected to by June 15, 2007.

- **New Stockton Court.** The Governor's budget proposal includes $3.3 million from the State Court Facilities Construction Fund for acquisition to build a new 29-court courthouse adjacent to the existing courthouse in downtown Stockton. The AOC has come to a tentative agreement with the City of Stockton to donate the land adjacent to the existing court building, but the site has not been officially designated. The AOC estimates that the value of the land donation from the City of Stockton would be $1.7 million.

  This project will replace the existing 22-court courthouse in downtown Stockton. This courthouse has not been transferred to the state, but transfer is expected by June 2007.

- **New Riverside Mid-County Region Court.** The Governor's budget proposal includes $3.3 million from the State Court Facilities Construction Fund for acquisition to build a new 6-court courthouse in or near the City of Banning in Riverside County. The AOC has not identified a site for construction of this new facility.

  This project will replace an existing 2-court courthouse in the City of Banning. This courthouse has not been transferred to the state, but transfer is expected by June 2007.

Some Sites Not Identified. The budget proposal includes funding for working drawings on three new court facilities. None of these facilities have confirmed sites identified. Staff finds that it may be premature to approve funding for working drawings until the site is confirmed and approved by the local jurisdiction and the Judicial Council.

Many Court Facilities Have Not Transferred. The Governor's budget proposal funds four new court projects that replace existing court buildings and leased space. Staff finds that none of the existing court buildings and leased space to be replaced by the new court buildings has been transferred to the state. The AOC indicates that transfer is imminent, but many things could happen that prevent the transfer of these buildings before July 1, 2007. Furthermore, the LAO has recommended that the state not fund new court projects with bond money where the existing court facilities have not transferred to the state. Staff finds that this should also apply to court facilities funded by the State Court Facilities Construction Fund.

Unclear How Vacated Buildings Will Be Utilized. Over the next few decades, as we build more new courts, the Judicial Branch intends to vacate many existing court building. These buildings, once transferred to the state, are state property. The AOC indicates that their policy is to give the local governments the first right to buy the building, but if they are not interested that the buildings will be disposed of and placed on the surplus property list. Staff finds that this approach does not provide a forum for matching up these vacated facilities with other potential uses, including utilizing the buildings for office space for other state agencies.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Hold open budget proposals to appropriate funds for working drawings and acquisition for the projects listed above.
- Request staff, AOC, LAO, and DOF to work on budget bill language to require approval of the site by the local jurisdiction and the Judicial Council prior to expending funding for working drawings.
- Request staff, AOC, LAO, and DOF to work on budget bill language to require the transfer of all relevant court facilities before expending funding on new court projects.
- Request that Staff, the LAO, the AOC, and DOF work together to determine a forum for evaluating the best use of vacated court buildings.

4. Court Facility Operations and Maintenance

Background. Upon transfer of responsibility and/or title to the state, counties provide funding for facilities operation and maintenance costs based on historic funding patterns. These payments are referred to as county facility payments (CFPs) and are calculated for each facility prior to the transfer of responsibility and/or title of each court facility. County facility payments are deposited in the Court Facilities Trust Fund to support operations and maintenance of court buildings that have been transferred to the state.

Any costs for operating and maintaining court facilities above the CFPs made by counties are the responsibility of the state. Statutory changes that were enacted as part of the 2006-07 budget plan provide for increases in state funding for operating and maintaining court facilities in the future. Specifically, beginning two years after the transfer of a facility, inflationary cost adjustments for operations and maintenance are provided in accordance with the State Appropriations Limit.

Governor's Budget. The Governor's budget has three proposals related to court facility operations and maintenance. The proposals are summarized below:

- **Adjustment for Additional CFPs.** Proposal to augment expenditure authority from the Court Facilities Trust Fund by $805,000 in the budget year to enable expenditure of CFPs for eight additional court facilities that have been transferred to the state since 2005-06 and 2006-07. The facilities include the following:
    - Portola Court (Plumas County)
    - Pittsburg-Delta Court (Contra Costa County)
    - Rancho Juvenile Traffic Court (San Bernardino County)
    - Credit Union Building (Sacramento County)
    - Kerman Court (Fresno County)
    - Finance-Payroll HR (Sacramento County)
    - Sanger Court (Fresno County)
    - Yolo Traffic Court (Yolo County)
    - Larson Justice Center (Riverside County)

- **Adjustment for New Facilities.** Proposal to transfer $412,000 General Fund to the Court Facilities Trust Fund to cover the additional operations and maintenance costs of the new Merced Downtown Court and the new Paso Robles Court that will be completed in the budget year. Both of these facilities are being primarily funded by Merced County and San Luis Obispo County, respectively.

  These projects will replace smaller outdated facilities and the AOC indicates that the CFPs for the existing facilities will not cover the costs of the new facilities. The new Merced Downtown Court will replace six court facilities and the Paso Robles Court will replace one court facility. Neither the existing nor the new facilities have transferred to the state, but the AOC expects the transfer negotiations to be completed by the time the project is completed in January 2007 for the Merced Downtown Court and early 2008 for the Paso Robles Court.

- **Inflation Adjustment for New CFPs.** Proposal to provide $399,000 General Fund to fund an inflationary adjustment for CFPs approved or pending transfer in the current year. This proposal includes $165,000 to account for unfunded utility cost increases and $264,000 to account for other increases in facility maintenance and operating costs.

These adjustments assume that 68 additional facilities will transfer to the state before the end of the current year. This is in addition to the 17 that have transferred to date.

Building Maintenance Payments From Counties Fall Short. The amount paid annually by the counties in the form of a CFP is being determined when each court facility is transferred to the state and is based on a five-year average of operations and maintenance costs developed five years ago. The state is finding that, in many cases, these maintenance payments do not adequately cover the operations and maintenance costs of the buildings, especially given the age and condition of many of these buildings.

As mentioned above, the CFPs are adjusted by the State Appropriations Limit two years after the building has transferred from the county to the state. However, even this amount may not be adequate to address all of the operations and maintenance needs of these aging court buildings.

LAO Recommendation. The LAO withholds recommendation on the $399,000 General Fund to augment the CFP payments expected on the facilities transferred in the current year. The LAO recommends that the AOC report at May Revision with an updated transfer status of the 68 projects expected to transfer to the state by the end of the fiscal year and any additional information on the CFPs expected to be received from counties in 2007-08.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Approve the adjustment for additional CFPs.
- Approve the adjustment for new facilities.
- Hold open proposal to fund inflation adjustment for new CFPs.

SUBCOMMITTEE NO. 4 Agenda

Senator Mike Machado, Chair
Senator Robert Dutton
Senator Christine Kehoe

Thursday, March 8, 2007
10:00 a.m. or upon adjournment of session
Room 112

Consultant: Dave O'Toole

ITEM NUMBER AND TITLE .... ***PAGE***

DISCUSSION ITEMS

APPENDICES

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

VOTE-ONLY ITEMS

0850	California State Lottery Commission
9100	Tax Relief
9612	Enhanced Tobacco Settlement Asset-Backed Bonds
8640	Political Reform Act of 1974
8855	Bureau of State Audits
8910	Office of Administrative Law
Control Section 4.26	Elimination of Boards and Commissions
Control Section 11.00	EDP/Information Technology Reporting Requirements
Control Section 11.10	Reporting of Statewide Software License Agreements

VOTE on Vote-Only Items:_______

DISCUSSION ITEMS—DEPARTMENTS

0502 Office of the Chief Information Officer

The Administration requests 49 positions and $7.8 million (Department of Technology Services Revolving Fund) to establish a centralized information technology (IT) management department and ensure that project specific activities are coordinated with other departments and reflect the state's policies and direction for IT development.

This request stems from the passage of Chapter 533, Statutes of 2006 (SB 834, Figueroa), which established an Office of the Chief Information Officer (OCIO) and proscribed duties including (1) advising the Governor on IT issues, (2) minimizing overlap and redundancy of state IT operations, (3) coordinating the activities of agency information officers, (4) advancing organizational maturity and capacity in IT management, and (5) establishing performance measures for IT systems and services.

According to the bill author's office, "Though the state has a chief information officer, it is not a statutory position, but a designation given to one of the governor's employees, thus the CIO has no specific authority…Experts, both inside and outside of state government, have been calling for the establishment of a statutory CIO."

As envisioned by the Administration, the OCIO would incorporate the project oversight and review function of the Department of Finance's Office of Technology Review, Oversight, and Security (OTROS). (Information security components of OTROS would shift to the State and Consumer Services Agency.) Twenty-six positions in OTROS would shift to the OCIO to continue the project oversight and review activities.

The Administration has submitted trailer bill legislation (see Appendix A) eliminating the SB 834 provisions and replacing them with broader authority and responsibilities and consolidating OTROS into the OCIO.

LAO Comment: The LAO has raised the following concerns with the Administration's proposal:

> ***Planning, Policies, and Standards Makes Sense at CIO.*** *We believe that the administration's proposal to place responsibility for the state's IT planning, policy, and standards with CIO makes sense. The CIO's knowledge of IT industry tools and trends makes this a natural alignment. The CIO role will tend to involve advocacy for those projects which are consistent with these policies and promote the state's IT strategic plan. We do, however, have concerns with other aspects of the proposal.*
>
> ***Overly Ambitious Plans for CIO.*** *In organizing the CIO, the budget proposal lists 15 major goals that will come from its formation—including improving IT procurements, enhancing training of state staff, and reorienting the state's Web pages. There is no prioritization reflected in the proposal. Particularly in CIO's early years, we are concerned that such an aggressive agenda will result in reduced effectiveness. In fact, the same problem plagued DOIT during its existence. In a 2003 report, the Bureau of State Audits found that "DOIT*

attempted to make inroads on many issues, perhaps too many issues, all at once. This scattershot approach did not allow it to garner accomplishments that would engender support and credibility."

Separating Approval From Funding Creates Risks. *The CIO would have no project funding authority, which would remain with DOF's budget staff. In theory, CIO would turn over an approved project to DOF to be fully funded. In practice, however, this could be a challenging process to manage and would require a high level of coordination and information sharing between DOF and CIO. The proposal provides no plan for coordinating project approval and funding.*

Departments could end up with a project approved by CIO's office and still be denied funding by DOF. *This is another problem that contributed to DOIT's failure. At the time, DOIT's responsibility was to approve project plans based on sound management practices and DOF's responsibility was to approve project budgets. Yet, DOF often approved projects at funding below the level recommended by DOIT. Eventually, DOIT's role became diminished because it did not have the financial clout to support its decisions.*

Oversight Must Be Independent. *As a control agency, DOF performs the role of dispassionate review of state programs and projects. This makes its IT oversight more effective by adding objectivity to the process. We are concerned, however, that CIO's advocacy for projects will limit its ability to provide an independent perspective on oversight.*

Security Proposal Would Add Unnecessary Layer*. Information security has not received priority within DOF. Security policies can increase costs, which runs counter to DOF's core mission of controlling costs. Moving the security program out of DOF, therefore, is a positive step. The administration's choice in moving IT security to SCSA appears to be an effort to follow industry practices to separate the CIO from security. To the extent that projects will receive security reviews by SCSA under the new structure, however, it would add another cumbersome layer of review in addition to CIO and DOF. It is also unclear how policies issued by CIO would be integrated with security policies issued by SCSA.*

The LAO recommends the following alternative structure:

Based on the concerns raised above, we recommend that the Legislature amend the administration's proposed IT governance structure. Our recommendation emphasizes CIO's role as a strategic office, while maintaining specific project review and approval at DOF. We describe our alternative below.

Strategic Planning, Policies, and Standards. *The administration's proposal to place these responsibilities with CIO makes sense. The CIO would be the state's IT program expert and should be responsible for its planning and policy development.*

Project Review, Approval, and Oversight. *The current IT project funding and oversight structure has produced a reasonable approach to identifying and managing project risks and has provided balance between risk management and funding constraints. One key component is that DOF has the authority to* *approve, fund, and oversee a project. In addition, particularly in the short term, CIO will have other priorities upon which to focus. Adding the management of every state IT project to CIO's workload will stretch its capabilities, even with OTROS staff relocated. We therefore recommend that OTROS's project review and oversight roles remain at DOF. The CIO would still be involved in the development of key IT projects. The CIO's involvement, however, would be from a strategic perspective rather than the "nuts and bolts" of detailed reviews.*

Information Security. *Information security should receive more focus than it has received under the current structure. Creating a third IT review office (in addition to CIO and DOF), however, could unnecessarily hinder project reviews. We instead recommend that the security function be included within CIO's policies and standards role. As CIO issues statewide policies, it should include the perspective of how security is affected and data could be better protected. The three security positions currently at DOF should be transferred to CIO. We recommend leaving the Office of Privacy Protection within Department of Consumer Affairs where it can continue its consumer-oriented role.*

Staff Comment: In its postmortem on DOIT, *Information Technology: Control Structures Are Only Part of Successful Governance*, the Bureau of State Audits (BSA) opined that the problems DOIT was created to solve had not gone away. The BSA concluded:

- *DOIT faced many challenges, including its composition and organizational placement, an all-encompassing charter to be both an advocate and a control organization, and the inability of state IT stakeholders to collaborate.*
- *Effective IT governance at the state level can be achieved under widely varying structural and procedural arrangements.*
- *Successful IT governance models tend to have the support of executive leaders, a participative leadership style, and an incremental approach to development and implementation of IT initiatives.*
- *Regardless of their approach to IT governance, states face common challenges that lack universal solutions, including the degree of centralization of IT functions and standardization of IT systems, turnover in administrations, lengthy budget cycles, and an aging workforce.*

The same BSA report identified the following key IT governance decisions:

- *Determine the role and responsibilities of the state CIO and the amount of authority to vest in that position. Decisions with respect to policy making, project approval and oversight, IT procurement, and operations, will drive the size and nature of the IT governance structure required to accomplish the CIO's purpose.*
- *Determine the appropriate degree of centralization and consolidation of IT services.*
- *Determine the appropriate degree of standardization that should take place in statewide IT applications.*
- *Establish the proper level of outsourcing for IT activities.*
- *Develop a strategy to mitigate the interruptions and distractions from statewide IT initiatives caused by the periodic turnover of state administrations.*
- *Develop a strategy to mitigate the delays and negative effects caused by the length of the budget cycle on the approval and implementation of IT projects.*

- *Determine the proper balance between the creation of ITspecific plans with agencies' desires for integrated business plans.*
- *Develop a strategy to minimize the disruption that will be caused by the large number of IT employees with expertise concerning older IT systems and applications that are scheduled to retire in the near future.*

The Administration's proposal addresses many of the governance decisions, but also raises several important questions, chief among them:

A return to DOIT? Based on recent history, most notably the ill-fated Oracle licensing contract overseen by DOIT, the Legislature should approach any proposal to realign resources back towards a DOIT arrangement with caution. There should be obvious shortcomings with the current project oversight process or compelling reasons to swing the pendulum so far backwards. As the LAO has noted, evidence of underperformance by OTROS and the benefits of shifting OTROS out of DOF has not been abundant.

Statute never given a chance? The fiscal analysis of SB 834, provided by the Assembly Appropriations Committee, characterizes the expense for the OCIO as "currently funded" and "absorbable." The budget change proposal (BCP) greatly exceeds the expectations of SB 834, requesting funding of $7.8 million and nearly 50 positions. Furthermore, the proposed trailer bill language would eliminate the provisions of SB 834 before implementation even occurs.

Why is IT governance no longer a policy committee issue? The Department of Finance has proposed trailer bill legislation to augment the OCIO's authority to be more consistent with the proposed funding level. Nonetheless, the Subcommittee should carefully consider why this level of proposed authority should not again receive the full scrutiny of the policy committees.

What is the best reorganization? The Subcommittee may also wish to consider OCIO staffing and functional alternatives, including those suggested by the Legislative Analyst's Office (keeping OTROS in place, shifting technology security functions to the OCIO), as well as other alternatives like consolidating the Department of General Services' (DGS) IT procurement function into the OCIO.

The lack of clear authority between DOIT and DGS with regard to procurement was one of criticisms leveled by the Bureau of State Audits. Statute authorizing DOIT was not definitive in roles and DOIT generally deferred to DGS. When the Oracle debacle unfolded, DOIT's role in procurement was characterized by the BSA as "minor."

While DGS may be the long-established manager of state procurement activity, the specialized nature of IT procurements suggests that shifting that portion of DGS's procurement activities may be in the state's best interest. The benefits of a OCIO-controlled procurement process would include more direct accountability for results, a direct link between the strategic plan and the timing of procurements, and better access by departments and vendors alike to procurement decision makers.

This sort of consolidated procurement approach is not unprecedented. The New York State Office of Technology and the Virginia Information Technologies Agency consolidated their procurement activities into a central IT office.

How to fund? Funding for the proposed OCIO is from the Department of Technology Services Revolving Fund, a client-funded department. Since this proposal serves the state as a whole—not only the DTS client departments—the proposed funding mechanism appears inappropriate. If supported, the Department of Finance should identify another funding source, consistent with the beneficiaries of OCIO services.

Where to focus? At the February 22, 2007, "Overview of the State's Information Technology Management Process" hearing, the Chief Information Officer was asked by the Chair of this committee to report back at this hearing with a "blueprint" to address the challenges associated with managing the development and implementation of new IT systems that will replace at least 14 disparate and antiquated IT systems currently used by the California Department of Corrections and Rehabilitation (CDCR). These challenges include facilities with only basic telephone wiring that cannot support deployment of advanced information technology without physical infrastructure upgrades. The blueprint sought should be a detailed, prescriptive, and prioritized document, aimed at bringing online only the truly necessary systems for CDCR in a timely manner.

Staff Recommendation: Request the Chief Information Officer/Administration respond to the LAO and staff analysis, including responses to the following issues:

1. Preliminary findings in developing an IT blueprint for CDCR, as previously requested.

2. The merits of consolidating DGS' IT procurement function into the OCIO.

3. Considerations for the Legislature in deciding whether to reject this proposal altogether and refer to the policy committees.

4. The appropriate funding mechanism for the OCIO.

0650 Office of Planning and Research

The Office of Planning and Research (OPR) assists the Administration with legislative analysis and planning, policy research, and liaison with local governments. The OPR also oversees programs for small business advocacy, rural policy, and environmental justice. In addition, the office has responsibilities pertaining to state planning, California Environmental Quality Act assistance, environmental and federal project review procedures, and overseeing the California Service Corps.

The Governor's budget funds 91.3 positions (including 19 new positions) and expenditures as follows:

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Fund Source				
General Fund	$10,263	$10,436	$173	1.7%
Federal Trust Fund	38,312	38,405	93	0.2
Reimbursements	2,217	3408	1,191	53.7
Total	$50,792	$52,249	$1,457	2.9%

VOTE-ONLY ISSUES

1. Tribal Consultations and Guidelines. The OPR requests $195,000 General Fund to continue training and outreach to tribal governments and updating the state's *General Plan Guidelines,* utilized by communities throughout California when updating their general plans. The request includes a one-year extension of a Senior Planner position for tribal support, established for two years limited-term in the 2005 Budget Act. Pursuant to Chapter 905, Statutes of 2004 (SB 18), the OPR was directed to develop consultation guidelines for local governments and tribes in order to encourage protection of Native American lands.

2. Homeland Security Grant Program. The OPR's California Service Corps requests $3 million in federal fund reimbursements from the State Homeland Security Grant Program in order to enhance local communities' emergency response through training, outreach, and other volunteer service opportunities. The Administration has designated the California Service Corps to administer the federal Citizen Corps Program and coordinate volunteers in the event of an emergency.

3. California Joint Land Use Studies. The Administration requests one time federal fund spending authority of up to $582,000 for the expenditure of remaining funds for land use compatibility planning between military installations and local jurisdictions. The Department of Defense recently augmented their original appropriation by $86,000, which will be paired with $496,000 in remaining federal funds for this purpose.

VOTE on Vote-Only Issues 1, 2, and 3:

DISCUSSION ISSUE:

Office of the Small Business Advocate. The OPR requests $234,000 General Fund and two positions to fund the Office of the California Small Business Advocate (CSBA). Prior to the disestablishment of the Office of Trade and Commerce in 2002, the Office of the CSBA was transferred to the OPR. The OPR has performed the duties of the CSBA over the last five years by periodically establishing a CSBA and funding it from existing resources. However, the OPR believes that 2006 legislation adding new responsibilities for the CSBA to study the effects of state regulation on small businesses and to develop an emergency preparedness handbook necessitates ongoing funding.

Staff Comment: The two pieces of recent legislation cited to justify this proposal, AB 2330 (Arambula) and AB 3058 (Committee on Jobs, Economic Development, and the Economy), were accompanied by appropriations of $85,000 and $100,000, respectively. The department has determined that these appropriations are sufficient for the associated workload.

A second rationale for these two positions is a stated intent to expand the activities of the Office of the Small Business Advocate. However, given the CSBA's demonstrated capacity to redirect positions to accomplish the mission and the lack of statutory direction for new activities (coupled with a severe General Fund shortfall this year), a more better approach may be to defer to the policy committees to evaluate the need to augment the mission and activities of the CSBA.

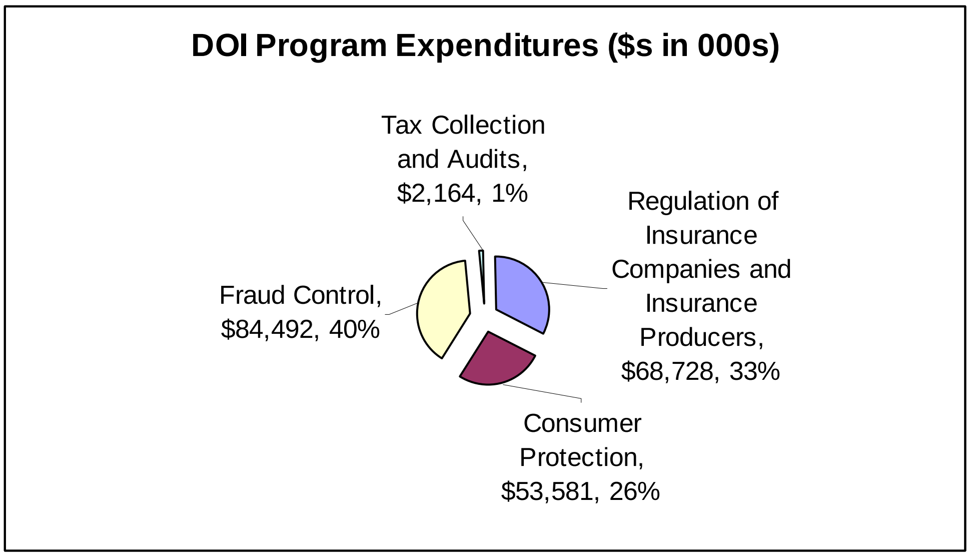
Staff Recommendation: REJECT the BCP, a savings of $234,000 General Fund.

VOTE:

0845 Department of Insurance

Under the leadership of the state's Insurance Commissioner, the Department of Insurance regulates the largest insurance market in the United States with over $118 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 those insurance companies are financially able to meet their obligations to policyholders and claimants. The Department also investigates complaints and responds to consumer inquiries; administers the conservation and liquidation of insolvent and delinquent insurance companies; reviews and approves insurance rates; and combats insurance fraud.

The Governor's budget funds 1,263.4 positions (no new positions) and expenditures of $209.0 million, programmed as follows:



VOTE-ONLY ISSUES

1. Automobile Insurance Fraud Program Spending Authority Increase. The Department of Insurance requests $1.6 million (Insurance Fund) to distribute assessments collected from insurers to district attorneys to investigate and prosecute fraudulent automobile insurance claims. The department's Automobile Insurance Fraud Program is funded by an annual fee of one dollar per insured vehicle, paid by California insurance companies.

2. Life and Annuity Consumer Protection Fund Spending Authority Increase. The Department of Insurance requests a one-time spending authority increase of $750,000 (Insurance Fund) to assist district attorneys in combating life insurance and annuity financial abuse. Based on applications for these funds, they will be distributed to prosecute financial abuse crimes and educate consumers on financial abuse related to life insurance and annuity products.

3. Urban Grant Program: Spending Authority Increase. The Department of Insurance requests a permanent funding increase of $1.4 million (Insurance Fund) to support the Organized Automobile Fraud Activity Interdiction Program (Urban Grant Program). The funds would be made available to local fraud interdiction task forces who have identified a growing number of fraud cases of increasing sophistication.

4. Enterprise Information Portal. The Department of Insurance requests authority to redirect two positions and associated funding from the Regulation of Insurance Companies and Producers Program to the Administration Program to assist in the implementation of the Enterprise Information Portal. The Enterprise Information Portal, a computer system designed to aggregate multiple insurance data sources into a usable format, was established in 2005-06 with a $2 million initial appropriation.

VOTE on Vote-Only Issues 1, 2, 3, and 4:

DISCUSSION ISSUE:

1. Public Participation Program ("Intervenors").
The Department of Insurance proposes an increase of $780,000 (Insurance Fund) ongoing for increased expenses associated with "intervenors," who act on behalf of consumers to participate in rate regulation proceedings and resolve compensation claims conflicts with insurers. Reimbursement of "reasonable costs and fees" for that advocacy may be sought by submitting a request to the Office of the Public Advisor within a specified time frame.

Staff Comment: The intervenor program has encountered budgetary shortfalls during the last two years, requiring the department to submit requests for mid-year appropriations (deficiencies). The dramatically higher program costs in 2006 were directly attributable to the territorial rating issue (eliminating the use of zip codes as an auto rating factor), an issue that has now largely been resolved.

While recent intervenor activity has been unpredictable, the department predicts that the requested augmentation will adequately fund all requests that can reasonably be expected. (The department was also granted expanded authority to transfer funds internally for intervenor activities.) Nevertheless, the uncertainty over appropriate funding of the program suggests the Legislature should revisit the intervenor issue next year.

Additionally, the program has faced scrutiny from some sectors of the insurance industry who object to the difficulty in obtaining information on the identity and activities of intervenors. The department has offered to provide better access to this information, as described in the following suggested budget bill language for Item 0845-001-0217:

> *3. The Department shall include in the annual "Proposition 103 Reocupment Fee Assessment" report funds paid pursuant to Insurance Code Section 1861.10(b), pertaining to reasonable advocacy and witness fees and expenses for intervenors. The report shall be posted on the department's web site and include the following information with respect to each person who initiates or intervenes in ratemaking proceedings:*

(a) The identity of the person and the application for compensation.
(b) The specific ratemaking proceedings in which the person participated.
(c) The fees collected by the person for each ratemaking proceeding in which he or she participated.

Staff Recommendation: APPROVE the BCP for one year only and ADOPT the budget bill language.

VOTE:

2. Upgrade of Legal Branch Positions

The Department of Insurance requests $164,000 (Insurance Fund) to upgrade two Staff Counsel III positions to Staff Counsel IV positions and upgrade 23 Staff Counsel II positions to Staff Counsel III positions. The department believes that expanding scope of practice and retention issues necessitate these salary increases.

Staff Comment:

The Department of Insurance submitted a request on January 19, 2007, to transfer unused salaries from two programs to cover $2.3 million in unanticipated legal expenses. Specifically, $550,000 was transferred from the Fraud Control Program and $1.7 million from the Consumer Protection Program. The department characterized these transfers as all one-time savings. However, based on actual position vacancy data (showing a doubling of Consumer Protection Program vacancies and tripling of Fraud Control vacancies over the last six years), as well as other indicators, it appears that excess funding for salaries is a growing problem. Consequently, the Subcommittee should limit new salary or other expenditures in these programs.

The “Upgrade of Legal Branch Positions” BCP includes $58,000 from the Consumer Protection Program.

Staff Recommendation: REDUCE the “Upgrade of Legal Branch Positions” BCP by $58,000, to reflect reduced salary expenditures in the Consumer Protection Program.

VOTE:

1955 Department of Technology Services

The Department of Technology Services (DTS) was created in 2005 by the reorganization and consolidation of 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. The DTS serves the common technology needs of state agencies and other public entities. The DTS maintains accountability to customers for providing secure services that are responsive to their needs and represent best value to the state. Funding for DTS is provided by contracts with other state departments.

The Governor's budget funds 767 positions (including 3 new positions) and expenditures of $259.8 million.

VOTE-ONLY ISSUES

1. Prior Year Project Expenditure Adjustments. The Administration requests to reduce the DTS' baseline budget to align appropriations with the ongoing costs of related projects. The proposed reductions decrease expenditures by $9.3 million in the budget year. The DTS is a fee-for-service organization and operates solely upon reimbursements. This BCP requests the funding authority needed to meet customer's needs and requirements.

2. Mainframe Central Processing Units Capacity. The Administration requests $4.5 million (DTS Revolving Fund) to purchase mainframe processing capacity in order to meet projected workload increases and upgrade software. The DTS anticipates a need for 912 additional Millions of Instructions Per Second (MIPS) for the seven CPUs in the budget year. This capacity growth need is primarily driven by population growth and the corresponding impact on departments' IT needs.

3. Enterprise Data Storage. The Administration requests $5.3 million in 2007-08 (DTS Revolving Fund) to purchase and upgrade existing data storage capacity and safeguard customer data in order to meet anticipated growth needs of DTS' more than 450 customers. Specific needs have been identified in the mainframe storage capacity, midrange storage capacity, tape storage capacity, and connectivity infrastructure.

4. Midrange Computing Capacity Augmentation (Server Upgrades). The Administration requests $11.1 million (DTS Revolving Fund) to allow for the replacement of 34 UNIX and 180 Windows servers and purchase capacity to support 33 new UNIX servers and 130 new Windows servers. The DTS has identified an anticipated customer-driven workload and seeks to accommodate more than 450 customer entities with this more modern capacity.

5. Network Workload Growth. The Administration requests a $3.9 million increase in DTS Revolving Fund spending authority to replace phased-out hardware and accommodate network growth. The funding supports growth in the Wide Area Network, workload growth in supporting the California Child Support Automation System, and replacement of Local Area Network switches where vendor support is ending.

DISCUSSION ISSUE

Augmentation to Support Implementation of the Financial Information System for California (FISCal). The Department of Technology Services budget includes a request for $352,000 (special funds) and three positions to support the implementation of the Department of Finance's Financial Information System for California (FISCal), a nine-year IT project with an overall estimated price tag of more than $1.3 billion. The new system is an enterprise-wide approach to addressing eventual obsolescence in 11 key fiscal management areas, including budgeting, accounting, procurement, cash management, financial management, financial reporting, cost accounting, asset management, project accounting, grant management, and human resources management.

Staff Comment: The Department of Finance requests that the positions be budgeted at the top step because of the anticipated experience level needed for the DTS. However, this request is inconsistent with longstanding practice and DOF budgeting procedures. If a top step is needed for these new positions, DTS can (as many departments do) redirect salaries from other sources to pay for the exception. Alternatively, the Department of Finance could request a higher classification for the positions.

Staff Recommendation: HOLD OPEN, pending the outcome of hearings on the FISCal proposal.

8620 Fair Political Practices Commission

The Fair Political Practices Commission has primary responsibility for the impartial administration, implementation, and enforcement of the Political Reform Act of 1974. The objectives of the Political Reform Act are to ensure that election campaign expenditure data is fully and accurately disclosed so that the voters may be fully informed, inhibit improper financial practices, and regulate the activities of lobbyists and disclose their finances to prevent any improper influencing of public officials.

The Governor's budget funds 77 positions (including 5 new positions) and expenditures as follows:

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Fund Source				
General Fund	$7,441	$8,048	$607	8.2%
Total	$7,441	$8,048	$607	8.2%

DISCUSSION ISSUE

Administrative Workload Growth. The Fair Political Practices Commission (FPPC) requests five positions and $604,000 in the budget year and $583,000 ongoing to respond to administrative workload growth. Four of the requested positions would assist with budget, personnel, and information technology workload, and one would address conflict of interest review issues in the Technical Assistance Division. The request also includes $20,000 to upgrade the Commission's telephone hardware and software.

Staff Comment: The department explained an unusually high allotment for operating expense by clarifying an unmet operating expense (OE) need totaling $120,000 in the budget year. In the following year (2008-09), a technical error was also identified, requiring a funding reduction of $32,000 that fiscal year and ongoing.

Staff Recommendation: APPROVE the BCP as amended; $604,000 in the budget year and $572,000 ongoing.

VOTE:

8885 Commission on State Mandates

The Commission on State Mandates 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.

The Governor's budget funds 14 positions (with no new positions). No budget change proposals were submitted by the department.

DISCUSSION ISSUES

1. The Administration's Proposal for 2007-08 Mandate Funding (A through D).

A. LOCAL GOVERNMENT MANDATE SUSPENSIONS.
The same twenty-eight mandates that are suspended this year are again recommended for suspension in the budget year.

B. ***STATUTORY REPAYMENT OF PAST DUE STATE MANDATE CLAIMS.***
The Administration proposes no payments for past due state mandate claims to local governments. In accordance with Proposition 1A (2004), the state must repay local agencies within 15 years for all of the pre-2004 mandates that have not been reimbursed. The approximate total of past due local government mandates is nearly $1.0 billion. However, the current year budget included two years' worth of these payments, enabling the state to forego a year's worth of payments in the budget.

C. LOCAL GOVERNMENT STATE MANDATES PAYMENTS.
The budget includes no funding for General Fund mandate payments. The Administration has adopted a new perspective that these costs are due and payable not at the time estimated claims are received (standard practice to date), but rather the year after the local agency submits the bill. This perspective has been reviewed by Legislative Counsel and found not to be unconstitutional. (However, a change to Government Code is necessary to effect this change—see LAO comments.) A budget savings of over $200 million results in this one time cost shift to 2008-09.

LAO Comment: ***Inconsistency Between Budget Funding and Government Code***

> *We recommend the administration either propose funding to pay local governments' mandate bills in 2007-08 (about $150 million) or propose legislation to modify the Government Code to reflect its delayed payment schedule.*
>
> *The 2007-08 budget includes no funding to pay noneducation, non-AB 3632 mandate claims. The administration explains that the state can realize a one-time savings in 2007-08 because: (1) funding in the 2006-07 budget provides sufficient resources to pay all mandate bills submitted in the current year and to make the 2007-08 backlog payment and (2) Proposition 1A shifted the mandate payment due date and now permits the state to pay mandate bills one year after the fiscal year in which local governments submit mandate bills.*

Our review indicates that the administration's first assertion may be accurate. While the State Controller's Office (SCO) is still paying and auditing mandate bills, there appears to be sufficient resources in the 2006-07 budget to pay these mandate bills and make the 2007-08 backlog payment. The SCO advises us that it will have updated estimates of mandate costs in the spring and will provide this information to the Legislature at that time.

With regard to the administration's second assertion (that Proposition 1A shifted the payment date for mandates), we find that the administration's proposed payment schedule is inconsistent with the longstanding payment schedule in the Government Code. Specifically, the Government Code (which was not modified by Proposition 1A) permits local governments to file for mandate reimbursements in the year in which the local government carries out the mandated activity. It further directs SCO to pay these claims promptly, imposing interest penalties on the state if SCO does not pay the claim within 60 days. ***Thus, while Proposition 1A permits the state to pay mandate bills one year after the local government submits the bills, the Government Code specifies an earlier payment schedule.***

In our view, paying mandate bills in the year in which the state imposes a mandated responsibility makes good policy sense. Otherwise, the state may be less likely to consider the fiscal consequences of its actions when making decisions whether to maintain, repeal, or suspend a mandate. For 2007-08, we estimate the cost of funding all currently active (that is, not suspended) mandates would be over $200 million. (This estimate excludes education mandates and AB 3632.)

Accordingly, we recommend the administration propose funding for the mandates it proposes be active in 2007-08. Alternatively, if the administration wishes to postpone these mandate payment obligations, using the flexibility provided under Proposition 1A, we recommend the administration propose changes to the Government Code to be consistent with its delayed payment schedule.

D. NEWLY IDENTIFIED MANDATES.

The Legislative Analyst's Office, pursuant to Chapter 1123, Statutes of 2002 (AB 3000, Committee on Budget), has provided information on three newly identified state mandates. The Department of Finance has indicated that they will pay these costs by proposing budget bill language to allow these mandates to be paid out of residual current year funds (a reappropriation).

LAO Comment:

The three mandates shown in Figure 1 were reported to the Legislature after September 2006. Perhaps due to this late date, the budget bill does not specify the administration's proposals regarding them. That is, the budget bill does not identify funding for them, suspend their requirements, or indicate that their costs are to be deferred. We recommend that, prior to budget hearings, the Department of Finance (DOF) notify the budget subcommittees whether it proposes to fund, defer, repeal, or take other actions concerning these three mandates.

Figure 1 Newly Identified State Mandates		
Mandate	Administration's Budget Proposal	Statewide Cost Estimate
False Reports of Police Misconduct	Fund	$126,024
Crime Victim's Domestic Violence Incident Reports	None specified	918,998
Peace Officer Personnel Records: Unfounded Complaints and Discovery	None specified	1,833,051
Total		$2,878,073

Staff Recommendations:

a. Request the LAO explain their perspective on the Administration's proposals for budget year funding of General Fund mandates and the three newly identified mandates.

b. Request the Department of Finance respond to LAO's analysis, specifically the assertion that Government Code amendments are needed to effect the nonpayment of 2007-08 General Fund mandates.

c. Request Commission on State Mandates and other interested parties respond to the proposals.

2. Mandate Process Changes.
The Administration has proposed the elimination of "reasonable reimbursement methodology" (cost formulas that may be used to reimburse local agencies and school districts, under certain conditions) and the creation of an alternative mandate claim filing process to potentially reduce delays in mandate determinations and reduce costs (see Appendix B).

The new "joint determination" process would encourage local agencies and the Department of Finance to determine together, within 12 months of the enactment of a new statute, whether a new mandate has been established and the cost for that mandate. Costs, once agreed upon by both parties, would be submitted for Legislative review in the budget bill. If either the Department of Finance or local agencies disagreed with the joint determination, they may still opt to follow the existing mandate determination process.

LAO Comment: SUMMARY

The California Constitution requires the state to reimburse local governments for certain state mandates. The process for determining the existence of state mandates and providing local government reimbursements, however, has significant shortcomings. "Test claims" filed by local governments (alleging the existence of a mandate) typically take over five years to be resolved by the Commission on State Mandates. During this time, state fiscal liabilities mount *and local governments carry out mandates without reimbursement. Local governments devote considerable resources to mandate record keeping, but the State Controller's Office disallows about one-third of local government mandate claims because they do not comply with the commission's complex guidelines. Local governments often appeal these claim reductions to the commission, causing further delays in the mandate determination process.*

The administration's proposal to reform this mandate process provides a good starting point for discussion. In this analysis, we review the administration's proposal and offer the Legislature a similar, but more extensive, proposal that includes three significant changes to the mandate process:

> *(1) Simplify the process for local governments to file reimbursement claims by placing greater emphasis on unit cost methodologies.*
>
> *(2) Allow mandate payment methodologies to be developed through negotiations between local government and the Department of Finance.*
>
> *(3) Establish an alternate process to provide early settlement of mandate disputes and bypass the commission entirely.*

The California Constitution generally requires the state to reimburse local governments when it mandates that they provide a new program or higher level of service. State law assigns the Commission on State Mandates the authority to: (1) resolve disputes over the existence of state mandates and (2) develop methodologies (called parameters and guidelines, "Ps&Gs") that local governments follow to calculate the amount they may claim as reimbursements.

CONCERNS WITH THE ADMINISTRATION'S PROPOSAL
While the administration's general approach is on target, its mandate reform proposal would benefit from legislative review and modification because it:

- ***Diminishes the Legislature's Information and Policy Options Regarding Mandates.** Under current law, the Legislature receives a legal decision and proposed methodology regarding each mandate and may direct the commission to reconsider these documents if it believes the commission did not consider important information. The Legislature also may modify the reimbursement methodology and/or reduce funding for a mandate, as long as its actions do not interfere with local government's constitutional right to reimbursement. Under the administration's proposal, in contrast, the Legislature's role is reduced to reviewing the agreement negotiated between the administration and local governments—and accepting or rejecting it.*

- ***Does Not Acknowledge the Legal Alternatives Available to Local Governments That Disagree With a Proposed Settlement**. The administration's proposal appears to assume that a mandate settlement, negotiated between DOF and some local governments, would be the sole form of mandate reimbursement available to local governments. Given that the California Constitution entitles local governments to reimbursement of their mandated costs, we think it is likely that the courts* *would allow local governments that are not satisfied with the funding provided under this negotiated settlement to file court actions for additional reimbursement.*

- ***Expedites and Simplifies Few Mandates.*** *The administration indicates that it wishes to focus its efforts on those claims that are subject to the annual mandate payment requirement of Proposition 1A, approved by the voters in November 2004. This measure provided exceptions for mandates affecting educational agencies and pertaining to employee rights. Such an approach greatly reduces the potential effectiveness of the administration's proposal. Specifically, we note that 55 of the 86 mandate test claims pending before the commission are from educational agencies and 5 others relate to employee rights, both exempt from Proposition 1A's annual payment requirement. Thus, less than a third of these 86 test claims potentially could be expedited under the administration's proposal.*

To address these concerns, we outline below a three-part mandate reform package that is similar to the administration's proposal, but it: (1) maintains the Legislature's policy control regarding mandates, (2) acknowledges the rights of local governments that disagree with the negotiated settlement, and (3) strives to expedite and simplify many mandate claims.

LAO THREE PART MANDATE REFORM PACKAGE
Building on the Governor's proposal, we offer a reform package to expedite and simplify the mandate determination process without altering local rights or state responsibilities under the Constitution's mandate reimbursement requirement. Given the variation in local government mandates, no single change would improve the process for all claims. Accordingly, our reform package includes three elements that we recommend the Legislature enact as optional alternatives to the existing process:

- ***Amend the Existing Reasonable Reimbursement Methodology Statute.*** *Our proposal clarifies the type of easy-to-administer reimbursement methodology that the Legislature envisioned when it enacted this statute. While we would encourage the commission to use this approach to the greatest extent possible, the commission could adopt Ps&Gs using the existing approach (documented actual costs) if it were appropriate for a specific claim.*

- ***Modify the Existing Mandate Process to Allow Reimbursement Methodologies and Estimates of Statewide Costs to Be Developed Through State-local Negotiations, With Minimal Commission Oversight.*** *This option would replace the existing adversarial process with a single negotiated step, expediting the existing process by at least a year. Because the negotiated Ps&Gs would be based on the reasonable reimbursement methodology approach described above, this negotiated process also simplifies the claiming process.*

- ***Create an Alternative Dispute Resolution Process That Bypasses the Commission Process Entirely.*** *This alternative would resolve mandate* *claims in about a year, thus offering the greatest potential for expediting the mandate process. While this alternative probably would be used for only a small number of claims (where there is a wide agreement between local governments and the administration), any reduction in the number of claims would improve the commission's processing time for other claims.*

(The LAO's proposed legislation to effect mandate process changes is shown in Appendix C. This language has also been introduced as AB 1576 (Silva)).

Staff Recommendation:

a. Request the Administration and Legislative Analyst's Office explain their mandate process reform proposals and respond to the other, identifying areas of compromise and future discussion.

b. Request the State Controller's Office, Commission on State Mandates, and other interested parties respond to the alternatives and suggest avenues of exploration.

8940 Department of the Military

The Military Department is responsible for the command, leadership and management of the California Army and Air National Guard and five other related programs. The purpose of the California National Guard is to provide military service supporting this state and the nation. The three missions of the California National Guard are to: (1) supply mission ready forces to the federal government as directed by the President; (2) provide emergency public safety support to civil authorities as directed by the Governor; and (3) support local communities as directed by proper authorities. The Military Department is organized in accordance with federal Departments of the Army and Air Force staffing patterns. In addition to the funding that flows through the State Treasury, the Military Department also receives Federal Funding directly from the Department of Defense.

The Governor's budget funds 780 positions (including 95 new positions) and expenditures as follows:

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Fund Source				
General Fund	$42,330	$44,829	$2,499	5.9%
Armory Discretionary Improvement Account	146	150	4	2.7
Armory Fund	1,425	0	-1,425	-100.0
Federal Trust Fund	68,544	70,548	2,004	2.9
Reimbursements	15,286	15,610	324	2.1
California Military Family Relief Fund	250	250	0	0.0
Total	$127,981	$131,387	$3,406	2.7%

VOTE-ONLY ISSUES

1. Homeland Security Training and Exercise Program. The Administration requests $5.7 million ongoing (reimbursements) and 12 five-year limited-term positions to expend funds received from the Office of Homeland Security for staffing support and operational expenses. (The Office of Homeland Security received these funds from the Department of Homeland Security.) These positions would support the Office of Homeland Security's statewide anti-terrorism program and other training.

2. Federal Reimbursements for Force Protection. The Administration seeks to expend $3.5 million (Federal Trust Fund) and establish 47 three-year limited term positions to provide security for California National Guard installations and Army airfields. The Federal government has agreed to provide security staffing at eight selected California National Guard stations that are considered "mission essential."

3. State Military Reserve Uniform and Travel Funds.   Pursuant to Chapter 597, Statutes of 2006 (SB 1244, Soto), the Administration requests $69,000 General Fund in 2007-08 and $75,000 General Fund annually thereafter for a $125 uniform and travel allowance for State Military Reserve members. Currently, State Military Reserve members receive no travel or uniform allowance for their weekend service training personnel.

4. Fresno Air National Guard Base Maintenance and Staffing. The Administration requests $428,000 ($86,000 General Fund) and six maintenance positions to provide maintenance services to the Fresno National Guard Base's air defense mission. The department reports that the increased operating tempo at the based, coupled with facilities growth, has made the establishment of these positions a necessity.

5. Stationary Engineer Positions.   The Administration seeks to establish two stationary engineer positions at a cost of $292,000 ($166,000 General Fund) to assist in preventive maintenance, perform repairs, and evaluate contractor work at California National Guard facilities. The department is not currently authorized for the Stationary Engineer Positions sought for this specialized type of work.

6. Comptroller and Personal Services Staffing Augmentation. The Administration requests to augment the California National Guard budget by $82,000 General Fund and one position and contract services to coordinate databases, reports, and personal services processes with the State Personnel Board. The contracted services would lead to recommendations regarding whether to replace or modify the Emergency State Active Duty payroll database.

7. Helicopter Crewmember Training. The Administration seeks $138,000 General Fund for helicopter crewmember training to support the Military Support to Civil Authorities during fires and floods. California National Guard personnel have been called upon for firefighting training and water rescues that require special training and equipment.

8. Capital Outlay: Barstow Kitchen and Latrine Renovations. The Administration requests $375,000 ($169,000 General Fund) to renovate and enlarge the kitchen and latrine area at the Barstow Readiness Center. The current kitchen facilities do not meet state requirements and cannot be used for food preparation.

VOTE on Vote-Only Issues 1 through 8:

DISCUSSION ISSUES

1. Informational Issue: Update on the June 2006 State Auditor's Report*: Military Department: It Has Had Problems With Inadequate Personnel Management and Improper Organizational Structure and Has Not Met Recruiting and Facility Maintenance Requirements.*

At the request of the Joint Legislative Audit Committee, in 2006 the Bureau of State Audits conducted an extensive audit of the Military Department, looking specifically at resource management and recruitment and retention practices. The audit identified a number of deficiencies in both areas:

- *(The department) has not effectively reviewed its state active duty positions, and as a result may be paying more for some positions than if they were converted to state civil service or federal position classifications.*
- *It has convened a panel to review the propriety of its 210 state active duty positions and estimates it will take three to five years to implement the panel's recommendations.*
- *It did not follow its regulations when it temporarily appointed many state active duty members to positions that do not appear to be temporary, failed to advertise some vacant positions as required, and inappropriately granted an indefinite appointment to one state active duty member after he reached the mandatory retirement age.*
- *It is deficient in its management of federal employees by using them in positions and for duties that are not federally authorized.*
- *State active duty members who become whistleblowers do not have access to an independent authority to resolve complaints of alleged retaliation.*
- *Although the department's strategic planning process was interrupted by the events following September 11, 2001, and ultimately abandoned by the former adjutant general, the department has recently revived the process.*
- *In establishing new headquarters' divisions and an intelligence unit, the former adjutant general failed to obtain state approval.*
- *The department used federal troop commands and counterdrug program funds for unauthorized purposes when it formed a field command for operations to support civil authorities and established additional weapons of mass destruction response teams.*
- *The department was unable to demonstrate that it ensured all misused counterdrug funds were reimbursed from other federal sources.*
- *In recent years, the Army National Guard and Air National Guard did not meet their respective goals for force strength.*
- *The department does not maintain adequate procedures to demonstrate it accurately reports training attendance or monitors and addresses Guard members with excessive absences.*
- *The State Military Reserve has not met its force strength goals in recent years; and the department has not identified the role for the State Military Reserve, allowing it to identify its force strength needs.*
- *Ninety-five of the department's 109 armories are in need of repair or improvement, contributing to a $32 million backlog. The department's allocations of state and federal funding, including a relatively small amount of money from the Armory Fund, have not been adequate to maintain the armories.*

The Military Department has commenced a number of activities to address identified deficiencies. These activities include:

- Utilizing a State Active Duty review panel to validate the status of existing State Active Duty (SAD) personnel and evaluate practices for assigning those personnel.
- Reconciling funding for some federally-funded positions.
- Improving documentation of Soldier Readiness Processing
- Strengthening the department's strategic planning process and disseminating the plan across the command.

- Resolving reimbursement issues related to the misuse of federal counterdrug funds.
- Initiating new recruitment measures to better meet force strength goals.
- Improving attendance recording at drills and dealing with excessive absences.
- Pursuing a more balance approach towards repairing armories and seeking a baseline budget appropriation from the Legislature for that purpose.

Staff Recommendation:

a. Request the Bureau of State Audits brief their findings from the audit and suggest areas where the Subcommittee could effect positive changes in the Military Department's budget.

b. Request the Military Department update the Subcommittee on actions taken to fix problems identified in the BSA audit.

2. Military Family Relief Fund

The Military Family Relief Fund provides financial aid grants to eligible members of the California National Guard who are California residents and have been called to active duty, under specified conditions. Through a "check-off" on their tax forms, taxpayers may allocate funds for the California Military Family Relief Fund.

The current military family relief tax check-off is effective through 2007. The tax check-did not meet the minimum annual contribution threshold ($250,000) in 2006 and, pursuant to regulation, the final Military Family Relief Fund contribution year will be 2007.

Staff Comment: The Military Family Relief Fund has been marginally successful since first implemented in July 2005. Forty-four applications have been submitted and ten awards made. A total of $461,000 remains in the fund. Last year the Subcommittee sought to increase applications by amending the application to eliminate misconceptions about eligibility and requiring that program information be sent directly to the spouses of every deployed service member.

Additionally, AB 2085 (Parra, 2006) was enacted to ease application requirements for the Military Family Relief funds, by reducing the qualifying amount of salary loss due to deployment and the length of servicemember's activation.

According to the department, there are two key obstacles to greater utilization of the Military Family Relief Fund: (1) existing structure of the program and (2) the lack of a cultural acceptance towards receiving this support. Regarding the former, by enacting AB 2085 and winnowing application requirements to 60 days of deployment and a ten percent overall income loss, the Legislature has reduced requirements to a prudent minimum for this program.

The latter obstacle is harder to quantify but anecdotally seems to be the larger hindrance to better utilization of the fund. To address the cultural challenge, the Subcommittee should consider shifting the Military Family Relief funds into an existing—and culturally accepted—fund like the Chaplains Fund. If shifted, it may be prudent to delay the transfer until after the 2007 tax year has concluded.

A secondary component to ensuring this financial benefit reaches the families of deployed servicemembers is to continue a strong emphasis on outreach. The following language from the 2006 Budget Act, amended to reflect the suggested changes to the Military Family Relief Fund, would preserve that commitment:

> *Of the amount appropriated in Schedule (3), up to $20,000 shall be expended for a comprehensive direct communications initiative to reach each California National Guard service member and his or her family. This initiative shall include, but not be limited to, quarterly mailings of eligibility information and applications for the California National Guard Chaplain's Fund funds to service members and families of deployed service members.*

Staff Recommendations:
1. Notwithstanding existing statute regarding expenditures from the Military Family Relief Fund, shift the collected funds and those to be collected for the 2007 tax year to the Military Department's Chaplains' Fund, effective January 1, 2008, to be used for purposes consistent with that fund.

2. ADD the budget bill language shown above.

VOTE:

3. Border Control Operations: "Operation Jump Start"
Last summer the President activated and deployed National Guard troops from several states along the U.S.-Mexico border for illegal immigration interdiction operations. After more than six months in service, a draft drawdown plan has been written by Customs and Border Patrol (CBP) and the National Guard Bureau. The draft plan envisions reducing National Guard forces (along four states) from 6,000 to 3,000 by September 1, 2007, and down to zero by July 1, 2008.

For the California National Guard, the plan involves reducing CNG soldiers from 1,600 to 594 by September 2007, and down to zero by July 2008.

According to the California National Guard, "National Guard support to the Customs and Border Protection is a temporary bridge until law enforcement can increase its own capabilities." With an appropriation from Congress, the CBP has begun a dramatic hiring increase in offices across the United States, not only along the border.

Staff Recommendation: Request the department report on the status of operations, the anticipated drawdown schedule, and the CBP's prioritization of filling border assignments to relieve California Guardsmen and restore the state's readiness for catastrophic fires, floods, storms, and other state emergencies.

4. Education Assistance Program. The Administration requests $1.7 million General Fund in 2007-08 and $3.3 million General Fund in 2008-09 and ongoing to establish a California National Guard Election Assistance Program to provide tuition assistance for Guard members and support recruitment and retention efforts.

LAO Comment: ***Tuition Assistance Program Duplicates Purpose of Existing Program***

> ***Tuition Assistance to Aid Recruiting.*** *The department requests $1.7 million from the General Fund in the budget year to establish a Tuition Assistance Program (TAP) to aid in recruitment efforts. Program costs would grow to $3.3 million annually in subsequent years. The department request is based on the idea that a tuition program of some type is essential to the recruitment activities of the California National Guard and, without such a program, recruiting quotas will go unfilled. The department reports that it needs to recruit 489 members to attain 100 percent of the federally authorized troop strength. Of a total federally authorized troop strength level of 20,698 members, 489 represents a 2.4 percent shortfall.*
>
> ***Program Already Exists for the Same Purpose.*** *This same rationale for improved recruitment led to the National Guard Assumption Program for Loans for Education (NG-APLE), created by Chapter 345, Statutes of 2003 (AB 547, Liu). The NG-APLE is administered by the California Student Aid Commission (CSAC), and pays off student loans for qualified students who fulfill specified terms of enlistment in the National Guard. The CSAC may only award the number of NG-APLE warrants authorized in the annual budget act. No warrants were authorized until the 2006-07 Budget Act, which authorized 100 grants. The program is due to sunset at the end of 2006-07.*
>
> ***NG-APLE Superior to TAP.*** *There have been concerns about the NG-APLE. For instance, it has taken too long to get off the ground. The CSAC is only now in the process of promulgating regulations for NG-APLE, which are expected to be adopted in April 2007. In addition, there may be too few authorized grants to be of value in overall recruiting. Despite these issues, we believe NG-APLE is superior in design to TAP. First, NG-APLE is easier to administer. As a loan forgiveness program, it only pays benefits once the student has completed his or her military commitment. In contrast, TAP provides payment up front, and thus it would be necessary for the state to try to collect those funds from the student if he or she fails to complete the military commitment. Second, NG-APLE is structured similar to other programs already administered by CSAC. The TAP would create a new program to be administered by the Military Department, which has less experience in administering student financial aid programs. Finally, NG-APLE is established in statute, while TAP would give discretion to the Military Department regarding the allocation of awards.*
>
> ***No Need to Establish New Program.*** *For these reasons, we recommend the Legislature reject the TAP proposal. If the Legislature wishes to continue to provide student financial aid as a way to help recruit and retain National Guard members, we would advise renewing the NG-APLE beyond its June 2007 sunset and authorize additional warrants in the budget year to aid in recruitment.*

Staff Comment: The Administration has submitted education budget trailer bill legislation that would amend the NG-APLE program by extending the operative date from July 1, 2008, to July 1, 2012.

Separate trailer bill legislation to facilitate the tuition assistance program has also been proposed by the Administration (see Appendix D). This proposed legislation mirrors SB 983 (Simitian), which would create the California National Guard Education Assistance Program to promote recruitment and retention of California National Guard personnel. Additionally, it would require the Adjutant General to adopt policies and procedures necessary to implement this program.

The need to approve this request immediately is questionable. According to their response to the BSA audit, the department has met or exceeded its recruiting targets for new recruits and in the federal fiscal year ending September 30, 2006. The report also states, "The department expects to sustain its success in maintaining overall force strength through the newly released recruiting initiative called the Guard Recruiter Assistance Program. Under this program, Army and Air guardsmen are encouraged to recruit for their respective units through a $2,000 cash payment for each new member they recruit."

Based on the comments above, it appears that approving this BCP without a broader discussion about recruitment and retention would be premature and unnecessarily preempt the policy committees.

Staff Recommendation: HOLD OPEN and request the Military Department respond to staff comments. Additionally, the department should: (a) provide the latest recruitment and retention data and (b) explain why this issue should preempt the normal policy process.

5. Armory Maintenance and Repair Baseline Increase.
The Administration seeks to address a maintenance backlog for state armories by establishing a baseline increase of $4.5 million ($3 million General Fund, $1.5 million Federal Trust Fund) for ongoing maintenance and repair budget. These funds would be used for cyclic maintenance and remedial repairs as required. This request follows a one-time augmentation in the same amount for the current year.

Staff Comment: An alternative presented in the BCP suggests a moderated repair schedule, at an annual cost of $1.5 million General Fund and $1.5 million Federal Trust Fund. According to the department, as long as it is predictable funding, this appropriation would still make significant strides in repairing the state's armories.

Given the state's worsening financial condition, it would be more fiscally prudent at this time to adopt a lower appropriation and possibly reconsider a higher ongoing appropriation at a later date. Federal funds would be unaffected by the lower appropriation: the state will still receive $1.5 million from the federal government for this purpose.

In the longer term, additional funding for armory maintenance and repairs will become available when the Economic Recovery Bonds are paid off. The Military Department has many properties that are approaching the end of their useful life and would generate significant sums for armory maintenance and repair. However, all revenues from property sales are diverted to paying off those bonds. The Administration's latest repayment plan indicated that the last payment would occur in August 2009.

Staff Recommendation: REDUCE the BCP by $1.5 million General Fund ongoing**.**

VOTE:

6. New Armory Utilities Costs and Maintenance Cost Increases.
The Administration requests a baseline increase of $774,000 ($442,000 General Fund) and four positions to provide custodial services to four new armories brought online in 2006. Based on the custodial budgets of armories of similar size, the California Military Department estimates operational costs of $124,000 at each armory.

Staff Comment: The department has closed four armories in the last two years. None of these locations were assigned full time custodial staff and no redirectable expenditures were identified by the department. Custodial requirements for these aging armories were met by assigned military personnel and custodians visiting on a biweekly basis.

The four new facilities, like the four that recently closed, will be used mainly on weekends. Consequently, funding for four full time custodians appears excessive. A more fiscally prudent alternative would be to save the General Fund approximately $200,000 and authorize no positions. The department would retain the capacity to redirect funding for custodial services, as it did with the four recently-closed facilities.

Staff Recommendation: REDUCE the BCP by four positions and associated salaries and benefits.

VOTE:

7. Military Funeral Honors Program.
The Governor's Budget includes $1.8 million (General Fund) and 23 positions to provide the additional resources necessary to address increased demand for military funeral honors. Twenty-two of the requested state-funded positions would perform military funeral honors throughout the state and one administrative staff person would train personnel, assign missions, submit reports to the Department of Defense, and perform other support tasks.

Staff Comment: Requests for military funeral honors have grown steadily since the Department of Defense (DOD) required all organizational entities within the DOD to conduct funeral services in 2001. That year there were 2,345 requests and in 2006 there were 6,754 requests.

DOD Directive 1300.15, which governs military funeral honors, is not a federal mandate. The California National Guard cannot be compelled to perform military funeral honors without the consent of the Governor. Additionally, the Secretary of Defense may waive the obligation to perform military funeral honors, "in order to meet the requirements of war, national emergency, contingency operation, or other military requirements as described…"

Federal funding is available for conducting military funeral honors. Section 4.8.2 of the directive specifies that ready reserve personnel may volunteer for this activity and:

> *Pay allowances, travel, and transportation expense reimbursements, when appropriate, shall be paid from funds appropriated to the Department of Defense and* ***shall*** *be paid in accordance with the applicable provisions of 37 U.S.C. (reference (c)).*

The personnel who may perform military honors do not have to be federally recognized, uniformed personnel, but may come from a very broad cross section of uniformed military personnel. According to the DOD Directive,

> *"Authorized providers may include, but are not limited to, Veterans Service Organizations, members of the Reserve Officers Training Corps, and other appropriate individuals and organizations which support the rendering of Military Funeral Honors."*

One such "Other appropriate individuals" for this activity would include the State Military Reserve. The department's conclusion (apparently erroneously) that these personnel may not be used for military funeral honors suggests that the proposed solution did not consider all reasonable alternatives.

Finally, the department's 60-day response letter to the State Auditor's report (referenced earlier) acknowledges that the department has 13 Active-Guard Reserve personnel with the capacity to perform up to 800 funerals a month. According to the information provided, no more than 699 honors have ever been provided per month. Evidently, the current staffing level (and fund source) is adequate.

Staff Recommendation: REJECT the BCP, a savings of $1.8 million General Fund.

VOTE:

8. Service Member Care. The Administration requests $165,000 General Fund ongoing and one psychologist position to establish a full time mental health care capability. The proposed position will provide emergency crisis counseling, referral and personal support, combat stress evaluations, and other mental health support. Unlike California law enforcement agencies, The California Military Department has no full-time support system in place for service members and the federal government offers no long-term mental health benefits for National Guard members.

Staff Comment: Comparable mental health staff to front line staff ratios in the law enforcement community and in the U.S. military are much lower than this request seeks to provide (approximately 1:20,000). The approximately 20,000 National Guard personnel are scattered around the state making one psychologist's task seemingly impossible. Consequently, it is not clear that, as proposed, this staffing level would have an appreciable impact on mental health services for Guard members.

Staff Recommendation: HOLD OPEN and request the department report on the staff level required to provide mental health services to all National Guard personnel around the state.

DISCUSSION ITEMS—CONTROL SECTIONS 4.04 AND 4.05

4.04 Unallocated "Price" Reduction
On January 19, 2007, the Department of Finance submitted a Finance Letter requesting the addition of Control Section 4.04, which would authorize the Director of Finance to reduce all General Fund items of appropriation by an amount not to exceed a total of $46.3 million. The reduction to any department could not exceed half of the funding provided for the 2007-08 General Fund price increase.

This request resulted from an arbiters' determination in a compensation dispute between the California Correctional Peace Officer's Association and the Department of Personnel Administration, costing $46.3 million. According to the Department of Finance, if this request is not approved the state will have a net operating deficit.

4.05 Unallocated General Fund Reductions
The Governor's Budget includes a $100 million unallocated reduction for state agencies' General Fund appropriations. With certain restrictions, the Director of Finance is authorized to make these reductions on a one-time basis. Constitutional officers, the Legislature, higher education, and other specified appropriations are exempt from this reduction. The Director of Finance will report by February 15, 2008, on the nature of the reductions.

LAO Comment (On Control Sections 4.04 and 4.05)

Delete Sections for More Honest Budgeting

The proposed control sections are unlikely to achieve their targeted levels of savings. In addition, they represent a significant delegation of the Legislature's authority. Consequently, we recommend that the Legislature delete the sections from the budget bill. (Delete Control Sections 4.04 and 4.05.)

Reductions Reflect Administration's—Not Legislature's—Priorities. *Any unallocated reduction authority given to the administration will expose legislative priorities to reductions. An administration naturally will protect its own priorities and sacrifice programs that it deems less important. For example, in the health area, previous reductions have targeted a prostate cancer treatment program and Medi-Cal antifraud activities—both of which were priorities of the Legislature.*

Savings Already Counted. *Over the past few years, the state budget has included a variety of control sections similar to the ones proposed for 2007-08. Based on recent experience, we estimate that only a fraction of the assumed budget savings would be a net benefit to the state's bottom line. For instance, in 2006-07, $117 million of the $200 million in savings attributed to Control Section 4.05 was from declining debt service on loans and general obligation bonds.*

Another $24 million was attributed to lower-than-expected usage of a health program. These types of savings are captured on the natural in the "unidentifiable savings" category of the budget. When these types of savings are *instead scored under a control section, the practical effect is to reduce the unidentifiable savings item on a dollar-for-dollar basis. The budget, however, assumes the state will still achieve unidentifiable savings in 2007-08 ($340 million).*

Other Cuts Will Lead to Future Shortfalls. *Many of the midyear reductions that have been implemented in the past have been done with minimal detail provided to the Legislature as to how departments are going to absorb the reductions. Often months or years later, the Legislature discovers that programs that were reduced are no longer functioning as expected. In many of these cases, departments come forward with requests for additional funding in the same or future years to make up for the reductions. For example, the 2007-08 budget contains a $3.2 million request from the Department of Veterans Affairs for equipment purchases. The department reports its entire equipment budget was eliminated through reductions in prior years. Similarly, it is unclear how CDCR will absorb a $31 million reduction in 2007-08 through Control Section 4.04—given that the department has experienced budget shortfalls of more than $100 million every year since 2000-01.*

Recommend Deleting Control Sections*. Given recent experience with similar control sections and the loss of legislative authority they require, we recommend that both sections be deleted from the budget bill. The administration should identify any specific proposed savings in departmental budgets during the spring budget process and how it expects these savings to be achieved. This would allow the Legislature to understand any programmatic impact from the reductions and protect its own priorities. Moreover, if the administration desires to make appropriation changes once the budget is enacted, it can seek statutory changes.*

Staff Comment: The original use of this control section was to reduce departments' budgets through layoffs, hiring freezes, procurement reductions, or other administrative means to achieve reductions. However, in recent years debt financing cost savings and caseload decreases—expenditure adjustments that occur naturally and don't involve departmental reductions—have been increasingly utilized to reach unallocated reduction targets. In the current year, the $200 million goal was met by recognizing more than $117 million in reduced general obligation debt service and interest on General Fund loans (a total of $132 million was actually available), $24 million in prior years CalGrant and Assumption Program for Loans for Education program savings, and $24 million in emergency prescription drug coverage underutilization.

An alternative for the Subcommittee to consider for both control sections would be to more narrowly define where savings may be recognized (e.g., reduced general obligation debt service and interest on General Fund loans, CalGrant savings, elimination of boards and commissions, etc.). This would provide greater certainty for departmental budgeting and assure the Legislature that their priorities would be respected.

Staff Recommendation: Request DOF respond to the LAO and staff comments.

APPENDIX A: OCIO TRAILER BILL LANGUAGE

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

SECTION 1.   Section 11545 of the Government Code is repealed.

~~11545.   (a) There is in state government the office of the State Chief Information Officer. The State Chief Information Officer shall be appointed by, and serve at the pleasure of, the Governor, subject to Senate confirmation. The State Chief Information Officer shall be a member of the Governor's cabinet.~~

~~(b) The duties of the State Chief Information Officer shall include, but not be limited to, all of the following:~~

~~(1) Advising the Governor on the strategic management and direction of the state's information technology resources.~~

~~(2) Minimizing overlap, redundancy, and cost in state operations by promoting the efficient and effective use of information technology.~~

~~(3) Coordinating the activities of agency information officers, agency chief information officers, and the Director of Technology Services for purposes of integrating statewide technology initiatives, ensuring compliance with information technology policies and standards, and promoting alignment of information technology resources and effective management of information technology portfolios.~~

~~(4) Working to improve organizational maturity and capacity in the effective management of information technology.~~

~~(5) Establishing performance management and improvement processes to ensure state information technology systems and services are efficient and effective.~~

SEC. 2.   Chapter 5.7 (commencing with Section 11545) is added to Part 1 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 5.7. STATE CHIEF INFORMATION OFFICER

11545. (a) There is in state government the office of the State Chief Information Officer. The State Chief Information Officer shall be appointed by, and serve at the pleasure of, the Governor, subject to Senate confirmation. The State Chief Information Officer shall be a member of the Governor's cabinet.

(b) The duties of the State Chief Information Officer shall include, but not be limited to, all of the following:

(1) Advising the Governor on the strategic management and direction of the state's information technology resources, and adopting for all state agencies an information technology vision, strategic plans, policies, standards, and enterprise architecture.

(2) Minimizing overlap, redundancy, and cost in state operations by promoting the efficient and effective use of information technology.

(3) Coordinating the activities of agency information officers, agency chief information officers, managers responsible for directing and managing entire enterprise information technology projects, and the Director of Technology Services for purposes of integrating statewide technology initiatives, ensuring compliance with information technology policies and standards, and promoting alignment of information technology resources and effective management of information technology portfolios.

(4) Working to improve organizational maturity and capacity in the effective management of information technology.

(5) Establishing performance management and improvement processes to ensure that state information technology systems and services are efficient and effective.

(6) Managing the approval, oversight, and life-cycle processes for information technology projects.

11546. (a) The office of the State Chief Information Officer shall lead an annual strategic planning process, the results of which shall guide the acquisition, management and use of information technology. State agencies shall cooperate with the office in this planning process by providing, on a timely basis, any reports required by the office.

(b) After the formal adoption and issuance by the State Chief Information Officer of the annual information technology strategic plan, he or she shall take all appropriate steps to implement the goals, objectives, and action items contained in the plan, subject to any modifications and adjustments during the year he or she deems necessary and reasonable.

11547. The office of the State Chief Information Officer shall have the following responsibilities relating to information technology portfolio and project approval, management, and oversight:

(a) Establish and maintain a framework of policies, procedures, and requirements for the initiation, approval, implementation, management and oversight of information technology projects. The policies, procedures, and requirements shall promote innovation and best practices in government operations. The office shall have responsibility for maintaining the information technology sections in the State Administrative Manual, except for sections on information technology procurement and security.

(b) As the State Chief Information Officer deems necessary, possess and control all relevant records and papers held for the benefit and use of the former Department of Information Technology in the performance of its statutory duties, powers, purposes, and responsibilities, and of the Office of Technology Review, Oversight and Security within the Department of Finance in the performance of its duties, powers, purposes, and responsibilities, except for records and papers with respect to information technology security.

(c) Establish and maintain criteria for agencies to report information technology activities to the office.

(d) Assess agencies on their performance of project management, project oversight and project success, and notwithstanding Section 7550.5, annually report the overall assessment findings to the Governor and the Legislature.

11548. The office of the State Chief Information Officer may exercise the following powers relating to information technology project approval, management, and oversight:

(a) (1) Grant or withhold approval to initiate information technology projects. In making this determination, the office shall review proposed information technology projects for compliance with statewide strategies, policies, and procedures, and in light of recognized best practices. The office shall consult with the Department of Finance to determine the likely availability of funding from appropriate sources for a project and to assess the project's likely importance with respect to other budget priorities.

(2) The State Chief Information Officer shall evaluate the benefits and costs of an information technology project and assess its business case justification. The

Department of Finance shall limit its review and consideration of an information technology project to identifying the availability of funds and prioritizing that expenditure against other budget priorities.

(b) Require agencies to provide information on information technology projects, including, but not limited to, all of the following:

(1) The degree to which the project is within approved scope, cost, and schedule.

(2) All project issues, risks and remediation efforts.

(3) The estimated schedule and costs for project completion.

(c) Require agencies to perform remedial measures for information technology projects to achieve compliance with approved project scope, cost, and schedule, as well as statewide strategies, policies, and procedures. These remedial measures may include, but are not limited to, all of the following:

(1) Conducting independent assessments of project activities funded by the administering agency.

(2) Establishing remediation plans.

(3) Hiring vendors with project-required technical experience funded by the administering agency.

(4) Requiring additional project reporting.

(5) Requiring the agency administering the project to obtain the office's approval to initiate any phase, task, or step that is identified in the approved project schedule.

(d) Request the Office of State Audits and Evaluations in the Department of Finance to conduct reviews of information technology projects to determine the degree to which they are within approved scope, cost, and schedule, and the degree to which any required remediation activities have been successful. The cost of the review shall be funded by the agency administering the project.

(e) Establish restrictions or other controls to mitigate nonperformance by agencies, including, but not limited to, both of the following:

(1) Restriction of future project approvals for nonmandated projects pending demonstration of successful correction of the identified performance failure.

(2) Revocation or reduction of delegated authority.

(f) Suspend, reinstate, or terminate information technology projects. The office shall notify the Legislature of all project suspensions, reinstatements, and terminations.

(g) Delegate to an agency any authority under this section the office determines is appropriate given the agency's ability to manage information technology projects.

11548.5. (a) Employees of the Office of Technology Review, Oversight and Security within the Department of Finance, except employees assigned to the security unit of that office, shall be transferred to the office of the State Chief Information Officer.

(b) The status, position, and rights of any employee transferred pursuant to subdivision (a) shall not be affected by the transfer.

11549. This chapter shall not apply to the University of California, the California State University, the State Compensation Insurance Fund, the community college districts, agencies provided for by Article VI of the California Constitution, the Legislature, or the Legislative Data Center of the Legislative Counsel Bureau.

APPENDIX B: TRAILER BILL TO DEPARTMENT OF FINANCE MANDATE PROCESS REFORMS

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

SECTION 1. Section 17518.5 of the Government Code is repealed.

~~17518.5. (a) "Reasonable reimbursement methodology" means a formula for reimbursing local agency and school district costs mandated by the state that meets the following conditions:~~

~~(1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.~~

~~(2) For 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.~~

~~(b) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.~~

~~(c) A reasonable reimbursement methodology may be developed by any of the following:~~

~~(1) The Department of Finance.~~

~~(2) The Controller.~~

~~(3) An affected state agency.~~

~~(4) A claimant.~~

~~(5) An interested party.~~

SEC. 2. Section 17564 of the Government Code is amended to read:

17564. (a) No claim shall be made pursuant to Sections 17551 ~~and~~, 17561, and 17573, nor shall any payment be made on claims submitted pursuant to Sections 17551 and 17561, or pursuant to a legislative determination under Section 17573, unless these claims exceed one thousand dollars ($1,000)~~, provided that~~. However a county superintendent of schools or county may submit a combined claim on behalf of school districts, direct service districts, or special districts within their county if the combined claim exceeds one thousand dollars ($1,000) even if the individual school district's, direct service district's, or special district's claims do not each exceed one thousand dollars ($1,000). The county superintendent of schools or the county shall determine if the submission of the combined claim is economically feasible and shall be responsible for disbursing the funds to each school, direct service, or special district. These combined claims may be filed only when the county superintendent of schools or the county is the fiscal agent for the districts. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a school district, direct service district, or special district provides to the county superintendent of schools or county and to the Controller, at least 180 days prior to the deadline for filing the claim, a written notice of its intent to file a separate claim.

(b) Claims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed in the parameters and guidelines and claiming instructions.

SEC. 3. Article 1.5 (commencing with Section 17573) is added to Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code, to read:

Article 1.5. Alternative Procedure

17573. (a) Notwithstanding Section 17551, the Department of Finance and a local agency may jointly request that the Legislature determine if a local agency is entitled to reimbursement of costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution and to establish a reimbursement amount.

(b) A joint request made under subdivision (a) shall identify the statute or executive order for which a legislative determination of a state mandate is requested and specify the dollar amount necessary to reimburse local agencies for costs mandated by that statute or executive order.

(c) A joint request authorized by this section may be filed at any time after enactment of a statute or issuance of an executive order, regardless of whether a test claim regarding the same statute or executive order is pending with the commission.

(d) If the Legislature determines that the local agency is entitled to be reimbursed by the state for the costs mandated by the statute or executive order, it shall appropriate in the Budget Act or other bill funds sufficient to make that reimbursement or, pursuant to Section 17581, suspend the operation of that statute or executive order until funds for that reimbursement are appropriated.

17574. If a local agency has filed a test claim with the commission regarding the same statute or executive order for which the Legislature has appropriated funds for reimbursement in response to a joint request of that agency and the Department of Finance pursuant to Section 17573, the local agency shall withdraw that test claim.

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APPENDIX C: MANDATES TRAIL BILL LANGUAGE: LEGISLATIVE ANALYST'S OFFICE VERSION

SECTION 1. Section 17518.5 of the Government Code is amended to read:

17518.5. (a) "Reasonable reimbursement methodology" means a formula for reimbursing local agency and school district costs mandated by the state that meets *one of* the following conditions:

(1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.

(2) For 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.

(b) A reasonable reimbursement methodology may meet one of the conditions in subdivision (a) if it is based on cost information from a representative sample of eligible claimants, information provided by associations of affected local governments, or other projections of local costs.

~~(b)~~

(c) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

~~(c)~~

(d) A reasonable reimbursement methodology may be developed by any of the following:

(1) The Department of Finance.

(2) The Controller.

(3) An affected state agency.

(4) A claimant.

(5) An interested party.

SEC. 2. Section 17521.5 is added to the Government Code, to read:

17521.5. "Legislatively determined mandate" means the provisions of a statute or executive order that the Legislature has declared by statute to be a mandate for which reimbursement is required by Section 6 of Article XIII B of the California Constitution.

SEC. 3. Section 17557.1 is added to the Government Code, to read:

17557.1. (a) Notwithstanding any other provision of this part, within 30 days of the commission's adoption of a statement of decision on a test claim, the test claimant and the Department of Finance may notify the executive director of the commission by letter of their intent to use the alternate process outlined in this section to draft negotiated parameters and guidelines that will be based on a reasonable reimbursement methodology. This letter of intent by the test claimant and department shall specify the following:

(1) The date when the test claimant and department will provide to the executive director an informational update regarding their progress.

(2) The plan of the test claimant and department to ensure that costs from a representative sample of eligible local government claimants are considered.

(3) The date when the test claimant and department will submit to the executive director the draft negotiated parameters and guidelines, statewide cost estimate, and estimate of cost for the initial claiming period. This date shall be no later than 180 days after the date the letter of intent is sent by the test claimant and department to the executive director, although the executive director may provide for up to four 30-day extensions of this 180-day period at the request of the test claimant and department.

(b) The test claimant or department may notify the executive director at any time that the claimant or department no longer intends to use the alternate process. In this case, the requirements of paragraph (2) of subdivision (a) of Section 17553 and Section 17557 shall apply. Upon receipt of this notification, the executive director shall notify the test claimant of the duty to submit proposed parameters and guidelines within 30 days under subdivision (a) of Section 17557.

SEC. 4. Section 17557.2 is added to the Government Code, to read:

17557.2. (a) When a test claimant and the Department of Finance decide to proceed under the alternate process pursuant to Section 17557.1, they shall develop a reasonable reimbursement methodology that is supported by a wide range of affected local governments. The test claimant and department may determine the level of local support in different ways, including, but not limited to, obtaining endorsement by statewide associations of affected local governments and securing letters of approval from a majority of responding affected local governments. The reasonable reimbursement methodology shall specify a date after which the department and test claimant agree to reconsider the methodology and jointly propose amendments under this section.

(b) No later than 60 days before a commission hearing, the claimant and department shall submit to the commission the draft negotiated parameters and guidelines, an estimate of the mandate's annual statewide costs and costs for the initial claiming period, and a report that describes the steps the test claimant and the department undertook to determine the level of local support for the reasonable reimbursement methodology.

(c) If the commission, upon review of all information submitted pursuant to Section 17557.1 and this section, determines that the draft negotiated parameters and guidelines and cost estimates satisfy the requirements of these sections, it shall adopt the parameters and guidelines, statewide cost estimate, and estimate of costs for the initial claiming period. Statewide cost estimates adopted under this section shall be included in the report to the Legislature required under Section 17600.

SEC. 5. Article 2.5 (commencing with Section 17590) is added to Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code, to read:

Article 2.5. Early Settlement of Claims

17590. The Legislature finds and declares all of the following:

(a) Early settlement of mandate claims will allow the commission to focus its efforts on rendering sound quasi-judicial decisions regarding complicated disputes over the existence of state-mandated local programs.

(b) Early settlement of mandate claims will provide timely information to the Legislature regarding local costs of state requirements and timely reimbursement to local governments.

(c) It is the intent of the Legislature to provide for an orderly process for settling mandate claims in which the parties are in substantial agreement. Nothing in this article diminishes the right of a local government that chooses not to accept reimbursement pursuant to this article from filing a test claim with the commission or taking other steps to obtain reimbursement pursuant to Section 6 of Article XIII B of the California Constitution.

17591. (a) With respect to any statute or executive order that may impose a mandate for which reimbursement is required by Section 6 of Article XIII B of the California Constitution, the Department of Finance, in consultation with local governments, may seek to have the Legislature make the required reimbursement by submitting to the Legislature a proposal that includes all of the following:

(1) The provisions of any statute or executive order that impose a requirement on local governments.

(2) A reasonable reimbursement methodology.

(3) A list of eligible claimants.

(4) An estimate of statewide costs and costs for the initial claiming period.

(5) Information indicating significant support among affected local governments for the proposed reasonable reimbursement methodology, which may include, but not be limited to, endorsements by statewide associations of affected local governments and letters of approval by a majority of responding affected local governments.

(b) If the Legislature determines that the statute or executive order imposes a mandate for which reimbursement is required by Section 6 of Article XIII B of the California Constitution, it shall declare by statute that the requirements of the statute or executive order are a legislatively determined mandate and adopt the reasonable reimbursement methodology for reimbursing affected local governments their costs of complying with the mandate. The Legislature may amend this methodology periodically, upon the recommendation of the department, a local government, or other interested party.

(c) The Legislature may repeal or modify a legislatively determined mandate, or suspend it pursuant to Section 17581 or Section 17581.5.

(d) By accepting a payment to reimburse its costs pursuant to the methodology adopted by the Legislature in connection with a legislatively determined mandate, a local agency or school district agrees to the following terms and conditions:

(1) The payment constitutes full reimbursement of its costs for that mandate for the applicable time period.

(2) The reasonable reimbursement methodology upon which the payment is calculated shall be an appropriate reimbursement methodology for the local government for the next four years.

(3) The local government has withdrawn any test claim pending before the commission regarding this mandate and will not file a new test claim on this mandate for four years after the date of the first payment unless the state changes the reasonable reimbursement methodology to provide a lesser amount of funds to the local government or the state fails to make the specified reimbursement payment but does not repeal or suspend the mandate.

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

SECTION 1. Chapter 4.5 (commencing with Section 901) is added to Division 4 of the Military and Veterans Code, to read:

CHAPTER 4.5. THE CALIFORNIA NATIONAL GUARD EDUCATION ASSISTANCE PROGRAM

901. (a) The California National Guard Education Assistance Program is hereby established to promote recruiting and retention of California National Guard membership through reimbursement of approved postsecondary education costs. The Adjutant General shall adopt program regulations that shall include the following provisions:

(1) Eligibility requirements for program participation.

(2) Definition of reimbursable costs.

(3) Definition of participant benefits and responsibilities.

(4) Policies and procedures for program administration.

(b) The Adjutant General shall have the final authority with respect to program administration.

Senate Budget and Fiscal Review—Denise Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Robert Dutton
Christine Kehoe

Wednesday, March 14, 2007
9:30 a.m.
Room 113

Consultant: Brian Annis

Select Business and Transportation Departments, Other

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

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 $51.5 million (no General Fund) and 459.2 positions, – a decrease of $716,000 and no change in positions. The decrease was due to one-time adjustments – no Budget Change Proposals were submitted for the Department.

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 Appeals.

The Governor proposes total expenditures of $1.0 million (no General Fund) and 8.8 positions for the ABC Appeals Board – a decrease of $6,000 and no change in positions. The Administration did not submit any Budget Change Proposals for the ABC Appeals Board.

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. OREA also investigates complaints against appraisers made by lenders and consumers. 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 $4.2 million (no General Fund) in total expenditures and 26.2 positions for OREA – an increase of $173,000 and no change in positions. The Administration did not submit any Budget Change Proposals for OREA.

Staff Recommendation: Approve the budgets for the above departments.

Vote:

Departments Proposed for Discussion / Vote

0520 Secretary for Business, Transportation and Housing

The Secretary of the Business, Transportation and Housing Agency (BT&H Agency) is a member of the Governor's Cabinet and oversees 16 departments, including the following departments:

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

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
- Office of Military & Aerospace Support
- Tourism Commission
- Small Business Loan Guarantee Program
- Film Commission

The Governor proposes total expenditures of $27.7 million ($9.5 million General Fund) and 63.6 positions for the Office of the Secretary – an increase of $2.4 million (including a $4.3 million one-time federal fund increase and a $2.1 million General Fund decrease) and 3.0 new positions.

Budget Changes proposed for Consent / Vote Only

1. **Film Commission: Rent Increase (BCP #1).** The Administration requests an ongoing augmentation of $71,000 (General Fund) to cover the cost of a rent increase at the California Film Commission's office in Hollywood. The Agency indicates their lease is expiring and the current rent is $1.52 per square foot. The Department of General Services estimates a new lease in the Hollywood area will likely fall in the range of $2.72 to $3.26 per square foot. The Film Commission is hoping it can negotiate with the landlord to stay in the current facility and avoid moving costs (which are not included in the request).

2. **Tourism Commission: California Welcome Centers (BCP #6).** The Administration requests an ongoing augmentation of $21,000 (Welcome Center Fund) to perform added workload in the Welcome Center Program. This request would increase annual program funding from $55,000 to $76,000. Assembly Bill 1356 (Chapter 296, Statutes of 2004), authorized the establishment of a system of California Welcome Centers to be overseen by the Tourism Commission. 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. The Agency indicates there are two newly designated Welcome Centers that will bring the statewide total to 13. Welcome Center operators pay annual fees of $5,000 into the special fund to support the Agency's cost of the program. The Agency monitors the operators and provides marketing assistance and materials.

3. **Tourism Commission: Funding Shift (BCP #8).** The Administration requests a reduction of $6.3 million (General Fund) in State funding for the California Travel and Tourism Commission. AB 2592 (Ch. 790, St. of 2006, Leno), allowed for the establishment of fees on certain types of car rentals to generate funding for California tourism marketing. The fees are expected to generate $25.0 million in 2006-07 and $50.0 million in 2007-08. The new fees more than double the Commission's funding, while also saving the General Fund $6.3 million annually.

4. **Administrative Costs: Services Provided by the CHP (BCP #9).** The Administration requests $180,000 (Motor Vehicle Account) to fund the permanent extension of 2.5 limited-term positions at the California Highway Patrol (CHP) that perform administrative work for the Agency. In addition to the 2.5 limited-term positions, the CHP currently has 5.0 permanent positions that also perform administrative functions for the Agency. The 2.5 limited-term positions were added in 2005-06 to address workload related to the transfer of certain Technology, Trade, and Commerce Agency functions to the BT&H Agency. They were made limited-term so the ongoing workload needs could be better assessed. The CHP has documented activities and hours that indicate a need to continue the 2.5 positions.

Staff Recommendation: Approve all in the budget requests on the above consent / vote-only list.

Vote:

Discussion / Vote Issues:

5. **Technology Trade and Commerce Agency: Closure Costs (BCP #4).** The Administration requests a one-time augmentation of $150,000 (General Fund) to cover the continued close-out costs for the former Technology Trade and Commerce Agency (TTCA). AB 1757 (Ch. 229, St. of 2003, Committee on Budget) eliminated the TTCA and shifted remaining functions to the BT&H Agency and other departments. The BT&H Agency assumed certain close-out obligations of TTCA, such as legal fees, ongoing workers' compensation payments, etc. The 2004 Budget Act appropriated $575,000 (General Fund) for this purpose. The BT&H Agency reports that only $231,000 was expended in 2004-05, but $30,000 was expended in 2005-06, and the Agency expects to expend $70,000 in 2006-07.

   Staff Comment. The Administration indicates that the $150,000 requested for 2007-08 is the anticipated total closeout cost, which assume all workers' compensation cases will be fully settled or otherwise closed in the budget year. However, it is most likely some workers compensation costs will continue for several years. The likely expenditures for 2007-08 are more in the neighborhood of $70,000.

   Staff Recommendation: Approve funding of $70,000 (a reduction of $80,000 from the BCP) which ties to the estimated 2007-08 cash need.

   Vote:

6. **Motor Vehicle Account – Fund Condition (Informational Issue).** The Administration is requesting approval for California Highway Patrol (CHP) and Department of Motor Vehicles (DMV) budget augmentations that will total several hundred million dollars over a six-year period. Staff asked the Agency to demonstrate, with a long-term Motor Vehicle Account (MVA) fund condition statement, whether these augmentations can be sustained without a fee increase. <u>The long term MVA fund condition statement is still pending from the Administration</u>.

   LAO Comment: In the *Analysis of the 2007-08 Budget Bill*, the Legislative Analyst indicates the MVA is likely to face significant shortfalls beginning in 2009-10, and possibly sooner depending on the timing of a number of pending spending initiatives as well as potential risks.

   Staff Comment: The Subcommittee may want to ask the LAO to summarize their findings and ask the Administration to comment.

   Staff Recommendation: Keep issue open pending receipt from the Administration of a long-term Motor Vehicle Account fund condition statement. The Subcommittee may want to keep open DMV and CHP budget requests that would result in large out-year costs.

7. **Small Business Loan Guarantee Program: Match for Federal Funds (BCP #7).** The Governor requests a one-time appropriation of $832,000 General Fund to match $3.6 million in federal funds to establish a new loan guarantee program that would primarily use federal funds associated with the Sudden and Severe Economic Dislocation (SSED) Program. (Note, the Administration has reduced its estimate of available federal funds from $4.1 million in the BCP to $3.6 million now). The Administration indicates that the Technology, Trade, and Commerce Agency (TTCA), which was abolished in 2003, administered a Sudden and Severe Economic Dislocation Grant Program as a revolving loan program. With the demise of the TTCA, the federal money remains, but cannot be accessed without a General Fund match and a new agency home. The new program would provide loan guarantees to small businesses in areas affected by natural disaster or the loss of jobs from a major employer.

   Background / Detail. 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. In recent years, the annual budget has included a $3.9 million General Fund appropriation for administrative payments to FDS. The Agency's costs of oversight have been funded through interest earnings. The proposed funding in this BCP is above the base $3.9 million in General Fund support. According to the information provided by the Administration, the current Small Business Expansion Fund fund balance is in the range of $4.6 million, while the balance of the trust fund (which backs the loan guarantees) is about $40 million. The interest earnings from these two funds also support program administration. The combined interest earnings have increased from about $870,000 in 2005-06 to an estimated $1.67 million in 2006-07 and 2007-08. Additionally, a one-time interest payment of $1.1 million was received in 2006-07 related to a past loan to the General Fund. The Agency indicates that interest earnings are expected to continue at a higher level due to a larger trust fund balance (due to repayment of the General Fund loan) and higher interest rates.

   Staff Comment: The Agency has used the higher interest earnings (about $800,000 ongoing) to expand the program in 2006-07 by providing additional administrative payments to the FDCs, and would like to continue using the ongoing earnings to run an expanded program. Given that the General Fund is constrained for 2007-08, the Subcommittee may want to consider using the interest earnings as a match for the $3.6 million in federal funds, instead of providing new General Funds.

   Staff Recommendation: Keep issue open. Direct staff to continue to work with the Administration and the LAO to explore alternatives to the General Fund for the federal-fund match.

8. **Small Business Loan Guarantee Program: Audits (BCP #3).** The Governor requests an augmentation of $125,000 General Fund (each year for two years) to contract with the Department of Finance to audit the 11 Financial Development Corportations (FDCs) in the Small Business Loan Guarantee Program.

Background / Detail: When the Small Business Loan Guarantee Program was housed in the Technology Trade and Commerce Agency and had a larger staff, State personnel performed annual audits of FDCs. The positions that performed these audits were lost when the function moved to BT&H, and only about two audits can be performed per year with current staff. The Agency requests two-year funding totaling $250,000 so that all FDCs can be audited by the Department of Finance over the next two years.

Staff Comment: A fund condition statement for the Small Business Expansion Fund indicates a reserve of $4.1 million at the end of 2007-08. The Agency indicates $3.2 million of this balance is reserved for short-term disaster assistance. It appears that the costs of the audit could be funded by the Small Business Expansion Fund instead of the General Fund.

Staff Recommendation: Approve new funding of $125,000 (each year for two years) to perform audits, but change the funding source from the General Fund to the Small Business Expansion Fund.

Vote:

9. **International Trade Activities (BCP #L-1).** The Governor requests three new permanent positions, 2007-08 funding of $591,000, and ongoing funding of $441,000, to undertake international trade and investment activities. The Administration indicates this request is associated with SB 1513 (Chapter 663, Statutes of 2006, Romero) which, among other provisions, requires the BT&H Agency to complete a study on the role of the state in global markets, develop a strategic international trade and investment plan, convene a statewide partnership to advise the Secretary on the strategic plan and needs of businesses, and study the feasibility of international trade offices. The report is due to the Legislature by February 1, 2008.

Background / Detail: The Technology, Trade and Commerce Agency was eliminated in 2003 and its positions related to international trade were eliminated. The BT&H Agency has assumed some of these international trade activities, although it has never received new staff for this purpose.

Staff Comment: Committee bill analyses for SB 1513 indicated a cost to perform the planning and report requirements of $70,000 in 2006-07 and $70,000 in 2007-08. The Agency indicates it has absorbed the 2006-07 cost. The BT&H Agency indicates it did not release a bill analysis for SB 1513. The Agency has never received positions to staff workload related to international trade, but indicates it has redirected three positions internally and borrowed one position from Caltrans. The BCP request would officially create the international trade positions and allow redirected positions to return to their original functions.

Staff Recommendation: Reject the BCP. The Agency has absorbed the cost of the study in 2006-07 and can likely absorb the 2007-08 cost. The Agency has four redirected staff positions currently working on international trade. It seems premature to permanently add three new trade positions prior to the development of the strategic plan and legislative consideration of the February 2008 report.

Vote:

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 assessments of the various industries, license and application fees, and charges for various other services.

The Governor proposes total expenditures of $28.5 million (no General Fund) and 224.1 positions - an increase of $2.4 million and 13.7 positions.

Issues Proposed for Consent / Vote-Only

1. **E-Banking / Disaster Preparedness (BCP #2).** The Governor proposes to augment the budget by $1.2 million and 10 positions (eight Examiners, one Office Technician, and one Financial Institutions Manager) to expand bank examinations in the areas of electronic banking (e-banking) and disaster preparedness. The Administration indicates that California's oversight in these areas is deficient relative to other states.

   Background / Detail: The Department indicates that the Conference of State Bank Supervisors (CSBS), who provide a nationwide accreditation of state financial institution regulatory bodies, in their Accreditation Report of DFI, criticized DFI for not having sufficient staff to conduct information technology (IT) examination activities for licensees and Technology Service Providers. CSBS noted that California is one of few states where IT examination activities are left to the federal regulators. According to the Administration, the states of Illinois and New York have a pool of trained IT/E-Banking examiners that are similar in organization and operation to this request.

2. **Credit Union Program: Business Loan Exams (BCP #3).** The Governor proposes to augment the budget by $247,000 and 2.0 Senior Financial Institution Examiner positions to meet the increased examination needs arising from a significant increase in the number and amount of member business loans being carried on the books of California State-charted credit unions.

   Background / Detail: Historically, credit unions have focused primarily on *consumer* loans. The Department indicates that credit unions have become increasingly more involved in making *commercial* loans to their members. The commercial loan assets have increased from $800 million in December 2000 to $4.3 billion in March of 2006. According to the Department, industry standards suggest 20 percent to 25 percent of these loans should be examined versus the average of 3 percent to 5 percent DFI is currently performing.

3. **Special Licensee Program: Staffing (BCP #4).** The Department requests a total of $95,000 (special fund) and one Financial Examiner Position to address the growth in the money transmission industry. This Program examines financial institutions that sell payment instruments (money orders), travelers' checks, and transfer money internationally.

   Background / Detail: The Department indicates the number of money transmission branches has grown from 13,852 in 2000 to 20,439 in 2005. Additionally, the number of special licensees has grown from 52 in 1996 to 73 today. The department indicates it has used 4,256 hours of retired annuitant hours over the past two years to perform this workload.

4. **Administration: Personnel Position (BCP #5).** The Governor proposes to augment the budget by $137,000 (special fund) to add an Associate Personnel Analyst position and contract out for written test development. The Department indicates the position is necessary to effectively recruit and retain new staff, update job analyses, and conduct background checks of new hires.

   Background / Detail: The Department indicates that in addition to addressing workload increases related to higher staffing and existing administrative backlogs, this position would work on recruitment and retention issues for Financial Examiners. The Department hopes efforts in this area could reduce turnover and therefore reduce training and other costs associated with new Examiners.

Staff Recommendation: Approve the above consent / vote-only issues.

Vote:

Issues proposed for Discussion / Vote:

5. **Information Technology (IT): Staffing (BCP #1).** The Governor proposes to augment the budget by $377,000 (special fund) to establish a Chief Information Officer (CIO), an Information Security Officer (ISO), and an Office Automation Support Supervisor.

   Background / Detail. The Department indicates it currently has a designated CIO and ISO; however those positions are also responsible for other administrative, IT user support, and IT maintenance functions. The Department believes the creation of three additional positions, which would increase the number of IT positions from 11 to 14, would allow the new incumbents to focus on individual areas of IT strategic planning, IT security, and management of day-to-day IT operations and support.

   Staff Comment. The benefit of a dedicated CIO and dedicated ISO is easier to justify at large departments, such as Motor Vehicles, or Transportation, that have many ongoing large IT projects, many locations, and many users. The benefit is harder to justify with smaller departments with no reportable IT projects, few locations, and relatively few users. Staff questioned several smaller departments with several hundred or fewer employees, and most did not have dedicated CIO and ISO positions. While the Department may have a workload justification for one new position, and perhaps a position upgrade, it is unclear that all departments of the size and IT complexity of DFI should have dedicated CIO and ISO positions.

   Staff Recommendation. Keep this issue open. There are likely to be further discussions on statewide IT policy in the Subcommittee. Those discussions may provide additional insight on IT staffing for medium to small departments.

2180 Department of Corporations

The Department of Corporations (Corporations) administers and enforces State laws regulating securities, franchise investment, lenders, and certain fiduciaries. The budget is divided into two operating programs. The Investment Program is responsible for the qualification of the offer and sale of securities in California and the licensing and regulation of broker-dealers and investment advisers. The Lender-Fiduciary Program licenses and regulates California finance lenders, mortgage lenders, escrow agents, deferred deposit transaction entities (including “payday” lenders), and check sellers.

The Governor proposes total expenditures of $33.9 million (no General Fund) and 277 positions, an increase of $553,000 and 2 positions. The State Corporations Fund has an outstanding loan of $18.5 million to the General Fund from the 2002-03 budget. The Administration proposes to repay $6.0 million on June 1, 2007. With this 2006-07 repayment, the Governor’s Budget indicates the State Corporation Fund would end 2007-08 with a reserve of $10.6 million (excluding the remaining General Fund loan of $11.5 million).

Issues for Discussion / Vote

1. **State Corporations Fund – Excessive Fund Balance.** Pursuant to the requirements of SB 742 (Ch. 118, St. of 2001, Escutia), the Department is required to reduce the fund balance in the State Corporations Fund to no more than a 25 percent reserve above annual expenditures by June 30, 2007. According to the Governor’s Budget, the Department will have a fund balance of $15.1 million on June 30, 2007, which represents 45 percent of 2006-07 expenditures. SB 742 also requires annual November 1 reports to the Legislature on fee levels and the projected fund balance. The 2006 report has not, to date, been submitted.

   LAO Comment. In the *Analysis of the 2007-08 Budget Bill*, the Legislative Analyst withholds recommendation on the Department’s budget pending a report on fees at the budget hearing because the Department has not submitted the SB 742 report. The LAO indicates that, generally, a 5-percent fund balance is a prudent reserve. The LAO also notes that fine and penalty revenue, unlike fees, can be transferred to the General Fund. A transfer to the General Fund of $1.5 million was approved in the 2004 Budget Act; however, no transfers have been made since then. The Legislature may want to consider amending the budget bill to transfer 2005-06 and 2006-07 fine and penalty revenue to the General Fund.

Administration Response to the LAO: The Administration indicates it is withdrawing the proposal in the Governor's Budget to repay $6.0 million of the outstanding $18.5 million General Fund loan on June 30, 2007. This would bring the projected fund balance on June 30, 2007, to $9.1 million – about 27 percent of expenditures. However, the Department also indicates that 2006-07 fine and penalty revenue has exceeded the budgeted amount by about $2.7 million, which would make the June 30, 2007, fund balance about $11.8 million (about 36 percent of expenditures).

Staff Comment: The Subcommittee may want to ask the Department to describe their plan to bring their fund balance in compliance with statute.

Staff Recommendation: Keep this issue open pending receipt of the report.

2. California State Auditor January 2007 Report. In January, the State Auditor released an audit titled: *Department of Corporations: It Needs Stronger Oversight of Its Operations and More Efficient Processing of License Applications and Complaints*. Among other findings, the audit revealed flaws in Department statistics and data gathering processes, and delays in resolving complaints, performing examinations, and processing applications. A copy of the Auditor's highlights is Attachment I to this agenda.

***2006-2007 Governor's Budget Summary* Comment.** Last year's Governor's Budget Summary included the following comment on the audit:

The DOC will be the subject of an extensive audit by the Bureau of State Audits in 2006 due to various consumer complaints that originated during prior administrations. The Administration will monitor the audit's progress, and at its conclusion, the Administration will work with the Business, Transportation, and Housing Agency and with the DOC on ways to ensure the DOC is able to fulfill its mission of enforcing financial services laws, and protecting the public from fraud.

Suggested Questions: The Subcommittee may want to ask the Department to respond to the following audit findings/recommendations that relate to budget issues:

1. The Department has flawed data collection processes and systems that result in unreliable information on the number, status, and type of complaints. The Auditor also found enforcement data unreliable. Is the Department exploring the Auditor's recommendation to assess the need for new automated data systems? If a new IT system is being considered, what is the timeline for implementation and budget approval?
2. The Department has not, contrary to law, conducted at least 170 (37 percent) of its required examinations of escrow office licensees within the last four years. In addition, it has yet to conduct examinations for 899 (35 percent) of eligible finance lender licensees within its four-year goal. The Auditor found cases of

long delays in processing applications and resolving complaints. Is the Department exploring the Auditor's recommendation to assess the need for additional staff? If new positions are being considered, what is the timeline for implementation and budget approval?

3. What other actions is the Department considering, budget or otherwise, to respond to audit findings and recommendations?

Staff Recommendation: Keep issue open. The following two agenda issues are Department budget change requests for 2007-08. The audit may assist the Subcommittee in assessing the need and adequacy of these budget requests. Staff recommends keeping these requests and the issue of the audit open for further review.

3. Lender-Fiduciary Program: Convert 3 Limited-Term Examiner Positions to Permanent (BCP #2). The Legislature approved BCP #3 for 2005-06, which added 16 additional Examiners (7 of these were limited-term) to the Lender-Fiduciary Program. The Administration is requesting to permanently continue 3 of the 7 limited-term positions. However, the workload data from the Department suggests a total of 6 positions (3 more than requested) would be needed to perform all the anticipated 2007-08 workload. The Department indicates fewer positions than the stated need are being requested because it is hoped that a higher proportion of trained staff will increase efficiencies.

Staff Comment: The Audit found that Corporations did not conduct examinations of 170 licensed escrow offices within the statutorily-required timeframe and did not conduct examinations of 899 licensed finance lenders within its four-year goal. Given the examination deficiencies outlined in the Auditor's report, and the resulting gaps in consumer protection, the Subcommittee may want to consider whether it would be appropriate to double the request – and provide six, instead of three, new permanent positions. Note, a total of six new positions are needed to meet the workload need as outlined in the budget change proposal.

Staff Recommendation: Leave issue open and direct staff to work with Corporations to further review the level of Examiner staffing.

4. Investment Program: Add 2 New Staff Service Analysts (BCP #1). The Administration is requesting to add 2 new Staff Service Analyst positions. These positions would perform analytical duties currently performed by Examiner positions, and thereby allow the Examiners to spend additional time in the field. The workload data from the Department suggests a total of 34.3 positions (32.3 more than requested) would be needed to perform all the anticipated 2007-08 workload. The Department indicates fewer positions than the stated need are being requested because it wants to further assess efficiencies to get a clearer picture of the true ongoing workload and future staffing needs.

Staff Comment: Given examination deficiencies outlined in the Auditor's report, and the resulting gaps in consumer protection, the Subcommittee may want to consider whether it would be appropriate to add positions beyond the Adminstration's request. Note, a total of 34.3 new positions are the actual workload need according to the workload data in the budget change proposal.

Staff Recommendation: Leave issue open and direct staff to work with Corporations to further review the level of Examiner staffing.

5. Investigator Positions (Staff Issue). In 2003-04, Corporations eliminated all 14.0 of its Investigator positions as part of the 2003 Budget Act Control Section 4.10 process which required a statewide reduction of 16,000 permanent positions, as specified. Newspaper reports indicate that the cases the Department referred for criminal prosecution declined from 27 in 2002 to none in 2004. Without Investigator positions, this function falls to local law enforcement and the State Attorney General, who received no additional funds to perform this activity. Since the elimination occurred through Control Section 4.10, the Legislature did not consider this reduction through the Budget Subcommittee process. Last year, this Subcommittee re-classed three positions to reestablish the investigative function at the Department.

Staff Comment: The audit indicates that as of January 2, 2007, Corporations did not have any Investigator positions filled; however, conditional offers were outstanding to three individuals. The Subcommittee may want to ask the Administration about their progress filling these positions and when they will come forward with a long-term staffing proposal for Investigators.

Staff Recommendation: Leave issue open and direct staff to work with Corporations to further review the level of Investigator staffing.

6. **Payday Lending Survey: (Staff Issue**). Section 23057 of the Financial Code requires the Corporations Commissioner to report to the Legislature by December 1, 2007, on the deferred deposition transaction industry, also know as "payday lending." The purpose of this report is to inform the Governor and the Legislature regarding potential legislation the Commissioner deems necessary to protect the people of California. To collect data for this report, the Department is currently surveying licensees.

   Since the Department is surveying licensees, but not customers, the report will provide a better picture of supply than demand for payday loans. The Department indicates that since it is not performing, or contracting for, a customer survey, it will not be able to include demographic characteristics such as race, income and education in its report. Nor, will it be able to find out if borrowers are obtaining multiple loans from different licensees simultaneously.

   Staff Comment: The Subcommittee may want hear additional detail from the Department on what the report will include and exclude. The Department should be prepared to discuss how much a consultant survey of payday borrowers would cost and how long it would take to procure such a study.

   Staff Recommendation: Leave issue open and direct staff to work with Corporations to develop options to improve, or supplement, the payday-lending report.

7. **Guidance on Non-Traditional Mortgage Product Risks (Informational Issue).** In response to the increased marketing of nontraditional mortgage products to a wider variety of borrowers and the increased amount of credit risk layering associated with the marketing and underwriting of these products, the five federal banking agencies developed guidance to address issues of risk management and appropriate consumer disclosure. The September 2006 guidance directs that management should:

   - Ensure that loan terms and underwriting standards are consistent with prudent lending practices, including consideration of a borrower's repayment capacity;
   - Recognize that many nontraditional mortgage loans, particularly when they have risk-layering features, are untested in a stressed environment. These products warrant strong risk management standards, capital levels commensurate with the risk, and an allowance for loan and lease losses that reflects the collectibility of the portfolio; and
   - Ensure that consumers have sufficient information to clearly understand loan terms and associated risks prior to making a product or payment choice.

   In November 2006, the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) issued guidance substantially similar to the federal guidance, but deleted sections of the federal guidance that were inapplicable to non-depository institutions. The CSBS/AARMR guidance is intended to be adopted by states and used by state regulators who oversee state-licensed mortgage lenders and brokers.

Background / Detail: Three State departments regulate residential mortgage lending and brokering activities in California – the Department of Financial Institutions (DFI), Department of Corporations (Corportations), and the Department of Real Estate (DRE). Because virtually all of DFI's bank and credit union licensees are federally-insured by either the Federal Deposit Insurance Corporation or the National Credit Union Administration, virtually all of DFI's bank and credit union licensees are already covered by the interagency federal guidance issued in September 2006. DRE is discussed in a separate budget issue below. Corporations oversees two laws that authorize businesses to engage in residential mortgage lending and brokering - the California Finance Lenders Law (CFLL) and the California Residential Mortgage Lending Act (CRMLA).

Staff Comment: The Subcommittee may want to hear what action Corporations is taking to develop regulations to apply the CSBS/AARMR guidance to its licensees?

Staff Recommendation: Keep this issue open for further analysis.

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 Department services a licensee population of approximately 525,000.

The Governor proposes $46.6 million (no General Fund) in total expenditures and 336.5 positions for the Department – an increase of $1.6 million and no change in positions. The Administration did not submit any Budget Change Proposals for the Department.

Issues for Discussion / Vote

1. **Guidance on Non-Traditional Mortgage Produce Risks (Informational Issue).** In response to the increased marketing of nontraditional mortgage products to a wider variety of borrowers and the increased amount of credit risk layering associated with the marketing and underwriting of these products, the five federal banking agencies developed guidance to address issues of risk management and appropriate consumer disclosure. More detail on the September 2006 guidance is included in "Issue #7" in the above section for the Department of Corporations.

   In November 2006, the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) issued guidance substantially similar to the federal guidance, but deleted sections of the federal guidance that were inapplicable to non-depository institutions. The CSBS/AARMR guidance is intended to be adopted by states and used by state regulators who oversee state-licensed mortgage lenders and brokers.

   Background / Detail: DRE licenses real estate brokers, who are allowed to make or arrange real estate loans and to sell or service mortgage notes. Most of the residential mortgages facilitated by real estate brokers operating under the Real Estate Law involve loans made by finance lenders, residential mortgage lenders, banks, credit unions, and thrifts, although a smaller number of loans facilitated by real estate brokers are privately funded directly (i.e., not through the secondary market) by individuals or groups of individuals. Some loans arranged by real estate brokers are also made through the brokers' own funds.

   Staff Comment: The Subcommittee may want to hear from DRE on what action the Department is taking to develop regulations to apply the CSBS/AARMR guidance to its licensees.

   Staff Recommendation: Keep the DRE budget open for further analysis.

2400 Department of Managed Health Care

The Department of Managed Health Care (DMHC) was established in 2000, when the licensure and regulation of the managed health care industry was removed from the Department of Corporations and placed in a new, stand-alone, department. The mission of DMHC is to regulate, and provide quality-of-care and fiscal oversight for Health Maintenance Organizations (HMOs) and two Preferred Provider Organizations (PPOs). These 94 Health Care Plans provide health insurance coverage to approximately 64 percent of all Californians. Recent statutory changes also make DMHC responsible for the oversight of 240 Risk Bearing Organizations (RBOs), who actually deliver or manage a large proportion of the health care services provided to consumers. Within the Department, the Office of the Patient Advocate helps educate consumers about their HMO rights and responsibilities.

The Governor proposes $43.5 million (no General Fund) in total expenditures and 297.3 positions for the department – an increase of $72,000 and no change in positions. The Administration did not submit any Budget Change Proposals for the Department.

Issue for Discussion

1. **Mental Health Parity Report (Staff Issue).** The Department is expected to release a report on mental health parity issues over the next several weeks.

   Background / Detail: The DMHC is responsible for ensuring that health care service plans including health maintenance organizations (HMO) and preferred provider organizations (PPO) comply with California's mental health parity law (AB 88, Chapter 534, Statutes of 1999), which became effective in 2000. Through the Budget Act of 2004, the Legislature requested the Department of Mental Health to collaborate with DMHC, the Department of Insurance, and representatives from the California public and private mental health systems to produce a report analyzing the implementation of mental health parity in California. Issued in 2006, the report identified several barriers to full implementation of mental health parity including barriers related to access and covered services. The report also contained recommendations for addressing these issues; many recommendations were directed to DMHC.

   Legislative staff questioned DMHC about their response to the recommendations. In December 2006, DMHC staff indicated that the issues would be addressed in a forthcoming report on mental health parity that was initiated by DMHC. The report would reflect a more detailed review of parity implementation, including perspectives of health plans and findings from follow-up surveys of the plans.

Suggested Questions: The Subcommittee may want to ask the DMHC the following questions related to mental health parity:

1. Will the forthcoming DMHC report on mental health parity address all of the issues and recommendations directed to DMHC in last year's report on mental health parity?
2. What, if any, steps has DMHC taken to implement the recommendations?
3. When will the report be released?

Staff Recommendation: Keep the Department's budget open pending receipt of the mental health parity report.

2740 Department of Motor Vehicles

The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver 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 $902.8 million (no General Fund) and 8,280.1 positions, an increase of $19.2 million (2 percent) and a decrease of 24.1 positions.

Issues Proposed for Consent / Vote-Only

1. **International Registration Plan Audit Program (BCP #7).** The Administration requests $98,000 and the redirection of 5.0 positions to comply with the audit requirements of the International Registration Plan (IRP), of which California is a member. The IRP is a registration reciprocity agreement among 59 jurisdictions, including 48 states and 10 provinces in Canada. Under IRP, jurisdictions must audit a minimum of 3 percent of fleets registered in their jurisdictions. If California does not meet the audit requirement, the IRP may withhold transfer of weight fee payments that other jurisdictions have collected from their fleets on behalf of California (for miles traveled in California). There is a net cost to this proposal because the redirected positions are technicians being reclassed as auditors (at a higher pay range).

Staff Recommendation: Approve the above consent / vote-only issues.

Vote:

Issues for Discussion / Vote

2. **Federal REAL ID Act – Draft Regulations.** On May 11, 2005, President Bush signed H.R. 1268, which includes the Real ID Act of 2005. Draft regulations from the federal government on the implementation of this law were released on March 1, 2007. Last year, the DMV estimated implementation of Real ID may cost the State $500 million to $750 million. Real ID will cause inconvenience for California driver license holders, because most people will have to go to a DMV field office to re-verify their identity. Real ID requires people without a passport to have a compliant driver's license or identification card in order to enter a federal building or cross an airport checkpoint.

   Background / Detail: Last year the Administration submitted, and the Legislature approved, $18.8 million for information technology improvements and planning activities to improve DMV's customer service and data collection – all related to Real ID. The Legislature added budget bill language specifying that the funding did not implement Real ID for California, but rather improved efficiencies at the DMV to facilitate implementation at a later date, should enacting legislation be approved. The budget bill language included two reports. The first requirement was for DMV to update the expenditure detail for the $18.8 million prior to expenditure of the second half of the amount – this report was submitted on February 13, 2007. The second report requires DMV to report on the federal regulations. This report has been postponed due to the delays in the federal regulatory process, and the final regulations are still at least two months away. The DMV indicates it will provide overview information on the *draft* regulations within the week.

   Draft Federal Real ID Regulations: The following information is from the draft regulations and summary information from the Department of Homeland Security (DHS):

   - States may delay implementation of Real ID from May 11, 2008 to January 1, 2010, upon approval from DHS.
   - The full phase-in deadline for current license-holders to obtain compliant ID is May 10, 2013. (Assuming an extension is granted to California, this means a large portion of 22 million California license holders will have to re-verify their identity at a DMV field office over a 40-month period).
   - DHS will enable States to use up to 20% of a State's Homeland Security Grant Program funds for REAL ID compliance efforts, beginning in the current year. (No *new* federal funds will be available to states for Real ID).
   - The mandated machine-readable technology for ID cards will be "2-D barcodes."

   Staff Comment: The Governor's Budget includes $8.7 million for Real ID planning in 2007-08 that relates to second-year activity for BCP's approved last year. The Administration did not submit any BCPs directly related to Real ID, but several of the proposals are indirectly related. The Administration anticipates the submittal of spring Finance Letters related to Real ID.

   Staff Recommendation: Keep issue open for further discussion.

3. **New Leased Facilities (BCP #4).** The Administration requests 2007-08 funding of $9.6 million ($4.7 million ongoing) to remove non-public programs out of field offices and into stand-alone leased facilities or consolidated leased facilities. The DMV indicates these changes would reduce overcrowding in field offices, and also be beneficial in addressing a surge in visits that would accompany the implementation of Real ID.

Background / Detail. The DMV indicates it is pursuing a strategy of "customer segmentation" to improve customer service and efficiency. Under this strategy, certain DMV employees that do not deal face-to-face with the general public will be moved out of field office locations to standard lease space. In turn, this action would free up additional space at field offices to add customer service staff and terminals. Additionally, less-common customer transactions, such as business services and driver safety hearings would be moved out of DMV field offices. The new leased facilities and costs are outlined in the table below (dollars in 1,000s):

	2007-08	On-Going
Consolidated Telephone Centers (One new location)	$5,475	$2,297
Business Service Centers (Three new locations)	$2,986	$1,745
Driver Safety Hearing Offices (Two new locations)	$917	$624
Dept. of General Services Fees	$250	$0
TOTAL	**$9,628**	**$4,666**

Staff Comment: The customer segmentation strategy may be desirable to service a growing California population while minimizing new field offices; however, the short-term motivation is preparing for the surge in field office visits that will happen with Real ID.

Staff Recommendation: Keep open pending additional information and discussion on Real ID.

4. **Capital Outlay – Office Reconfigurations (CO BCPs 2.1, 2.3, & 2.5).** The Administration requests a total augmentation of $8.6 million in Motor Vehicle Account funds to reconfigure three existing DMV field offices (Victorville, San Bernardino, and Redding). Reconfigurations would add customer service workstations and in some cases, expand parking and lobby space. The offices are all from 25 to 45 years old and renovation would include new heating, ventilation, and air conditioning systems, new floors and modular furniture, etc.

Staff Comment: Renovating and modernizing field offices is a long-term need of the DMV; however, the short-term motivation is preparing for the surge in field office visits that will happen with Real ID. Some of the activities in these BCPs assume new leased facilities will be approved in BCP #4 (above).

Staff Recommendation: Keep open pending additional information and discussion on Real ID.

5. **Headquarters Seismic Retrofit / Asbestos Abatement Project (CO BCP #1).** The Administration requests $84.6 million to complete the reconstruction of the Sacramento headquarters building. Last year the Legislature approved $2.2 million for working drawings and the construction phase of the project was estimated at $50 million. The construction phase of the project is now estimated at $82 million. This request is part of a multi-year project – funding for asbestos abatement has been funded in the past several budgets. The early phases of this project began prior to Real ID, and it is unrelated to Real ID.

Staff Recommendation: Approve this request.

Vote:

6. **Credit Card Processing Fees (BCP #5).** The Administration requests an augmentation of $11.4 million in 2007-08 and $12.7 million in 2008-09 to continue the payment of credit and debit card processing fees. In 2005-06, the Legislature approved two-year limited-term funding for DMV to pay these processing fees. At times in the past, the DMV has charged customers “convenience fees” to cover the cost of processing fees. Funding was provided in 2005-06 to eliminate these convenience fees to encourage customers to pay with a credit card and reduce visits to DMV offices. The DMV believes that reduced field-office visits save the state about $1.2 million annually – this gross savings was included in the 2006-07 budget. The DMV acknowledges a net cost related to credit card processing fees (about $10.2 million in 2007-08), but feels this is the cost of providing a customer service that Californian’s expect and want.

Staff Comment: Real ID would require driver-license holders to come to DMV field office to verify identity and therefore would reduce the incidence of driver-license renewals over the internet with a credit card. DMV indicates the impacts of Real ID are not factored into this request.

Staff Recommendation: Keep open pending additional information and discussion on Real ID.

7. **Information Technology Modernization (BCP #1).** The Administration requests 2007-08 funding of $23.9 million (various special funds) and 25.2 positions for the second year of an information technology modernization project with a total cost estimated at $242 million. Last year, the Legislature approved funding of $2.1 million and 5 positions for the first year of this project. While the BCP is not explicit on this point, the DMV indicates that the current request is intended to cover the remainder of the project – so additional Legislative approval would *not* be requested via future BCPs.

Detail / Background: The DMV indicates it will take a multi-year incremental approach with "modular" progress – the intent is to migrate existing functions over to the new system over time such that some benefits are realized prior to full implementation, and risk is reduced. The incremental program would involve the separate migration of the drivers' license database and then the vehicle registration database. The new database would maintain a link to the old while several hundred software systems that need to be updated are shifted from the old to the new database.

Staff Comment: The modular approach to this project (which may mitigate risk) is partly motivated by an unsuccessful DMV IT modernization project in the mid-1990s. If project costs escalate, or if implementation problems arise, the Legislature could decide to limit funding and direct the DMV to re-scope the project to focus, for example, on just the drivers' license database. In approving first-year funding of $2.1 million, the Legislature added an annual January 31 reporting requirement. The DMV has submitted this year's report, but there is not much detail to report because the Department is still in the procurement phase of the project.

Staff Recommendation: Keep this issue open. There are likely to be further discussions on statewide IT policy in the Subcommittee. These discussions may provide additional insight on IT project oversight and management.

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 $1.831 billion in total expenditures (no General Fund) and 11,012 positions for the CHP, an increase of $150.1 million (9 percent) and 325.7 positions.

Issues Proposed for Consent / Vote-Only

1. **Personnel Transaction Unit – Staffing (BCP #3).** The Administration requests an augmentation of $728,000 (Motor Vehicle Account) and 10.0 new positions (8.0 Personnel Specialist positions and 2.0 Personnel Supervisor positions) to address increasing personnel workload associated with employee growth at CHP.

2. **Fatality Analysis Reporting System Unit - Staffing (BCP #5).** The Administration requests an augmentation of $112,000 (federal funds) and 2.0 Program Technician positions to meet federal highway accident reporting requirements. The National Highway Transportation Safety Authority (NHTSA). CHP staffing has not kept pace with the growth in fatal accidents and new data requirements. The NHTSA would fund the cost of these positions.

3. **Cargo Theft Interdiction Program - Staffing (BCP #8).** The Administration requests an augmentation of $632,000 (Motor Carrier Safety Improvement Fund), 2.0 new CHP Officer positions, and additional overtime authority to conduct additional investigations and inspections related to cargo theft.

4. **Administrative Costs: Services Provided to the BT&H Agency (BCP #10).** The Department requests reimbursement authority of $180,000 (Motor Vehicle Account) to fund the permanent extension of 2.5 limited-term positions at the CHP that perform administrative work for the Business, Transportation, and Housing Agency. In addition to the two limited-term positions, the CHP currently has 5.0 permanent positions that also perform administrative functions for the Agency. The Agency has BCP #9 that ties to this request.

5. **Highway Work Zone Enforcement (BCP #11).** The Administration requests an ongoing increase in reimbursement authority of $554,000 (from the State Highway Account) for enforcement workload related to the Maintenance Zone Enhanced Enforcement Program (MAZEEP). The program is designed to enhance the safety of California Department of Transportation (Caltrans) workers and contractors while they perform road maintenance activities. The proposed Caltrans budget (BCP #3) includes a concurrent augmentation for the cost of this program.

6. **Office of Internal Affairs.** The Governor requests $952,000 in reimbursement authority and 5.0 two-year limited-term positions to respond to the unfunded workload brought about by requests for investigative services from outside agencies. The Department indicates State departments frequently call upon the CHP to conduct independent reviews and investigations. Investigations are normally approved by the Business, Transportation and Housing Agency and the Governor's Office. The external investigations can consume up to 85 percent of the Investigation Unit's resources and in these cases leave minimal resources for internal investigations.

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

Vote:

Issues Proposed for Discussion / Vote:

7. **Enhanced Radio System (Required Report).** The budget includes $108 million for the 2007-08 cost of upgrading the CHP's public safety radio system. Last year, the Legislature approved this five-year project that has total costs of $494 million. The project will enhance radio interoperability with other public safety agencies and provide additional radio channels for tactical and emergency operations. As part of last year's project approval, the Legislature required annual project reporting for the life of the project – the first report was due March 1, 2007.

   Background / Detail: The total projects costs are likely to change because the Department of General Services relied on a survey of existing equipment, instead of a full inspection of the many remote facilities. The report should include updated cost information per the requirements of the budget bill language.

   Staff Comment: At the time this agenda was finalized, the CHP had not submitted the March 1, 2007, report.

   Staff Recommendation: Keep this issue open pending receipt of the report and analyses of the new costs estimates.

8. **Officer Staffing Augmentation (BCP #1).** The Governor requests $17.5 million ($21 million ongoing) to add 50 uniformed positions and 41 support staff (an additional 70 uniformed positions would be added in 2008-09 for a total increase of 120 Officers). Last year, the Legislature approved a staffing increase of 310 positions (240 Officers and 70 supervisory and non-uniformed support staff) to be phased in over two years (the 2007-08 phase adds 75 Officers). The CHP indicates this increase would help address the continual increase in workload associated with population growth throughout the state.

   Detail / Background: The need for additional CHP officers is supported by CHP data and prior-year LAO findings. According to the LAO, additional staffing is particularly necessary to CHP divisions that have seen recent large increases in vehicle registrations and highway travel. In addition, the LAO points out that the pace of growth for vehicle collisions throughout the divisions have far outpaced officer hiring between 2000 and 2004.

   LAO Recommendation: In the *Analysis of the 2007-08 Budget Bill*, the LAO recommends that the new positions be approved, but that the requested funding be reduced by a total of $1.1 million to correct technical errors and reduce some costs assumptions.

   Staff Comment: Staff understands the Administration concurs with the $1.1 million adjustment suggested by the LAO.

   Staff Recommendation: Keep this issue open pending receipt from the Business, Transportation, and Housing Agency of a long-term Motor Vehicle Account (MVA) fund condition statement. This information will aid the Legislature in evaluating the ability of the MVA to fund this new ongoing commitment. (See also issue #6 in the Business Transportation and Housing Agency section of this agenda).

   Vote:

9. **Motor Carrier Safety Program (BCP #7 & Trailer Bill Language).** The Governor requests a permanent increase of $7.7 million to augment staffing 67.9 positions (60 Motor Carrier Specialists and 11.5 support positions). The Administration indicates this will allow the Department to complete 100 percent of the Biennial Inspection of Terminals (BIT), instead of the current 58 percent inspection rate. Motor Carrier Specialists visit terminals to: (1) inspect maintenance and inspection reports for buses and trucks; (2) inspect a sample of required driver records; and (3) investigate hazardous materials handling practices. The Department indicates that statute requires fees to be set at a level to fund the program; however, currently the Motor Vehicle Account (MVA) subsidizes $2.1 million of the cost. Trailer bill language is requested to increase fee levels for motor carriers to pay the full program cost.

   LAO Recommendation: In the *Analysis of the 2007-08 Budget Bill*, the LAO indicates that increased inspections and the move toward self-financing make sense, but that the fee structure is flawed. The LAO recommends that the Administration develop a more rational fee schedule and that only 32 of the requested 71.5 positions be approved. This recommendation would reduce the funding requested by $3.3 million – to $4.4 million. The LAO also suggests that the Administration should advise the Legislature on operational efficiencies it can implement to reduce the time it takes to complete a terminal inspection.

   Staff Comment. The Administration indicates it is revising its fee schedule proposal. At the time this agenda was finalized, the Administration has not provided the revised proposal.

   Staff Recommendation: Keep this issue open pending the receipt and examination of the new fee schedule. Direct staff to work with the Administration and the LAO on the appropriate staffing level and fee structure.

10. **State-Owned Facilities – New Construction (CO BCPs 2, 3, 4, 9).** The Administration requests an augmentation of $8.1 million for three major capital outlay facilities projects – two projects are in the working-drawings phase (Oceanside Area Office [$1.1 million] and Oakhurst Area Office [$636,000]) and would likely come forward with construction funding requests in 2008-09 totaling about $21 million; a third project is in the construction phase (San Diego Area Office [$6.2 million]) and involves the renovation of an existing office. Additionally, the Administration requests $225,000 for various capital outlay studies.

    Staff Recommendation: Keep this issue open pending information from the Administration on the long-term fund condition of the Motor Vehicle Account.

11. **Leased Facilities – Relocation of CHP Headquarters (BCP #4).** The Administration requests an augmentation of $8.3 million ($7.4 million ongoing) for moving costs and higher lease costs at a new consolidated CHP headquarters. Of the amount requested, $232,000 would cover higher lease costs at two smaller southern California facilities.

    Staff Recommendation: Keep this issue open pending information from the Administration on the long-term fund condition of the Motor Vehicle Account.

12. **Budget Funding for Tactical Alerts (LAO Issue).** The Governor's Budget includes $24.8 million to pay overtime in the event of tactical alerts. Following September 11, 2001, CHP officers were placed on 12-hour shifts, or "tactical alerts," to enhance preparedness. In 2002-03, the Legislature provided a budget increase of $32.5 million to fund further tactical alerts and adopted budget bill language requiring that any unused funds revert to the Motor Vehicle Account.

    Background / Detail: In 2003-04, the Administration reduced tactical alert funding through a baseline adjustment by a reduction of $5.9 million and a redirection of $1.8 million to cover workers' compensation costs. Additionally, the Administration removed the budget bill language that reverted the unspent amounts. In 2002-03, the CHP expended $17.4 million for tactical alerts and in 2003-04 it expended $3.2 million. Since 2003-04, the CHP has not tracked tactical alert costs.

    LAO Recommendation: In the *Analysis of the 2007-08 Budget Bill*, the LAO recommends that the Legislature reduce the budgeted funding for tactical alerts by $19.8 million – to $5.0 million. Further, the LAO recommends budget bill language to revert any unused portion of the $5.0 million.

    Staff Recommendation: Keep this issue open and direct staff to continue to work with the Administration and the LAO to determine the appropriate level of tactical-alert contingency funding and draft budget bill language.

13. Workers' Compensation Fraud - Sacramento DA Report (Informational Issue). Media attention in 2004 raised questions of workers' compensation fraud and abuse with certain claims, and questioned the CHP's high rates of claims and industrial disability retirement. In response to concerns, the CHP reinstituted its Workers' Compensation Fraud Unit, among other efforts. In January 2007, the Sacramento County District Attorney (DA) issued a report concerning their investigation of three CHP workers' compensation cases.

Background / Detail. According to the Department of Personnel Administration website, the CHP incurred $60.2 million in workers' compensation costs in 2005-06 – down $4.7 million from 2004-05. Additionally, the rate of uniformed staff retiring on industrial disabilities has historically been higher than statewide public safety personnel as a group in the Public Employees' Retirement System. The CHP's most recent report on workers' compensation and disability retirement (for the period January through June 2006) indicates that there was a 21.4 percent reduction in the number of new workers' compensation claims filed compared to the same period in 2004 (from 1,230 to 967), and that since January 2005, six CHP chiefs have retired with none claiming industrial disability retirement.

Most State departments are "self-insured" for workers compensation costs. The Department of Personnel Services negotiates a Master Agreement with the State Compensation Insurance Fund (SCIF) to administer claims for self-insured state departments.

Sacramento County District Attorneys Office Findings (Staff Issue). The CHP Workers' Compensation Fraud Unit identified several suspicious claims involving high ranking individuals. To avoid the potential for conflicts of interest, Commissioner Mike Brown referred these open investigations to the Sacramento County DA. The DA found that "*After a review of the provable facts and the applicable law, it is our conclusion that although abuses of the system did take place, a criminal case cannot be proved.*" The following are some additional Sacramento DA findings or conclusions:

> *The workers' compensation system, as it was administered by the California Highway Patrol in these cases involving its top management, was riddled with opportunities for abuse and misuse. The situation was compounded when one outside agency, the State Compensation Insurance Fund, which is charged with acting as an independent safeguard, essentially ceded this function to the CHP.*
>
> *Our investigation revealed that CHP repeatedly ignored its own departmental policies, and both the CHP and the State Compensation Insurance Fund failed to follow the Master Agreement that was intended to provide both departments with guidelines on how to handle workers' compensation cases for CHP personnel. The result was that CHP could*

use the worker' compensation system as a tool to deal with problematic employees.

Staff Comment: The Subcommittee may want to ask the CHP how it has revised its procedures to correct for the following problems detailed in the Sacramento DA's report:

- Workers' compensation benefits were paid to an employee prior to authorization from SCIF, contrary to the requirements of the Master Agreement.
- Direction was sent through unattributed "chain of command" in several instances. The DA could not locate the decision maker. Individuals within the chain of command either denied passing the direction along, or were unable or unwilling to recall any specific conversations.
- The CHP did not provide certain documents requested by SCIF, contrary to the requirements of the Master Agreement.

Staff Recommendation: Information issue – no action is necessary. The Subcommittee can discuss this issue further at future hearings as warranted.

8420 State Compensation Insurance Fund

The State Compensation Insurance Fund (SCIF) is a self-supporting, non-profit State entity that provides workers' compensation insurance to California employers at cost with no financial obligation to the public. In addition to being an insurance provider for California businesses and local governments, SCIF acts (under contract) as the workers' compensation administrator for State agencies. Currently, SCIF has a 30-percent market share of workers' compensation insurance policies in California – down from a peak of 60 percent earlier in the decade.

The Governor's Budget indicates $4.150 billion in SCIF expenditures (Compensation Insurance Fund) and 6,768 positions, an increase of $107 million and a decrease of 1,170 positions. The budgeted figures include State workers' compensation costs, SCIF administrative costs, and benefit payments for private and local government entities that are insured through SCIF. SCIF funds are continuously appropriated in statute, and therefore no appropriations are included in the annual budget bill. The cost to the State for providing workers' compensation benefits for State employees is estimated by SCIF to be $455 million in 2007-08, down about $5 million from the 2006-07 estimate (and down $71 million, 14 percent, from the 2003-04 figure).

Issues for Discussion

1. **Overview of SCIF's Budget (Informational Issue).** SCIF's funds are continuously appropriated and not included in the annual budget bill. The Governor's Budget display includes all SCIF expenditures including those expenditures related to coverage purchased by businesses and local governments. The cost to the State for state employees' workers' compensation is displayed in the SCIF budget item, although actual budget authority is provided in the budgets of individual State departments, who reimburse SCIF as costs are incurred. The table below shows the change in State workers' compensation costs from the peak in 2003-04 through SCIF estimates for 2007-08.

	2003-04	2004-05	2005-06	2006-07*	2007-08*
SCIF Admin Costs	$53.6	$56.1	$60.7	$68.0	$72.0
Cost of Benefits	$473.6	$439.5	$398.3	$392.1	$383.5
Total State Costs	**$527.2**	**$495.6**	**$459.0**	**$460.1**	**$455.5**
Total New Claims	31,102	25,546	26,095	26,500	27,030

* SCIF estimates

Over the five-year period (including estimates for 2007-08), the cost of direct benefits has fallen by 19 percent and the number of new claims has fallen by 13 percent. SCIF administrative costs have increased by 34 percent. Overall State costs are estimated to be 14 percent less in 2007-08, than actual costs in 2003-04.

Staff Comment: The Subcommittee may want to ask SCIF the following (The Department of Personnel Administration has also been asked to attend the hearing and be available to respond to questions that are better directed to them):

- Why have administrative costs increased by 34 percent (projected) while direct benefit costs and the number of new claims has fallen?
- How does SCIF determine the appropriate staffing level for State workload, and determine appropriate metrics such as the number of claims per adjuster?
- What is the process and timeline over the next few months for determining final 2007-08 administrative costs in coordination with DPA?

Staff Recommendation. This is an information item and no action is required. The Subcommittee may want to direct staff to follow the process over the next few months as SCIF and DPA finalize 2007-08 administrative costs for State workload. Staff can inform the Subcommittee if costs change significantly from the figures included in the Governor's Budget.

2. SCIF Administration of Workers' Comp for State Agencies. The Department of Personnel Administration (DPA) contracts with SCIF (via the "Master Agreement") to provide workers' compensation administrative services to the majority of state departments that are self-insured and to provide insurance coverage to the small number of state departments that are not self insured. Most workers' compensation benefits are directly paid by SCIF (and then SCIF bills departments), but other benefits are directly paid by individual departments. The budget estimates State workers' compensation costs in 2007-08 will be $455 million, with $72 million of that being administrative costs charged by SCIF under the Master Agreement. A recent Sacramento District Attorney's Office investigation of workers' compensation fraud at the California Highway Patrol (CHP) raised questions about the role of SCIF and the role of individual State departments in administering the workers' compensation benefits to State employees (See also issue #13 under the CHP section of this agenda).

Assigned Responsibilities under the Master Agreement. Section III of the Master Agreement lists responsibilities of SCIF, individual State departments, and DPA. Below are some responsibilities that relate to investigating and reducing workers' compensation fraud:

SCIF Responsibilities:

07. State Fund shall determine whether an injured employee is entitled to workers' compensation benefits based on the medical record and relevant facts.

06. State Fund shall notify the Return-to-Work Coordinator (RTWC – a department representative) when there is a need for a comprehensive investigation.

Individual State Department Responsibilities:

05. The department RTWC and department employees shall cooperate with the State Fund attorneys and the investigators they assign when the need arises for a claim or fraud investigation.
14. The RTWC shall report any suspected fraudulent activity to a State Fund's representative of the State Fund office adjusting the claim.

Department of Personnel Administration Responsibilities:

01. DPA *may* provide a review, upon request, of the performance of State Fund or a State department with regard to the terms and conditions of this contract.
02. DPA *may* conduct random annual verifications of compliance of the departments participating in the Master Agreement. These verifications of compliance may include a random sampling, as specified.

(Note, the DPA indicates it has not conducted a review or verification in at least 6 or 7 years. DPA indicates reviews in the past were not deemed productive, and staffing cuts and workload growth have limited the ability of DPA perform this function.)

Sacramento County DA Report. As discussed in the CHP section of this agenda, the Sacramento DA indicated that neither the CHP nor SCIF was living up to their responsibilities under the Master Agreement. In one case, workers' compensation benefits were paid prior to authorization by SCIF. In another case, a SCIF claims manager asked for a personnel file in order to substantiate reports of an internal affairs investigation and the file was not provided nor was any SCIF follow-up noted.

Suggested Questions: The Subcommittee may want to ask SCIF the following:

- How can workers' compensation benefits (Industrial Disability Insurance or Labor Code Section 4800 benefits for the CHP) be paid by the Controller prior to SCIF verification of injury?
- What does SCIF do when departments fail to provided requested documents?
- Does the Master Agreement require SCIF to report any non-compliance by departments to the DPA?

Staff Comment: Staff discussions with SCIF and DPA reveal what appear to be gaps in State oversight of the workers' compensation system for State workers.

- The Master Agreement does not require SCIF to report the failure by a department to fully cooperate and provide required documentation to SCIF. Therefore, it appears SCIF does not report all issues concerning departmental non-compliance to DPA?
- Departments are required to receive authorization from SCIF prior to submitting requests for Industrial Disability Insurance benefits to the State Controller for payment. The Sacramento DA found the CHP had submitted requests to the Controller prior to approval by SCIF. There does not appear to be any mechanism in place to monitor or audit this practice (since DPA no longer

performs reviews or verification of departments' compliance with the Master Agreement).

Staff Recommendation. Keep this issue open. Direct staff to work with the Administration on mechanisms for providing oversight of how state departments meet their requirements under the Master Agreement. Direct staff to work with DPA on how SCIF reporting requirements could be improved with a future Master Agreement to requiring reporting on non-compliance.

Attachment I

Bureau of State Audit Highlights for Department of Corporations Audit

California State Auditor/Bureau of State Audits
Summary of Report 2005-123 - January 2007

Department of Corporations:
It Needs Stronger Oversight of Its Operations and More Efficient Processing of License Applications and Complaints

AUDIT HIGHLIGHTS

Our review of the Department of Corporations' (Corporations) operations revealed the following:

- *Corporations' current fee structure results in certain licensees subsidizing the administrative costs for others. For example, revenues from securities fees have exceeded the related service costs by $22.2 million over the last seven years.*
- *Corporations has taken important steps in strategic planning for its operations, however, these efforts are undercut by inaccurate statistical information about its actual performance as reported in its monthly and quarterly performance reports.*
- *Corporations does not always process applications within the time limits set by state law. In fact, for applications submitted between January 2004 and May 2006, the average processing time exceeded the time allowed by law for many of the application types we reviewed.*
- *Although there is no legal requirement dictating the length of time Corporations has to resolve complaints, we found examples of unneccessary delays in a sample of complaints we reviewed.*
- *Corporations has three primary information systems for capturing complaint related data; however, none of them are reliable for determining the number, type, and status of its complaints because the systems contain too many blank fields, duplicate records, and errors.*
- *Corporations did not conduct required examinations of at least 170 licensed escrow offices and 899 licensed finance lenders within its four-year goal.*

RESULTS IN BRIEF

The Department of Corporations (Corporations), within the Business, Transportation and Housing Agency, is responsible for licensing and regulating the securities and financial services industries, including businesses such as securities brokers and dealers, investment and financial planners, and certain fiduciaries and lenders. As part of these responsibilities, Corporations issues and renews licenses, examines and investigates licensees, and collects periodic assessments from certain licensees. Corporations is supported solely by the fees and assessments it collects. Although it also conducts investigations into alleged violations of the laws over which it has jurisdiction, Corporations has typically been required to transfer any fines and penalties it collects to the State's General Fund.

We found that since 2001, Corporations has not analyzed the licensing and examination fees it charges businesses to determine whether the fees matched its costs of providing the related services. As a result, it has consistently overcharged for some activities and undercharged for others. For example, revenues from securities fees have exceeded the related service costs for six of the last seven fiscal years, resulting in excess revenues of $22.2 million from these fees during that time. Corporations has also generated excess revenues from three of the other business activities it regulates. Overall, excess revenues from these three activities have totaled $2.8 million over the last seven fiscal years. In contrast, the revenues generated from fees for nine other business activities have not been enough to cover the service costs, falling short by a total of $21 million over the last seven fiscal years. For example, the fees charged to process applications for businesses providing investment advice have not been high enough to cover Corporations' costs of providing these services, falling short by $8.2 million during this time. In effect, the excess revenues generated from some types of fees allow Corporations to offset the funding shortfalls for the services it provides for other applicants. Some of the fees collected by Corporations, such as licensing fees, are generally set by statute and thus cannot be raised without a change in the law. However, state law has given Corporations the authority to set certain fees below the statutory amount.

Similarly, Corporations has not recently updated its billing rates for audits and examinations. Our audit found that Corporations' Financial Services Division would have generated more than $1 million in additional revenues from examinations during the period from January 1, 2004, through May 23, 2006, had it revised its billing rates to reflect its increased employee costs for examiners.

Any excess revenues not used by Corporations to fund its operations and not transferred or loaned to other funds accumulate in the State Corporations Fund. These accumulated excess revenues may result in a violation of a state law that takes effect on June 30, 2007, which requires Corporations to limit the reserve it maintains in the fund to 25 percent of annual expenditures, or approximately $8 million by that date. Corporations stated that its reserve was $13.1 million on June 30, 2006; however, this amount does not take into account a loan to the General Fund of $18.5 million, $6 million of which Corporations' financial management chief expects to be paid back in fiscal year 2006-07. If Corporations does receive the $6 million loan repayment in fiscal year 2006-07, it would have to spend $11.1 million more than it collects in that year in order to reduce the State Corporations Fund to the statutory maximum. Given that Corporations has not changed any of its fees and had excess revenues totaling $3.2 million in fiscal year 2005-06, that does not seem to be a reasonable expectation.

Corporations has taken important steps in strategic planning for its operations, seeking to identify its strengths and weaknesses, eliminate inefficiencies, and increase productivity. It is also in the process of implementing a program-level action plan. However, these efforts are undercut by inaccurate statistical information about its actual performance as reported in its monthly and quarterly performance reports. Such errors, if they are significant, may direct Corporations' attention away from important issues needing improvement or toward lesser issues at the expense of areas of greater concern. The inefficient methods used to compile the performance reports also consume time that could instead be used to complete the tasks the reports are measuring. The performance report for the quarter ending September 30, 2006, indicates that Corporations has fallen short of most of its goals.

In addition, because it does not gather sufficient data and does not always identify benchmark goals for its performance measures, the effectiveness of Corporations' Education and Outreach Unit (outreach unit) is uncertain. For example, the outreach unit does not collect data for four of the 12 performance measures it has identified for its Seniors Against Investment Fraud Program. Further, of the eight performance measures for which it does collect data, it has established benchmarks for only two. Without sufficient data and benchmarks, it is impossible for Corporations to effectively assess the value of its efforts. Similarly, Corporations did not have any goals for its Troops Against Predatory Scams Investor Education Project.

Corporations does not always process applications within the time limits set by state law. In fact, for applications submitted between January 2004 and May 2006, the average processing time exceeded the time intended by law for many of the application types we reviewed. Although Corporations is responsible for some of the delays in processing license applications, other factors outside of its control also contribute to lengthy processing times. For instance, applicants frequently submit incomplete applications that require Corporations to issue deficiency notices. In fact, we found several instances in which Corporations had to send applicants multiple deficiency notices before it obtained the information needed to rule the applications complete. Furthermore, applicants do not always respond promptly to the deficiency notices. Delays in processing are detrimental to the applicants because they prevent applicants from conducting business.

Corporations also did not always resolve complaints related to securities regulation and financial services as quickly as it could have. Although there is no legal requirement dictating the length of time Corporations has to resolve complaints, our review of 20 complaints related to securities regulation identified four complaints in which unnecessary delays increased the length of the process. In one instance, the Securities Regulation Division did not begin its investigation until 277 days after the complaint was received. We found similar unnecessary delays in Corporations' handling of our sample of 20 financial services complaints. When Corporations does not investigate complaints promptly, its ability to protect consumers from fraudulent activities is compromised.

Furthermore, the information systems used by Corporations to track complaints are unreliable because they contain a large number of blank fields, duplicate entries, and inaccuracies. Fields commonly left blank include the date a complaint was received, the date the case was opened, the type of law involved, and the name of the staff member assigned to the complaint. In addition, one system listed an incorrect status for many of the complaints we reviewed. Consequently, it is difficult, if not impossible, for management to use these systems as tools for assessing some of Corporations' activities.

Corporations' Enforcement and Education Division (enforcement division) also did not always identify a reason for rejecting complaints, and for the cases for which it did identify a reason, it did not always fully document its rationale. Because the enforcement division cannot fully investigate every complaint it receives, due to its workload and budget constraints, its policy is to occasionally reject some lower-priority complaints, such as complaints involving out-of-state complainants or those involving a limited number of investors. However, to ensure that the process of rejecting complaints is consistent and fair, the enforcement division should carefully document its rationale for doing so in each case.

Corporations has recently modified its procedure for handling complaints. In addition to developing formal policies for rejecting and referring complaints, it has centralized the intake of all complaints into a new complaint team. Corporations believes that this new process will allow it to respond immediately to complaints and prepare each complaint for referral to the appropriate division. Because Corporations initiated this process near the end of our field work, we were unable to test whether it will correct any of the weaknesses we identified. However, it appears that the process contains good business practices.

Finally, contrary to law, Corporations has not conducted at least 170 (37 percent) of its required examinations of escrow office licensees within the last four years. In addition, it has yet to conduct examinations for 899 (35 percent) of eligible finance lender licensees within its four-year goal. According to Corporations' action plan, its examinations have the potential to detect violations of the law and unsafe, unsound, or abusive practices and serve to deter potential wrongdoing. Thus, having a significant examination backlog could leave consumers less well protected.

RECOMMENDATIONS

To strengthen its operational oversight, Corporations should seek legislative authority allowing it to set fees by regulation. This legislative authority should require that Corporations annually assess its fee rates and establish fees that are reasonably related to its cost of providing the services supported by its fees. Corporations should also factor in the amount of any excess reserves when conducting its annual assessment.

To improve the efficiency and effectiveness of its system for collecting actual performance measure information, Corporations should do the following:

- Consider assessing the need for new automated data systems or determining whether its current systems are capable of collecting the necessary information.
- Ensure the accuracy and completeness of the information in its automated systems by requiring staff to enter the information and requiring supervisors to review it periodically. For data not currently available in automated format, Corporations should develop stronger procedures to ensure that staff accurately report and supervisors review the information. Corporations should consider calculating and reporting performance measures quarterly, rather than monthly, until it has a more efficient data collection system.

To ensure that it has identified all necessary performance measures and appropriately focused its current performance measures, Corporations should continue to assess the reasons for performance deficiencies and add or adjust performance measures as needed.

To ensure that the outreach unit can effectively measure its success, Corporations should ensure that it collects all of the necessary data and establishes reasonable benchmarks.

To ensure that all applications are reviewed promptly and sufficiently, Corporations should do the following:

- Continue to monitor the progress of applications through the review and approval process to identify any that have stalled, and investigate the reason for the delay.
- Follow up with applicants that do not promptly respond to deficiency notices.
- Assess whether it needs additional staff to process applications.
- Maintain all necessary data in its information management systems so that it can effectively calculate the number of days it takes to process applications.

To improve the efficiency of its complaint-handling process, Corporations should do the following:

- Develop procedures to track the progress of complaints to ensure that they continue to move through the process without unnecessary delay.
- Monitor its newly established complaint-referral process and develop procedures, if necessary, to decrease the length of time it takes to refer cases to the appropriate division.
- Review its existing complaint records and eliminate duplicates and correct any inaccurate fields. Further, Corporations should maintain accurate and complete data to ensure that the information systems can be used more effectively as management tools.

Corporations should develop a plan to conduct examinations of licensees in accordance with state law and its own internal policy.

AGENCY COMMENTS

Corporations did not have any substantial disagreements to our report and found the recommendations to be useful. The Business, Transportation and Housing Agency concurred with Corporations and stated that the report should prove to be a useful blueprint for Corporations' recently appointed commissioner.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Thursday, March 15, 2007
10:00 a.m. or Upon Adjournment of Session - Room 112

State Administration—General Government—Judiciary—Transportation

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.

5525 California Department of Corrections and Rehabilitation

Background. The California Department of Corrections and Rehabilitation (CDCR) is responsible for the incarceration, training, education, and care of adult felons and non-felon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and re-incarceration of those parolees who commit parole violations. The department also sets minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides grants to local governments for crime prevention programs.

The department operates 33 adult prisons, including 11 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates eight juvenile correctional facilities, including three reception centers. In addition, CDCR manages 13 Community Correctional Facilities, 44 adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and 202 adult and juvenile parole offices.

In 2005, the CDCR was created pursuant to the Governor's Reorganization Plan 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency were consolidated into CDCR. The departments consolidated into the current CDCR are: the Youth and Adult Correctional Agency; the California Department of Corrections; the California Youth Authority; the Board of Corrections; the Board of Prison Terms; and the Commission on Correctional Peace Officers' Standards and Training.

2007-08 Governor's Budget Summary

Overall Budget Summary. The Governor's budget proposal includes $20 billion for CDCR in 2006-07 (See Table 1). This is 104 percent more than estimated expenditure levels in the current year due to the Governor's infrastructure proposal to issue lease-revenue bonds to build more prison beds. General Fund support for CDCR is $10 billion in the budget year, which is nearly 9 percent ($808 million), more than estimated for expenditure in the current year (these numbers include funding from Proposition 98). These increases are primarily due to a variety of increases to the department's support budget ($505 million), including funding to comply with the various court orders and lawsuits, and implementation of Proposition 83 (Jessica's Law) and other recommendations of the High Risk Sex Offender Task Force.

The budget also proposes significant General Fund increases for local assistance ($121 million) and capital outlay ($182 million) in the budget year. The increase in funding for local assistance is primarily due to a proposed shift of a portion of juvenile offenders to local detention facilities and a new program to enhance probation services for the 18- to 25-year old population. The increased funding for capital outlay is due to the Governor's proposed infrastructure proposal that includes a sizeable increase in General Fund monies for critical upgrades to water and wastewater infrastructure at existing prisons.

Table 1: CDCR Budget Summary by Type of Expenditure and Fund Source

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Type of Expenditure				
State Operations	$8,834,255	$9,321,464	$487,209	5.5
Local Assistance	335,613	455,154	119,541	35.6
Capital Outlay	441,534	10,054,133	9,612,599	2,177.1
General Obligation Debt	197,449	211,781	14,332	7.3
Total	$9,808,851	$20,042,532	$10,233,681	104.3
Funding Source				
General Fund, Non-Proposition 98	*$9,099,428*	*$9,891,411*	*$791,983*	*8.7*
General Fund, Proposition 98	*52,964*	*54,250*	*1,286*	*2.4*
GO Bond Debt Service	*197,449*	*211,781*	*14,332*	*7.3*
less Federal SCAAP Assistance	*-114,135*	*-114,135*	*0*	*0.0*
General Fund, Total	**9,235,706**	**10,043,307**	**807,601**	**8.7**
Special Funds	22,142	22,091	-51	-0.2
GO Bond Expenditures	2,885	0	-2,885	-100.0
Budget Total	*9,260,733*	*10,065,398*	*804,665*	*8.7*
Federal Trust Fund	147,974	143,186	-4,788	-3.2
CA State Lottery Education Fund	277	277	0	0.0
Inmate Welfare Fund	64,380	67,661	3,281	5.1
Special Deposit Fund	1,083	1,018	-65	-6.0
Public Building Construction Fund	244,095	9,677,764	9,433,669	3,864.8
Reimbursements	90,310	87,228	-3,082	-3.4
Total	$9,808,852	$20,042,532	$10,233,680	104.3

Budget Summary by Program

Summary of CDCR Programs. The 2007-08 Budget for CDCR is broken down into 15 program elements. These programs include the following:

1. Administration (Program 10)
2. Sentencing Commission (Program 11)
3. Corrections Standards Authority (Program 15)
4. Juvenile Operations (Program 20)
5. Juvenile Education and Programs (Program 21)
6. Juvenile Paroles (Program 22)
7. Juvenile Healthcare (Program 23)
8. Adult Corrections Operations (Program 25)
9. Adult Paroles (Program 30)
10. Board of Parole Hearings (Program 35)
11. Community Partnerships (Program 40)
12. Adult Education and Programs (Program 45)
13. Adult Healthcare (Program 50)
14. Unallocated (Program 97)
15. Capital Outlay (Program 60)

The contents of these programs have been changing since the reorganization in 2005, making it difficult to do year-to-year comparisons of budget expenditures by program. The 2006-07 Supplemental Report required additional changes to better align budget expenditures to the appropriate programs.

The Supplemental Report of the 2006-07 Budget Act (SRL) directs the department to make several changes to the program elements in the budget. The department indicates that it cannot identify separately some of the expenditures requested in the SRL. Listed below are the changes to the program elements in the budget directed by the SRL and whether or not the changes were made in the 2007-08 budget document:

- **Juvenile Programs.** The SRL directs that funding for juvenile programs, such as substance abuse and sex behavior treatment programs be identified in Juvenile Education and Programs (Program 21). The Governor's budget detail does not identify funding for these programs separately as directed.
- **Juvenile Mental Health Programs.** The SRL required that funding for the Juvenile Mental Health Program be moved from Juvenile Education and Programs (Program 21) to Juvenile Healthcare (Program 23). The Governor's budget does reflect this transfer.
- **Custody Expenditures.** The SRL directs that funding for custody be distinguished from non-custody expenditures within Adult Corrections Operations (Program 25). The Governor's budget detail does not separate custody expenditures from non-custody expenditures as directed.
- **Parole Programs.** The SRL directs that funding for parole programs and services be identified separately from funding for parole sanctions (electronic monitoring) within Adult Paroles (Program 30). The Governor's budget detail does not identify funding for these programs separately as directed.
- **Substance Abuse Programs.** The SRL directs that funding for the Office of Substance Abuse Programs be moved from Adult Operations (Program 25) to Adult Education and Programs (Program 45). The SRL also requires that the department identify in the budget what monies are expended on in-prison care and aftercare. The

Governor's budget does reflect this transfer and also identifies the funding for in-prison care and aftercare.

Funding by Program Area. A summary of funding for CDCR by program for the current year and budget year is show below in Table 2. As mentioned above, there have been some changes in the way the department categorizes budget expenditures, which makes direct comparisons difficult. Specifically, substance abuse programs have been moved from Adult Operations to Adult Education and Programs. This is the main reason for the large growth in the Adult Education and Programs budget and relatively small level of growth in Adult Operations in 2007-08.

Other increases in the budget year are due to various budget proposals, including $50 million in funding for adult probation in the Corrections Standards Authority program and $9.5 billion in lease revenue bonds to build prison, local jail, and juvenile beds to augment current capacity.

Table 2: CDCR Budget by Program

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Type of Expenditure				
Administration	$268,564	$287,754	$19,190	7.1
Adult Operations	5,227,093	5,292,902	65,809	1.3
Adult Education and Programs	285,814	456,876	171,062	59.9
Adult Healthcare	1,615,012	1,787,033	172,021	10.7
Plata Compliance	99,716	150,000	50,284	50.4
Adult Parole	755,593	809,195	53,602	7.1
Board of Parole Hearings	102,567	108,508	5,941	5.8
Juvenile Operations	202,727	207,766	5,039	2.5
Juvenile Education and Programs	168,500	178,148	9,648	5.7
Juvenile Parole	50,207	37,164	-13,043	-26.0
Juvenile Healthcare	109,057	99,571	-9,486	-8.7
Corrections Standards Authority	273,176	350,622	77,446	28.4
Community Partnerships	11,842	10,622	-1,220	-10.3
Sentencing Commission	-	457	-	-
Capital Outlay	441,534	10,054,133	9,612,599	2,177.1
General Obligation Debt	197,449	211,781	14,332	7.3
Total	$9,808,851	$20,042,532	$10,233,681	104.3

Management Issues

Background

Current State of Management in Crisis. The current prison population is at an all-time high and the State's prisons are filled beyond capacity. In three of the class action lawsuits filed against CDCR, motions have been filed to cap the prison population. All three judges plan on holding hearings on a prison population cap in June. These issues and more have resulted in a constant state of crisis management at CDCR.

Crisis management requires the staff at CDCR to respond to the immediate crisis of the day and generally leaves very little time for routine day-to-day management decisions, the implementation of new initiatives, and strategic planning for the future. It seems that this crisis extends far beyond management of the inmate population to include management related to various administrative services, including contracting, billing, accounting, and personnel.

What is Population Management? Population management is a commonly used term for describing management of the prison population. It is also a term that has a wide range of definitions depending on the context in which it is used. Population management can refer to policy changes such as sentencing reform and parole reform that would impact the inmate population. However, it can also refer to the department's day-to-day decisions regarding where to place an inmate within the system to enhance safety and ensure appropriate access to specialized health care services and programming opportunities. The latter is the type of population management that we will focus on in this agenda and hearing.

Identified Management Issues

Upper Management Team Fluid. The upper management team at CDCR has been very fluid, of the 20 appointees subject to Senate confirmation a large portion of them have been appointed within the last 12 months and several in the last few months. Some of these positions have turned over multiple times since the reorganization. In addition, a few upper management positions are vacant (most recently both health care appointees stepped down). This has contributed greatly to the instability of the management of the organization. (See Attachment A for the current organizational chart.)

Reorganization Confused Matters. As mentioned above, in 2005, several different corrections agencies were reorganized into one mega correctional department, the CDCR. This reorganization vastly changed the management structure of the department. Unfortunately, as in any reorganization, the large number of changes has resulted in some confusion about what roles different levels of management play in the routine day-to-day management of the prisons, in the implementation of new programs, and in strategic planning for the future. The lack of clear management roles and responsibilities has also created an environment of confusion for the staff of the department.

One of the outcomes of the reorganization was to create positions that were directly responsible for specific areas of departmental operations. The reorganization created three new Chief Deputy Secretaries, one for Adult Operations, one for Adult Programs and one for Juvenile

Justice. All three of these Deputy Secretaries report directly to the Secretary and Undersecretary of CDCR. This structure was designed to increase the presence and accountability for inmate programs.

Unfortunately, there is some evidence that this new structure has not solved the problem of coordinating custody and program. For example, a decision was made this past fall to change the mission of a housing unit. This mission change displaced an established substance abuse program. In the end the department was able to find another location for the substance abuse program, but in the mean time there was a tremendous amount of anxiety and confusion in the field because the transfer and the impacts of the transfer had not been worked out at headquarters.

Furthermore, the reorganization has not helped in clarifying the role of the Wardens in coordinating custody with delivery of health care services and programming. Under the new organization the Wardens report to five mission-based Associate Directors that are organized to manage the issues and operations of specific types of institutions. For example, an Associate Director of Reception Center Institutions and an Associate Director of Female Institutions was created. The reorganization was designed to help focus on problems and issues that are common to like-institutions and has resulted in some efficiencies especially with regards to the women's institutions. However, it did not clarify the Warden's role in ensuring the delivery of health care services and programming. The reorganization actually may have further confused the role of the Wardens with respect to implementing programming by requiring that the Superintendents report directly to the Deputy Secretary for Programs in Headquarters.

Court Cases Have Complicated Operations. The CDCR has settled at least eight major class action lawsuits in the federal courts over the past decade. The CDCR is currently engaged in efforts to implement remedial actions to comply with the following major class action lawsuits:

- *Plata* – Medical Health Care
- *Coleman* – Mental Health Care
- *Perez* – Dental Health Care
- *Armstrong* – Americans with Disabilities Act
- *Rutherford/Lugo* – Parole Consideration Hearings for Lifer Inmates
- *Madrid* – Conditions of Confinement at Pelican Bay State Prison
- *Valdivia* – Parole Revocation Hearings
- *Farrell* – Operations of Department of Juvenile Justice Facilities

Implementing new practices and organizational change in an effort to comply with each of these lawsuits has taken a tremendous amount of staff effort. Many of the courts have appointed Special Masters to monitor CDCR's compliance with various court orders. Furthermore, in the *Plata* lawsuit the court has appointed a Receiver that has direct executive authority over medical care in CDCR. Working with the Special Masters and Receiver take a significant amount of staff and management time, which has a direct impact on day-to-day operations.

The courts, in some cases, have ordered immediate interim changes to CDCR's operations but also continue to work on longer-term plans for improving CDCR operations. This has resulted in a significant increase in workload for current management as they work to respond quickly to the immediate interim changes ordered and provide continued involvement and input into the longer-term planning process. The longer-term planning process has accelerated considerably in the past year with the appointment of the Receiver.

There is also a significant amount of uncertainty in these processes with the courts, which has resulted in paralysis of other management processes. For example, the Right Prison Right Mission effort has been stalled as the department awaits more details on plans by the Receiver and Special Masters to designate certain institutions as magnets for medical and mental health services. The Right Prison Right Mission effort was an attempt to determine what population was best suited to each institution based on location, physical plant, and other factors and then to realign the missions of the institutions and inmate populations accordingly. This effort has also been stalled by the overcrowding conditions and the lack of "swing space" that is necessary when changing the mission of housing units and moving inmates. The Right Prison Right Mission effort could help to improve safety in the institutions by matching up existing housing with the appropriate inmate populations.

Inadequate Information Technology Systems Hinders Management Efficiency. Currently, most of the department's information technology systems are past there useful life (many were designed and implemented in the 1970s) and do not adequately support management in its decisions. For example, as the inmate population has grown, it has become more complex and now management staff must review various case factors (commitment offense, gang affiliation, mental health needs, and others) before transferring inmates from a reception center to a more permanent housing placement. The current information technology systems cannot support these complex placement decisions, which require management staff to manually "call around" to find available compatible beds for some inmates.

Furthermore, many of the department's functions that require scheduling, such as inmate transport, medical appointments, and others are not automated and reduce management efficiency. The department is currently working on implementing new systems that will better support management decisions, but it will still be several years until these systems are implemented under the current planning horizon. The Receiver is also working on information technology systems that will meet the needs of the medical programs and appears to be pursuing changes to the system sooner than the department's current planning horizon.

Salary Compaction. Another issue that is impacting the department's ability to recruit and retain managers is the issue of salary compaction. Salary compaction occurs when "line staff" earn a higher salary than management staff because of bargained salary increases and the ability to earn over-time pay. The CDCR organization suffers from salary compaction in its management structure. This is not a problem unique to CDCR, but it does complicate the department's ability to promote and retain managers.

Staff Findings

Management Pivotal to Implementing Organizational Change. Staff finds that a strong management structure is needed to implement new practices and affect organizational change. This includes not only strong leadership, but also enough management and staff to handle the workload. As noted above, the current management structure has been stressed by the overcrowded conditions in the state prisons and the various other factors that have resulted in the current environment of crisis management at CDCR. Crisis management generally does not leave management with enough hours in the day to implement new practices and organizational change, whether it is directed by the federal courts or the Legislature.

Clear Lines of Accountability and Standardized Processes Could Help. Staff finds that clear lines of accountability and instituting standardized processes could help the department to spend less time responding to crises and more time implementing organizational change. Staff finds that there are many efforts to implement new practices and organizational changes that are impacting the entire organization. Given this, it may make sense to designate teams of people that are responsible for implementing specific efforts. These teams should represent different missions of the organization (health care, custody, programs) and should have a standardized process of communicating proposed actions to management and staff that will implement the action. The department should also standardize the line of communication with the Receiver and the other Special Masters to ensure coordination.

Furthermore, the current population management process, whereby inmates are moved about and the mission of housing units is changed, must have more formal input from other parts of the organization, including health care and programs. Staff understands that the overcrowded conditions have resulted in a more urgent need to make decisions about population movements. However, processes must be put in place to make these decisions more collaborative in order to avoid inadvertently thwarting efforts to improve health care and programs.

Communication and Information is Key to Management. Staff finds that the department started a quarterly process called COMPSTAT that requires all of the divisions within the institution to compile various statistics quarterly and present to a management meeting. The purpose of these meetings is to identify problems and ensure that strategies are being pursued to solve these problems. The department admits that the COMPSTAT process has been a work in progress. Prior to instituting this process many divisions did not collect or track data that is critical to evaluating outcomes. The types of information requested in the COMPSTAT process are critical to successful and informed management decisions.

As part of the 2006-07 Budget Act, the Legislature requested that numerous performance metrics be included in the Governor's budget and in a separate supplemental report to the Legislature. These metrics, for the most part, are the same as what is reported in the COMPSTAT process and were designed to help improve the transparency and oversight of the department's operations and budget. The department has provided the first round of data with the budget. However, some of the data is incomplete and difficult to interpret.

More needs to be done to institute routine data collection and evaluation efforts throughout the department to provide more information to management and the Legislature. Information is critical to management decisions within the department and to the transparency of operations within CDCR.

Construction of New Beds is Not a Substitute for Population Management. Adding additional beds to the prison system is not a substitute for population management. As mentioned above, population management as it relates to the department's day-to-day decisions regarding where to place an inmate within the system to enhance safety and ensure appropriate access to specialized health care services and programming opportunities is critical. These efforts are central to the department's efforts to deliver programming and recidivism reduction strategies to the majority of inmates that will be paroled and return to their communities. As has been mentioned before, management, including population management efforts are currently in crisis management mode and do not allow for strategic planning to determine a strategy for housing the population in the most appropriate manner.

The CDCR has a varied inventory of institutions in different geographic locations around the state. All of these institutions have different strengths and weaknesses that make them more or less suited for housing different inmate populations. However, the department is currently not able to engage in this sort of analysis and management because of its need to just find open beds. Staff finds that the department needs to find a way to stabilize the current crisis management mode and work on population management with an emphasis on improving safety for staff and inmates and improving access to appropriate health care and programming.

Staff Recommendation

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

- Request that the department develop and report to the Subcommittee before May Revision on strategies for increasing the level of coordination between custody, health care, and programs.
- Request that the department continue to work with staff, DOF, and LAO to refine the performance metrics included in the Governor's budget and Supplemental Report and coordinate this effort with the COMPSTAT process.
- Request that the department develop and report to the Subcommittee before May Revision on strategies to improve population management efforts, including the Right Prison Right Mission effort.
- Request that the department report to the Subcommittee before May Revision on modules of the SOMS system that could be fast tracked to help improve efficiency of operations.

Support Services Issues

Background

Division of Support Services. The Division of Support Services is responsible for all contracting, accounting, human resources, and budget functions for the department. This division performs functions that are critical to every part of the department's operations. Unfortunately, this division has faced a significant number of challenges that has weakened its ability to perform its functions effectively and efficiently. This has impacted the department's operations at every level, including the department's abilities to fill vacancies and process contracts. The Division of Support Services is also dealing with a large number of staff vacancies that have made managing the expenditure of a nearly $10 billion-dollar budget difficult.

Identified Support Services Issues

Human Resources Issues. The CDCR has long standing problems in recruiting and retaining staff across all classifications. In 2005-06, the state spent over $500 million on overtime even though it only budgeted around $73 million. These overtime figures are being driven by the high number of vacancies in the department across classifications. In a recent vacancy report from the State Controller, over 1,200 positions were eliminated because they were vacant for more than six months. The sheer size of CDCR (the department currently has nearly 64,000 authorized positions) makes managing human resources issues a challenge. These issues are also complicated by the remote location of some of the department's institutions.

While recruitment and retention issues are pervasive throughout the department, the following groups of classifications are particularly notable given their direct impacts on CDCR operations:

- **Custody Classifications.** In general vacancies for custody classifications are between 7 percent and 15 percent for adult institutions depending on the institution. Vacancies in custody classifications result in some officers working two consecutive shifts and many days in a row without a day off. This is not an ideal environment for staff safety and retention of staff. Furthermore, vacancies in custody classifications impact health care and programming because custody staff are needed to ensure inmate movement is safely achieved.
- **Health Care Classifications.** In general, vacancies for health care classifications vary greatly depending on the classification and the location of the institution, but have been as high as 75 percent at some institutions. Vacancy rates are especially high for mental health clinicians, as there is a shortage statewide of these professionals. The federal courts have ordered several pay increases over the past 12 months in the *Plata*, *Coleman*, and *Perez* lawsuits in an attempt to reduce the number of vacancies in health care staffing and reduce the utilization of registry staff (contract employees). However, these pay increases have been implemented only recently and it is unclear what impacts they have had on recruitment and retention. (Initial reports indicate that many staff may be leaving other state and local agencies because of the pay raises causing vacancy problems in other state departments and local agencies.) It is impossible for the department to implement reforms directed by the courts without adequate health care staffing.

- **Education Classifications.** In general, vacancies for education classifications are high at all adult institutions and are as high as 50 percent at some institutions. Nearly 400 of the 1,200 positions eliminated because they were vacant for more than six months were adult basic education and vocational teachers. Without adequate numbers of teachers it is difficult for the department to provide basic rehabilitative programming.
- **Support Classifications.** Support classifications include both staff in headquarters and at the institutions that support the day-to-day business operations of the department. In general, vacancies for support classifications varies widely depending on the location and classification. However, the Office of Business Services in CDCR headquarters has recently had vacancy rates of about 25 percent. These vacancies are having a real impact on the department's ability to implement organizational change and new programs. Furthermore, these vacancies also result in increasing the length of time it takes the department to pay vendors providing services to CDCR.

Procurement and Contracts Issues. As mentioned above, the department currently is in the midst of implementing significant organizational change directed by the federal courts and the Legislature. This has increased the volume of work that needs to be processed by the procurement and contracts offices. In the 2006-07 Budget Act, the Legislature approved $52.8 million from the General Fund to enhance rehabilitative programming. Staff learned earlier this year that implementation of a large portion of these rehabilitative programming initiatives were delayed because they were "stuck" in the contracts office.

Furthermore, staff finds that about three months ago the Receiver in the *Plata* lawsuit physically moved around 30 staff from the department's contracts office to work exclusively on medical contracts. This group of staff is now being managed directly by the Receiver's office. This has caused additional stress on CDCR's contracts office.

Accounting Issues. The Accounting Office is responsible for paying contractors and other bills that the department receives. The federal court in the *Plata* case found that the department was months behind in paying its outside medical providers (hospitals, specialists, etc.). The court ordered CDCR to pay millions in medical bills immediately. Staff finds that some medical bills were paid, but that the Accounting Division is still having a difficult time achieving a timely payment schedule given the volume of bills it receives.

Staff Findings

Focused Effort on Personnel Recruitment Critical. Staff finds that vacancies throughout the department are contributing to the crisis environment at the department. It is critical for safety in the institutions that there are an adequate number of correctional officers. Furthermore, it will be impossible for the department to comply with the various health care lawsuits without adequate and qualified staff. Rehabilitative programming staff is also critical to the department's efforts to reduce recidivism and improve the environments within the institutions.

In the 2006-07 Budget Act, budget bill language (Provision 16) was added by the Legislature to request that the department prepare a report on its efforts to reduce the hiring time for entry level correctional officers. The department has not submitted this report to the Legislature. Staff finds that it is critical that the department look at all options for improving the recruitment of correctional officers.

The Legislature also requested, in the 2006-07 Supplemental Report, that the department prepare a report on establishing a new Custody Assistant classification. The LAO has found that there are many functions at the prisons that do not entail direct contact with inmates. The LAO found that these functions could be handled by a Custody Assistant classification and would reduce costs to the department and make better use of Correctional Officer positions given the large number of vacancies. The department has not submitted this report to the Legislature.

Furthermore, the Receiver recently eliminated the Medical Technical Assistant (MTA) classification, which was a hybrid custody and health care position. The department should ensure that these persons are re-trained, if necessary, and hired as either correctional officers or nurses to fill the large number of vacancies that the department currently has in both of these classifications.

Support Services are Central to All Department Functions. As mentioned above, there are many factors contributing to the crisis environment at the department. Staff finds that the department will not be able to stabilize the current environment without a well functioning Division of Support Services. Improving the efficiency of the Division of Support Services will help the entire department with lawsuit compliance and the implementation of Legislative directed efforts.

Staff Recommendation

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

- Request that the department submit the required report on its efforts to reduce the hiring time for an entry level correctional officer.
- Request that the department submit the required report on establishing a custody assistant classification.
- Request that the department identify and report to the Subcommittee before May Revision barriers to filling the vacancies in the department's Support Services Division.
- Request that staff, the department, DOF and LAO develop a plan for coordinating with DGS to remove barriers to improving the contracting and accounting processes at CDCR.
- Request that staff, the department, DOF and LAO develop a plan for coordinating with Department of Personnel Administration and State Personnel Board to work on removing barriers to filling vacancies for all classifications at CDCR, including pursuing a workforce investment team that would focus Employment Development Department resources and other state training resources towards addressing the vacancies at the CDCR.
- Request that the department prepare a list and report to the Subcommittee before May Revision on the classifications impacted by compaction.

Population Estimate

Background

Terminology Overview. The population estimate is what drives the majority of the funding allocated in the budget to support CDCR. The **population estimate** is the estimate of funding needed to support department operations based on the population projections. The **population projections** are the department's projections of what the inmate and parole populations will be based on various factors such as actual population, law changes, and other factors impacting population.

Current Population Estimate Process. The population estimate is prepared twice a year and adjustments are made to the budget year and current year estimates when the Governor's budget is released in January and at the time of the May Revision. The population projection drives the Institution Activation Schedule, which is a projection of what housing units will be activated to address the increased population. (However, the link between the population projections and the Institution Activation Schedule has not been made clear to staff.) The juvenile ward and parole populations are also estimated twice a year.

The population estimate is presented to the Legislature in two large binders that includes a detailed summary of the population projections as well as the Institution Activation Schedule. The binders also include numerous adjustments to the population estimate to provide additional staffing for the mentally ill inmate population, the administrative segregation population, and numerous other adjustments. The adjustments in the January 2007 population estimate include the following:

- Administrative Segregation Unit Capacity
- Mental Health Crisis Beds at the California Institute for Men (CIM)
- Mental Health Crisis Beds at the California Men's Colony (CMC)
- Mental Health Crisis Beds at the California Institute for Women (CIW)
- Funding for Modular Buildings at CIW
- New Special Needs Yard at Chuckawalla Valley State Prison (CVSP)
- Drug Treatment Furlough
- Female Community Beds
- Health Records Technicians
- Mental Health Crisis Beds at Kern Valley State Prison (KVSP)
- Legal Representation for Parole Revocation Hearings
- Medical Guarding
- Out of State Beds
- SB 519 Family Foundation Program for Female Offenders
- *Valdivia* Case Records Staff
- Various Technical Adjustments
- Prevalence of Mentally Ill Inmates
- Unallocated Other
- Unallocated Ratio
- Unallocated Special
- Parole Operations
- Community Correctional Facilities
- Juvenile Justice Education
- Juvenile Justice Paroles
- Juvenile Justice Reimbursements
- Juvenile Justice Revenue
- Juvenile Justice Technical Adjustments

- Juvenile Justice Mental Health Adjustments
- Juvenile Justice Safety and Welfare Adjustment

The department indicates that it uses a basic ratio to adjust the number of positions to add to its base budget, based on population projections. The department budgets one staff position for every 5.6 inmates. This staffs are then allocated 94 percent to the Adult Institutions Program (Program 25) and 6 percent to Adult Health Care (Program 50). The current budget process does not specify the specific staff classification, but instead leaves this decision up to the institution. The various other adjustments listed above also make adjustments to the budgeted staffing package by applying various other staff to inmate ratios. (Staff has requested a more detailed description of each of the adjustments listed above, but has not received this information.)

Current Year Adult Population Estimate. The January 2007 population estimate finds that the adult institution and parole populations are slightly higher in the current year than estimated in the 2006-07 Budget Act. The administration indicates that this will result in the need for an additional $9.7 million General Fund in the current year. The majority of this is to fund the out-of-state transfer program initiated by CDCR in the current year. So far, CDCR has transferred 359 inmates out of state.

2007-08 Adult Population Estimate. The Governor proposes $58.8 million General Fund to fund growth in the adult inmate and parolee population for 2007-08. The 2007-08 average daily adult inmate population is estimated to be 177,577 and the average daily adult parolee population is anticipated to be 122,148. These populations are 2.4 percent and 2.5 percent higher, respectively, than the estimates for the current year. A large portion of the increase is due to the out-of-state transfer program.

Most Recent Update on Actual Population. As of the end of February, actual adult institution population was slightly lower (1,700 inmates) than the estimates made in the January budget. However, at the same time the actual parole population is significantly higher (4,300 parolees) than the estimates made in the January budget.

Current Year Juvenile Population Estimate. The January 2007 population estimate finds that the juvenile ward and parole populations are slightly less in the current year than estimated in the 2006-07 Budget Act. Furthermore, the department has also experienced delays in implementing smaller living units and staffing ratios required by the *Farrell* lawsuit. The administration indicates that this will result in $12.4 million in General Fund savings in the current year.

2007-08 Juvenile Population Estimates. Population estimates of juvenile offenders and parolees are projected to decrease in the budget year. However, there is an overall increase in funding of $5.8 million General Fund proposed for the budget year so that the department can continue to implement smaller living units and staffing ratios to comply with the *Farrell v. Tilton* lawsuit. The 2007-08 year-end juvenile offender population is estimated to be 2,490 and the year-end juvenile parolee population is estimated to be 2,405. These populations are 5 percent and 13 percent lower, respectively, than the estimates for the current year. The population estimates for 2007-08 do not reflect the policy decision proposed by the Administration to limit the admissions to the Division of Juvenile Justice (DJJ) to youth that have committed a Penal Code 707(b) offense (mainly serious and violent crimes).

Identified Issues with Current Population Estimate Process

Population Estimate is Not Transparent. The current population estimate is fraught with problems and is not transparent. First, it is difficult to determine what is driving the population estimate from the materials provided to the Legislature. Staff did not receive information on the staffing ratios used until after a meeting where they were requested. Furthermore, it is unclear what the numerous adjustments to the population estimate (listed above) are or how much they cost. Without this information, it is impossible to determine whether the adjustments are justified.

Furthermore, very little information is provided that indicates what is driving any changes in the population projections. For example, is there a projected increase in crime, a downturn in the economy, or a policy change that would impact the prison population? Furthermore, staff finds that a recent audit by the State Auditor found that CDCR's population projections had limited usefulness for longer-range planning. The audit also found that the department tends to overestimate its future population estimates. Furthermore, the Independent Review Panel, chaired by former Governor Deukmejian, recommended that the department develop an interagency agreement with a state university to undertake the responsibility for population projections. Staff finds it generally very difficult to follow the analytical work done by the department in preparing the population estimate.

Loose Guidelines for Including Adjustments in Population Estimate. Changes to the CDCR budget are provided for in the population estimate as well as the traditional budget change proposal. However, staff finds that there is no clear policy for what is included in the population estimate versus what is considered a budget change proposal. This inhibits budget transparency since there is considerably less detail provided to the Legislature for items that are included as an adjustment to the population estimate. Staff finds several policy proposals in the January 2007 population estimate, including the proposal to transfer over 2,000 inmates to correctional facilities out of state.

Population Estimate Does Not Reflect Reality. Staff finds that the current population estimate process does not reflect what is actually happening in the institutions. The department indicates that about 2 percent of the Institution Activation Schedule prepared for the population estimate is actually implemented. Furthermore, there does not seem to be any justification, except for historical convention, for the baseline staffing ratio (1 staff : 5.6 inmates). This ratio does not tie to any workload study or evaluation of actual needs of the institutions. The Independent Review Panel recommended that a project be undertaken to determine the appropriate level of staff required for the operation of each type of institution.

Staff also finds that because the department is funded at the same rate regardless of what positions it needs it inherently does not budget the right amount of money. Therefore, after the budget is passed the institutions have to adjust the positions they need to fit into the allocation they are provided regardless of what they actually need. Furthermore, this process currently does not provide Legislative oversight of department staffing.

Overtime Budgeting Does Not Reflect Reality. Staff finds that over the last several years the department's overtime costs have been around $500 million. However, the department has budgeted only $73 million for overtime costs. The difference is usually made up by using salary savings from positions that are vacant during the year. This may lead to perverse incentives for holding positions vacant, which is problematic given the problems (cited above) of the high level of vacancies at all levels of the department.

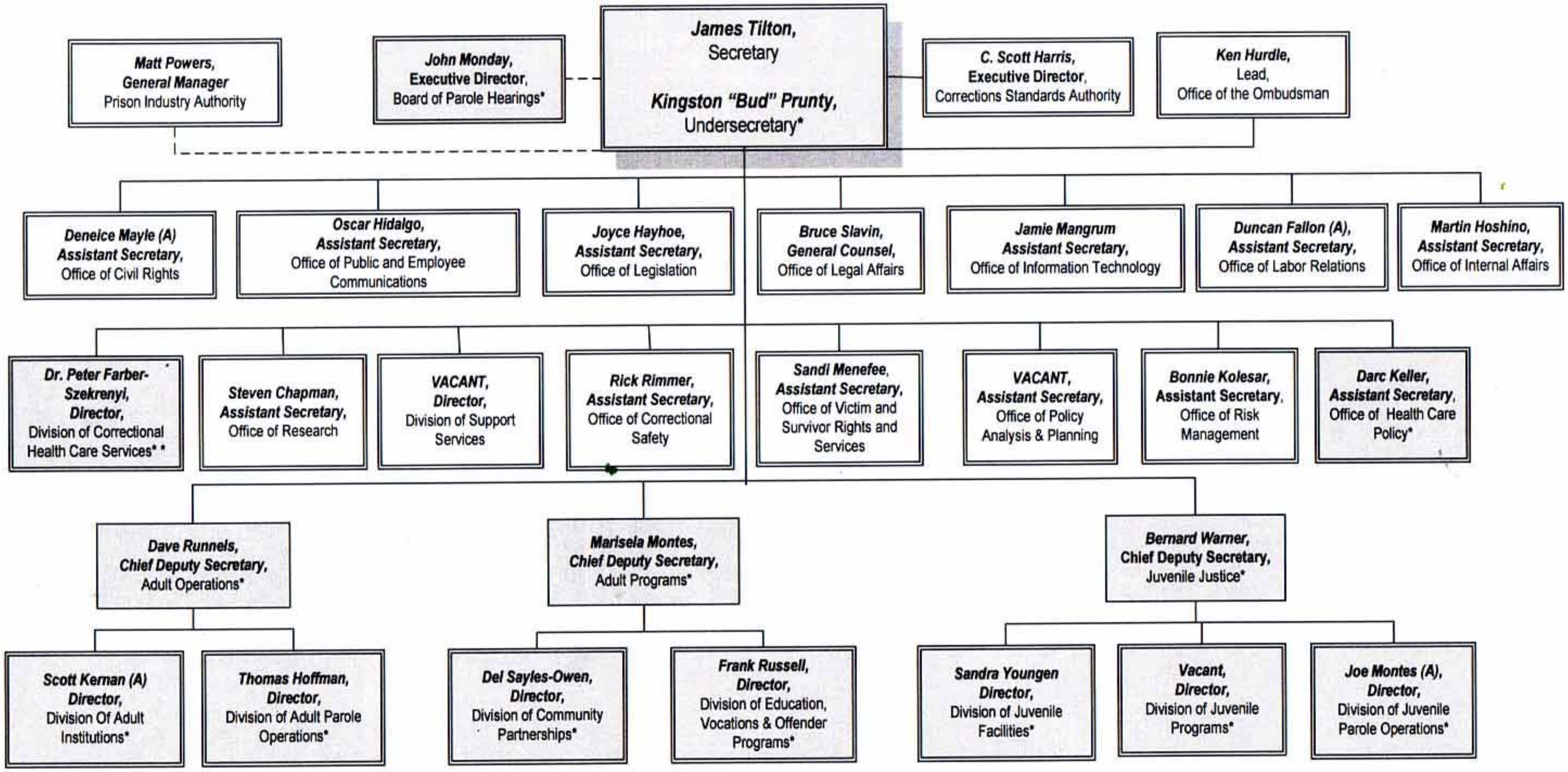
Staff Recommendation

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

- Request that the department work with staff, DOF, and LAO to develop a plan for improving the transparency of the population projections, including considering contracting with a university to develop population projections for the department.
- Request that the department work with staff, DOF, and LAO to develop a project to determine appropriate standard staffing required for the operation of each type of institution, including management, custody, health care, programs, and other support services.
- Request that the department work with staff, DOF, and LAO to develop a statutory framework for the preparation of the department's population estimate.
- Request that the department work with staff, DOF, and LAO to develop a new format for communicating the population estimate to the Legislature.
- Request that the department work with staff, DOF, and LAO to determine a more transparent way of budgeting for overtime expenditures.

Attachment A – Organizational Chart

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
Revised December 1, 2006



* Indicates positions subject to Senate confirmation

**The structure of the Division of Health Care Services is pending approval. This position is subject to Senate confirmation.

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Thursday, March 22, 2007
10:00 a.m. or Upon Adjournment of Session
Room 112

State Administration—General Government—Judiciary—Transportation

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.

8120 Commission of Peace Officer Standards and Training

Background. The Commission on Peace Officer Standards and Training (POST) is responsible for raising the competency levels of law enforcement officers in California by establishing minimum selection and training standards, improving management practices, and providing financial assistance to local agencies relating to the training of law enforcement officers.

Governor's Budget. The Governor's budget proposal includes $62.7 million from special funds to support POST in the budget year. This is a nearly 8 percent increase over estimated expenditures in the current year. This increase is due primarily to a budget proposal to replace inoperable driving simulators used to train law enforcement.

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Type of Expenditure				
Standards	$5,396	$5,438	$42	0.8
Training	30,727	35,290	4,563	14.9
Peace Officer Training	21,944	21,944	0	0.0
Administration	6,036	6,167	131	2.2
less distributed Administration	*-6,036*	*-6,167*	*-131*	*0.0*
Total	$58,067	$62,672	$4,605	7.9
Funding Source				
Peace Officers' Training Fund	56,806	61,413	4,607	8.1
Budget Total	*56,806*	*61,413*	*4,607*	*8.1*
Reimbursements	1,259	1,259	0	0.0
Total	$58,065	$62,672	$4,607	7.9

1. Replacement of Driving Simulators

Background. The POST has 22 Regional Skills Training Centers around the state that are equipped with Driving and Force Options Simulators, equipment for Defensive Tactics Training, and a Skid Car to teach Advanced Car Control techniques. Driving simulators provide students practice in sharpening their judgment and decision-making skills for routine patrol and emergency response situations. This training is an important part of the perishable skills training required every two years.

The commission indicates that the driving simulators are typically under warranty for four years, with an option to renew the warranty for a few additional years. After that time the department may have a more difficult time servicing the simulators if they malfunction or breakdown. Of the 22 driving simulators the commission owns, 15 are over six years old. Of these 15, six are currently inoperable and the remainder is past warranty.

Governor's Budget. The Governor's budget proposal includes $3.5 million ($1.4 million one-time) special funds to replace the eight oldest Law Enforcement Driving Simulators and purchase 14 warranties for the remaining driving simulators. The $2.1 million that is proposed as ongoing will fund appropriate warranties and an annual replacement schedule for the driving simulators.

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

2. Development of Internet-Based Training

Background. The POST Commission has been developing technology-based training systems for law enforcement for over a decade. The commission has developed a learning portal that allows law enforcement to access the portal and various training programs on the Internet. This system is helping state and local law enforcement improve the efficiency of the commission's training program by reaching a larger number of students with fewer resources. The commission indicates that it finds technology-based training especially useful for implementing legislative mandated training.

The POST program mandates 24 hours of continuous professional training every two years. The commission is also using its learning portal to track individual records of on-line training completed.

Governor's Budget. The Governor's budget proposal includes $650,000 (one-time) in special funds to continue the development of the Internet-based learning portal. This funding will be support the following efforts:

- Convert and update existing CD-ROM courses on domestic violence and basic narcotics investigation to a training module on the commission's Internet-based learning portal. This will result in savings of about $50,000 annually since the commission will no longer be reproducing and distributing CD-ROMs.
- Create new Internet-based training modules for the Internet-based learning portal for various mandated training requirements. The commission indicates that it may develop new courses for racial profiling, blood-borne pathogens, child abuse, and a module to train instructors that teach other professional development courses.
- Create an online survey mechanism to receive direct input from law enforcement professionals regarding training needs.

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

3. Increase Audit Capability

Background. The POST commission reimburses local law enforcement agencies for participating in training. The rate of reimbursement is set for six categories of expense:

- Subsistence – locals are paid $128 to $189 per day for subsistence depending on the location of the training;
- Basic Course Subsistence – locals are paid $50 per day for subsistence during basic training, which is typically a 16 week course;
- Commuter Lunch – locals are provided $8 per day for lunch;
- Travel – locals are paid $.26 per mile for travel expenses;
- Tuition – locals are reimbursed 100 percent for the cost of the training; and
- Back-fill – locals are reimbursed 100 percent actual salary cost at overtime rate for local agency costs related to backfilling for the law enforcement professional that is in training.

The reimbursement process is complicated and over the past several years the commission has contracted with the State Controller's Office (SCO) to conduct audits of local law enforcement agencies to ensure that reimbursements submitted by local law enforcement are accurate. The SCO has received $100,000 annually over the last several years and has completed on average ten audits annually. At this pace, the over 600 law enforcement agencies will be audited once every 60 years. The commission is also prohibited for auditing any large agencies given the small size of its audit contract.

Governor's Budget. The Governor's budget proposal includes $250,000 in special funds to increase the contract it has with the State Controller's Office to audit local law enforcement to ensure that local agencies are submitting appropriate reimbursement claims. This augmentation will allow the Controller's Office to complete 30 to 35 audits annually, thereby auditing every agency once within a 20-year period.

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

4. Additional Positions

Governor's Budget. The Governor's budget proposal requests three new positions to support growing workload at POST. The positions requested include:

- Key Data Operator – needed to maintain accurate peace officer training records in the Records Unit.
- Program Technician II – needed for timely processing of professional certificates for peace officers and dispatchers in the Certificates Unit.
- Accounting Technician – needed for timely reimbursements to local agencies within the POST program in the Reimbursements Unit.

Staff Comments. Staff finds that the department currently has a three month backlog in maintaining accurate peace officer training records. However, as the department transitions to the automated course certification program in the current year (see discussion about Internet-based training above), there may be less need for data operators for this function. However, staff finds that, in the interim, while the tracking method is in transition this position is needed.

The POST has consistently had a three to seven month backlog for processing professional certificates. Furthermore, a new dispatcher certificate was recently added resulting in a significant number of new certificates that need issued. Staff finds that the backlog and additional certificate workload is sufficient justification for an additional position in the commission's Certificates Unit.

The POST has consistently had a four month backlog for processing reimbursements to local law enforcement agencies. Staff finds that this backlog is often exacerbated by turnover at the commission and at local law enforcement agencies. Staff finds that the additional position is needed to reduce the backlog for reimbursing local law enforcement agencies for POST training.

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

5. Tolerance Training

Background. The Museum of Tolerance in Los Angeles has created the Tools for Tolerance professional development program. This program aims to assist law enforcement professionals in exploring the evolving role of law enforcement in an increasingly diverse and complex society. These courses examine the process of building trust and respect and attempt to enhance critical thinking skills in the areas of diversity, ethics, and values. The courses range from a day-long to four-day sessions and utilize the exhibits at the Museum of Tolerance in the training.

Governor's Budget. The Governor's budget proposes $2 million in special funds to support Tools for Tolerance training for local law enforcement agencies authorized to receive training reimbursements from the Peace Officers' Training Fund.

Staff Comments. Staff finds that the Museum of Tolerance has developed, in conjunction with POST, a unique professional development program that could be useful for other professionals in state law enforcement, including the Department of Corrections and Rehabilitation and the California Highway Patrol. However, currently, the budget bill language limits the law enforcement professionals that can participate in this program to those that receive training reimbursements from the Peace Officers' Training Fund.

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

- Direct staff, the LAO, and DOF to develop budget bill language that would authorize reimbursements to allow other state law enforcement, including the Department of Corrections and Rehabilitation and the California Highway Patrol to participate in Tools for Tolerance training if appropriate funding is available.

1690 Alfred E. Alquist Seismic Safety Commission

Background. The Seismic Safety Commission is the primary state agency responsible for reducing earthquake risk to life and property. The Commission investigates earthquakes, researches earthquake-related issues and reports, and recommends to the Governor and Legislature policies and programs needed to reduce earthquake risk. Legislation (SB 1278, Alquist) enacted in 2006, renamed, in memoriam, the Seismic Safety Commission to the Alfred E. Alquist Seismic Safety Commission and moved it under the purview of the State and Consumer Services Agency.

Governor's Budget. The Governor's budget proposal includes $3.2 million from special funds for the support of the Commission. This is about $2 million more than estimated for expenditure in the current year. This is primarily due to a new research grant program funded from the settlement of a lawsuit. (The totals included in the table below for 2006-07 include the half-year estimated expenditures for the old Seismic Safety Commission under the organization code of 8690.)

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Type of Expenditure				
Commission	$1,206	$3,194	$1,988	164.8
Total	$1,206	$3,194	$1,988	164.8
Funding Source				
Special Funds	$1,131	$1,117	-$14	-1.2
Budget Total	*1,131*	*1,117*	*-14*	*-1.2*
Reimbursements	75	77	2	2.7
Special Deposit Fund	-	2,000	-	-
Total	$1,206	$3,194	$1,988	164.8

1. New Grant Program

Background. The California Research Assistance Fund (CRAF) is a nonprofit corporation that was incorporated in the 1990s and was funded from settlements between the Department of Insurance and insurance companies after the Northridge earthquake. The Attorney General filed a lawsuit against CRAF in 2000 to freeze CRAF's remaining funds and dissolve the corporation. The parties entered into a stipulated judgment whereby CRAF would dissolve and all of its assets would be distributed to the Seismic Safety Commission. The CRAF currently has about $6 million in assets that will be transferred to the commission once all outstanding issues are settled. The commission indicates that the only outstanding issues are the termination of the receivership and the final determination by the Internal Revenue Service of CRAF's application for tax exempt status.

Governor's Budget. The Governor proposes to expend $2 million special funds for a new grant program to fund research topics selected from the Commission's Earthquake Research Plan. The grant program is funded from the dissolution of CRAF. The commission expects that it will receive $6 million and plans on allocating the majority of the funding to research. In the budget year, $200,000 will support the administration of the grant program.

Current Status. The Commission has established a Program Monitoring Committee to oversee the grant program. The Attorney General is on this committee, along with the commission members, researchers, and engineers. The department indicates that it has not made final decisions about what the research will entail, but that it may include performance of Field Act buildings and/or other emergency procedures, such as the drop, cover, and hold on guidelines.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget item as proposed.

0855 Gambling Control Commission

Background. The California Gambling Control Commission (GCC) is the primary state agency that regulates and licenses personnel and operations of the state's gambling industry. The commission regulates 55 tribal casinos and more than 100 gambling establishments and cardrooms.

Governor's Budget. The Governor's budget allocates nearly $137 million to GCC. This is a slight decrease from estimated expenditures in the current year.

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Type of Expenditure				
Commission	$142,443	$136,827	-$5,616	-3.9
Total	$142,443	$136,827	-$5,616	-3.9
Funding Source				
Special Funds	$40,459	$40,327	-$132	-0.3
Budget Total	*40,459*	*40,327*	*-132*	*-0.3*
Indian Gaming Rev Share Trust Fund	101,984	96,500	-5,484	-5.4
Total	$142,443	$136,827	-$5,616	-3.9

1. Proposed Tribal-State Compacts

Background. As of March 2006, 53 tribes operate 54 casinos with Class III games in California. Class III games are commonly referred to as Nevada-style games, which include slot machines, electronic games of chance, and many banked card games like blackjack. These casinos operate under tribal-state compacts negotiated by the Governor and ratified by the State Legislature. Proposition 1A amended the State Constitution in 2000 to authorize federally recognized Indian tribes to operate certain type of gambling on Indian lands subject to compacts negotiated by the Governor and ratified by the Legislature.

The Legislature has ratified 66 tribal-state compacts since the passage of Proposition 1A. These compacts result in payments by the tribes to various state accounts. In 2005-06, revenues from the tribal-state compacts included the following:

- General Fund - $27 million to support any state activity.
- Indian Gaming Revenue Sharing Trust Fund (RSTF) - $33 million to pay $1.1 million per year to each non-compact tribe.

- Indian Gaming Special Distribution Fund (SDF) - $140 million to fund shortfalls in the RSTF, gambling addiction programs, regulatory costs, grants to local governments impacted by tribal casinos, and other purposes allowed by state law.
- Designated Account for Transportation Bond - $101 million to repay state transportation accounts for loans made to benefit the General Fund in prior years.

New Tribal-State Compacts. The Governor has negotiated new or amended Class III compacts with nine tribes. To date, these compacts have not been ratified by the Legislature. The proposed new compacts are those with the following four tribes:

- Lytton Rancheria of California – 2,500 Class III machines in Contra Costa County.
- Big Lagoon Rancheria – 2,250 Class III machines in Humboldt County.
- Los Coyotes Band of Cahuilla and Cupeno Indians – 2,250 Class III machines in San Diego County.
- Yurok Tribe of the Yurok Reservation – 99 Class III machines in Del Norte and Humboldt Counties.

The Governor also has negotiated amendments to existing compacts with the following five tribes:

- Agua Caliente Band of Cahuilla Indians – 5,000 Class III machines in Riverside County.
- Pechanga Band of Luiseno Indians – 7,500 Class III machines in Riverside County.
- San Manuel Band of Mission Indians – 7,500 Class III machines in San Bernardino County.
- Morongo Band of Mission Indians – 7,500 Class III machines in Riverside County.
- Sycuan Band of the Kumeyaay Nation – 5,000 Class III machines in San Diego County.

Revenue Impacts. The amendments to the existing compacts will impact the monies deposited into various state accounts by the tribes. Specifically, the new compacts would result in some tribes depositing money for the first time in the General Fund. The compacts would also increase contributions to the RSTF and decrease significantly payments to the SDF. However, because tribal financial information is confidential, it is difficult to estimate the amount that these funds will be impacted.

Governor's Budget. The Governor's budget proposal includes over $500 million in new revenues to the General Fund from the five existing tribal-state compacts that the Governor proposes to amend. The budget does not reflect an increase in the revenues to the RSTF or a reduction in revenues to the SDF consistent with the amended compacts.

LAO Issues. The LAO finds that the Governor's revenue estimate for the amended tribal-state compacts is overstated by about $300 million in the budget year. The LAO indicates that limited information has been provided by the administration about how quickly the tribes plan on phasing in the new gaming devices. The latter assumption is critical to determining how much revenue will be received in the budget year. Furthermore, the Legislature has not ratified the amended compacts and will need to do so quickly to receive additional tribal gaming revenues in the budget year. However, even if the Legislature does act quickly, revenues will very likely still be less than estimated in the Governor's budget because the budget relies on optimistic assumptions about the phase-in of the new gaming devices.

The LAO has also indicated to staff that the administration has failed to adjust the revenues to the RSTF and SDF based on the amended compacts. The LAO estimates that revenues to the SDF would decline by over 50 percent under the terms of the amended compacts. However, because tribal financial information is confidential it is difficult to estimate the decline with specificity. Furthermore, the LAO notes that if the Legislature ratifies the proposed compacts, it may need to consider the current funding priorities of the SDF in statute, as well as the appropriation amounts for various purposes included in the annual budget act.

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

- Request that DOF provide an updated General Fund revenue estimate at the time of May Revision.
- Request that DOF provide an updated revenue estimate for the Special Distribution Fund and the Revenue Sharing Trust Fund at the time of May Revision, including at least two estimates, which assume that (1) the Legislature does not ratify the five proposed compact amendments listed above and (2) the Legislature does ratify the proposed compact amendments.

0552 Office of the Inspector General

Background. The Office of the Inspector General (OIG) oversees the state's correctional system through audits, special reviews, and investigations of the California Department of Corrections and Rehabilitation (CDCR). The Office is also charged with evaluating the qualifications of candidates being considered by the Governor for appointment to warden of a correctional facility or superintendent of a juvenile facility. The Office also monitors internal affairs investigations conducted by CDCR to ensure they are performed in a timely and professional manner.

Governor's Budget. The Governor proposes $18.6 million General Fund to support the OIG. This is nearly 18 percent more than is estimated for expenditure in the current year. This increase is primarily due to a budget proposal to expand the types of investigations the OIG completes to include a facility inspection program and follow-up to critical incidents.

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Type of Expenditure				
State Operations	$15,814	$18,638	$2,824	17.9
Total	$15,814	$18,638	$2,824	17.9
Funding Source				
General Fund	$15,814	$18,638	$2,824	17.9
Budget Total	*15,814*	*18,638*	*2,824*	*17.9*
Total	$15,814	$18,638	$2,824	17.9

1. New Audit Functions

Background. The OIG's Bureau of Audits and Investigations conducts audits of state prison wardens and correctional facility superintendents; special reviews and audits of correctional agencies and programs; and investigations into alleged misconduct by correctional agencies and employees.

The office is mandated to audit each correctional institution once every four years. The office is also mandated to conduct "baseline" audits of each warden one year after appointment. In addition, to these audits the OIG may also conduct a management review audit of any correctional facility, program, or function within the Department of Corrections and Rehabilitation.

Governor's Budget. The Governor proposes $1.8 million General Fund to expand the audit functions of the OIG. These funds are proposed to be used to expand the types of investigations conducted by the OIG to include a facility inspection program and follow-up to critical incidents. The administration proposes to redirect $1.8 million from CDCR's budget to fund this activity.

LAO Recommendation. The LAO finds that, historically, the state's prison infrastructure has been poorly maintained, especially when it comes to preventative maintenance. This has resulted in large-scale special repairs and equipment replacements that must be funded, in some cases, to continue to operate the facility. Furthermore, the LAO finds that the prison infrastructure is aging, about one-third of the institutions are over 40 years old, and that overcrowding has also created additional stress on the institutions.

The LAO also finds that responsibilities for maintenance are not well managed or well organized at CDCR, which has further contributed to the decay of the institutions. Officially, the warden at each institution is responsible for maintaining the institution. However, each warden has a wide range of responsibilities and little training related to maintenance issues, which has resulted in maintenance issues receiving a lower priority then other demands for prison resources.

The LAO makes several recommendations related to maintenance of CDCR institutions, but specifically they recommend that the Legislature modify state law to require that management audits conducted on wardens include an evaluation of the performance of wardens in the maintenance of the facilities they are managing. Furthermore, the LAO recommends approving this proposal and concurs with the administration's strategy to redirect existing resources from CDCR's budget.

Staff Comments. Staff finds that the additional audit resources in this budget proposal would enhance the OIG's ability to address chronic facility problems at the institutions as recommended by the LAO, but also improve the oversight and review of critical incidents. Often timing is critical in understanding the factors that lead up to a critical incident. The OIG should be adequately staffed to ensure some review of the critical incidents that occur annually within CDCR.

Furthermore, while staff finds that additional audit resources are justified to augment the OIG's budget it is not clear that these funds should be redirected from CDCR's budget. Staff finds that the unallocated reduction to CDCR's operations should be evaluated separately from this budget proposal.

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

2. Review of Candidates for Superintendent of Juvenile Correctional Facilities

Background. Legislation (AB 971, Jerome Horton), enacted in 2006, requires that the OIG review candidates for appointment as superintendent of a juvenile correctional facility. This is parallel to the process established for wardens pursuant to the Governor's Reorganization Plan 1 of 2005 (SB 737, Romero) that reorganized various departments that were reorganized into

CDCR. After the reorganization, candidates for warden or superintendent were no longer subject to confirmation by the Senate.

Governor's Budget. The Governor proposes a little less than $1 million General Fund to implement AB 971. These funds would be used to support five new positions that would be responsible for vetting the candidates for superintendent as required by AB 971, but would also be used to expand the management audits conducted of adult institutions to include the juvenile institutions as well. For example, these resources would be used to conduct "baseline" management audits one year after the appointment of the superintendent and additional quadrennial audits of the institutions.

Staff Comments. Staff finds that the fiscal analysis of this bill in 2005 was considerably less (about $23,000 in annual costs) than what is being requested. However, staff notes that the OIG did not have experience in vetting wardens when this analysis was prepared. Since then, the OIG has vetted several warden candidates under its new responsibilities directed by SB 737 (Romero) it now has actual experience and cost data on which to base their estimates.

Furthermore, staff also finds that the OIG is proposing to take on additional tasks not required by the legislation. For example, the OIG is proposing to engage in the "baseline" management audits one year after the appointment of the superintendent and the additional quadrennial audits of the institutions. These functions were not handled by the OIG in the past when the Division of Juvenile Justice was a separate stand-alone agency (California Youth Authority).

Furthermore, staff finds that management audits of the adult institutions have been helpful in identifying problems at individual institutions. Given the long history of problems at the state's juvenile institutions, staff finds that additional audit oversight may be helpful in identifying management problems that are inhibiting change at the institutions.

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

0820 Department of Justice

Background. The Department of Justice (DOJ) is under the direction of the Attorney General. The Attorney General is elected by the public and is required by the California Constitution, as the chief law officer of the state, to ensure that California's laws are uniformly and adequately enforced. The DOJ also serves as the state's primary legal representative and provides various services to assist local law enforcement agencies. The DOJ is organized into the following seven programmatic functions:

- **Civil Law—**Represents the state in civil matters and is organized in the following sections: Business and Tax; Correctional Law; Employment, Regulation and Administration; Government Law; Health, Education and Welfare; Health Quality Enforcement; Licensing; and Tort and Condemnation.
- **Criminal Law—**Represents the state in all criminal matters before the Appellate and Supreme Courts. The Criminal Law Program also assists district attorneys and conducts criminal investigations and prosecutions where local resources are inadequate.
- **Public Rights—**Provides legal services to all state agencies and constitutional officers and is organized in the following issue areas: Civil Rights and Enforcement; Charitable Trusts; Natural Resources; False Claims; Energy and Corporate Responsibility; Indian and Gaming Law; Environmental Law; Land Law; Consumer Law; Antitrust Law; and Tobacco Litigation Enforcement.
- **Law Enforcement—**Provides various services to local law enforcement and is organized into the following five elements: (1) the Bureau of Investigation conducts criminal investigations of statewide importance; (2) the Bureau of Narcotic Enforcement provides leadership, coordination, and support to law enforcement to combat the state's narcotic problem; (3) the Bureau of Forensic Services provides evaluation and analysis of physical crime evidence for state and local law enforcement; (4) the Western States Information Network provides an automated database of suspected criminal elements to law enforcement in neighboring states; and (5) the Criminal Intelligence Bureau shares criminal intelligence regarding organized crime, street gangs, and terrorist activity to other law enforcement agencies.
- **California Justice Information Systems—**Provides criminal justice information and identification services to law enforcement, regulatory agencies, and the public.
- **Gambling Control—**Regulates legal gambling activities and ensures that gambling on tribal lands is conducted in conformity with a gaming compact.
- **Firearms—**Provides oversight and regulation of firearms in California.

Governor's Budget. The Governor's budget proposal includes $825 million to support DOJ in 2007-08. General Fund support for the department is about $403 million, which is about $4.8 million less than what is estimated for expenditure in the current year. This reduction is primarily due to one-time expenditures in the current year.

Summary of Expenditures (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Type of Expenditure				
Directorate and Administration	$29,195	$29,886	$691	2.4
less distributed Administration	*-29,195*	*-29,886*	*-691*	*0.0*
Legal Support and Tech Admin	52,191	53,425	1,234	2.4
less distributed Legal and Tech	*-52,191*	*-53,425*	*-1,234*	*0.0*
Executive Programs	16,278	16,222	-56	-0.3
Civil Law	133,391	145,990	12,599	9.4
Criminal Law	111,214	123,525	12,311	11.1
Public Rights	90,397	91,859	1,462	1.6
Law Enforcement	227,922	224,604	-3,318	-1.5
California Justice Information Services	182,731	185,961	3,230	1.8
Gambling	19,180	20,408	1,228	6.4
Firearms	18,537	16,653	-1,884	-10.2
Total	$799,650	$825,222	$25,572	3.2
Funding Source				
General Fund	$407,478	$402,676	-$4,802	-1.2
Special Funds	190,633	208,791	18,158	9.5
Budget Total	*598,111*	*611,467*	*13,356*	*2.2*
Federal Trust Fund	44,745	41,259	-3,486	-7.8
Reimbursements	44,484	43,099	-1,385	-3.1
Special Deposit Fund	2,662	2,687	25	0.9
Domestic Violence Reimbursements	1,918	1,918	0	0.0
Ratepayer Relief Fund	12,281	7,170	-5,111	-41.6
Legal Services Revolving Fund	95,449	117,622	22,173	23.2
Total	$799,650	$825,222	$25,572	3.2

1. Proposition 69 – DNA Program Implementation

Background

DNA Program Created by Proposition 69. In November 2004, the voters of California passed the DNA Fingerprint, Unsolved Crime, and Innocence Protection Act (Proposition 69) into law. This Act requires the collection of DNA from the following persons for inclusion in the state's DNA Databank:

- Adults and juveniles convicted of any felony offense.
- Adults and juveniles convicted of any sex offense or arson offense, or an attempt to commit any such offense (not just felonies).
- Adults arrested for or charged with felony sex offenses, murder, or voluntary manslaughter (or the attempt to commit such an offense).

Beginning in 2009, DNA will be collected from all adults arrested for or charged with any felony offense.

The initiative requires the use of buccal swab samples to produce a DNA profile. The initiative also requires DOJ to analyze and upload certain DNA samples into the CAL-DNA databank and the Combined DNA Index System (CODIS) databank maintained by the FBI within six months. If DOJ does not upload certain DNA samples into these databanks within six months, they are required to contract with public or private labs to ensure that DNA samples are processed in a timely manner.

Status of Program. The DOJ estimates that it will receive 240,000 DNA samples in the current year. It also estimates that it will analyze and upload 365,000 DNA samples in the current year, thereby reducing its backlog of samples by over 100,000. The DOJ estimates that it will continue to have a backlog of about 171,000 samples by the end of the current year, but this is a significant reduction from the backlog in 2005-06.

DNA Program Financing. The initiative created a $1 criminal penalty for every $10 in fines, penalties, and forfeitures collected by the courts for criminal offenses. This funding was split between the state and the counties to support Proposition 69 activities. The initiative also required that $7 million be loaned to the program for “start up” costs associated with the initiative. The criminal penalty revenues allocated to the state are deposited in the DNA Identification Fund and in 2005-06 this fund received $8.6 million in revenues.

The revenues generated from the criminal penalty charge established by the initiative have been consistently short of what is needed to fully fund the program. Estimated expenditures for the DNA program in the current year are $30.3 million. Therefore, the Legislature has added General Fund to backfill the program and the program has been funded at a level that has created a backlog of DNA samples that DOJ must analyze and upload. The initiative does not require the state to fully fund the requirements of Proposition 69 with General Fund monies if sufficient revenues are not generated to support this program.

In order to address the structural shortfall in the DNA Identification Fund, the Legislature enacted an additional $1 criminal penalty for every $10 in fines, penalties, and forfeitures collected by the courts for criminal offenses effective July 2006.

Governor’s Budget

DNA Program Summary. The Governor’s budget proposes $32.2 million from the DNA Identification Fund for support of the DNA Program in the budget year. The budget does not propose any General Fund monies to support the program, but does include budget bill language that grants the Department of Finance the authority to provide additional General Fund revenues to the DNA Program if penalty revenues fall short of the $32 million appropriated in the budget.

DNA Live Scan Automation Project. The Governor's proposed budget for the DNA Program is about $2 million more than what is estimated for expenditure in the current year. This additional funding is proposed to support the implementation of the DNA Live Scan Automation Project that would allow local agencies to electronically submit offender information and thumbprints. The DOJ indicates that this would improve the efficiency of the DNA Program by eliminating the need to spend time on basic data entry to link DNA samples and subject data. The department proposes that $153,000 of these monies be for ongoing maintenance of the system and expects that the system could be operational by July 2008.

Infrastructure Bond. The Governor's budget proposal includes $400 million in lease-revenue bonds for a new facility to house a new DNA laboratory and to co-locate other DOJ functions that are currently housed in leased space and other facilities around the Sacramento area.

LAO Issues

The LAO has identified several issues for legislative consideration related to the DNA Program at DOJ.

Revenue Estimate Unrealistic. The LAO finds that the DNA Identification Fund revenue estimate is unrealistic. The DOJ estimated, in November 2006, that the state would receive $18.6 million in DNA Identification Fund revenues in the budget year. This is double what the department has received in prior budget years. Furthermore, the department indicates that in the first six months of the current year it has received only $3.7 million in revenues to this fund, including revenues from the second $1 criminal penalty assessed by the Legislature effective July 2006. Therefore, the LAO finds that it is risky to assume that the department will receive the $18.6 million in DNA Identification Fund revenues in the budget year.

Revenue Collection Should be Enhanced. The LAO makes several suggestions to enhance the collection of DNA Identification Fund revenues from local governments. First, the LAO suggests that if revenues continue to fall short that the Legislature may wish to request that the Bureau of State Audits conduct an audit to investigate the collection and management of various penalty assessment funds at the county level. Furthermore, the LAO also suggests that local law enforcement agencies pay fees to offset part of the costs of services provided by DOJ's crime laboratories.

Budgeting Method Should be Changed. The LAO has concerns with the budget bill language proposed by the administration that delegates the Legislature's authority to appropriate funds to the Department of Finance. Specifically, the LAO finds that it is not appropriate to delegate this authority except for in specific emergency circumstances. The LAO finds that funding the DNA Program is not an emergency circumstance given the discretion granted by the initiative to fund this program only if sufficient state resources were available.

Recruitment and Retention Issues Need Addressed. The LAO has identified that 41 percent of DOJ's criminalist positions at the central DNA laboratory in Richmond, California were vacant in February 2007. The LAO finds that these vacancies are directly impacting the department's ability to implement the DNA Program. Furthermore, a recent salary survey found that criminalists at local county DNA labs made salaries up to 72 percent more than at DOJ. The location of DOJ's laboratory in the Bay Area has also impacted its ability to recruit because of the relatively high cost of living in the Bay Area. The LAO suggests that the Legislature take action to address the high vacancy rates at the DOJ's DNA laboratory. This could include establishing additional recruitment and retention bonuses to fill the vacancies. However, the LAO suggests that the Legislature may also wish to evaluate ways to further automate the DNA Program and reduce the overall staffing needed to run this program. The LAO finds that this is especially important given the large increase in workload that will occur in 2009 when the state starts collecting DNA for all adults arrested for felonies.

LAO Recommendations

Funding the DNA Program. The LAO recommends that the Legislature decide the level of support it wishes to provide to support the Proposition 69 program, including the level of General Fund it is willing to expend to support the program. If the Legislature wishes to fund the DNA Program at the level funded in the Governor's budget, the LAO recommends adding $14 million in General Fund to DOJ's budget to support the program. Furthermore, it recommends eliminating the budget bill language that delegates the Legislature's appropriation authority to the Department of Finance.

The LAO also makes two recommendations to enhance non-General Fund revenues to support the DNA Program. First, the LAO recommends establishing fees on counties for the services DOJ's forensic labs provide to local law enforcement. The LAO also recommends auditing the counties' revenue collection process to improve collection of revenues that are supposed to flow to the state to support the DNA Program.

Infrastructure Bond. The LAO withholds recommendation on the infrastructure bond proposal to build a new DNA laboratory in the Sacramento region pending additional information from the administration.

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

- Request that DOJ provide an updated revenue estimate for the DNA Identification Fund at May Revision.
- Hold open the DNA Live Scan budget proposal and request that a Feasibility Study Report be submitted to the Legislature for review.
- Request that DOJ submit additional information on steps taken to reduce the vacancies in its Criminalist positions.
- Request staff, the department, LAO, and DOF review strategies for enhancing the collection of DNA Identification Fund revenues, including requesting an audit.
- Request staff, the department, LAO, and DOF to develop a proposal to establish fees on local law enforcement and other agencies for services provided by DOJ to help offset the costs of the DNA Program.

2. Sexual Habitual Offender Program – DNA Analysis

Background. The Sexual Habitual Offender Program (SHOP) Fund is supported by fees received from various agencies requesting criminal history information regarding an application for employment or licensing and court-ordered fines levied on persons convicted of certain sexual offender offenses.

Governor's Budget. The Governor's budget proposes to transfer $694,000 from the Sexual Habitual Offender Program Fund to the General Fund for support of the DNA analysis required in this program because there are insufficient funds in the Sexual Habitual Offender Program to support all elements of this program.

More Information Needed. The SHOP fund supports the Sexual Habitual Offender program that evaluates the number of arrests and convictions for sex offenses and the length of sentences for repeat offenders. The SHOP fund also currently supports the Sexual Offender DNA Program, but under this budget proposal this program would be funded by the General Fund. Staff has not received basic information about this program and how it relates to the DNA collection program established by Proposition 69. Furthermore, it is unclear what other specific activities are supported by the SHOP fund. This information is critical in determining whether additional General Fund should be used to support this program as opposed to improving the overall efficiency of the department's programs that promote public safety related to various sexual offenders.

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

- Hold this issue open.
- Request that the department provide to the Subcommittee, as soon as possible, a list of all of the programs and activities currently supported by the SHOP Fund.
- Request that the department provide to the Subcommittee, as soon as possible, a description of all programs at DOJ that gather and track data related to this population of sexual offenders.
- Request that the department provide to the Subcommittee, as soon as possible, information about how the DNA program currently supported by the SHOP Fund is coordinated with the DNA program established by Proposition 69.

3. Sex Offender Registry: Megan's Law Website

Background. The DOJ collects and maintains information on convicted sex offenders who must register in California. The department also makes specific information regarding serious and high-risk sex offenders available to law enforcement agencies and the public via the Megan's Law Website. The Megan's Law Website includes names, aliases, age, gender, race, physical description, photograph, convictions requiring registration, and residence address where last registered.

Legislation (AB 1849, Leslie), adopted in 2006, requires DOJ on or before July 1, 2010 to add additional information to the Megan's Law Website. The additional information includes year of conviction, year of release related to the offense that requires the person to register, and whether the offender was subsequently incarcerated for any other felony.

The legislature also adopted additional legislation (SB 1128, Alquist), in 2006, that requires DOJ to make additional changes to the Megan's Law Website. Specifically, it requires DOJ to ensure that only persons who qualify for exclusion based on the 2005 criteria be excluded from the Megan's Law Website. The legislation also requires DOJ to implement various other components of SB 1128.

Governor's Budget. The Governor's budget proposes $250,000 from the General Fund in the budget year for consultants to implement the changes to the Megan's Law website as required by AB 1849. The budget proposes that $211,000 is for one-time costs and $39,000 will cover an ongoing maintenance contract for the added components.

The Governor's budget proposes $517,000 from the General Fund in the budget for additional changes to the Megan's Law Website and to implement other requirements of SB 1128. The budget proposes that $186,000 is for one-time costs and $331,000 is for ongoing support for implementing provisions of SB 1128.

LAO Recommendation. The LAO withholds recommendation on $517,000 in General Fund monies proposed to respond to statutory changes in state laws for the civil commitment of sexually violent predators (SVP) because it is based on caseload projections from the Department of Mental Health (DMH) which are subject to change. Furthermore, the LAO recommends that the proposal be reevaluated when updated estimates of the number of additional SVP commitments are provided by DMH at the time of the May Revision.

Staff Comments. Staff finds that little information has been provided regarding how these two proposals to modify the Megan's Law website will be coordinated. Also, it is unclear whether an Feasibility Study Report or Special Project Report is needed before these changes can be made.

Furthermore, the department's justification for the $517,000 requested to implement SB 1128 is vague and it is unclear what activities will be funded with this money that will directly implement the directives in the legislation. In addition, as mentioned above, it is unclear how these programs interface with other sexual offender programs at the department.

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

- Hold these issues open.
- Request that DOJ submit the appropriate Feasibility Study Reports and/or Special Project Reports or provide an update on the status of these projects to the Subcommittee by May Revision.
- Request that DOJ provide to the Subcommittee, as soon as possible, additional information on the different functions proposed to be funded that implement SB 1128.
- Request that DOJ submit a revised proposal at the time of May Revision based on updated projections of SVP commitments to DMH.

4. Major Database Redesign

Background. The DOJ maintains several databases that support local law enforcement. The department is currently undergoing redesigns of two of its major data systems. These efforts include the following:

- **Criminal Justice Information Systems.** This system will consolidate the information of three existing databases; the Domestic Violence Restraining Order System, the Stolen Vehicle/Automated Boat System, and the Wanted Persons System.
- **Violent Crime Information Network.** This system is the central repository of sex offender registration data and is the primary mechanism for which local law enforcement and the public can effectively monitor the whereabouts of registered sex offenders in their communities.

In the 2005-06 Budget Act, a five-year program was approved to fund the redesign of the California Justice Information System. The overall cost of the program was estimated at $11.6 million, with $373,000 in ongoing maintenance costs. The department indicates that because of delays in the first two years of implementing this redesign $3.1 million in General Fund will be reverted to the General Fund. However, the department has also identified $2.4 million in additional costs that are needed to complete the redesign over the next three years.

Governor's Budget. The Governor's budget proposal includes $538,000 from the General Fund to support 6 three-year limited-term positions to assist in the redesign and renovation of the Criminal Justice Information System and the Violent Crime Information Network. Three positions would support the Criminal Justice Information System and another three positions would support the Violent Crime Information Network.

The Governor's budget proposal also includes $1.7 million in General Fund to supplement $2.8 million provided in the 2005-06 Budget Act to support the redesign of the Criminal Justice Information System in the budget year. These additional monies are requested to support 11 positions (5 limited-term positions), various information technology contracts, and equipment to continue the redesign of the Criminal Justice Information System.

Staff Comments. Staff finds that the department has a significant number of information technology projects and systems that it maintains. Furthermore, the department is in the middle of redesigning many of these systems. This has lead to some confusion over how these databases relate to each other and to other databases managed by the federal government and local law enforcement agencies.

Furthermore, staff finds that the department has not submitted the appropriate Feasibility Study Report or Special Project Report to the Legislature for the projects proposed to be funded in this budget proposal. These reports are needed prior to approving money for information technology projects proposed by any state agency.

Furthermore, it is unclear how the staff requested in this proposal will be utilized and what programs they will support. Staff has requested additional information and justification for this request, but has not received the information from the department.

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

- Hold these issues open.
- Request that DOJ submit to the Subcommittee, by May Revision, a list of the databases it currently manages and what databases will be impacted by these proposals.
- Request that DOJ submit the appropriate Feasibility Study Reports and/or Special Project Reports or provide an update on the status of these projects to the Subcommittee by May Revision.
- Request that DOJ submit to the Subcommittee, by May Revision, additional information on how the new positions will be utilized in the database redesign project.

5. National Criminal History Improvement Program

Background. The DOJ is responsible for the compilation and dissemination of criminal history information submitted by various local agencies. The DOJ has received federal grants under the National Criminal History Improvement Program since the inception of the program in 1995. These monies have helped DOJ to improve the completeness, accuracy, and accessibility of the state's criminal history records.

Governor's Budget. The Governor's budget proposes $900,000 in federal funds to support additional efforts to improve the completeness, accuracy, and accessibility of the state's criminal history records consistent with the National Criminal History Improvement Program. These funds will be used to support the following activities:

- Adding thumbprints to dispositions in four counties that are already submitting disposition data to DOJ electronically.
- Enabling additional courts to report dispositions to the DOJ electronically.
- Cleaning up disposition data submitted by the courts and developing new processes for transferring disposition data from the courts to DOJ.
- Define and publish specifications for law enforcement agencies to ensure data submitted complies with the federal Global Justice Extensible Markup Language Data Model infrastructure.
- Make machine readable data enhancements that will enable DOJ to comply with the Integrated Automated Fingerprint Identification System standard and the Federal Criminal Justice Information System Wide Area Network (transmission of disposition data).
- Convert automated disposition data to the Automated Criminal History System in three counties that are already submitting disposition data to DOJ electronically.

Staff Comments. Staff finds that the majority of the projects to be funded with these federal grant monies are information technology projects. It is unclear whether the department has acquired the appropriate Feasibility Study Reports or Special Project Reports for any of these projects. Furthermore, it is unclear how these efforts relate to other database and information technology projects at the department.

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

- Hold this issue open.

- Request that DOJ submit the appropriate Feasibility Study Reports and/or Special Project Reports or provide an update on the status of these projects to the Subcommittee by May Revision.

6. California Criminalistics Institute

Background. The California Criminalistics Institute (CCI) was established by statute in 1986 to develop training and scientific methodologies for all law enforcement agencies. In 2000, at the request of the Governor's office, the department began meeting with representatives of the Los Angeles Policy Department Crime Laboratory, the Los Angeles Sheriff's Department Crime Laboratory and California State University, Los Angeles to assist in the design of a new Los Angeles laboratory. The department would like to establish a satellite training facility for CCI at the new Los Angeles crime laboratory.

Governor's Budget. The Governor's budget proposal includes $489,000 from the General Fund to establish three new positions to establish a satellite training facility for CCI at the new Los Angeles Crime Laboratory.

Staff Comments. Staff finds that establishing a CCI training center in Southern California could have significant benefits to local law enforcement in Southern California. This center would improve access to training for local law enforcement in Southern California and reduce costs related to training.

Furthermore, at present, the department does not have an agreement with Los Angeles law enforcement to provide adequate space to staff a satellite training facility.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Hold this item open.
- Request additional information, before May Revision, on the department's ability to enter into agreement with Los Angeles law enforcement agencies for the space to establish a satellite training facility for CCI.

7. Operations and Maintenance of Forensics Laboratories

Background. The DOJ has 13 forensic laboratories throughout the state, including 10 regional crime labs and three labs that provide services statewide. The state owns eight of the labs and the remainder occupies leased space. In the last decade, the department has constructed six new crime labs.

Governor's Budget. The Governor's budget proposal includes $793,000 ($572,000 one-time) from the General Fund to fund maintenance and repairs at the department's forensic laboratories. The ongoing monies will be used to support a reimbursement contract with the Department of General Services for custodial and management of the department's new forensic laboratory in Santa Rosa.

Staff Comments. Providing routine maintenance to state-owned facilities is essential to protection of the public investment. However, the DOJ has not provided the list of repairs it will fund with the one-time monies. Without this information, it is difficult to determine the need for this request.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Hold this issue open.
- Request that DOJ submit, before the May Revision, a list of special repairs it will fund with these monies.

8. California Witness Protection Program

Background. The California Witness Protection Program provides state funds to local district attorney's to finance the relocation and/or protection of witnesses and family members that have been threatened by criminals or criminal organizations.

In the 2005-06 budget year, the department funded 406 new cases, including 454 threatened witnesses and 646 family members. The department encumbered and allocated nearly all of the $2.9 million authorized to reimburse local district attorney's for the relocation and protection efforts. This program has grown significantly over the past several years with a significant number of new cases submitted to the department annually. Furthermore, many of the cases stay active for multiple years and have significantly increased the number of active cases beyond the number of new cases.

Governor's Budget. The Governor's budget proposes $223,000 from the Restitution Fund to support two new positions to fund increased workload related to the growth of the California Witness Protection Program. The department currently has one full-time staff and two part-time retired annuitants managing this program. The department is requesting two additional support positions to handle the increased workload related to this program. These new staff will more than double the administrative costs of this program from $150,000 to $383,000, which is just over 10 percent of the total proposed program expenditures.

Adding additional staff to support the administration of this program results in the department exceeding the 5 percent cap on administrative costs. This cap on administrative costs is required in statute; therefore, the department is proposing trailer bill language to amend current law that limits administrative costs for this program to 5 percent of all program costs.

The department also proposes to increase the local assistance funds available to support this program by $500,000 from the Restitution Fund. This will increase the funds available for support of this program from $3 million to $3.5 million. Given the proposed administrative costs ($383,000), this would leave $3.1 million to be allocated to local district attorney's for relocation and protection services.

Staff Comments. Staff finds that this is not the only state program that provides state monies to local agencies for witness protection and assistance. Staff finds that the Office of Emergency Services (OES) also administers a program that is budgeted at $11.9 million for grants that provide victim and witness services. It is unclear to staff how these programs are coordinated. Furthermore, given the rising administrative costs to implement DOJ's program, there may be some economies of scale that can be realized by consolidating this program with the program implemented by OES.

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

- Hold this issue open.
- Request that staff, LAO, and DOF gather additional information from DOJ and OES on the state's role in witness protection and develop a plan to improve the efficiency and effectiveness in which the state delivers witness protection efforts to local agencies.

9. Firearms License Check System

Background. Legislation (AB 2521, Jones), enacted in 2006, requires DOJ to keep a centralized list on the Internet of exempt federal firearms licensees. These include dealers, pawnbrokers, importers, or manufacturers of firearms with licensed premises in California that declare an exemption from state firearms dealer licensing requirements. The new law prohibits an exempt federal firearms licensee that is not on the DOJ's centralized list from importing or receiving firearms. The law also requires DOJ to assess an annual fee ($115) upon exempted federal firearms licensees to maintain the list and ensure compliance with the law.

Governor's Budget. The Governor's budget proposal includes $83,000 from the Dealers' Record of Sale Fund to add one permanent position to implement AB 2521. This project required a Feasibility Study Report, which has been submitted to and approved by the Department of Finance.

Staff Comments. The department estimates that there are about 3,200 federal firearms licensees and that about 800 are exempt. The fiscal analysis prepared when the law was passed by the Legislature estimated that the fees would result in about $92,000 annually to the Dealers' Record of Sale Fund. The analysis also estimated that the department would only need about $44,000 in the first year of implementation since the bill does not go into effect until January 1, 2008.

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

10. Deputy Attorney General IV Salary Increase

Background. The Supervising Deputy Attorney Generals received a 5 percent pay differential to help address the compaction issue at the Attorney General's office that was inhibiting the department's ability to fill supervisor positions.

Governor's Budget. The Governor's budget proposal includes $1.7 million ($951,000 General Fund) to support a 2.5 percent pay differential for the non-supervising attorneys in the department's Deputy Attorney General IV classification.

LAO Recommendation. The LAO recommends that the Legislature reject the Governor's budget proposal to narrow the pay differential between the high-level attorneys and supervisors at DOJ. The LAO notes that a reduced pay differential could make it more difficult for the state to recruit and retain supervisors and would set a bad precedent that could eventually result in expensive additional pay raises for other state attorneys. Furthermore, the LAO recommends that salary increases to address recruitment and retention and other problems be discussed as part of the collective bargaining process. The LAO further notes that the memorandum of understanding for attorney salaries is set to expire on June 30, 2007.

Staff Comments. Staff finds that salary compaction is an issue that has impacts across state government. Last year, in recognition of this problem, a 5 percent pay differential was proposed for the Supervising Deputy Attorney General classification. This proposal would increase compaction and reverse the pay differential created last year. Furthermore, staff finds that it is appropriate for this issue to be handled in the collective bargaining process.

Staff Recommendation. Staff recommends that the Subcommittee adopt the LAO recommendation and reject this budget proposal.

11. Two-Party Contracts

Background. The DOJ represents various state agencies in litigation. The department often must enter into contracts for expert witnesses and investigators in supporting this litigation. Up until 2004-05, the DOJ prepared and paid external contracts for expert witnesses and other contracts needed to support litigation. These contracts would then be reimbursed by the appropriate state agency involved in the litigation. These contracts are referred to as two-party contracts.

However, in 2004-05, DOJ discontinued the use of two-party contracts because of the structural deficit it faced in its Legal Services Revolving Fund. This deficit was the result of some state agencies failing to reimburse DOJ for its expert contracts. The DOJ then discontinued the use of two-party contracts and instead established a three-party contract process. The three-party contract process requires the state agency client, DOJ, and the vendors all be parties to a contract. This process also makes the state agency client directly responsible for paying the contract. This significantly reduced the structural deficit in the DOJ's Legal Services Revolving Fund.

Governor's Budget. The Governor's budget proposes $9.4 million for the Legal Services Revolving Fund to implement a two-party contract process to allow the DOJ to enter into contracts directly with expert witnesses, consultants, investigators, court reporters, and other vendors whom are hired to assist in litigation on behalf of DOJ's reimbursable state agency clients. Approximately $6.2 million would be allocated to the Civil Law Division and $3.3 million for the Public Rights Division.

Confidential Contracts. Several stories in the newspapers earlier this year exposed that more than 1,700 contracts labeled confidential and, therefore, shielded from public view, were improperly labeled by DOJ. The contracts that were mislabeled as confidential were valued at over $100 million. The department indicated at the time that it would take steps to immediately correct the reporting program.

Staff Comments. Given the department's recent history in improperly managing its contracts, it is unclear why additional discretion in contracting should be granted. Furthermore, the department eliminated two-party contracting because of budgetary problems it faced several years ago that resulted in significant increases in the department's reimbursement rates. Nevertheless, staff finds that two-party contracts are more convenient for DOJ and may be timelier in some cases. However, staff also finds that it may be appropriate to develop standards and processes to guide the department in its contracting processes.

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

- Request that DOJ provide information, as soon as possible, on what actions it has taken to avoid mislabeling contracts as confidential.
- Request that staff, the department, LAO, and DOF to develop a proposal for improving the transparency of the department's contracting process, including proper labeling of contracts as confidential and allowing for limited two-party contracting under certain conditions.

12. Correctional Law: Habeas Corpus Lawsuits

Background. Currently, the Correctional Law Section within the Civil Division of DOJ performs two types of work for the California Department of Corrections and Rehabilitation (CDCR). First, they defend the state in state and federal correctional habeas corpus litigation and second, they defend the state in civil litigation and class action cases. The habeas corpus litigation can be divided into three categories: (1) challenges to the denial of parole to inmates sentenced to life imprisonment; (2) matters relating to parole revocation such as timeliness of revocation hearings, sufficiency of evidence, or due process issues; and (3) other issues such as challenges to disciplinary hearings, sentence credit calculations, and conditions of confinement. Over half of the habeas corpus workload is related to "lifer" parole denials.

Federal habeas corpus cases have increased significantly in the last several years; in part, due to a significant increase in the number of parole hearing for life inmates held by the Board of Parole Hearings. Furthermore, inmates no longer need permission from the court before filing federal habeas corpus appeals per the federal court's *Rosas* decision. This change is expected to lead to a large number of appeals of federal habeas corpus cases.

Governor's Budget. The Governor's budget proposal includes $4.8 million from the General Fund to establish 31 new positions (16 attorneys) to support the increase in federal habeas corpus workload and anticipated federal habeas corpus appeal workload.

The Governor's budget proposal would also create a new Correctional Writs and Appeals Unit within the Criminal Law Section and would transfer the new and existing staff working on the habeas corpus workload to this unit. The department indicates that this move would better align these staff in the appropriate unit of the department.

LAO Recommendation. The LAO recommends that the Governor's budget proposal to fund additional habeas corpus litigation be reduced by $1.4 million General Fund. The LAO analysis finds that the workload data provided only justifies an additional ten attorneys, which is four attorneys fewer than requested in the budget proposal. Therefore, the LAO's recommendation would reduce the Governor's proposal by nine positions (four attorneys) and $1.4 million in General Fund.

Staff Comments. Staff finds that this proposal would almost double the legal staff currently working on the habeas corpus workload. Furthermore, while staff finds that the federal habeas corpus workload has increased, it is not clear that the workload will continue to increase by nearly 50 percent in both the current and budget years. This is consistent with the LAO's findings.

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

- Approve the LAO recommendation to reduce the department's budget proposal by $1.4 million and nine positions (four attorneys).
- Approve the budget proposal to transfer new and existing staff working on habeas corpus workload to the new Correctional Writs and Appeals Unit within the Criminal Law Section.

13. Correctional Law: Class Action and Civil Lawsuits

Background. Currently, the Correctional Law Section within the Civil Division of the AG's performs two types of work for the California Department of Corrections and Rehabilitation (CDCR). First, they defend the state in state and federal correctional habeas corpus litigation and secondly, they defend the state in civil litigation and class action cases.

Civil suits against CDCR are brought by individual inmates or parolees seeking damages or injunctive relief for alleged violations of their civil rights.

Class actions are suits brought by large groups of inmates or parolees (often exceeding 10,000 class members) challenging conditions or polices affecting inmates or parolees. Class actions can often last decades, as once liability is determined the cases usually move into a post judgment of post settlement enforcement stage. Currently, there are 25 class action lawsuits filed against CDCR.

Governor's Budget. The Governor's budget proposal includes $2.2 million from the General Fund to establish 13.4 positions (8.2 attorneys) to defend CDCR in various class action and civil lawsuits.

Staff Comments. Staff finds that this proposal would increase the number of attorneys currently working on these cases by about 60 percent. However, the department has indicated that in the past it has had to direct CDCR to retain private counsel for some cases that DOJ could not handle because of staffing. Furthermore, it is unclear what role DOJ staff play in the department's compliance with settlement agreements. The CDCR is currently trying to comply with several special masters and one Receiver to implement complicated settlement agreements.

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

- Hold this budget proposal open.
- Request that the department provide information on which class action lawsuits are not being defended by DOJ.
- Request that the department provide additional information on what role DOJ plays in CDCR's compliance efforts with settlement agreements.

14. Energy Litigation

Background. The Attorney General created an Energy Task Force in January 2001 to investigate and litigate issues arising from the 2000-2001 electricity and natural gas crisis in California. The department continues to be engaged in numerous lawsuits and settlements related to the activities during the electricity and natural gas crisis. So far, the Attorney General and other state agencies have recovered over $5 billion in losses and damages related to the crisis.

Governor's Budget. The Governor's budget proposal includes $6 million from the Ratepayer Relief Fund to support 33 positions (15 attorneys) and $1.5 million in expert contracts to continue with numerous pieces of litigation related to the California energy crisis. There is no other funding in the DOJ's base budget for these activities.

Williams Energy Settlement. Early on in the aftermath of the California energy crisis the DOJ settled a lawsuit with the Williams Energy Company. The terms of this settlement included the allocation of some cash funds (about $69 million) to a new Alternative Energy Retrofit Account to be used to retrofit school and other public buildings with renewable energy and energy efficiency projects. After this initial settlement the Legislature enacted legislation that would direct future settlement monies to the Ratepayer Relief Account that is used to finance the energy litigation and investigations, reduce rates to ratepayers, and pay of the energy bonds issued during the energy crisis.

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

- Hold this issue open.
- Request that DOJ provide additional information on the status of the Williams Energy Settlement monies deposited in the Alternative Energy Retrofit Account.

15. *Underwriters* Litigation – Stringfellow Toxic Waste Site

Background. Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) the state was found liable for the clean-up of the Stringfellow toxic dumpsite. An investigation by the DOJ revealed that between 1963 and 1978 the state's activities involving the Stringfellow site were covered by three dozen insurance policies. In order to get some coverage from these policies, the state sued five of its largest insurers (*Underwriters* lawsuit), which collectively provided 70 percent of the state's insurance coverage. In 2002, the state filed a related case (*Allstate* lawsuit) against its 26 remaining insurers which provided the remaining

30 percent of the state's insurance coverage. The *Underwriters* case has recovered more than $121 million from various insurance providers.

Governor's Budget. The Governor's budget proposal includes $4.2 million to continue funding specialist counsel with expertise in insurance coverage litigation and to support 2.6 positions to continue the Underwriters litigation.

***Underwriters* Litigation Continues.** The Governor proposes $4.2 million General Fund to maintain staffing to continue with a class action lawsuit against insurance companies referred to as the *Underwriters* litigation. This litigation is against insurance companies that reneged on insurance coverage held by the state on the Stringfellow hazardous waste dump, thereby leaving the state with significant outstanding costs to clean up this site. The DOJ has recovered more than $120 million from insurance companies in this lawsuit thus far.

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

16. Construction Related Litigation

Background. In the past, DOJ has authorized various state departments to retain private counsel to handle complex construction litigation and arbitration matters. However, in 1999, DOJ formed its own small construction litigation team to develop expertise within DOJ on construction related litigation.

The voters approved $42.7 billion in bonds in the November 2006 election. These bonds will result in a significant amount of new construction that may increase the need for DOJ to engage in litigation related to construction contracts. Furthermore, the Governor has also proposed $13.7 billion in additional bonds to support a second phase of his Strategic Growth Plan.

Governor's Budget. The Governor's budget proposes $549,000 from the Legal Services Revolving Fund to support 3.3 positions (two attorneys) to handle additional construction related litigation. The DOJ projects that the majority of these additional resources are needed for additional construction litigation support for the California Department of Corrections and Rehabilitation's proposed prison construction projects.

Staff Comments. Staff finds that because of the numerous infrastructure bonds that were approved in the November 2006 election, there may be an increase in construction-related litigation. However, the department indicates that all of the additional litigation will be related to corrections related construction. To date, the Legislature has not acted upon the Governor's budget proposal to add additional capacity to the prison system.

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

- Hold this issue open.
- Request that DOJ provide additional information to the Subcommittee, as soon as possible, regarding the workload it projects related to construction litigation.

17. State Unemployment Tax Act Litigation

Background. Unemployment insurance benefits are funded by taxes that are assessed on employers at rates commensurate with unemployment insurance benefit awards paid to their ex-employees. Therefore, employers with high unemployment activity pay higher unemployment tax rates.

State Unemployment Tax Act dumping occurs when employers transfer (on paper) a large number of employees from an entity whose unemployment insurance tax rate is high, as a result of its poor claims history, into a newly formed or acquired entity with a lower tax rate. For example, a large company with a high unemployment insurance tax rate will purchase a small company with a relatively lower rate and transfer the employees in the large entity to the small entity in order to pay a lower rate of unemployment insurance.

The Employment Development Department (EDD) has issued 44 State Unemployment Tax Act dumping assessments totaling over $180 million. Employers challenging these assessments file petitions before the California Unemployment Insurance Appeals Board. However, if they cannot be resolved before the board, the matters then go to Superior Court. The DOJ represents the department when these cases go beyond the administrative proceeding at the Board.

Governor's Budget. The Governor's budget proposes $839,000 from the Legal Services Revolving Fund to support 4.9 positions (three attorneys) to handle additional State Unemployment Tax Act dumping cases. The DOJ estimates that there will be an increase in the number of State Unemployment Tax Act dumping cases that will end up in Superior Court annually. The EDD estimates that there will be about ten cases annually that will require DOJ litigation support.

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

18. Child Support Enforcement – Technical Adjustment

Background. The Child Support Enforcement Section at DOJ provides legal services to carry out the objectives of the federal Title IV-D child support enforcement program. Among other things, DOJ provides legal support for child support appeals in state and federal appellate courts and provides legal advice to the California Interstate Registry, which operates pursuant to the Uniform Interstate Family Support Act.

Currently, the DOJ and the Department of Child Support Services (DCSS) annually enter into an interagency agreement. This interagency agreement specifies that one-third of the federal funds provided for Title IV-D be allocated to DOJ and the remaining two-thirds be allocated to the DCSS. This agreement was required because federal rules did not allow DOJ to bill DCSS for services consistent with how the DOJ typically recovers monies from state agencies for legal services. The Federal Office of Management and Budget changed this rule in 2005, thereby allowing DOJ to bill DCSS for legal services provided by DOJ.

Governor's Budget. The Governor's budget proposes a technical adjustment to eliminate the existing interagency agreement and to bill DCSS in a manner consistent with how DOJ typically recovers monies from state agencies for legal services provided. Specifically, the technical adjustment requires the following:

- Transfer of $348,000 General Fund from DOJ to DCSS.
- Eliminate $606,000 in DOJ reimbursement authority.
- Augment DOJ's Legal Services Revolving Fund authority by $954,000.

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

19. California Highway Patrol – *Pitchess* Motions

Background. *Pitchess* motions are the procedure used to balance the rights of peace officers in keeping their personnel information confidential with the rights of litigants in accessing information that may be relevant to court cases. A party to a lawsuit must file a *Pitchess* motion to seek court review of peace officer personnel records to determine whether the records contain any relevant information.

Some *Pitchess* motions directed at the California Highway Patrol (CHP) are made in cases in which the CHP is already a party to the cases and CHP counsel handles the *Pitchess* motions as part of the overall litigation. However, there are many *Pitchess* motions directed at CHP for cases in which CHP is not a party and is not represented by CHP counsel. The CHP has been using non-lawyer positions to handle these motions. However, in July 2006, the CHP determined that this had resulted in multiple mistakes and did not satisfactorily protect the rights of its peace officers.

Governor's Budget. The Governor's budget proposes $1.1 million from the Legal Services Revolving Fund to support 6.6 positions (four attorneys) to handle the litigation of *Pitchess* motions for the CHP in cases where the CHP is not a party in the case. The positions will be added to the Employment Regulation and Administration Section of the department.

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

20. Natural Resources and Environmental Protection Litigation

Background. The DOJ is currently engaged in the litigation or settlement proceedings related to the following significant cases in the area of natural resources and environmental protection. These cases are expected to continue into the budget year:

- **Quantification Settlement Agreement –** Litigation related to the Quantification Settlement Agreement including *Imperial Irrigation District v. All Interested Persons* and eight other related cases.

- **Delta Smelt Biological Opinion –** *Natural Resources Defense Council v. Norton* challenging the 2005 Delta Smelt Biological Opinion issued by the U.S. Fish and Wildlife Service.
- **Friant Dam Settlement –** *Natural Resources Defense Council v. Rodgers* challenging the federal operations of Friant Dam on the San Joaquin River.
- **Fire Suppression –** The department currently has 30 active cases to recover fire suppression costs from the responsible party.
- **Greenhouse Gas Emissions from Autos –** The department is currently defending the state's adoption of legislation (AB 1493, Pavley), in 2002, that requires the Air Resources Board (ARB) to adopt regulations to achieve a reduction of greenhouse gas emissions from vehicles manufactured in model year 2009 and later.

The department also expects the following new litigation may be brought in the budget year.

- **Leviathan Mine –** The Leviathan Mine site is owned by the state and the State Water Resources Control Board (SWRCB) is overseeing the clean up of the site. It is a highly polluted site in the Sierras that has been designated a Superfund site by the federal government. The liability alleged is based on the state's ownership of the mine, past actions taken by the state with respect to the mine, and a 1983 agreement the state entered into with a past owner/operator of the mine.
- **State Water Project –** This lawsuit stems from a dispute among State Water Contractors over the allocation of revenues and other benefits from the sale or other disposition of power from the Hyatt-Thermolito generation plant adjacent to Oroville Dam in the State Water Project.
- **Los Osos –** This community of Los Osos is a small community on the Central Coast that is served by individual septic systems that are polluting the groundwater and the coastal ocean waters. Efforts have been under way for several years to build a centralized sewer system to comply with the SWRCB prohibition against leach from the septic systems. Construction of this system was halted by the Board of Directors of the Los Osos Community Services District. The SWRCB is now initiating administrative actions against individual dischargers in violation of the prohibition.

Governor's Budget. The Governor's budget proposes $3.9 million from the Legal Services Revolving Fund to support 16.4 positions (eight attorneys) on a three-year limited term basis to support extraordinary litigation related to natural resources and environmental protection. This includes $1.5 million for external consultant funding for experts.

Climate Change Litigation. The 2006-07 Budget Act appropriated $1 million in additional General Fund monies to DOJ for support of various efforts to pursue litigation related to climate change. Provision 11 of 0820-001-0001 directs that this money be "…available for litigation and expert witness costs associated with state actions to reduce greenhouse gas emissions, including the defense of actions taken by state energy agencies to reduce those emissions and the defense of Chapter 200, Statutes of 2002 (AB 1493, Pavley)."

Furthermore, the ARB requested an additional $4.9 million to cover DOJ's costs of defending the AB 1493 (Pavley) regulations. Ultimately, $3.4 million in unallocated special funds were allocated to the ARB in January for this purpose through the 9840 Item (For Augmentation for

Contingencies and Emergencies). The ARB was directed to fund the remaining $1.5 million from their existing budget.

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

- Hold this issue open.
- Request additional information on how the $1 million General Fund allocated in the 2006-07 Budget Act has been allocated.
- Request an update on the status, timing, and costs of the defense of AB 1493 (Pavley).
- Request an update on the status of lawsuits related to the preservation of the Headwaters (the state's purchase of over 8,000 acres of old growth redwoods in Northern California).
- Request an updated list of new natural resource and environmental protection related lawsuits the DOJ is currently pursuing.

21. Redevelopment Agencies

Background. In 2005, the U.S. Supreme Court ruled in *Kelo v. City of New London* that it was not a violation of the federal constitution for a local government entity to take private property by eminent domain for "economic development" purposes as defined by Connecticut state law. While California's law was already significantly more restrictive than Connecticut state law regarding when eminent domain could be used by redevelopment agencies found to be "blighted", the Legislature enacted SB 1206 (Kehoe) in 2006 to further tighten the blight definitions in redevelopment law. The legislation also enhanced the role of the Attorney General in policing abuses of redevelopment law.

Governor's Budget. The Governor's budget proposal includes $407,000 from the General Fund to support 3.3 new positions (one attorney) to implement the provisions of SB 1206. The department estimates that there are approximately 10 to 20 new redevelopment plans annually. The department will use these positions to review these plans and lawsuits filed by others and possibly engage in litigation if appropriate.

Staff Comments. Staff finds that the budget proposal is consistent with the fiscal analysis prepared when the new law was passed by the Legislature.

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

22. Division of Gambling Control – Technical Fund Shift

Background. The Division of Gambling Control is mandated to conduct background investigations on all companies as well as individuals investing and/or providing financial support to casino owners to determine suitability. This responsibility is mandated through the California Tribal-State Gaming Compacts. The division is only responsible for the investigations, while the suitability determinations are made by the Gambling Control Commission.

Currently, the investigations are funded through a reimbursement contract with the Gambling Control Commission.

Governor's Budget. The Governor's budget proposal requests a permanent technical shift of $893,000 from reimbursements to the Indian Gaming Special Distribution Fund. This will enable the department to be funded for its investigatory role directly from the Indian Gaming Special Distribution Fund instead of through a reimbursement basis with the Gambling Control Commission.

Staff Comments. It is unclear to staff why problems have arisen from the current funding arrangement that allows the Gambling Control Commission to reimburse DOJ for its investigatory role related to tribal gaming. Additional information is needed regarding why reimbursements have been directed to the General Fund in the past and not to the Special Distribution Fund as intended by the reimbursement arrangement.

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

- Hold this issue open.
- Request that the department provide additional information regarding the current reimbursement process, including why reimbursements have been directed to the General Fund.

SUBCOMMITTEE NO. 4 Agenda

Senator Mike Machado, Chair
Senator Robert Dutton
Senator Christine Kehoe

Wednesday, March 28, 2007
9:30 a.m.
Room 112

Consultant: Bryan Ehlers

Item Number and Title **Page**

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

VOTE-ONLY ITEMS

9860	Capital Outlay Planning and Studies Funding
Control Section 1.00	Budget Act Citation
Control Section 1.50	Intent and Format
Control Section 1.80	Availability of Appropriations
Control Section 3.00	Defines Purposes of Appropriations
Control Section 4.30	Lease-Revenue Payment Adjustments
Control Section 4.80	State Public Works Board Interim Financing
Control Section 4.90	Architectural Revolving Fund Transfer
Control Section 4.95	Inmate Construction Revolving Account Transfer
Control Section 6.00	Project Alterations Limits
Control Section 8.50	Federal Funds Receipts
Control Section 8.51	Federal Funds Accounts
Control Section 8.52	Federal Reimbursements
Control Section 8.53	Notice of Federal Audits
Control Section 9.20	Administrative Costs Associated With the Acquisition of Property
Control Section 9.30	Federal Levy of State Funds
Control Section 9.50	Minor Capital Outlay Projects
Control Section 12.30	Special Fund for Economic Uncertainties
Control Section 25.25	21st Century Project
Control Section 25.50	SCO Apportionment Payment System Assessments
Control Section 26.00	Intraschedule Transfers
Control Section 28.50	Agency Reimbursement Payments
Control Section 30.00	Continuous Appropriations
Control Section 32.00	Prohibits Excess Expenditures
Control Section 33.00	Item Veto Severability
Control Section 34.00	Constitutional Severability
Control Section 37.00	Urgency Clause

VOTE on Vote-Only Items:_______

DISCUSSION ITEMS—DEPARTMENTS

0840 State Controller

The State Controller is the Chief Financial Officer of the state. The primary functions of the State Controller's Office (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. The Governor's budget funds 1,234.5 positions (including 136.4 new positions) and $172 million in expenditures.

VOTE-ONLY ISSUES:

1. BCP: Technology, Trade, and Commerce Program Staffing. The SCO requests $90,000 General Fund to extend a limited-term position for two additional years in order to collect and account for loan debts due to the state from the former Technology, Trade, and Commerce Program. The SCO assumed all loans, grants, and encumbrances when the TT&C Agency was disestablished in 2003.

2. BCP: Apportionment Payment System. The SCO requests $799,000 in fee revenues collected from various special funds to support ongoing maintenance and operation of the Apportionment Payment System (APS). Five positions would be funded by this assessment and a previously approved General Fund appropriation of $62,000. The APS project was developed to fix a dangerously overburdened system that endangered timely distribution of apportionments to local agencies. Funding for this activity is provided through a statewide budget item, Control Section 25.50.

STAFF RECOMMENDATION ON VOTE ONLY ITEMS: APPROVE AS BUDGETED.

VOTE on Vote-Only Issues 1 and 2:

DISCUSSION ISSUES:

1. BCP: Human Resources Management System/21st Century Project. The State Controller's Office (SCO) requests an augmentation of $38,343,049 and 80.6 one-year limited term positions to complete the system development phase of this project and begin rollout. This request constitutes the fourth year of funding in what is expected to be a six-year, $140 million project.

Staff Comment: This request is part of an ongoing multi-year project to replace existing employment history, payroll, leave accounting, and position control systems. The HRMS will also include a statewide time and attendance capability, greatly enhancing the Controller, Administration, and Legislature's fiscal oversight abilities. For example, it is expected that the system will eventually capture actual salary savings at each department, replacing the arbitrary five percent standard used statewide today.

A year ago, the Subcommittee questioned the SCO regarding the savings expected from the implementation of the HRMS project, but did not get a clear estimate from the department. The SCO should be asked again to comment on the expected efficiencies resulting from the impending roll-out of the first wave of the system in budget year.

Staff Recommendation: APPROVE with BBL requiring the SCO to report on savings from the project. Staff will work with LAO and the SCO to draft language and circulate.

VOTE:

2. BCP: Clean-up of Contaminated Property in Stockton. The SCO requests $1.0 million (Leaking Underground Storage Tank Cost Recovery Fund--LUSTCRF) to complete soil remediation on real property that has escheated to the state. The petroleum-contaminated parcel is located in Stockton's Central Business District and is owned by the State of California. The regional water quality control board recently met with the SCO and urged them to quickly mitigate the problem or face possible litigation.

Staff Comments: The Giambanco Property (Vintage Car Wash) escheated to the state over 10 years ago as the result of a probate decision by the Superior Court of California (the heirs refused possession of the property because it was contaminated). Subsequently, the property was directed to the SCO to be administered as unclaimed property, and in the intervening decade remediation efforts were funded from several different sources including the General Fund and the Underground Storage Tank Program. However, after 2002-03 funding was no longer available through the Underground Storage Tank Program and the SCO had to absorb subsequent remediation costs (approximately $170,000). In search of a funding source, the LUSTCRF was suggested by the State Water Resources Control Board because it was no longer being used. The SCO indicates final remediation efforts (scheduled for completion by the close of FY 09-10) will be carried out by the Department of General Services (DGS) through an interagency agreement and will reduce the LUSTCRF fund balance to zero. The SCO will coordinate the sale of the property with the DGS and proceeds will be returned to the Underground Storage Tank Cleanup Fund, less DGS real estate service fees.

The contamination at this site is a liability of the state and therefore this request should be funded. However, the Subcommittee may wish to have the SCO speak to (1) why the state is responsible for cleaning-up environmental contamination created by a private business and how or whether this might be avoided in the future; and (2) why the SCO bears responsibility for this property when the DGS or Department of Toxic Substances Control have significantly more experience managing this type of clean-up. Staff notes, according to this BCP, the SCO requested the DGS take over responsibility for this project, but was refused.

Staff Recommendation: APROVE as budgeted.

VOTE:

3. BCP: Mandate Auditors: Conversion of Limited-Term to Permanent. The SCO requests $999,000 to make 11 expiring limited-term positions permanent. In 2005-06 the Senate augmented the SCO budget by $996,000 and 11 positions to analyze older mandate cost claims that were approaching the end of the statute of limitations for initiating claims audits. For every $1 spent on these audit efforts the mandate claim auditors have identified approximately $17 in over-claimed costs.

Staff Comments: This request should be considered within the larger discussion of mandate reform in which the state is attempting to streamline the mandate process and reduce the number of mandate over-claims submitted. However, while reform proposals remain pending the Subcommittee may wish to consider augmenting this request given the large cost avoidances identified under current mandate audit efforts and the high benefit-cost ratio of General Fund expenditures in this area. The SCO should provide an analysis of the benefit-cost associated with further increasing the number of mandate auditors.

Staff Recommendation: HOLD OPEN.

4. BCP: Resources for the California Automated Travel Reimbursement System's (CalATERS) Statewide Rollout. The SCO requests $517,000 (reimbursements) and seven positions to implement a statewide rollout of the CalATERS, an automated travel expense processing system that is expected to result in significant process and cost efficiencies. Staff will train agencies, monitor and maintain systems, and support the Department of Technology Services with transactions associated with rollout.

Staff Comments: Under existing statute, departments will retain authority to not institute CalATERS if they convince DOF that they need an exception. Staff has no concerns with this language as the proposed process is consistent with CalSTARS, the statewide accounting system. Departments have the option not to partake in CalSTARS, but must make the case for an exception first. The SCO indicates it expects relatively few departments to apply for exceptions, and, for those that apply and are successful, there will be a process for revisiting the exception and re-evaluating the benefit-cost to the state at a later date.

Staff Recommendation: HOLD OPEN pending additional information from the department, including examples of exceptions.

VOTE:

5. BCP: Cannery Business Park Lease Renewal and Expansion Project. The SCO requests $2.2 million ($1.3 million General Fund) and 1 two-year limited term position to enable an office space expansion at the Cannery Business Park facility in Sacramento. The request consists of $1.1 million for additional space, $79,000 for staff, and $996,000 for replacement of modular furniture.

Staff Comments: The SCO first occupied the Cannery Business Park facility in 1986, and current conditions are below DGS standards (which comply with California Building Codes and the Americans with Disabilities Act. For example, many aisles are less than the standard of 3'-8" and are frequently crowded with storage items due to limited space.

Additionally, cubicles no longer meet minimum size requirements, and 79 percent of them are 20 years or older and no longer supported by the vendor.

This request is sufficient to fund space expansion to address projected staffing needs through 2010-11.

Staff Recommendation: APPROVE the BCP as budgeted.

VOTE:

6. BCP: Salary Increase for Staff Management Auditors. The SCO requests $224,000 ($106,000 General Fund) to support a five percent salary increase for the Staff Management Auditor (Specialist). The SCO has experienced significant recruitment and retention problems because of unfavorable Staff Management Auditor salary comparisons between the SCO and other state and local agencies.

Staff Comments: This issue should be subject to the collective bargaining process. Staff understands the SCO has raised the issue to the DPA, but no formal action has been taken. The Subcommittee should await further clarification on this item at a future hearing.

Staff Recommendation: HOLD OPEN.

DISCUSSION ITEMS—DEPARTMENTS

0890 Secretary of State

The Secretary of State (SOS), a constitutionally established office, 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 law 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, and Information Technology and Management Services Divisions.

The Governor's budget funds 477.3 positions (including 15.0 new positions) and budget expenditures of $92.6 million ($36.2 million General Fund).

VOTE-ONLY ISSUES:

1. BCP: Safe At Home Program. Chapter 639, Statutes of 2006 (SB 1062, Bowen) expanded the "Safe at Home" Program, which provides support services to victims of domestic violence and stalking, to include victims of sexual assault. The Secretary of State proposes 3.0 positions and $299,000 for staffing, equipment, and printing materials for program enrollment.

2. BCP: Repayment for Help America Vote Act Audit Findings. The Secretary of State requests $2.4 million General Fund to repay the Federal Trust Fund for illegal HAVA expenditures identified by the U.S. Elections Assistance Commission. A previous repayment of $536,000 has been approved in the current year, bringing the total repayment to $2.9 million.

STAFF RECOMMENDATION ON VOTE ONLY ITEMS: APPROVE AS BUDGETED.

VOTE on Vote-Only Issues 1 and 2:

DISCUSSION ISSUES:

1. Revised Spending Plan for Help America Vote Act Expenditures. The Governor's Budget includes $10.6 million in federal fund spending authority to continue implementing the Help America Vote Act (HAVA) in accordance with a revised expenditure plan. A total of $369 million in federal funds has been appropriated to California for voter equipment replacement, voter education, and related activities. Of the $10.6 million requested for expenditure in the budget, $6.4 million will be used to begin implementing the VoteCal statewide voter database, $1.1 million to provide election assistance for people with disabilities, $1.9 million for administration, and $1.2 million for other elections-related activities.

Staff Comments: Given the past history of misuse and delays in encumbering federal funds, the Subcommittee should closely examine the latest expenditure plan, focusing on the rates of expenditure and specific use of funds.

Staff notes that while some HAVA issues still need to be resolved in 2007-08, most HAVA requirements were implemented in time for the 2004 and 2006 elections. For this reason the LAO analysis recommends a reduction of 2.5 PYs (concentrated in legal, media, and contract preparation work) and $308,000 in administrative expenses to reflect the slow-down in HAVA workload. This reduction would leave 7.5 PYs to close out the remaining workload other than the ongoing database project (see Issue 2 below), and would increase the HAVA reserve for any database cost increases or future operating costs.

Staff Recommendation: APPROVE the request less 2.5 PYs and $308,000 identified in the LAO recommendation.

VOTE:

2. BCP: Voter Registration Database Replacement. The Secretary of State requests 12 positions (6.5 PYs in budget year) and $6.9 million in federal fund spending authority to begin the process of replacing the existing CalVoter statewide voter database with a more centralized and technologically advanced VoteCal database. The VoteCal database will contain the name and registration information for every legally registered active or inactive voter in California. After all federal HAVA funds are expended these positions will be funded by state General Fund.

Staff Comments: This request is consistent with an approved Feasibility Study Report, and the SOS is optimistic this project can be implemented for less than the original cost estimate because California will learn from other states who have already implemented similar systems. However, this request still represents an unknown out-year General Fund pressure and the Subcommittee will want to better understand the extent of the commitment represented by this request.

Due to the undetermined future needs of this project and the fact that these needs will eventually be General Fund-supported, the Subcommittee will also want to consider making the requested positions limited-term. Once the VoteCal database is in place, the SOS will have a better idea of its ongoing staffing needs and can return with a request for permanent positions.

Staff Recommendation:
1) APPROVE as budgeted, but make positions limited-term.
2) Request the SOS to provide an estimate of the year in which federal HAVA funds are expected to be exhausted, as well as an estimate of the out-year General Fund costs.
3) Consider reporting language to ensure the SOS keeps the Legislature updated on revised estimates of out-year GF costs.

VOTE:

3. Informational Issue: Update on HAVA Source Code Review. The Legislature included $760,000 in the April 2006 spending plan for the SOS to perform reviews of e-voting machine source code.

Staff Comments: The LAO indicates that, as of mid-January 2007, no such review had occurred.

Staff Recommendation: Request the SOS to provide an update to the Subcommittee detailing specifically how it intends to review source code and when the expenditures will be made.

4. BCP: Secretary of State Headquarters Repair and Shift to an Individual Rate Building. The Secretary of State requests $1.7 million to effect repairs to the Secretary of State's headquarters building in Sacramento, including replacement of the building roof, the establishment of a special repairs fund, and $15,000 for recurring maintenance for the security keycard system. The Secretary of State also requests to shift the annual budgeting of the headquarters building to an individual rate building, which will enable the establishment of a special repairs reserve account to fund future repairs to the building.

Staff Comments: The Secretary of State/Archives Building was financed through a lease-purchase revenue bond, and the SOS is currently responsible for the debt service for this building. This arrangement is atypical for state-owned facilities, as bond-funded state facilities are usually set up as Individual Rate buildings with a rental rate established specific to the building. In this respect, the request would create an arrangement more consistent with the state's policy on operating state office buildings.

The SOS headquarters is approximately 12 years old, and the roof (which now leaks) was supposed to have a lifespan of at least 15 years. Although staff does not dispute that the requested repairs are necessary, the Subcommittee may wish to inquire with the SOS and/or Department of General Services as to whether the requested money will be spent on higher quality construction materials than were originally used.

This item has a conforming issue in the DGS budget (see page 30).

Staff recommendation: HOLD OPEN until after the DGS budget is heard.

DISCUSSION ITEM—Tax Agency Information and Data Exchange

Three state agencies play a major role in tax administration and collection. The Franchise Tax Board (FTB) administers the Personal Income Tax and the Corporation Tax; the State Board of Equalization (BOE) administers the Sales and Use Tax (SUT), fuel taxes, and various other excise taxes and also oversees administration of the local property tax; and the Employment Development Department (EDD) collects state and federal income taxes and payroll taxes through the withholding process. Each of these agencies maintains multiple information systems that, in most cases, were developed for use by that agency in a specific tax program. In contrast, most states have a single revenue department making information and data exchange between their tax systems easier. Nevertheless, relatively cheap computing power and advances in software provide opportunities for a "virtual consolidation" of the tax agencies in terms of their ability to share and exchange data both to improve collections and reduce the "Tax Gap" and to simplify paying taxes and reduce duplication for taxpayers.

LAO Report. In January, the Legislative Analyst's Office (LAO) released A Report on Tax Agency Information and Data Exchange. The report responded to supplemental report language adopted in conjunction with the 2005-06 Budget Act requiring the LAO to examine (1) the extent of information and data exchange among the state‘s three main tax administration agencies, and (2) the impediments to, and opportunities for, increasing the current level of cooperation in this regard. The language placed an emphasis on how additional cooperation could serve to improve overall tax compliance as well as aid in tax enforcement activities. LAO prepared their report using information provided by the tax agencies.

LAO's Findings. The tax agencies identified a number of short-term steps that could be taken to facilitate the exchange and use of certain tax-related data and information. Specifically, the tax agencies identified a variety of data items which are now being collected by state agencies but which are not being shared. They also highlighted various other sources of information collected by the federal government as well as by private entities that would be of use in improving tax compliance.

Over and above a greater sharing of data that are already collected, LAO identified several programs that could be established that would enhance the ability of the agencies to develop, obtain, and share data. Virtually all of these programs would entail additional funding, primarily for the purpose of addressing technological constraints of existing data systems.

Alternative Approach to Single Taxpayer ID. The Legislature specifically asked LAO to consider the value of developing a single taxpayer identification number to help ease the difficulties tax agencies have in sharing and cross-matching data. Although the use of a single taxpayer ID could greatly simplify things for the taxpayer, LAO found that it raises a number of significant administrative issues, as well as identity-theft concerns. LAO thus concluded that a single taxpayer identification number may not be the most appropriate means of linking the ability of the tax agencies to share data. Instead, LAO found that increasing the ability of the agencies to cross-match taxpayer information using their existing systems in conjunction with an alternative technology approach—with the flexibility, this would maintain for each of the agencies—seems most appropriate.

LAO Recommendations. Based upon their findings in the report and in order to ensure that timely progress is made in the area of information and data sharing, LAO recommends that BOE, FTB, and EDD appear jointly before the budget subcommittees to respond to the report and to identify the following:

1. Those cost-efficient, data-sharing actions they are planning to undertake or could undertake immediately (that is, which require no additional funding or statutory changes).

2. Relevant information and recommendations regarding other initiatives that may require legislative actions (such as statutory changes or added funding).

3. An alternative technology approach, such as using software overlays, to link existing independent tax information systems— including its costs, benefits, and time requirements.

LAO recommends that the three agencies also should collectively identify their preferred means for coordinating data-related decisions and activities amongst themselves, such as use of the already established Strategic Tax Partnership or other alternative approaches.

Staff Comments: Both the BOE and the FTB indicate they continue to work closely with the EDD to address the information and data exchange issues raised above. The Subcommittee will want to hear an update from the BOE and the FTB on their progress in identifying areas for improved efficiency, but may also wish these departments to identify next steps toward capturing savings and/or cost avoidances in their operations.

Staff Recommendation: HOLD OPEN.

DISCUSSION ITEMS—DEPARTMENTS

0860 Board of Equalization

The State Board of Equalization (BOE), the Franchise Tax Board (FTB), and the Employment Development Department (EDD) 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. BOE also assesses utility property for local property tax purposes, oversees the administration of 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.

The Governor's budget funds 3,800.5 positions (including 80.9 new positions) and proposes $390.2 million in total expenditures ($218.1 million General Fund).

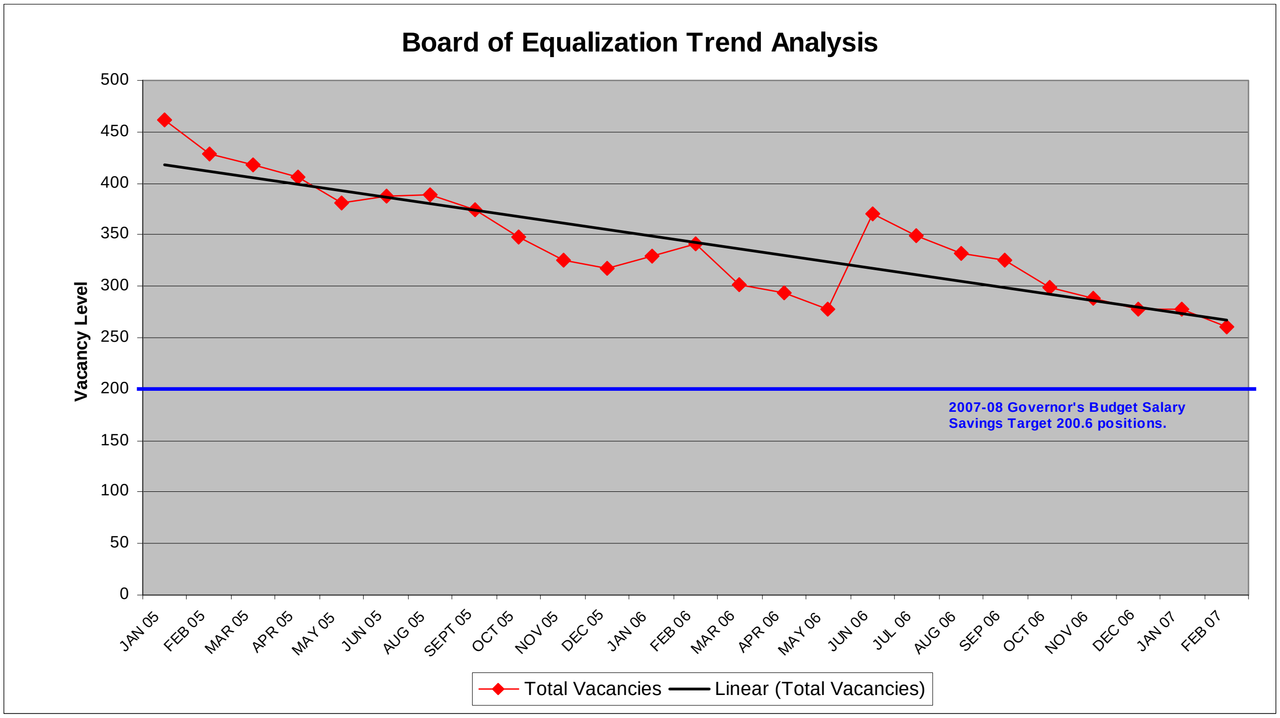
DISCUSSION ISSUES:

1. Informational Issue: Recruitment and Retention. In recent years, the BOE has experienced problems in recruitment and retention, resulting in high vacancy rates, particularly among auditors, that threaten state revenues. In response to concerns in both the Senate and Assembly, the BOE has provided the following report on recent efforts to address these issues:

Report by the BOE

The Board of Equalization is pleased to announce the accomplishment of a variety of activities that enhance the agency's ability to recruit and retain a qualified workforce. The figure below shows that since January 2005 there has been a consistent lowering of the vacancy rate, except for periodic vacancy increases resulting from new positions added through the budget.

From Fiscal Year (FY) 2006-07 to date, the average vacancy rate is 7.9 percent, down from 9.2 percent in FY 2005/06. After factoring out the required salary savings, the estimated excess vacancy rate for FY 2006-07 would be 2.9 percent. Of the total vacancies, there were only 38 Tax Auditors, 42 Tax Technicians and 33 Business Taxes Representatives.



Steps That Were Taken. *The BOE took several crucial steps to reduce its vacancies and associated salary savings, including the following:*

- *In consultation with SPB, BOE developed and implemented "Direct Recruitment Events for the high turnover entry-level positions of Tax Auditor, Business Taxes Representative, and Tax Technician in selected district offices.*

- *BOE implemented a streamlined examination process and recruitment process that initiates contact with candidates immediately upon their successful completion of the on line examination. The Personnel Management Division staff requests official verification of transcripts from the candidates to verify the minimum qualifications and eliminate unnecessary hiring interviews for unqualified candidates who fail to meet the minimum qualifications.*

- *BOE performed an in depth review of the hiring procedures and practices and identified improvements that could be achieved to expedite the internal processing of hiring documents.*

- *BOE implemented automatic Hire Above Minimum provisions for new State service hires to Tax Auditor classification as approved by DPA.*

- *BOE increased the number of agency part time recruiters from 21 to 35 throughout California and in the BOE's out-of-state offices*

- *BOE used professional resources of companies such as City Career Fair, Peninsula Job Fair, and Cal Jobs for recruitment in previously untapped markets* *and placed print advertisements in the California Job Journal, which is read by over 286,000 job seekers each month.*

- *BOE used the facilities of the Orange County One Stop Job Center and its publicity resources that include 381 partners, such as Veteran Affairs groups, schools, case workers, and job developers.*

- *BOE implemented examination planning, preparation classes, and other training programs to assist employees in achieving greater success, both in their current positions and for future promotional opportunities.*

- *BOE identified companies that have announced layoffs (for example Intel) and participated, where possible, in their job fair events.*

Future Strategies. *The BOE will continue to implement key components of its succession and workforce planning program by: profiling its workforce flow; assessing and improving current recruitment, hiring and retention strategies; identifying, evaluation, and implementing government and industry best practices; researching potential candidate demographics and adapting strategies to attract candidates.*

We continue our effects to partner with the control agencies (i.e., the Department of Personnel Administration and the State Personnel Board) to reform the State's civil service system that includes streamlining and automating current processes.

BOE recently completed preparatory work for the Business Taxes Administrator, Supervisory Tax Auditor, and Business Taxes Compliance Supervisor classification revisions for the potential consolidation of classes. Also, we completed preparatory work for the Tax Technician, Tax Auditor, Associate Tax Auditor, and Business Tax Compliance Specialist to explore the expansion of deeper classes and the possible consolidation of these classes.

Staff Comments: Staff notes that BOE is likely to have excess salary savings from vacancies during the current year. However, if recent trends continue, the board would reduce vacancies down to around 200 (about 5 percent), which is the average number assumed in the budget for 2007-08.

The board should provide the Subcommittee with its assessment of whether the vacancy reduction trend will continue and any barriers that it faces in continuing that trend. Additionally, staff is awaiting a response from the BOE clarifying apparent discrepancies between the vacancies noted above and those reported by the SCO.

2. BCP: Consumer Use Tax Section Revenue Enhancement. The Administration requests to make permanent six limited-term positions first established in 2005, at an ongoing cost of $313,000 ($203,000 General Fund). These positions will ensure collection of use tax in the compliance program for vehicles, vessels, and aircraft. Based on the last two years of program activity, the BOE anticipates annual revenues of $4.3 million, a 14-1 benefit-cost ratio.

Staff Comments: The Administration estimates that continuing this staff will generate $4.3 million in additional General Fund revenues in 2006-07, reflecting anticipated hiring delays and an estimated six-month training period for the staff to learn their job duties.

However, LAO points out that these six positions have already been filled and have completed their training period. The BOE and LAO now agree that General Fund Revenues from this proposal will be $1 million higher (along with $430,000 in additional local Use Tax revenue).

Staff Recommendation: APPROVE the staffing as budgeted and score an additional $1 million in GF revenue.

Vote:

3. BCP: Electronic Waste Recycling Fee Workload Adjustment. The budget includes a reduction of 20.7 positions and $1.3 million (E-Waste Recovery and Recycling Account). Additionally, the BOE seeks to extend six expiring limited term positions for an additional two years, at a cost of $230,000. This realignment is intended to align budgeted dollars and staffing with a revised workload estimate of e-waste registered retailers.

Staff Comments: The LAO originally recommended against extending the remaining 6 limited-term PYs on a workload basis. However, the BOE has provided additional workload justification, and LAO now recommends approval of the budget-staffing request. As a result of the workload review, however, BOE has identified an additional $1.96 million of fee revenue that will be collected in 2007-08 for support of the E-Waste Recycling Program.

Staff Recommendation: APPROVE staffing as budgeted and direct the Department of Finance to score the additional $1.96 million in fee revenue for the Electronic Waste Recovery and Recycling Account.

Vote:

4. E-Filing Infrastructure Project. The BOE has been converting to electronic technologies in the filing of tax returns and remittances, as well as the processing of these returns. The LAO points out that e-filing has advantages to both taxpayers (minimizing record keeping requirements, increased filing accuracy, and reduced costs) and to tax agencies (decreased processing time, reduced storage costs, fewer staff needed, improved data accuracy, and easier information exchange for enforcement and compliance purposes).

E-filing Reduces Costs. Processing electronically filed returns and remittances costs a fraction of the costs associated with paper documentation, according to the LAO. For example, FTB reports that about 4,800 electronic remittances are processed per staff hour compared with only 62 paper remittances processed per staff hour. A study completed for the BOE in January estimated the average cost of processing paper returns to be $4.69 and that e-filing has the potential to significantly reduce this cost. In addition to processing savings, additional savings typically occur because the electronic submissions of remittances and returns are more accurate than their paper counterparts, thus requiring less follow-up contact with the taxpayer to correct inaccuracies.

BOE Can Make More Progress. LAO points out that BOE has made some progress in the electronic technologies and automation area but still has a substantial way to go. For instance, BOE just recently implemented electronic filing for single-location taxpayers (which account for a small proportion of total State Use Tax—SUT—liabilities), and has yet to offer electronic filing options for multiple-location taxpayers. Hence, while the agency receives about 60 percent of total SUT payments through electronic funds transfer, electronic tax filings represent only a small share of total tax returns.

Budget Proposes E-Filing Expansion. The Governor's Budget proposes to expand BOE's SUT electronic filling program to include businesses filing multiple returns and others and to automate the delinquent prepayment process. To accomplish these goals, the administration requests two positions and $1,460,000 ($949,000 General Fund and $511,000 reimbursements) in 2007-08, and three positions and $431,000 ($280,000 General Fund and $151,000 reimbursements) in 2008-09.

No Savings Estimate Associated With this Proposal. The Governor’s proposal represents stage three of a plan to move the agency and the taxpayers it serves towards a more electronically integrated business model. However, estimates of savings to the state associated with this electronic migration have yet to be quantified. The administration’s proposal indicates that savings associated with this proposal would be identified upon completion of BOE’s Tax Return Processing Assessment, at which time the department would develop a cost-savings model that could be applied to the tax return processing areas affected by a reduction in paper return filings. The assessment was completed January 5, 2007, and although savings in either the medium- or long-term have yet to be identified, BOE indicates that it has begun work towards developing a cost-savings model.

LAO Withholds Recommendation Pending Savings Estimate. LAO withholds recommendation on the BOE's electronic filing infrastructure enhancements and recommends that the board report at budget hearings regarding the status of efforts to develop a cost-savings model, together with estimates of medium- and long-term savings and costs associated with increased conversion of existing registrations, tax filings, and manual processing to electronic systems.

Staff Comments: The board should respond to LAO's comments and update the Subcommittee regarding the status of a savings estimate for its e-filing expansion proposal.

Staff Recommendation: HOLD OPEN.

5. BCP: Tax Payment Delinquencies: Public Disclosure (AB 1418). In accordance with Chapter 716, Statutes of 2006 (AB 1418, Horton) the Board of Equalization seeks 1 two-year limited term position and $106,000 ($69,000 General Fund) to implement AB 1418. This bill required the BOE and Franchise Tax Board to compile and make public on a quarterly basis a list of the 250 largest delinquent taxpayers.

Staff Comments: Although the top 250 tax delinquents that meet the conditions of AB 1418, in the aggregate, owe approximately $300 million, the BOE indicates that approximately 3 of the 250 largest delinquent taxpayers represent active accounts. Staff notes that the department has not provided any compelling evidence that this program will generate revenues commensurate with the resources requested.

Staff Recommendation: REJECT.

VOTE-ONLY ISSUES:

1. BCP: U.S. Customs Program Augmentation. The Administration requests 15.5 limited term positions, one permanent position, and $1.1 million ($696,000 General Fund) for the purpose of developing and investigating tax leads turned over by the U.S. Customs service. U.S. Customs electronic records tell the BOE where out of state imports were shipped in state, information that can be compared to use tax payments. Based on the activity in this program over the last two years the BOE anticipates revenues of $15.2 million to be generated, a 13-1 benefit-cost ratio.

2. BCP: Alcohol Beverage Tax Program Workload. The Administration requests two permanent positions and $244,000 General Fund to restore resources for conducting field audits, collections, tax return processing, refunding and other tasks associated with administering the alcohol beverage tax. The BOE asserts that current staffing levels are inadequate to complete workload and generate the full amount due in annual alcohol beverage tax revenue. The BOE anticipates these resources will generate $1.3 million, a 5.7 to 1 benefit-cost ratio.

3. BCP: Tire Fee Increase Workload. The Administration requests to make permanent 5.8 currently limited term positions at a cost of $485,000 (California Tire Recycling Management Fund), in order to strengthen the BOE’s ability to collect the tire fee. Collection efforts from the current positions have yielded a more than 60 to 1 benefit-cost ratio. Additionally, the Administration seeks statutory authority to shift reimbursement for BOE staff work from reimbursement by the California Integrated Waste Management Board to a direct appropriation from the California Tire Recycling Management Fund.

4. BCP: International Fuel Tax Agreement (IFTA) Workload Growth. The Administration requests 11 new positions, including 8 new positions and 3 three-year limited term positions, funded by redirecting existing funding of $1 million from the Motor Vehicle Fuel Account. This proposal will better enable the BOE to meet national IFTA membership requirements and protects the estimated $3.0 billion in matching federal funds. The BOE anticipates these new positions will generate an additional $2.7 million annually for the Motor Vehicle Fuel Account.

5. BCP: Underground Storage Tank Maintenance Fee Program
The Administration requests 7.5 positions, including 2 two-year limited term positions, and $771,000 (Underground Storage Tank Fund) to address an ongoing workload backlog in the Underground Storage Tank Maintenance Fee Program. The fees collected in this program are used for grant and loan programs to assist underground storage tank program owners to replace or repair their tanks, as well as enable the state to remediate abandoned underground storage tank sites. The BOE anticipates these resources will generate $9.8 million in new revenues in 2007-08 and 2008-09, followed by revenues of $5.4 million ongoing.

6. BCP: Fuel Tax Compliance Projects. The Administration requests authority to spend $974,000 ($317,000 Federal Trust Fund, $657 reimbursements) in the budget year and $2.9 million ($909,000 Federal Trust Fund, $2.0 million reimbursements) over three years for fuel tax compliance projects. These projects include: (1) membership in the Joint Operation Center for National Fuel Tax Compliance, (2) procuring services of contract programming staff to enhance the BOE's Automated Schedule Processing System, (3) and participating in federal/state fuel tax task force meetings and training.

7. BCP: Expanded Environmental Fee Program (Assembly Bill 1803). In accordance with Chapter 77, Statutes of 2006 (AB 1803, Committee on Budget), the Board of Equalization requests reimbursement authority to recover costs associated with implementing and administering statutory changes to the BOE's Environmental Fee Program. Five new positions and $483,000 (fee reimbursements) are needed to carry out these changes. AB 1803 expanded the types of businesses subject to the environmental fee to include limited liability companies, limited partnerships, limited liability partnerships, general partnerships, and sole proprietorships.

8. BCP: Tobacco Products Manufacturer and Importing Licensing (AB 1749). In accordance with Chapter 501, Statutes of 2006 (AB 1749, Horton) the Board of Equalization seeks 8.1 positions and $1.2 million ($181,000 General Fund) to implement AB 1749. This bill expanded the licensing and reporting requirements for tobacco manufacturers and importers. The BOE expects additional revenue of approximately $4.2 million annually, a 6 to 1 benefit-cost ratio.

STAFF RECOMMENDATION ON VOTE ONLY ITEMS: APPROVE as budgeted vote-only items 1-8.

VOTE on Vote-Only Issues 1-8:

DISCUSSION ITEMS—DEPARTMENTS

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. The Governor's budget funds 5,174.5 positions (including 240.7 new positions) and expenditures of $623.4 million ($518 million General Fund).

DISCUSSION ISSUES:

1. Informational Issue: Recruitment and Retention. In recent years, the FTB has experienced problems in recruitment and retention, resulting in high vacancy rates, particularly among auditors, that threaten state revenues. In response to concerns in both the Senate and Assembly, the FTB has provided the following report on recent efforts to address these issues:

Report by the FTB:

<u>Status of Auditor Attrition</u>

Our Audit Program has experienced a 5-6% Attrition Rate in the last 6 months. 42 of the 708 auditors, program specialists and related administrators have either moved on or retired

- *26 of the 42 (or 4%) of staff has moved on*
- *16 of the 42 (or 2%) has retired*

The audit staff that has moved on has gone to:
- *The IRS or other Government agency (receiving a 10-25% pay increase)*
- *The private sector (receiving a 100% pay increase)*

<u>Historical Attrition</u>

- *FY 04/05 – a reduction of 36 audit staff*
- *FY 05/06 – a reduction of 37 audit staff*
- *FY 06/07 – a reduction of 26 audit staff YTD*
  - *Retirements are up 400% from FY 05/06*
  - *We will lose 45 audit staff this year if current attrition rate continues*

<u>Status of Audit Vacancies</u>

- *I00 vacancies (in April 2006)*

- *45 vacancies (in March 2007, with plans to hire 8 staff)*
- *Our goal is to fill all existing vacancies with the June 2007 hiring class*

<u>FTB Efforts to Improve Audit Recruitment and Retention</u>

- *In early 2006, we doubled our audit recruitment staff, which in turn:*
    - *Increased our visibility on college campuses*
    - *Increased the number of qualified applicants for Internet Tax Audit exam*
        - *In November 2006, we implemented an Internet Tax Auditor exam*
    - *We already have 450 candidates on list vs. 250 candidates in previous years*

- *The open Associate Tax Auditor (ATA) list is complete*
    - *We are hiring our first new class ever of ATA's in Spring, 2007*

- *We are constantly monitoring our audit workloads for changes in complexity to justify promotions, and have increased the number of audit promotions since the beginning of this fiscal year.*

- *We are currently working with BOE and EDD on joint task forces addressing:*
    - *Hiring new auditors at the top step of the Tax Auditor range*
    - *Coordinating recruitment efforts to optimize hiring pool and the use of recruitment funds.*

- *In January 2007, an additional step was added to the auditor, program specialist, and administrator classifications to improve our ability to retain long-term employees. Although this may increase auditor longevity overall, it is unlikely that this step is having any current effect on attrition numbers. We are proposing a deep-class of Tax Auditor and ATA classes to SPB and DPA this spring.*

<u>Current Recruitment and Retention Efforts in Collections</u>

We currently have one full-time recruiter representing Collections. We are making every effort to increase our visibility throughout the state. We have a presence at University business programs, job fairs, career fairs. This has resulted in a 20% increase in applications received over the last 18 months.

The Compliance Representative Exam is planned to go on line in March/April 2007.

- *A new certification list will be issued weekly.*

- *Collections currently has an Employee Retention Taskforce*

    - *Captures vacancy/turnover rate data from FY 2002/03 forward*
    - *Conducts exit interviews upon employees leaving area or agency*
    - *Exit interview information is utilized for staff retention planning*

Staff Comments: The FTB should provide the current vacancy rates for audit and collection staff and compare them with last year, and should additionally identify the overall salary savings percentage so far this year and how it compares with the amount assumed in the Governor's Budget for 2007-08 (5.9 percent)?

2. Additional Savings from E-Services. The LAO points out that information provided by FTB indicate ongoing growth in electronic filing of returns and remittances. 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 as society becomes increasingly computer oriented. The department reports that it expects 9 percent annual growth in electronic remittances through 2008, and 4 percent to 7 percent annual growth in electronic returns over the same period.

Reflecting the growth in electronic filings and remittances—and the large savings associated with the use of this technology—the department's budget for processing has been reduced almost every year since 2001-02. These annual reductions ranged from $400,000 to about $1 million.

The 2007-08 budget includes savings of $298,000 due to increased electronic filing for the Personal Income Tax (PIT). However, no budget reductions were proposed related to increased electronic remittance processing or reductions in mailed and printed tax forms and booklets due to more use of online forms and other information. The board is also expanding the Business Entities E-File (BEEF) system, but did not account for any savings associated with increased electronic filing of BEEF returns.

LAO Recommends $500,000 Reduction to Capture Savings. Based on information provided by FTB, LAO recommends a reduction of $500,000 for 2007-08 to account for savings associated with increased use of business-entity electronic return processing, electronic remittance processing, and associated reductions in the amount of paper printing and mailings.

Staff Comments: The FTB indicates that it would prefer to retain the savings in order to offset the potential impact of the unallocated reduction that is proposed in the Governor's Budget ($100 million in Control Section 4.05 plus an additional $46 million in Control Section 4.04).

Staff recommends approving the reduction to reflect the true nature of the savings.

Staff Recommendation: APPROVE the LAO recommendation and reduce the FTB budget by $500,000.

3. BCP: Legal Support for Abusive Tax Shelters. The Administration requests $1.3 million and 10 new positions to address Abusive Tax Shelter workloads.

Staff Comments: The LAO indicates the workload justifies the 10 positions requested, but notes concern that the future needs of this program have not been clearly articulated by FTB. The Subcommittee will want to investigate whether this request represents the tip of a staffing iceberg, and should request the FTB to provide a clearer estimate of out-year resource needs, including auditors and collectors. Although attorneys may be necessary to process the up-front workload in this program, collectors and auditors will undoubtedly be necessary as well; however, staff notes that the FTB requested and received permission in mid-2006 to exchange collector positions for attorneys.

Staff Recommendation: HOLD OPEN.

4. BCP: Restoration to Customer Service Level. The administration requests $1.3 million and 27 positions to restore staffing levels in the Franchise Tax Board's Contact Centers and related supporting workloads. These call center positions were eliminated in recent years to meet budget reduction targets and the department now asks that they be restored in order to restore taxpayer and tax practitioner customer service and meet a response target of responding to 95 percent of all calls with 80 percent answered within 2 minutes.

Staff Comments: Given the Administrations' extensive emphasis on taxpayer enforcement actions over the past few years, the Subcommittee will look closely at this proposal and other means to better facilitate taxpayers' contact with FTB.

Staff notes that the request the FTB submitted to the Department of Finance (DOF) was aligned with the service target outlined. However, the DOF reduced the original request to a level that could be offset by internal savings (see Elimination of Tax Clearance Certificate (AB 2341) issue below). The FTB indicates the request before the Subcommittee would improve the level of calls answered from 73 percent to 83 percent, thereby generating estimated revenue acceleration of $18 million.

Before approving this request, the Subcommittee should ask the FTB to clarify the level of service this request would provide (including estimated wait times). Additionally, the Subcommittee may wish to request the FTB to provide an analysis of the relative costs and benefits of a higher level of service.

Staff Recommendation: HOLD OPEN.

5. BCP: Tax Payment Delinquencies: Public Disclosure (AB 1418). In accordance with Chapter 716, Statutes of 2006 (AB 1418, Horton) the Franchise Tax Board seeks one, 1-year limited term position and $144,000 General Fund to implement AB 1418. This bill required the BOE and Franchise Tax Board to compile and make public on a quarterly basis a list of the 250 largest delinquent taxpayers in excess of $100,000.

Staff Comments: The FTB estimates that this request would generate $30 million in 2007-08 and $5 million thereafter; however, the Administration has not scored these these savings because the DOF believes the FTB's estimate is speculative. The Subcommittee will want the FTB to highlight the differences between its implementation of this legislation and the BOEs, particularly with regard to its much larger revenue estimates, and will want the DOF to discuss its concerns with the FTB's revenue estimates.

Staff Recommendation: HOLD OPEN.

6. BCP: E-Commerce Portal Infrastructure. The Administration requests $1.5 million General Fund and one position to replace the current Internet infrastructure at the Butterfield Way campus in Sacramento and provide redundancy to accommodate growth in the FTB's e-commerce programs. These programs facilitate taxpaying by providing online filing services and other capabilities previously done by mail or phone. This request represents year one of a three-year project of which total costs are expected to be $4.5 million.

Staff Comments: Staff has requested but not received a description of this project's current vulnerabilities and hazards.

Staff Recommendation: HOLD OPEN.

7. Centralized Reverse Proxy Services. The Administration requests to redirect $298,000 in e-file savings (first realized in the current year) to enhance the security of FTB's Internet servers. Centralized Reverse Proxy Services will provide additional protection against unauthorized access via the Internet by allowing for only one well-guided point of entry and thereby resolving several data security vulnerabilities.

Staff Comments: Staff needs additional information from the BOE concerning the relationship of this request to the taxes.gov website.

Staff Recommendation: HOLD OPEN.

VOTE-ONLY ISSUES:

1. BCP: Child Support Automation System. The department requests a budget reduction of $99,208,000 ($33.7 million General Fund) to reflect reduced project costs for the implementation of the CCSAS project. The CCSAS is a multi-year information technology project to develop, implement, and maintain an automated child support tracking system. This request conforms to the timelines and findings of the latest project Special Project Report and progress reports filed with the Federal government.

2. BCP: Elimination of Tax Clearance Certificate (AB 2341). The Administration proposes to recognize savings of $1.3 million General Fund and a reduction of 18 positions to reflect the implementation of Chapter 773, Statutes of 2006 (AB 2341, Villines). This bill eliminated a requirement for businesses to obtain a tax clearance when they closed down and in some cases suspends liability for the annual or minimum franchise tax.

STAFF RECOMMENDATION ON VOTE-ONLY ITEMS: APPROVE AS BUDGETED.

VOTE on Vote-Only Issues 1-2:

DISCUSSION ITEMS—DEPARTMENTS

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. The Governor's budget funds 3,703 positions (including 67.5 new positions) and $1.2 billion in expenditures, of which $9.2 million is from the General Fund.

VOTE-ONLY ISSUES:

1. Capital Outlay BCP: Renovation of H and J Buildings—Patton State Hospital. The budget includes $4.0 million (Earthquake Safety Bond Funds) for preliminary plans and working drawing phases of a project to create intermediate "swing space" and seismically renovate four buildings at the hospital. Due to growth in the hospital population at all state hospitals, the Department of Mental Health is unable to relocate the patients during construction.

2. Baseline Funding Adjustment for Natural Gas Services. The budget includes $63.1 million (Service Revolving Fund) to permanently increase the department's baseline natural gas budget up to $234.3 million, the expenditure level of the current year. This increase is driven by the state's expanded use of natural gas energy, growth in the number of state agency natural gas consumers, and the price of natural gas. The Natural Gas Services Program began in 1997-98 with a budget of $27 million and has been augmented five times since then, reaching the current level of $234.3 million.

The CY increase ($63m) came in a provision request. This request makes that additional funding permanent. The cost factors driving the anticipated increase are number of sites, usage, and price.

3. Central Heating and Cooling Plant, Sacramento. The budget includes an augmentation of $380,000 (Service Revolving Fund) in the budget year and 2008-09 for private consultant services related to water quality monitoring, regulatory compliance and consultation, and special environmental studies for the waste discharge into the Sacramento River. Unless the department submits meets these water quality requirements they may be subject to penalties and fines approaching $25,000/day. The department expects that plant renovations to be completed in 2009 will conclude the need for these consulting services.

4. California Public Utilities Commission Building: Special Repairs and Maintenance. Pursuant to a Memorandum of Understanding between the California Public Utilities Commission and the Department of General Services, the budget includes $3.1 million for special repairs and deferred maintenance at the Edmund G. Brown building in San Francisco.

5. Building Maintenance and Operations for Department of Justice Lab Facility, Santa Rosa. The budget includes $180,000 ongoing to provide custodial, engineering, and grounds keeping services at the Department of Justice's new lab in Santa Rosa. Construction on this facility is nearly completion and it is expected to be ready for occupancy on July 1, 2007.

6. CalTrans Building Operations and Maintenance. The budget includes $235,000 (Service Revolving Fund) ongoing and three positions to provide building operations and maintenance services at three properties in Sacramento.

7. Earthquake Safety Public Buildings Rehabilitation Bond Fund. The Administration requests to eliminate two positions and $651,000 in expenditure authority for the Earthquake Safety Public Buildings Rehabilitation Bond Fund. A position to handle project management duties for eight proposed earthquake safety projects would be funded from the Architectural Revolving Fund.

8. Energy Contract Service Attorney. The Administration requests one attorney position to provide in-house legal services for energy-related legal issues. The Department of General Services' believes their growing involvement in energy purchases and programs necessitates increased staff legal support.

STAFF RECOMMENDATION ON VOTE ONLY ITEMS: APPROVE AS BUDGETED.

VOTE on Vote-Only Issues 1-8:

DISCUSSION ISSUES:

1. Seismic Safety Expenditures. The Department of General Services administers the State's Seismic Retrofit Program. The department's criteria and evaluation process are used to assess seismic risk and assign priorities for those buildings deemed most vulnerable to a major earthquake.

Last year, the DGS submitted nine capital outlay BCPs requesting approximately $31.5 million General Fund over two years for seismic safety-related expenditures for state buildings. The Legislature approved $1.7 million in 2006-07 to fund preliminary plans for each of these projects and requested the Administration to report on the outlook for alternative fund sources for later phases of the projects. This year, the Governor's Budget proposes a new funding source for seven of the projects and defers two projects for one year. Altogether, these BCPs will cost approximately $2.1 million Earthquake Safety Bond Fund (approximately $500,000 more than was originally budgeted in 06-07), to develop working drawings for the eight projects. Following are descriptions of those BCPs and the associated current year, budget year, and out-year General Fund commitment.

Description of Capital Outlay BCP	2006-07 GF Expenditures (Dollars in Thousands)	2007-08 Earthquake Safety Bond Fund Expenditures (Dollars in Thousands)	Out-Year GF Expenditures (Dollars in Thousands)
1. Department of Veteran's Affairs Yountville East Ward The Department of General Services requests $336,000 General Fund for preliminary plans and working drawings for an earthquake retrofit of the East Ward of the Veteran's Home in Yountville. DGS has determined this structure to be seismically deficient.	**Preliminary Plans: $141**	**Deferred (orig. $195)**	**Working Drawings: $195** **+$,2040= 2,235***
2. CDC Tehachapi Chapels Facility (Building H) The Department of General Services requests $326,000 General Fund for preliminary plans and working drawings for the Chapels Facility (Building H) at the California Department of Corrections Tehachapi facility. DGS has determined this structure to be seismically deficient.	**Preliminary Plans: 160**	**Working Drawings: 200 (orig. 166)**	**1,898 (orig. 1,660)**
3. Stockton National Guard Armory The Department of General Services requests $370,000 General Fund for preliminary plans and working drawings for the Stockton National Guard Armory. DGS has determined this structure to be seismically deficient.	**Preliminary Plans: 185**	**Deferred (orig. 185)**	**Working Drawings: 185** **+1,446= 1,631***
4. Vocational Building at the California Correctional Center in Susanville The Department of General Services requests $336,000 General Fund for preliminary plans and working drawings for the Vocational Building at the California Correctional Center in Susanville. DGS has determined this structure to be seismically deficient.	**Preliminary Plans: 143**	**Working Drawings: 331 (orig. 193)**	**5945 (orig. 4,862)**
5. Vacaville Correctional Medical Facility, Wings U, T, and V The Department of General Services requests $855,000 General Fund for preliminary plans and working drawings for the Vacaville Correctional Medical Facility, Wings U, T, and V. DGS has determined these structures to be seismically deficient.	**Preliminary Plans: 403**	**Working Drawings: 688 (orig. 452)**	**11332 (orig. 8,756)**
6. California Institute for Women Infirmaries at Frontera and Corona – Walker Clinic The Department of General Services requests $391,000 General Fund for preliminary plans and working drawings for the California Institute for Women—Walker Clinic at Frontera and Corona. DGS has determined these structures to be seismically deficient.	**Preliminary Plans: 203**	**Working Drawings: 255 (orig. 188)**	**2,522 (orig. 2,143)**
7. California Institute for Women Infirmaries at Frontera and Corona-Infirmary Building The Department of General Services requests $369,000 for preliminary plans and working drawings for the California Institute for Women Infirmary at Frontera and Corona. DGS has determined these structures to be seismically deficient.	**Preliminary Plans: 190**	**Working Drawings: 244 (orig. 179)**	**2,272 (orig. 1,920)**

8. Department of Mental Health Metropolitan State Hospital – Wards 206 and 208 in Norwalk, California The Department of General Services requests $460,000 General Fund for preliminary plans and working drawings for the Department of Mental Health Metropolitan State Hospital – Wards 206 and 208 in Norwalk, California. DGS has determined these structures to be seismically deficient.	**Preliminary Plans: 215**	**Working Drawings: 363 (orig. 245)**	**4,074 (orig. 3,222)**
9. California Department of Corrections Jamestown Buildings E and F The Department of General Services requests $224,000 General Fund for preliminary plans and working drawings for the California Department of Corrections Jamestown Buildings E and F. DGS has determined these structures to be seismically deficient.	**Preliminary Plans: 102**	**Working Drawings: 168 (orig. 122)**	**1,394 (orig. 1,193)**
10. Program Management Services The Department of General Services requests $500,000 from the Earthquake Safety and Public Building Rehabilitation Fund of 1990 (Fund 0768) to administer the Seismic Retrofit Program to administer the state's Seismic Retrofit Program. These staff provide expertise in project management and coordination of projects that are funded by other DGS client departments. The Department expects to request $700,000 General Fund in 2007-08 and $675,000 in 2008-09 for this activity.	**$0**	**$0**	**$700**
TOTAL SPENDING:	**$3,667**	**$2,249**	**$34,003 ($27,942)**

*The out-year costs for these deferred projects represent 06-07 estimates and are likely understated.

Staff Comments: According to the Governor's Five-Year Infrastructure Plan, DGS has identified 24 buildings with "critical infrastructure deficiencies." Prior to these proposals, seismic retrofit projects for state buildings were funded out of proceeds from the 1990 Seismic Bond Act. That bond provided $250 million in general obligation bonds for the purpose of earthquake safety improvements to state buildings. The bond funds have been depleted to fix the most urgently needed seismic repairs (seismic Levels VI and VII), and now the DGS plans to continue its retrofit of all Level V buildings. Without the identification of another fund source or adjustment to the current schedule, seismically retrofitting all of these structures will cost in excess of $170 million General Fund over the five-year period. The state has made no statutory commitment to completing these seismic retrofit projects by a date certain.

While the Administration has identified a special funding source for seven of the above projects in budget year (1990 Seismic Bond Act proceeds remaining in the Earthquake Safety Bond Fund), staff notes that an alternative to the General Fund has not been identified for projected out-year expenditures estimated to exceed $34 million. According to the DGS, the anticipated Earthquake Safety Bond Fund fund balance entering fiscal year 2007-08 will be approximately $9.4 million. Less the $2.2 million contained in this request, the remaining bond funds will be insufficient to cover out-year costs for these retrofit projects.

In addition to the seven projects identified above, the DGS is also requesting $4.8 million (various special funds) in budget year for a related seismic project, the Sacramento Public Safety Communications Decentralization. Following is a description of the project, the budget year cost, and the associated out-year General Fund commitment.

Description of Capital Outlay BCP	2007-08 Special Fund Expenditures (Dollars in Thousands)	2008-12 GF Expenditures (Dollars in Thousands)
Sacramento Public Safety Communications Decentralization The department requests $4.8 million (various funds) to commence a design phase for the relocation of two critical public safety communications from the top floor of the Resources Building in Sacramento. The Administration seeks to relocate this type of facility from the downtown area to a more seismically sound structure, at a cost of $29.5 million General Fund.	**$4,829**	**$24,692**

The DGS indicates the intended fund source to replace the Earthquake Rehabilitation Bond Fund is the Governor's proposed infrastructure bonds intended for the November 2008 ballot. Staff notes that similar bonds were expected when the DGS submitted the ten seismic retrofit BCPs last year, but the bonds failed to make the November 2006 ballot.

Notwithstanding the uncertainty of a future funding source, there are sufficient special funds in budget year to allow these seismic safety projects to move forward, ensuring that existing plans do not go "stale." Staff notes, the Legislature will have the opportunity to review each of these projects again when the next phase of funding is requested.

Staff Recommendation: APPROVE seismic safety expenditures A-F, but HOLD OPEN items G & H pending additional clarification from the DGS on how these requests fit with the Governor's proposal to transfer women inmates from these facilities.

A. Capital Outlay BCP: Sacramento Public Safety Communications Decentralization. The budget includes $4.8 million (various funds) to commence a design phase for the relocation of two critical public safety communications from the top floor of the Resources Building in Sacramento. The Administration seeks to relocate this type of facility from the downtown area to a more seismically sound structure, at a cost of $29.5 million General Fund.

VOTE:

B. Capital Outlay BCP: Structural Retrofit—Sierra Conservation Center, Department of Corrections Jamestown Facility. The Department of General Services requests $168,000 (Earthquake Safety Bond Funds) for working drawings for the California Department of Corrections Jamestown Buildings E and F. DGS has determined these structures to be seismically deficient. Total project costs are expected to be $1.7 million.

VOTE:

C. Capital Outlay BCP: Vacaville Correctional Medical Facility, Wings U, T, and V. The Department of General Services requests $688,000 (Earthquake Safety Bond Funds) for working drawings for the Vacaville Correctional Medical Facility, Wings U, T, and V. DGS has determined these structures to be seismically deficient. Total project costs are expected to be $3.0 million over four years.

VOTE:

D. Capital Outlay BCP: Vocational Building at the California Correctional Center in Susanville. The Department of General Services requests $331,000 (Earthquake Safety Bond Funds) for preliminary plans and working drawings for the Vocational Building at the California Correctional Center in Susanville. DGS has determined this structure to be seismically deficient. Total project costs are expected to be $6.5 million over three years.

VOTE:

E. Capital Outlay BCP: Department of Mental Health Metropolitan State Hospital – Wards 206 and 208 in Norwalk, California. The Department of General Services requests $363,000 (Earthquake Safety Bond Funds) for working drawings for the Department of Mental Health Metropolitan State Hospital – Wards 206 and 208 in Norwalk, California. DGS has determined these structures to be seismically deficient. Total project costs are expected to be $4.4 million over three years.

VOTE:

F. Capital Outlay BCP: CDC Tehachapi Chapels Facility (Building H). The Department of General Services requests $200,000 (Earthquake Safety Bond Funds) for preliminary plans and working drawings for the Chapels Facility (Building H) at the California Department of Corrections Tehachapi facility. DGS has determined this structure to be seismically deficient. Total project costs are expected to be $2.1 million over three years.

VOTE:

G. Capital Outlay BCP: Structural Retrofit for the Walker Clinic. The Department of General Services requests $225,000 (Earthquake Safety Bond Funds) for working drawings for the California Institute for Women—Walker Clinic at Corona. DGS has determined this structure to be seismically deficient. Total project costs are expected to be $3.0 million over three years.

VOTE:

H. Capital Outlay BCP: California Institute for Women Infirmaries at Corona-Infirmary Building. The Department of General Services requests $224,000 (Earthquake Safety Bond Funds) for working drawings for the California Institute for Women Infirmary at Corona. DGS has determined this structure to be seismically deficient. Total project cost is expected to be $2.7 million over three years.

VOTE:

2. BCP: Secretary of State Building: Conversion to Individual Rate Building. The Administration seeks $14.1 million (Service Revolving Fund) to (a) repair the Secretary of State (SOS) headquarters; and (b) transition the costs of debt service and set up a building rental rate for the SOS to include a six-cents special repairs reserve account to fund future repairs to the building. The department asserts that the SOS does not have the expertise or funds available to ensure the building is properly maintained and repaired and has asked the DGS to manage repayment of debt service and repairs for the building.

Staff Comments: The Secretary of State/Archives Building was financed through a lease-purchase revenue bond, and the SOS is currently responsible for the debt service for this building. This arrangement is atypical for state-owned facilities, as bond-funded state facilities are usually set up as Individual Rate buildings with a rental rate established specific to the building. In this respect, the request would create an arrangement more consistent with the state's policy on operating state office buildings.

The SOS headquarters is approximately 12 years old, and the roof (which now leaks) was supposed to have a lifespan of at least 15 years. Although staff does not dispute that the requested repairs are necessary, the Subcommittee may wish to inquire with the SOS and/or Department of General Services as to whether the requested money will be spent on higher quality construction materials than were originally used.

This item has a conforming issue in the SOS budget (see page 9).

Staff recommendation: APPROVE as budgeted.

3. BCP: Fleet Analysis and Reporting System. The budget includes a request for two positions and $614,000 in 2007-08 (Service Revolving Fund) and four positions and $1.3 million (Service Revolving Fund) in 2008-09 to continue development of a Fleet Analysis and Reporting System to improve tracking state vehicles. Once fully implemented, the department expects revenues in excess of $2 million from surplus vehicle sales.

Staff Comments: Although this project has not been fully implemented, the Legislature will have an interest in the revenues generated and any savings realized. The DGS should work with the LAO to develop performance measures so that the Subcommittee may adopt Budget Bill Language requiring the DGS to report on project outcomes.

Staff Recommendation: HOLD OPEN.

4. BCP: Budget Bill Language for Tenant Improvements on DGS Individual Rate Buildings. The Administration seeks to establish budget bill language to allow the department to spend sinking funds without submission of a budget change proposal for tenant improvements or utilization of vacant state-owned office space. In 2005-06 the Legislature authorized the establishment of a $.03 sf/per month payment to a sinking fund for tenant improvements. Spending from that fund is approved via a budget change proposal. The department believes the length of time necessary for approval of a BCP is too long and delays the backfilling of vacated state office space. Since departing occupants are required to pay for space until it is re-leased, this authority would presumably relieve them sooner of their rental obligation.

Staff Comments: The DGS can be provided a modicum of flexibility, as requested, without resorting to notifying the Legislature only after the fact. The LAO recommends the following revised Budget Bill Language, which would require 30-day notice to the Legislature:

Revised Provisional Language

9. The Director of the Department of Finance is authorized to increase this item for purposes of funding tenant improvement projects to facilitate the backfill of vacant space within stand-alone DGS bond funded office buildings. This provision shall only be used to augment expenditure authority for DGS stand-alone individual rate office buildings where a $0.03 tenant improvement surcharge has been approved by the Department of Finance and is included in the monthly rental rate. Department of Finance approval is contingent upon justification for the proposed tenant improvement projects to be provided by the Department of General Services including an analysis of cost impacts and how the tenant improvements will improve the state's utilization of the facility. Any augmentation made in accordance with this provision shall not result in an increase in any rate charged to other departments for services without the prior written consent of the Department of Finance. Any augmentation made pursuant to this provision may be authorized not sooner that 30 days after notification in writing of the necessity therefore is provided ~~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~~.

Staff Recommendation: APPROVE the revised Budget Bill Language recommended by the LAO.

5. BCP: Office of Administrative Hearings. The Administration requests to make permanent 73 limited-term Office of Administrative Hearings (OAH) attorney and support positions. These positions don't expire until June 2008 so their will be no fiscal impact in the budget year. The cost to make these positions permanent will be $9.2 million (Service Revolving Fund) ongoing starting in 2008-09. These staff provide services for the Special Education Dispute Resolution Program, which mediates between school districts and parents of developmentally disabled children. The department has faced difficulty in fully staffing for this program due to the limited-term nature of the existing positions. Funding for these positions is provided through an interagency agreement with the Department of Education (CDE).

Staff Comments: State and Federal law provides that all children with disabilities are entitled to a free and appropriate education and all eligible pupils and their parents are entitled to procedural safeguards with respect to disagreements concerning decisions about their children's public education. Previously, the CDE contracted with McGeorge Law School to provide required mediation and due process services; however, subsequent to a 2005 court decision (PSC No. 04-50), the state was instructed to transition these services without further delay to state workers. Subsequently, the OAH received 73.0 three-year limited-term positions and funding of $9.2 million to administer the program until June 30, 2008. However, the DGS indicates the OAH has experienced difficulty filling the positions, including only 28 of 40 Administrative Law Judges (ALJ) and 2 of 4 Presiding ALJs.
Given that the services provided under the program are required by law and the ALJ positions that staff the program require a high-level of expertise (generally difficult to recruit and retain as limited-term), the DGS makes a strong case for the 73 positions to

be converted to permanent. However, the request states, but does clearly substantiate the claim that the OAH "has successfully demonstrated for the last 13 months that it can, and has, appropriately administered the program." The Subcommittee should request the DGS to work with staff to provide clear documentation of the outcomes claimed and report back at a future hearing regarding the OAH's plan to address ongoing workload.

Staff Recommendation: HOLD OPEN.

6. BCP: School Facilities Program Staffing (AB 127). The Administration requests $575,000 (2006 School Facilities Fund) and seven permanent positions to support the implementation of Chapter 35, Statutes of 2006 (AB 127). This legislation enabled the construction of new schools to accommodate enrollment growth and modernize existing schools by providing $7,329,000,000 in general obligation bonds. The proposed staff would better enable the Office of Public School Construction (OPSC) to support this construction effort and accomplish related tasks described in AB 127.

Staff Comments: The DGS indicates the bond funds supporting this program will be expended over a period of 7-9 years. Therefore, staff has requested, and DGS has committed to providing, a multi-year staffing plan so that the Legislature may track the use of approved positions and ensure that, upon exhaustion of bond proceeds, the positions are eliminated or redirected as deemed appropriate.

Staff Recommendation: HOLD OPEN pending review of staffing plan recently submitted by the DGS.

7. BCP: Conversion of Expiring Positions to Permanent in Office of Public School Construction. The Administration requests $1.1 million ($331,000 General Fund) ongoing to make permanent 13 expiring positions (June 30, 2007) in the Office of Public School Construction (OPSC), Fiscal and Program Services Office. The OPSC asserts that not extending these positions would slow the processing of construction applications for the School Facilities Program. Twelve of these positions were approved in 2004-05 with the understanding that the DGS would seek additional positions as workload needs were refined.

Staff Comments: Based on the workload analysis provided, these positions are justified on an ongoing basis

Staff Recommendation: APPROVE as budgeted.

8. BCP: California Highway Patrol (CHP) Enhanced Radio System. The budget includes 14 positions and $4.9 million (Service Revolving Fund) in 2007-08 and $9.4 million (Service Revolving Fund) in 2008-09 to facilitate the implementation of a new public safety radio communications system. All costs of this Budget Change Proposal have previously been identified and approved in a CHP BCP and will be recovered through billing the CHP.

Staff Comments: This issue is being heard as part of the CHP budget.

Staff Recommendation: HOLD OPEN.

9. BCP: Support for Department of Finance's FISCal Project. The budget includes 18 positions and $1.9 million (Service Revolving Fund) to support implementation of the Department of Finance's FISCal project. This project seeks to update budget-related IT infrastructure throughout state agencies and the Legislature. The total FISCal request for the budget year (directed by the Department of Finance) is $35.7 million General Fund and 238 positions.

Staff Comments: This issue is being heard as part of the Department of Finance budget. The Subcommittee will likely want to conform to actions taken on that budget.

Staff Recommendation: HOLD OPEN.

10. Informational Issue: Late Reports. The DGS submission of late reports to the Legislature has become epidemic. For example, staff received a notification letter, dated December 1, 2006, that the "Transformation of the Office of State Publishing" report was posted online. The report was due to the Legislature September 30, 2006.

Staff Comments: The DGS acknowledges failures in its internal processes have lead to late reporting to the Legislature, and indicates steps are being taken to remedy the problem. The DGS should provide the Subcommittee with a summary of actions taken.

Staff Recommendation: Instruct the DGS to, at a minimum, provide the Joint Legislative Budget Committee with at least one hard copy of all reports until the current problems are resolved and the Legislature approves electronic-only transmission again.

11. Informational Issue: Generic Drug Procurement. The DGS, the Department of Health Services, and the California Public Employees' Retirement System are the three primary departments that contract for prescription drugs in the state. The DGS drug procurement responsibilities include the Department of Corrections (CDRC), state hospitals, and state developmental centers.

Staff Comments: A recent report from the Receiver for Prison Health System, Robert Sillen, alleges that the DGS overspends in its drug procurement practices, and the Subcommittee would like to hear the department's response to these allegations. Additionally, the Subcommittee is interested in learning more about the DGS' procurement practices with regard to generic pharmaceuticals.

As patents expire for drugs, manufacturers frequently enter the market to supply generic versions (of the same or similar chemical compounds), thereby increasing competition among suppliers and driving down drug prices. For example, under patent, a unit of Prozac originally sold for approximately $9, but the price settled at approximately 9¢ once the patent expired and generic production began.

Given the potential for the state to realize significant savings by purchasing generic drugs that offer the same benefits as brand-names, the Subcommittee may wish to request the DGS to provide background on its drug procurement practices and specifically provide information on current rates of generic drug utilization.

12. Informational Issue: Information Technology Procurement. On February 22, the full Budget Committee held an overview hearing on the State's Information Technology Management Process. The hearing covered many topics including: (1)

understanding the IT management process and the roles of the various entities involved – the requesting departments, Department of Finance, and the DGS; (2) the role of the newly created Chief Information Officer; and (3) lessons learned that could inform the future decision making of the Legislature.

More specifically, the issue of IT procurement was discussed on February 22. It has been publicly acknowledged that in some instances the IT procurement process is overly cumbersome – which at times may lead to very little, if any, competitive bidding of projects.

Chapter 556, Statutes of 2005 (SB 954, Figueroa) required the DGS to establish specified polices and guidelines for the procurement of information technology goods and services on or before January 1, 2007.

On January 5, 2007, the DGS issued a Management Memo providing a conceptual road map for the IT procurement process, explaining the different stages and the major considerations in each, and a framework to think about IT acquisitions.

Staff Comments: The DGS should briefly inform the Subcommittee of the various steps that are being taken to implement SB 954, with emphasis on the balance necessary for accountability (policy, legal, and procedural) at the state level, while trying to provide a modicum of flexibility to promote greater competition of IT projects bids. Within this context, the DGS should also provide the Subcommittee with its thoughts on risk assessment.

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Robert Dutton
Christine Kehoe

Thursday, March 29, 2007
10:00 a.m.
Room 112

Consultant: Brian Annis

Transportation

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 $968.6 million ($15.6 million General Fund) and 597.2 positions for the department – an increase of $314.3 million (48 percent) and 70.3 positions.

The majority of the Department's expenditures are supported by general obligation bond revenue. The budget includes $58 million from the Emergency Shelter Trust Fund Act of 2002 (Prop 46) – down by $170.8 million from 2006-07 due to the full expenditure of bond funds for some programs. The budget includes $659.4 million from the Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C). Portions of Prop 1C funds are continuously appropriated, and the Department is using this existing authority to expend $161 million in Prop 1C funds in 2006-07.

The second largest revenue source is federal funds, estimated at $174.5 million in 2007-08, which is about the same as 2006-07. Remaining expenditures of about $77 million are covered by the General Fund ($15.6 million), fees, and other miscellaneous revenues.

Issues proposed for Consent / Vote-Only

1. **Codes and Standards Automated System – IT Support Shift (BCP #2).** The Administration requests a workload shift from contractor staffing to State staffing (shift of $557,000, no net change in funding) for ongoing support of the Codes and Standards Automated System (CASAS). The CASAS supports the business processes of the Division of Codes and Standards. This BCP would establish three new positions, which would be funded by funds redirected from the external contract. The Department indicates that this shift would result in a $144,000 savings which HCD proposes to retain in their budget and use for CASAS enhancement projects.

2. **Factory-Built Housing Workload - Staffing (BCP #6).** The Administration requests $287,000 (special funds) and three new positions to provide oversight of third-party inspections and certification of an increased number of factory-built housing. The Department indicates this augmentation can be accomplished without an increase in fees. The BCP includes statistics showing significant growth in the use of factory-built housing in California.

3. **Information Technology Technical Support Unit – Staffing (BCP #10).** The Administration requests $174,000 (various funds – about $16,000 General Fund) and 1.0 System Software Specialist for personal computer support workload. Included in this request is $50,000 to hire part-time student assistants. HCD indicates the workload has expanded as new technologies are adopted including BlackBerrys, remote access, and web-based application access for 60 field staff.

4. **Administration – Staffing (BCP #11).** The Administration requests $116,000 (various funds – no General Fund) and 1.0 position to handle workload increases in the Budget and Contracts Office. The Department indicates loan and grant contracts have become more complex and the number has increased to an annual average of about 1,106 contracts over the past three years, versus about 955 contracts over the prior three-year period. Additionally, many contracts cover multiple years and require ongoing monitoring.

Staff Recommendation: Approve the issues on the consent / vote-only list.

Vote:

Issues for Discussion / Vote:

5. **Housing and Emergency Shelter Trust Fund Act of 2006 (Prop 1C).** Prop 1C provides for a general obligation bond issuance not to exceed $2.85 billion. The Governor proposes to expend $653.0 million of Prop 1C revenues in 2007-08 (excluding $6.4 million and 45 new positions for administration). Using existing expenditure authority, the Department plans to spend $160 million in 2006-07 (excluding $1 million for administrative costs), for a combined two year total of $820 million. Some Prop 1C programs are already continuously appropriated and other programs require a Budget Act appropriation to authorize expenditure. The Administration has submitted statutory language, which is currently being discussed in policy committees, to implement certain Prop 1C programs. The chart below outlines proposed Prop 1C expenditures by category and indicates whether each program will be administered by the Housing and Community Development (HCD) Department, or by the California Housing Finance Authority. Dollars are in thousands and 2006-07 and 2007-08 allocations exclude administrative costs.

Proposition 1C Category	2006-07 Allocations	2007-08 Allocations	Total Prop 1C	Approp Type	Budget
Homeownership Programs					
CalHome	$35,000	$55,000	$290,000	Continuous	HCD
CA Homeownership Program (BEGIN)	0	40,000	125,000	Budget Act	HCD
Self-Help Housing Program	0	3,000	10,000	Continuous	HCD
CA Homebuyers Down-payment Assistance Program	0	15,000	100,000	Continuous	CalHFA
Residential Development Loan Program	0	15,000	100,000	Continuous	CalHFA
Affordable Housing Innovation Fund	0	15,000	100,000	Budget Act	HCD
Multifamily Rental Housing Program					
General	70,000	140,000	345,000	Continuous	HCD
Supportive Housing	20,000	80,000	195,000	Continuous	HCD
Homeless Youths	15,000	15,000	50,000	Continuous	HCD
Other Programs					
Serna Farmworker Loans/Grants	20,000	40,000	135,000	Continuous	HCD
Emergency Housing Assistance	0	10,000	50,000	Continuous	HCD
Infill Incentive Grants	0	100,000	850,000	Budget Act	HCD
Transit Oriented Development	0	95,000	300,000	Budget Act	HCD
Housing Urban-Suburban and Rural Parks	0	30,000	200,000	Budget Act	HCD
TOTAL	**$160,000**	**$653,000**	**$2,850,000**		

Staff Comment: The Senate Transportation and Housing policy committee held a hearing on statutory changes to implement new Prop 1C programs, and several related bills are in print (including SB 46 – Perata; SB 522 – Dutton; and SB 546 – Ducheny; among others). Since these statutory changes are on the policy track instead of the budget track, staff recommends that the Subcommittee focus on the more fiscal aspects of Prop 1C implementation, such as minimizing support costs and appropriation levels. Generally, the Administration proposes to expend Prop 1C funds over a 3-to-5 year period depending on the program. For programs with a budget bill appropriation, HCD is requesting appropriations to cover only 2007-08 expenditures (the Department of Transportation is requesting appropriations to cover anticipated expenditures over a three-year period).

Issues for Discussion: Staff recommends the Subcommittee hear from the Administration and the LAO on the following issues:

- What is the appropriate level of funding for support costs – a level that minimizes administrative costs but allows for appropriate oversight? Note, HCD suggests total program overhead can be kept below 5 percent, which is similar to the level used for the Proposition 46 programs. (See also attachment I from HCD at the back of this agenda)
- For each bond program, what is the appropriate number of cycles, the schedule for the cycles, and the approximate amount of funding for each cycle? Has the Department made any changes to its Prop 1C proposals relative to what is included in the Governor's Budget? (See also attachment II from HCD at the back of this agenda)

Staff Recommendation: Keep this issue open – implementing policy legislation could affect the timing of bond expenditures and appropriation levels.

6. **Proposition 1C Staffing and Associated Administrative Costs (BCP #3).** The Administration requests $6.4 billion (various funds) and 45.0 new positions to perform workload associated with Proposition 1C. The request includes out-year budget adjustments for annual changes in workload (the 2008-09 request is for $10.5 million and 71.0 positions). HCD data suggest the overall administrative cost over the life of Prop 1C programs will average about 4.8 percent, which is under the 5.0 percent level deemed acceptable.

   Staff Recommendation: Keep this issue open – implementing policy legislation could affect the staffing need in 2007-08.

7. **Workload Shift from Temporary Help to Permanent Positions (BCP #1).** The Administration requests 18 new positions to be funded within existing budgeted resources with redirected temporary help funding. The Department indicates that Section 31.60 of the 2002 Budget Act and Control Section 4.10 of the 2003 Budget Act eliminated 57 positions within HCD. However, the workload did not diminish and not all of the associated funding was eliminated from HCD's budget. This BCP would reestablish 18 of the 57 positions. The Department would use existing temporary help dollars and there would be no net funding increase.

   Staff Comment. This request appears to be a "truth-in-budgeting" request, because HCD already has the associated staff, just not the position authority. The request includes workload data indicating ongoing need for these positions.

   Staff Recommendation: Approve this request.

   Vote:

8. **Enterprise Zone Program (BCP #4).** The Administration requests a fund shift of $697,000 (General Fund) and 4.0 new positions to increase technical assistance and program support to the Enterprise Zones, Targeted Tax Area, Manufacturing Enhancement Areas and Local Military Base Recovery Areas. HCD indicates that changes in federal regulations allow it to access additional federal funds of $697,000 in the Community Development Block Grant Program (CDBG) and then shift the same amount of General Fund support to the Enterprise Program (resulting in no net cost to the General Fund). The increased staffing in the Enterprise Zone program would allow for additional audit and support activities. Increased fee revenue (related to SB 763 [Ch. 634, St. of 2006, Lowenthal]) would provide an additional $50,000 for a total increase in Program funding of $747,000.

   Staff Recommendation: Approve this request.

   Vote:

2260 California Housing Finance Agency

The California Housing Finance Agency (CalHFA) was statutorily chartered in 1975 to be the state's affordable-housing bank. CalHFA administers loan programs to preserve and construct affordable multifamily housing, administers loan and mortgage insurance programs to assist first-time homebuyers, and administers special loan programs that support groups such as Habitat for Humanity. The majority of CalHFA's programs are funded through revenue bonds that do not depend upon the faith, credit, or taxing power of the State of California. However, two propositions (Proposition 46 in 2002, and Proposition 1C in 2006) provide general obligation bond funds to support the Downpayment Assistance Program and the Residential Development Loan Program.

The Governor's Budget reflects 2007-08 expenditures of $36.6 million and 277.4 positions for CalHFA – identical amounts to the budget adopted by the CalHFA board for 2006-07. The expenditures include administrative expenditures and exclude loans and insurance products. The 2007-08 budget figures are considered a placeholder until the CalHFA Board adopts a 2007-08 budget at the May 10, 2007, meeting. CalHFA funds are continuously appropriated and no appropriations appear in the annual budget bill.

Issues for Discussion

1. **2007-08 Budget (Informational Issue).** The Governor's budget reflects expenditures for administration of $36.6 million in both 2006-07 and 2007-08. According to the 2006-07 Five Year Business Plan, lending and insurance outlays are annually in the range of $2.8 billion, as follows:

($ in millions)	2006-07	2007-08
Homeownership Programs	$1,585	$1,585
Insurance Services	$841	$841
Multifamily Programs	$344	$306
Special Lending Programs	$41	$41
TOTAL	$2,811	$2,773

Staff Comment: As indicated above, the CalHFA Board should adopt a 2007-08 budget at the May 10, 2007, meeting. CalHFA has a longstanding practice of using the enacted budget as a placeholder for the budget year. However, Health and Safety Code requires a "preliminary" budget by December 1.

> *Health & Safety Code 50913. For its activities under this division, the executive director shall prepare a preliminary budget on or before December 1 of each year for the ensuing fiscal year to be reviewed by the Secretary of the Business and Transportation Agency, the Director of Finance, and the Joint Legislative Budget Committee.*

Since the Legislature does not get an updated budget for CalHFA until mid-May, legislative fiscal staff is unable to analyze the preliminary budget and report findings to the Subcommittee during the regular spring budget process. Other "off-budget" departments, such as the State Compensation Insurance Fund, do provide a preliminary budget for inclusion in the Governor's January 10 Budget.

Staff Recommendation: Staff recommends that the Subcommittee request that CalHFA presents an *updated* and *realistic* 2008-09 budget by December 1, 2007, to comply with Section 50913 requirements. The Subcommittee should also request a copy of the CalHFA Board-adopted 2007-08 budget on or around May 10, so it can be aware of the changes relative to the Governor's January 10 Budget display.

2. **Proposition 1C (Informational Issue).** The Governor's Budget indicates CalHFA will expend $30 million of $200 million available from Proposition 1C in 2007-08. Of the $30 million, $15 million would support the Down-Payment Assistance Program and $15 million would support the Residential Development Loan Program. Recent discussions with CalHFA suggest 2007-08 Prop 1C expenditures may be closer to $45 million.

   Issues for Discussion: Staff recommends the Subcommittee hear from the Administration and the LAO on the following issues:
   - For each bond program, what is the appropriate level of expenditures in each of the next five years? Has the Department made any changes to its Prop 1C expenditure plans relative to what is included in the Governor's Budget?
   - What is the appropriate level of funding for support costs – a level that minimizes administrative costs but allows for appropriate oversight? Note, CalHFA suggests total program overhead can be kept below 5 percent, which is similar to the level used for Proposition 46 programs.

   Staff Recommendation: Since these funds are continuously appropriated, no action is needed.

3. **Non-Traditional Mortgage Products (Informational Issue).** The Subcommittee discussed non-traditional mortgage products with the Department of Real Estate, the Department of Financial Institutions, and the Department of Corporations, at a recent hearing.

   Staff Comment. CalHFA does offer some non-traditional products, but indicates they are not a sub-prime lender. For example, CalHFA offers an Interest-Only-Plus (IOP) product that is interest only for 5 years and then has a fixed interest rate for the remaining 30 years of the loan.

   Staff Recommendation: This is an information issue – no action is necessary.

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 the 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 $5.7 million and 17.6 positions for the CTC (no General Fund). The only budget change proposal is an augmentation of $289,000 and 2 positions to perform workload associated with the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Prop 1B). The budget also reflects $3 million in local assistance expenditures related to Proposition 116 (Rail Transportation Bond Act of 1990).

Discussion / Vote Issues

1. **The Transportation Funding Picture (Informational).** The Legislative Analyst and the California Transportation Commission are prepared to make short presentations concerning the current transportation funding picture and describe what the anticipated funding level suggests for mobility improvements.

   Staff Recommendation: Informational item – no action needed.

2. **Proposition 1B Workload - New Positions:** The Administration requests $289,000 (Proposition 1B bond funds) and 2.0 positions to perform workload associated with two components of Prop 1B: the Corridor Mobility Improvement Account (CMIA) and the Trade Corridor Improvement Fund (TCIF).

   LAO Recommendation: In the Analysis of the 2007-08 Budget Bill, the Legislative Analyst recommends that the CTC be designated by the Legislature to perform ongoing oversight of all bond related activities. This would likely require a budget augmentation (beyond the augmentation proposed by the Administration) to hire additional staff or contract out for services.

   Staff Comment: Staff understands the Administration is still reviewing the Prop 1B staffing with the CTC and may come forward with a Finance Letter to adjust the current request.

   Staff Recommendation: Keep issue open, pending additional information from the Administration.

2640 Special Transportation Programs

The State Transit Assistance (STA) budget item provides funding to the State Controller for allocation to regional transportation planning agencies for mass transportation programs. Revenue traditionally comes from the sales tax on diesel fuel and a portion of the sales tax on gasoline (including a Proposition 42 component), and is available for either operations or capital investment. With the passage of the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Prop 1B), bond funds are also available for this program. However, bond funds may only be used for capital investment.

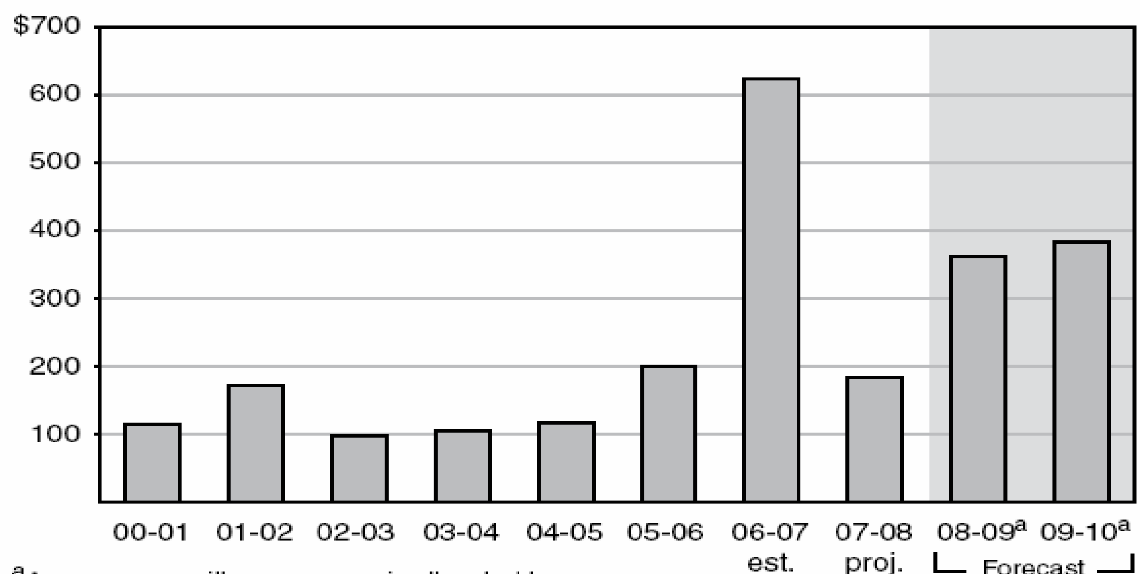
The Governor proposes funding of $784.7 million for State Transit Assistance – an increase of $160.9 million. This proposal includes $600 million in Prop 1B bond funds and $185 million in traditional fuel sales tax funds.

The chart below, from the LAO's *Analysis of the 2007-08 Budget Bill*, provides a historical look and future projection of baseline funding for this item (assuming the Governor's proposals are adopted, and excluding all Proposition 1B bond funds).

Figure 1

State Transit Assistance

2000-01 Through 2009-10
(In Millions)



[a]Assumes no spillover revenue is allocated to program.

Issue for Discussion / Vote:

1. **Shift Spillover Revenue from STA to Education (Trailer Bill Language).** The Administration proposes a permanent shift of "spillover" revenue from STA to the Home to School Transportation Program currently funded as a Proposition 98 General Fund obligation. While the proposed STA budget is up overall, the STP would actually receive a $411 million cut relative to what current statute dictates. This program, under statute, would receive 50 percent of specified "spillover" gasoline sales tax revenue; which, with the proposed bond revenue, would total $1.196 billion. The Administration indicates this $411 million reduction ties to an overpayment of $102 million in 2006-07 and the STA's share of 2007-08 spillover revenue, which is estimated at $309 million. The spillover reduction is proposed to be an ongoing budget reduction and proposed trailer bill language would amend statute to end the transfer of 50 percent of spillover revenue to this item. This proposal is part of the larger Administration proposal to use $1.1 billion in Public Transportation Account revenues for General Fund relief. The overall proposal is discussed in the Caltrans section.

   Staff Comment: The broader Spillover / Public Transportation Account proposal is an issue in the Caltrans section of this agenda. The Subcommittee may want to hear public testimony specific to the STA part of this proposal here, and receive testimony on the broader proposal when the Caltrans item is discussed.

   Staff Recommendation: Keep this issue open. The Administration will have updated revenue numbers with the May Revision.

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 $12.760 billion ($1.558 billion General Fund) and 21,758.3 positions, an increase of $1.541 billion (14 percent) and 68.4 positions. The increase is primarily due to revenue from the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Prop 1B). Note, the Administration is also requesting a supplemental appropriation for 2006-07 to allocate $523 million in Prop B bond funds in the current year. Caltrans will submit an update to the staffing request for Prop 1B workload and other project workload with the May Revision of the Governor's Budget.

Caltrans Budget Summary

Expenditure by Program (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Aeronautics	$8,501	$8,693	$192	2.3
Highway Transportation	9,554,208	11,336,749	1,782,541	18.7
Mass Transportation	1,113,002	873,938	-239,064	-21.5
Transportation Planning	197,411	179,476	-17,935	-9.1
Administration	345,599	360,942	15,343	4.4
Total	$11,218,721	$12,759,798	$1,541,077	13.7

Expenditure by Category (dollars in thousands)	2006-07	2007-08	$ Change	% Change
Personal Services	$1,905,825	$2,072,361	$166,536	8.7
Operating Expenses and Equipment	1,582,737	1,565,112	-17,625	-1.1
Tort Payments	53,556	53,556	0	0.0
Debt Service (GARVEE bonds)	72,899	72,899	0	0.0
Local Assistance	2,957,970	3,193,413	235,443	8.0
Capital Outlay - Office Buildings	0	62,337	62,337	0.0
Capital Outlay - Specialty Buildings	54,742	119,909	65,167	119.0
Capital Outlay - Transportation Projects	4,545,306	5,589,211	1,043,905	23.0
Unclassified	45,686	31,000	-14,686	-32.1
Total	$11,218,721	$12,759,798	$1,541,077	13.7

Expenditure by Fund Type (dollars in thousands)	2006-07	2007-08	$ Change	% Change
General Fund	$2,642,668	$1,558,396	-$1,084,272	-41.0
Federal Trust Fund	3,484,477	4,054,454	569,977	16.4
Proposition 1B Bond Funds	523,000	1,491,750	968,750	185.2
Other Special Funds	3,470,769	4,457,280	986,511	28.4
Reimbursements	1,097,807	1,197,918	100,111	9.1
Total	$11,218,721	$12,759,798	$1,541,077	13.7

Issues Proposed for Consent / Vote-Only

1. **Eliminate Commercial Vehicle Registration Act (CVRA) Report (Trailer Bill Language)**. The Commercial Vehicle Registration Act of 2001 requires the Department of Motor Vehicles, in consultation with the Department of the California Highway Patrol, the Department of Transportation, the State Board of Equalization, and the commercial vehicle industry, to review and report on or before January 1, 2003, and annually thereafter, to the Legislature its findings and, if applicable, make any recommendations as to the necessary adjustments in the fee schedule, to ensure that revenue neutrality is obtained and maintained for all affected entities. The most recent report finds that revenue neutrality has been achieved and no further actions are required.

2. **Environmental Mandates (BCPs #2B and #8).** The Administration submitted two budget requests related to environmental mandates. The Department indicates it would face severe penalties for non-compliance.

    - Budget Change Proposal #2B requests $1.4 million (annually for five years) to purchase alternative fuel fleet equipment to comply with ongoing federal, State, and local air quality mandates. Funding would provide for the marginal cost of purchasing alternative-fuel vehicles instead of diesel or gasoline vehicles.
    - Budget Change Proposal #8 requests $11.8 million in 2007-08 to comply with two air quality mandates adopted by the California Air Resources Board (ARB). The cost varies each year, but over five years is estimated at $27.8 million. Funding would allow for the purchase of exhaust filter traps for heavy-duty trucks and the replacement of portable engines and other equipment.

3. **Materials and Service Cost Increase (BCP #3).** The Administration requests an ongoing augmentation of $12.2 million (State Highway Account) to address higher Maintenance Program material costs ($9.3 million) and higher rates for interagency services provide by the California Highway Patrol (CHP) ($3.0 million). The Department indicates its current materials base budget is $14.0 million and that the Construction Price Index has risen 66 percent since the last inflation increase was provided. The CHP provides increased patrol activity in Caltrans highway maintenance zones as part of the Maintenance Zone Enhanced Enforcement Program (MAZEEP). The program is designed to enhance the safety of California Department of Transportation (Caltrans) workers and contractors while they perform road maintenance activities. The proposed CHP budget (BCP #11) includes a concurrent augmentation for this program.

    Background / Detail: Caltrans indicates that 166 employees have been killed on the job since 1924. One of the primary causes of these deaths is errant drivers. Under the program, CHP Officers work overtime to provide roving patrols, stationary patrols, traffic control, and other assignments near Caltrans work zones. Caltrans proposes an increase in billable hours of 5,770 (to 73,306 hours per year). The remainder of the $3.0 million cost increase for MAZEEP is driven by recent salary increases for CHP Officers.

4. **Groundwater Monitoring – Underground Storage Tank Sites (BCP #7).** The Administration requests a five-year augmentation of $1.7 million (State Highway Account) to staff non-project-related underground storage tank monitoring activities to bring Caltrans facilities in compliance with federal and State regulations. The Department indicates it is currently out of compliance with groundwater monitoring requirements at Caltrans maintenance facilities that formerly had leaking underground liquid storage tanks. The State Water Resources Control Board and Regional Water Quality Control Boards are the regulating entities and can impose fines ranging from $500 to $5,000 per day per site.

   Background/Detail: Monitoring activity includes ground water monitoring, remediation system monitoring, and eventual system decommissioning. When individual site compliance is attained, as determined by the regulatory agency, monitoring activities are stopped, and funding is no longer required. Staffing needs would be reassessed after five years to determine what future monitoring remains to be completed. Funding was included in the Department's budgets for removal of underground storage tanks through 2003-04, when the last known tank was removed. This is the first Caltrans request for funding for the monitoring activity.

5. **Program / Funding Realignments (BCP #10).** The Administration requests to transfer the Headquarters Communication Center (HCC) staff and resources from the Division of Maintenance to the Division of Traffic Operations (8.0 positions and $1.4 million). Additionally, the Administration requests to transfer funding of the Division of Planning's Project Initiation Document (PID) function from federal funds to the State Highway Account ($6.8 million).

   Background/Detail: The HCC is the primary distribution point for Caltrans traveler information to the public. Among other duties, HCC operates the toll-free phone line that provides the public information on current road conditions. Caltrans indicates HCC is more appropriately placed in the Division of Traffic Operations, which is the lead division for traveler information. The PID is an early project planning document that contains a cost, scope, and schedule. The Department indicates the PID function is no longer eligible for federal funding. The federal funds would not be lost, but rather shifted to other eligible expenditures.

6. **Prevailing Wage Enforcement (BCP #11).** The Administration requests $313,000 (State Highway Account) and 4.0 new positions to perform prevailing wage enforcement for highway maintenance service contractors. Caltrans indicates prevailing wage requirements in state law are applicable to maintenance service

contracts such as weed abatement, debris removal, and mowing. Prior multi-year contracts did not include this requirement and that is why the workload is increasing.

Background/Detail: The Department indicates the new positions would train compliance reviewers, conduct contractor prevailing wage compliance reviews of payroll, and perform on-site investigations. According to Caltrans, the Department's responsibilities in this area are based on California Labor Code, California Code of Regulations, and the Code of Federal Regulations.

7. **Increased Amtrak Contract (BCP #16).** The Administration requests a one-time augmentation of $6.6 million (Public Transportation Account) due to the cost of a new contract with Amtrak for the three State-funded inter-city rail routes (the Pacific Surfliner Route running from San Diego to Los Angeles and San Luis Obispo; the San Joaquin Route running from the Bay Area/Sacramento to Bakersfield; and the Capitol Corridor Route running from San Jose to Oakland and Sacramento/Auburn). Caltrans indicates that Amtrak is unwilling to absorb additional cost increases for fuel, labor, and general inflations (the State's costs have not increased in five years). The funding is requested as one-time because negotiations are still ongoing with Amtrak.

8. **Regional Blueprint Grant Program (BCP #25).** The Administration requests $5 million (federal funds) for year three of a three-year federal program that provides $5 million annually for grants to local governments for long-term blueprint planning. Caltrans indicates these funds augment the current efforts of local planning entities through improved transportation modeling, simulation of alternate future growth patterns, and enhanced public participation.

   Background / Detail: The Administration requested permanent authority for this expenditure through a 2005-06 Finance Letter. The Legislature changed the authority to two-year limited term and adopted supplemental report language requiring a report by January 10, 2007, describing the criteria used to award the grants; a description of the grant process; a description of activities funded; and an analysis of how the funds were expended in the first year of the program. The report was provided by the due date and no concerns have been raised over the expenditure of funds from 2005-06.

9. **Oakland District Office Building Seismic Retrofit (CO BCP #1).** The Administration requests $62.3 million (State Highway Account) to fund the construction-phase 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. Last year, the Legislature approved funding of $44.3 million for the construction phase of this project. The lowest bid exceeded estimates by $16.0 million, and with the revised contingency and other changes, the new estimate is $18.0 million higher than last year's estimate. The $44.3 million approved last year would revert and the new funding of $62.3 million would include a $3.4 million contingency.

   Background / Detail: 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. Seismic research that occurred after the 1991 Northridge earthquake led to a revised understanding of the motion of earthquakes and this resulted in a change in the seismic risk level of certain buildings.

   Funding of $1.3 million was approved in the 2004 Budget Act to fund preliminary plans for this project, and funding of $2.2 million was approved in the 2005 Budget Act for working drawings. The construction cost estimate has been revised upward from $33.0 million in 2004-05, to $44.3 million in 2005-06, to $62.3 million today. The first escalation was due to more seismic remediation work being required than originally anticipated. The second escalation is due to bids exceeding estimates.

Staff Recommendation: Approve the issues on the consent / vote-only list.

Vote:

Issues for Discussion and Vote:

10. Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Prop 1B) Prop 1B provides for a general obligation bond issue not to exceed $19.925 billion. The budget includes appropriations totaling $7.685 billion in Prop 1B bond funds, although only $2.789 billion is expected to be allocated, or committed, in 2007-08. Additionally, the Administration will be requesting a supplementary appropriation of $523 million to support Prop 1B allocations in 2006-07. Dollars below are in thousands.

Proposition 1B Category	2006-07 Allocations	2007-08 Allocations	2007-08 Appropriations	Total 1B Amount	Budget
Corridor Mobility Improvement Account (CMIA)	$100,000	$317,000	$2,119,000	$4,500,000	Caltrans
Transit	0	600,000	1,300,000	3,600,000	State Trans Assistance
State Transportation Improvement Program (STIP)	262,000	340,000	1,035,000	2,000,000	Caltrans
Local Streets & Roads	0	600,000	1,050,000	2,000,000	Shared Revenues
Trade Infrastructure	15,000	170,000	680,000	2,000,000	Caltrans
State Highway Operations and Preservation Program (SHOPP)	141,000	403,000	518,000	750,000	Caltrans
State/Local Partnership	0	170,000	502,000	1,000,000	Caltrans
Grade Separations	0	55,000	174,000	250,000	Caltrans
State Route 99 Improvements	0	28,000	171,000	1,000,000	Caltrans
School Bus Retrofit	0	97,000	97,000	200,000	Air Resources Board
Local Bridge Seismic Retrofit	5,000	9,000	39,000	125,000	Caltrans
Intercity Rail*	0	0	0	400,000	na
Transit Security*	0	0	0	1,000,000	na
Trade Infrastructure Air Quality*	0	0	0	1,000,000	na
Port Security*	0	0	0	100,000	na
TOTAL	**$523,000**	**$2,789,000**	**$7,685,000**	**$19,925,000**	

* No appropriations are requested in the Governor's Budget for these programs – the Administration indicates it is still considering program implementation approaches. Spring Finance Letters may request funding for these programs.

While many past bond revenues have been continuously appropriated upon bond passage, Prop 1B funds require an appropriation by the Legislature to expend the funds. The Administration is requesting an appropriation level that will cover anticipated expenditures through 2009-10. This means that the Administration would not have to come forward with a Prop 1B appropriation request in either the

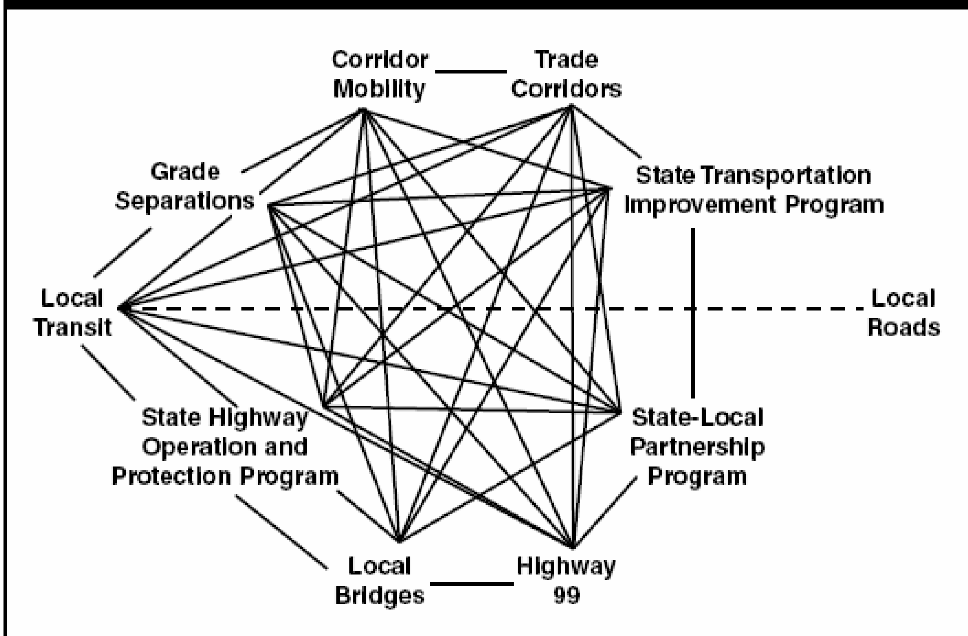
2008-09 or 2009-10 budgets. Alternatively, the Legislature could decide to appropriate only the amount necessary for 2007-08 expenditures or appropriate all $19.9 billion in Prop 1B bond funds this year. The Administration has submitted statutory changes to implement certain Prop 1B programs – these proposals and alternative proposals are currently under consideration in policy committees.

The Governor's revised Strategic Growth Plan includes a request for $29.4 billion of new general obligation bonds and $13.9 billion of additional lease-revenue and self-liquidating revenue bonds for the 2008 and 2001 ballots in the areas of education, public safety, and other infrastructure. No additional transportation-related bonding (beyond that already authorized by Prop 1B) is included in the Governor's Strategic Growth Plan.

LAO Recommendations: In the *Analyses of the 2007-08 Budget Bill*, the Legislative Analyst recommends that the Legislature maintain oversight for bond programs by appropriating funds annually (as opposed to the three-year appropriation proposed). The LAO recommends the Administration provide the Legislature a list of potential projects by May 1, 2007, so the 2007-08 funding need can be assessed – this list should additionally identify 2006-07 projects proposed for a funding allocation via a supplemental appropriation bill. Finally, the LAO recommends deletion of budget bill language that would allow the Administration to shift appropriation authority among bond programs. Figure 2 from the LAO *Analysis* is copied below to illustrate the requested transfer flexibility.

Figure 2

Proposed Administrative Fund Transfers Would Circumvent Appropriation Authority



Staff Comment: Senate policy committees have held two extensive hearings on statutory changes to implement Proposition 1B. Staff recommends that the Subcommitee focus on the more fiscal aspects of Prop 1B implementation, including appropriation levels and budget bill language.

Issues for Discussion: Staff recommends the Subcommittee hear from the Administration and the LAO on the following issues:

- For each bond program, what is the status of program guidelines and project readiness to actually expend bond funds in 2006-07 and 2007-08?
- Will the Administration provide a list of potential projects for both 2006-07 and 2007-08, by May 1, 2007, as recommended by the LAO?
- Why does the Administration feel it needs a three year appropriation and authority to shift appropriation authority across bond programs? (The LAO recommends rejection of both of these proposals).

Staff Recommendation: Keep this issue open – implementing policy legislation could affect the timing of bond expenditures and appropriation levels.

11. Shift Public Transportation Account Revenues to Pay General Fund Obligations (Trailer Bill Language). The Governor proposes to shift $1.1 billion in Public Transportation Account (PTA) funds to pay the following State obligations, which are currently the responsibility of the General Fund:

- $627 million for Home-to-School Transportation (currently Proposition 98).
- $340 million for transportation-related general obligation bond debt.
- $144 million for regional center transportation budgeted in the Department of Developmental Services.

Background / Detail: The PTA will receive an estimated $617 million in "spillover" funds in 2007-08 – up from the revised estimate of $549 million for 2006-07. The proposed shift would exceed the 2007-08 amount of the volatile spillover revenues, which have materialized in recent years due to high gasoline prices. The Administration indicates this shift will not have a major impact, in the short-term, on transit capital projects because of bond and other funding resources. However, the proposal does represent a reduction in what local transit agencies would otherwise receive for operations in 2007-08, and would, over the long-term, reduce funding available for mass transit capital projects through the State Transportation Improvement Program (STIP). The Administration indicates they intend to permanently redirect spillover funds to pay current General Fund obligations. If this proposal were approved and spillover revenue averages about $600 million each year, the total loss to mass transportation over the next five years would total around $3.5 billion (which is similar to the amount included in Proposition 1B for mass transit).

LAO Recommendation: In the Education Section of the *Analysis of the 2007-08 Budget Bill*, the Legislative Analyst recommends using a smaller amount of PTA funds on a one-time basis to support the Home-to-School Program in 2006-07 ($300 million in 2006-07, instead of $627 million in 2007-08 and ongoing). The Administration's plan involves "re-benching" Proposition 98, which the LAO indicates is likely unconstitutional.

In the Transportation Section of the *Analysis*, the LAO recommends that the Administration report at the hearing how projects will be funded if the $1.1 billion in PTA funding is diverted to other expenditures. The LAO recommends the Legislature develop priorities for PTA expenditures.

Issues for Discussion: Staff recommends the Subcommittee hear from the Administration and the LAO on the following issues:

- What would be the short-term and long-term impacts on mass transportation of adopting the Administration's proposal?
- Would the Constitution prohibit the re-benching of Prop 98 as proposed by the Administration?

Staff Recommendation: Keep open for May Revision.

12. Non-Article XIX Funding (Trailer Bill Language). The Administration proposes to amend statute to permanently retain approximately $85 million in annual miscellaneous revenues, which are not subject to the expenditure restrictions in Article XIX of the Constitution, in the State Highway Account (SHA) instead of transferring these revenues to the Public Transportation Account (as specified by Section 183.1 of the Streets and Highways Code). The Budget Bill includes Provision 17 of Item 2660-001-0042 to appropriate this funding for pavement maintenance, or SHOPP pavement work; and deletes the expenditure authority if the trailer bill to repeal Section 183.1 is not approved. (See also the related issue on Maintenance on the following page)

Background / Detail: This miscellaneous revenue is primarily derived from the rental and sale of Caltrans property originally purchased for highway purposes. Because the revenue is not restricted by Article XIX, it can be expended for either highway or mass transportation purposes. Prior to 2000-01, and the addition of Section 183.1, the funding was retained in the SHA. Since 2000-01, the funding has been transferred to the PTA, except in 2003-04 and 2004-05 when the funding was retained in the SHA by budget bill language.

Staff Comment: This proposal should be considered in the context of overall transportation funding (including the approval, modification, or rejection of the issue above to use PTA funds for General Fund obligations).

Staff Recommendation: Keep open for May Revision.

13. Maintenance Funding. The Administration requests a permanent increase of $85.0 million for highway *pavement* preservation. The Department's *2007 Five-Year Maintenance Plan* recommends an additional annual investment of $147.1 million including $85.0 million for *pavement* and $62.1 million for *bridges and culverts*. However, the Administration only included pavement funding in the budget proposal, indicating that the additional $62.0 million of need may be funded in some future year if additional resources become available.

Background / Detail: According to the report, increasing pavement contract expenditures by $85.0 million (to a new total of $214.0 million) will eliminate the pavement backlog over 10 years. The proposed budget does not increase the contract budget for bridge preservation (existing funding of $47 million) or culvert preservation (existing funding of $5 million). If those areas received additional funding of $62.1 million as outlined in the Maintenance Plan, the backlog would start to fall, but not be completely eliminated over 10 years. Caltrans indicates no additional bridge or culvert funding is requested because these projects will take a year to develop. The Maintenance Plan indicates that preservation work results in large State Highway Operation and Protection Program (SHOPP) savings in the out-years. The SHOPP savings compared to the Maintenance cost has a ratio of 6:1 for pavement, 12:1 for structures, and 5:1 for drainage. It should be noted, that the benefit-cost ratios do not encompass external costs, such as damage to private cars from rough highways, which would tend to increase the benefit for pavement work.

Related Budget Bill Language: The past two budget acts have included budget bill language to prohibit the redirection of pavement contract funding. In this year's budget bill, the Administration has amended the language to include bridges and culverts. Additionally, the funding amount was adjusted to include the total base funding of $181.0 million, but does not include the new funding request of $85.0 million. The language with the changes underlined is immediately below.

Provision 10 of Item 2660-001-0042:
Of the funds appropriated in this item, $<u>181,000,000</u> is for major maintenance contracts for the preservation of highway pavement, <u>bridges, and culverts</u> and shall not be used to supplant any other funding that would have been used for major pavement maintenance.

A new provision was added to the Budget Bill related to the $85.0 million – see Provision 17 of Item 2660-001-0042. This provision specifies the funding would be available only for pavement, however, it would allow transfer of the funding to Item 2660-302-0042 for State Highway Operation and Protection Program (SHOPP) expenditures. The proposed language would also delete the expenditure authority if the trailer bill language to repeal Section 183.1 is not approved (see also the prior issue).

LAO Recommendation: In the *Analysis of the 2007-08 Budget Bill*, the Legislative Analyst recommends the Department report at the budget hearings on why it is not augmenting funds for structures and drainage preservation.

Staff Comment: The Administration ties this augmentation to a shift of $85 million in non-Article XIX funding from the Public Transportation Account (PTA) to the State Highway Account (SHA). While that proposal affects SHA funding, action on this issue need not be linked to the non-Article XIX proposal because maintenance may be the highest-priority expenditure for base SHA resources (see also the prior issue).

Staff Recommendation: Amend the budget bill language to conform to the language in the past two budgets. Specifically, revise Provision 10 of Item 2660-001-0042 to change the amount to $214.0 million and delete the words "bridges and culverts". Since California's pavement roughness has consistently been ranked among the worst across states, and rough pavement produces a hidden cost in the form of increased automobile repair costs, staff recommends the language restrict expenditure to pavement contracts to prevent redirection. Staff recommends the Subcommittee delete Provision 17 of Item 2660-001-0042 which would allow the Department to shift funding to the SHOPP program and restrict expenditure of funds if the Legislature does not adopt proposed trailer bill language. This request is similar to the broad authority requested to shift appropriation authority across Prop 1B bond programs. While the Legislature should consider requests to adjust funding between Maintenance and SHOPP programs during budget deliberations, the need for this broad authority to make changes within a fiscal year is not clear.

Vote:

14. Budget Bill Authority to Shift Appropriations (Staff Issue). The new authority requested by the Administration to shift Prop 1B appropriations across bond programs and the new authority requested to shift state operations maintenance funding to the SHOPP program, raise a broader issue of similar language in other budget bill appropriations.

Background / Detail: The budget bill includes language, consistent with past Budget Acts, to shift appropriation authority between the State Highway Operation and Protection Program (SHOPP) and State Transportation Improvement Program (STIP) appropriation items and between the SHOPP and STIP local assistance and capital outlay items. Also on a continuing basis, is authority to shift funding from: (1) a state operations item that funds California Highway Patrol work zone activity; and (2) a state operations item that funds Route 125 maintenance activity; both to SHOPP and STIP appropriation items. New for this budget bill, is requested language to shift appropriation authority from the stormwater maintenance appropriation item to the SHOPP appropriation item.

Staff Comment: The authority to shift between STIP and SHOPP and local assistance and capital outlay seems to have merit. This allows the California Transportation Commission (CTC) to shift allocations as some projects are delayed and others move forward. The authority to shift from the state operations items to the SHOPP and STIP is less clear. There is relatively little funding at issue (probably not more than a couple million) and the overall SHOPP/STIP program is sometimes cash-constrained, but staff is not aware of when it has been constrained by a lack of appropriation authority.

Staff Recommendation: Delete the following budget bill provisions which allow appropriation shifts from state operations appropriation items to SHOPP and STIP appropriation items:

- Subsection (b) of Provision 3 of Item 2660-001-0042
- Subsection (b) of Provision 8 of Item 2660-001-0042
- Provision 3 of Item 2660-007-0042

Vote:

15. Specialty Building Facilities Appropriation (Staff Issue). The Administration requests an appropriation of $119.9 million (State Highway Account) in 2007-08 for specialty building facilities such as equipment facilities, maintenance facilities, material labs, and traffic management centers. This is an increase of $65.2 million, or 120 percent from the amount appropriated in 2006-07.

Construction of Inland Empire TMC	$22,782,000
In San Leandro –Shop 2401, remodel and upgrade equipment facility	$3,384,000
Relocation of Red Bluff maintenance station	$9,127,000
Rehabilitate Hayfork maintenance station	$3,607,000
Reconstruct maintenance facilities at SFOBB	$28,475,000
Upgrade maintenance station at Mountain Pass	$1,061,000
Upgrade facility at Camp Angeles maintenance station	$1,273,000
Enlarge truck shed, add bay doors at Peddler Hill and Caples Lake	$7,494,000
Construct new Southern Regional Lab in Fontana	$28,000,000
Phase IV Upgrade of Translab in Sacramento	$9,336,000
Minor district projects affecting specialty facilities.	$5,370,000
Total for Specialty Facilities.	$119,909,000

Background / Detail: The Legislature added a budget bill appropriation to the 2005 Budget Act to separately track expenditures for specialty facilities. Prior to this change, funding was included in the general State Highway Operations and Protection Program (SHOPP) appropriation item. The new appropriation provides 3 years of availability to encumber the funds and has budget bill language (Provision 2) allowing any excess appropriation authority to be transferred to the SHOPP item or the State Transportation Improvement Program (STIP) item.

Staff Comment: Caltrans indicates that the San Francisco Oakland Bay Bridge maintenance station project ($28.5 million) has been delayed and will not begin construction until 2008-09. Staff compared the above project list to the list of projects behind the 2006 Budget Act appropriation, and found that two projects were the same (the Inland Empire traffic management center [$22.8 million] and the Red Bluff maintenance station [$9.1 million]). Since these projects received an appropriation for 2006-07 that is good for three years, the need to include funding in this year's budget is unclear. Caltrans indicates that their intent is to shift excess 2006-07 funds to the main SHOPP appropriation item – although they did not include that shift in the Governor's Budget.

Similar to the discussion in the prior issues, Caltrans had budget bill authority to shift appropriation authority across budget items that seems unnecessary. There is excess State Highway Account authority in STIP and SHOPP exceeding $1.5 billion that the Governor's Budget carries-over from 2006-07 to 2007-08. So the need to shift authority from the specialties facility item to the SHOPP or STIP items seems unnecessary.

Staff Recommendation: Reduce the Specialty Facilities appropriation item by $60.4 million, and delete budget bill provision 2. Together with still-available authority from 2006-07, this would fully fund all the projects Caltrans indicates are ready to go in 2007-08.

Vote:

16. Fuel Cost Increase (BCP #1). The Administration requests a one-time augmentation of $9.0 million (State Highway Account) to address higher fuel costs. The Department indicates its current base is $26.9 million, which would be sufficient if fuel prices were in the range of $2.04 per gallon. Caltrans received a one-time increase of $5.2 million for 2006-07 which was based on a fuel cost assumption of $2.33 per gallon. This year's request assumes fuel costs will average about $2.64 per gallon.

Background/Detail: Caltrans indicates the $2.64 price assumption ties to a June 2006 Federal Energy Information Agency projection. The Department expects to consume 13.6 million gallons of fuel in 2007-08, which matches 2005-06 usage. Since this is a one-time increase, Caltrans will likely submit a similar request next year for 2008-09 to update funding to the fuel price forecast of that time.

Staff Comment: Staff asked Caltrans to provide updated information from the Federal Energy Information Agency. Caltrans indicates that fuel prices are expected to average about $3.01 per gallon in March 2007 and then moderate slightly over the next year to an average of $2.85 per gallon in 2007-08. The Subcommittee may want to adjust the budget to tie to the updated forecast of 2007-08 fuel prices.

Staff Recommendation: Augment requested funding by $2.856 million to tie to the updated fuel price forecast. (This would bring total one-time funding to $11.9 million: $9.0 million from the BCP plus $2.9 million for the updated forecast).

Vote:

17. **Public Safety Radio (BCP #5).** The Department requests funding of $7.2 million in 2007-08 and a total of $19.6 million over five years, to convert the low band radio systems concentrated in the mountainous regions of District 10 (east of Stockton) to a high band system. The Department indicates that most Caltrans Districts (3, 4, 6, 7, 8, 9, 11, and 12) currently operate on high band, but four districts (1, 2, 5, and 10) still operation on low band. The Budget Change Proposal does not address the Administration's plans for the other Districts that operate with low band. Additional information provided by the Department suggests the total cost of upgrading radio systems in all four districts that operate currently on low band would be in the range of $50 million.

Related Action in the 2006 Budget: Last year, budget trailer bill language added Section 8592.7 to the Government Code, which requires the following:

(a) A budget proposal submitted by a state agency for support of a new or modified radio system shall be accompanied by a technical project plan that includes all of the following:
(1) The scope of the project.
(2) Alternatives considered.
(3) Justification for the proposed solution.
(4) A project implementation plan.
(5) A proposed timeline.
(6) Estimated costs by fiscal year.
(b) The committee shall review the plans submitted pursuant to subdivision (a) for consistency with the statewide integrated public safety communications strategic plan included in the annual report required pursuant to Section 8892.6.
(c) The Telecommunications Division of the Department of General Services shall review the plans submitted pursuant to subdivision (a) for consistency with the technical requirements of the statewide integrated public safety communication strategic plan included in the annual report required pursuant to Section 8592.6.

The Budget Change Proposal was originally submitted without the accompanying materials required by Section 8592.7. The Department has since submitted letters from the Office of Emergency Services (OES) and the Department of General Services (DGS) indicating compliance with subsection (b) and (c) respectively. Caltrans provided an internal document titled, *800 MHZ Conversion Technical Project Plan Summary* to comply with subsection (a).

Statewide Strategic Communications Plan: The State has been working for over a decade to design a comprehensive emergency-communication system. In 1994, Caltrans, along with nine other public safety agencies and the Department of General Services (DGS), initiated a study called Public-Safety Radio Integrated Systems Management (PRISM). In 1997, the PRISM effort produced a cost estimate of $3.5 billion. The high cost delayed action and technology continued to change. Currently, the Office of Emergency Services (OES) chairs the Public Safety Radio Strategic Planning Committee (PSRSPC). In January 2006, the PSRSPC released a status report which was the "first phase in the strategic plan for a newly envisioned statewide approach." The OES has not submitted this year's annual Statewide Integrated Public Safety Communications Strategic Plan that was due

January 1, 2007. Without this plan, staff is unable to assess the status of statewide activities to understand if the Caltrans plan is part of a comprehensive statewide public-safety-radio strategy or a stand-alone proposal to meet Caltrans needs.

High Band versus Low Band: The PRISM plan envisioned a statewide high-band system. One of the drivers of the high cost was that high-band signals do not travel great distances in mountainous regions resulting in the need for costly new towers and repeater equipment. Last year's OES report suggested the state was dropping the PRISM approach and moving toward a "system-of-systems" approach. The Subcommittee approved a BCP for a new California Highway Patrol (CHP) radio system that relies on low-band for intra-department communications, but that can also be switched to high-band for inter-agency communications. The "system-of-systems" approach and the CHP plan suggest that the state need not abandon all low band applications to achieve statewide interoperability.

Staff Comment: Last year, this Subcommittee had several discussions with OES, DGS, the California Highway Patrol, and the Office of Homeland Security concerning the importance of developing a comprehensive statewide public safety radio plan. The Subcommittee had asked the Administration to develop the plan so that future radio investment would be part of a comprehensive plan as opposed to stand-alone departmental efforts. The letter provided from DGS suggests that this Caltrans proposal is a stand-alone effort, with the Caltrans role in statewide interoperability to be determined only after implementation of this proposed project (in about 5 years).

Since the budget request only covers District 10, it is unclear what the Administration plans to do to the radio systems in Districts 1, 2, and 5. If those districts also need updated radio equipment, it may beneficial to get a comprehensive plan and funding commitment from the Administration prior to moving forward with District 10.

Staff Recommendation: Reject this proposal. The Administration should return with a request when a comprehensive plan for Caltrans radio needs is developed that also achieves inter-agency interoperability goals.

Vote:

18. Intelligent Transportation Systems (BCPs 13, 14, 15). The Administration submitted three budget requests related to Intelligent Transportation Systems (ITS). ITS includes loop detectors that monitor freeway speed, changeable message signs, highway advisory radio, metering lights, and freeway cameras. These technologies communicate traffic conditions to drivers and reduce congestion.

- Budget Change Proposal #13 requests $1.2 million in 2007-08 and $1.1 million in 2008-09 to fund a two-year pilot project that will determine the effectiveness of purchasing real-time traffic data from private vendors. The private vendors would supply traffic speed information from Automatic Vehicle Location technologies, such as cellular signals, and/or other technologies. If this technology is viable, it may result in cost saving and traffic-congestion reduction because freeway loop detectors would no longer need to be installed and maintained.
- Budget Change Proposal #14 requests $9.7 million (ongoing) and 40 positions in the Maintenance Program to increase maintenance and repair of new Intelligent Transportation System (ITS) field elements. The Department indicates that the number of traffic signals and ramp meters has increased by approximately 600 since positions were last increased in 1999, and ITS elements have increased by 2,400 units.
- Budget Change Proposal #15 requests $1.5 million (ongoing) and 15 positions in the Highway Operations Program to increase operational support of the increasing number of Intelligent Transportation System (ITS) field elements. The Department indicates that the number of field elements has increased by 3,294 (225 percent) since the last staff increase for this purpose in 1997.

LAO Recommendation: In the Analysis of the 2007-08 Budget Bill, the Legislative Analyst finds BCP #13 (the two-year pilot project to purchase real-time traffic data) reasonable, but suggests the Legislature adopt supplemental report language directing the department to report on its experience.

Staff Recommendation: Approve these BCPs with the additional supplemental report language suggested by the LAO.

Vote:

19. Civil Service Custodial Staff (BCP #9). The Administration requests a net increase of $98,0000 (State Highway Account) and 6.0 new Custodian positions to convert janitorial service contracts to State staff. The Department indicates that the California State Employees Association has challenged the used of contract janitorial services at Caltrans offices in San Luis Obispo and Marysville. The Department of General Services is not available to perform these services in the two areas, so Caltrans proposes to directly staff this activity.

Staff Comment. The Department indicates that the State Personnel Board (SPB) ruled in favor of the union's challenge for Marysville, and that after the SPB action, Caltrans also hired civil service janitorial staff for San Luis Obispo.

Staff Recommendation: Approve this request.

Vote:

20. Sacramento Building Operations and Maintenance (BCP #9A). The Administration requests an increase of $483,000 (State Highway Account) to reimburse the Department of General Services (DGS) for maintenance and operation of five Sacramento area departmental facilities. The total cost would be $3.1 million, which Caltrans indicates is $483,000 above their current base.

Background / Detail: In 2005-06, Caltrans submitted a BCP to add four maintenance positions (at Caltrans) at a cost of $277,000 to perform building maintenance work. At that time, there were 31 DGS staff and 6 Caltrans staff maintaining the facilities. According to Government Code Section 14600, DGS was created to provide centralized services including, but not limited to, maintenance of state buildings and property.

The Legislature approved the funding increase, but shifted all the workload to DGS (shifted the existing 6 Caltrans positions and 4 new positions to DGS). At the time, Caltrans had indicated that shifting 10 positions of workload to DGS would result in a net cost of $300,000 because DGS had higher overhead costs. The Subcommittee did not add the $300,000 because it was not convinced that DGS had higher overhead costs as opposed to Caltrans undercounting its overhead savings associated with deleting 10 positions.

Staff Comment: The request appears to cover the same topic that the Legislature considered in 2005-06. It is still not clear why 10 positions at DGS would cost $300,000 (or $485,000) more than the same positions at Caltrans.

Staff Recommendation: Reject this proposal. Staff believes Caltrans is underestimating the overhead savings and other savings associated with moving positions to DGS – there should be no net cost and no need for additional funding.

Vote:

21. Environmental Enhancement and Mitigation (EEM) Program (Staff Issue). The Administration is proposing no funding for the EEM program in 2007-08. 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 State Highway Account (SHA) balances, the EEM program was reduced in 2003-04 and 2004-05 to $5 million each year, and the program received no funding in 2005-06.

The Legislature augmented the Governor's proposed 2006-07 budget by $10 million (SHA) for EEM, and the augmentation was sustained. This year, the Administration proposes no funding for EEM, citing higher priorities for the funding.

Staff Recommendation: Restore EEM funding at the $10 million level. Specifically, amend the budget bill to add a $10 million transfer from the State Highway Account to the EEM Fund and add a $10 million EEM appropriation item.

Vote:

22. Bicycle Account Grants (Staff Issue). The Governor's Budget includes $5.0 million for local assistance bicycle grants, consistent with the level of funding specified in Street and Highways Code 2106. However, this is $4.2 million less that 2006-07 funding and $2.2 million less than 2005-06 funding.

Background / Detail: Senate Bill 1772 (Ch 834, St of 2000, Brulte) increased funding for bicycle facility grants from $3.0 million to $7.2 million through 2005-06, and then to $5.0 million in 2006-07 and thereafter. Funding for 2006-07 was $9.2 million ($4.2 million more than the statutory level) because multiple years of interest earnings were included in the appropriation. Funding for the Bicycle Account comes from the Highway Users Tax Account. Absent the transfer to the Bicycle Account, the funding would otherwise be transferred to the State Highway Account.

According to the Caltrans website, 27 bicycle projects across the state will receive program funding in 2006-07. Local and other funding sources will match $9.2 million in Bicycle Account funds for total project expenditures of $27.3 million. The program is over subscribed.

Staff Comment: The Subcommittee may want to hear from Caltrans on the success of this program and consider the appropriate level of ongoing funding. If the Subcommittee votes to change the ongoing funding level, trailer bill language would be needed to amend Street and Highways Code 2106.

Staff Recommendation: Keep this open until after the May Revision, when a more complete picture of overall transportation funding will be available.

23. Confidential Contracts (Staff Issue). A recent Associated Press article indicated that Caltrans has at least 290 non-competitive contracts worth more than $13 million which are treated as confidential. Caltrans indicates that these contracts are for expert witness contracts which are specifically exempt from public disclosure laws under Section 10731(g) of the Public Contract Code:

Public Contract Code Section 10731 (g) Any contract for consulting services awarded without competition shall be listed in the California State Contracts Register. The information contained in the listing shall include the contract recipient, amount, and services covered. The requirement of this subdivision shall not apply to any contract awarded without competition executed with an expert witness for purposes of civil litigation in a pending case.

Staff Comment: At the March 22, 2007, Subcommittee #4 hearing, a similar issue was discussed for the Department of Justice (DOJ). Caltrans has shared information on their contracts with Subcommittee staff and the information appears to be consistent with Section 10731 exemptions. The Subcommittee may want to ask Caltrans if it feels its use of confidential contracts is fully in compliance with Section 10731.

Staff Recommendation: Informational issue, no action necessary.

Attachment I: Information from HCD on Proposition 1C – Support Costs

Program	Total Funding	Support 5%	Local Assistance	Estimated Support Cost	Percent	Dept.	Number of Awards	Avg Per Award
Homeownership Programs								
CalHome	$290,000,000	$14,500,000	$275,500,000	$20,694,751	4.9%	HCD	342	$800,000
Self-Help Housing Program	$10,000,000	$500,000	$9,500,000	(Inc)		HCD	48	$200,000
California Homeownership Program (BEGIN)	$125,000,000	$6,250,000	$118,750,000	(Inc)		HCD	105	$1,000,000
California Homebuyers Downpayment Assistance Program	$100,000,000	$5,000,000	$95,000,000	$5,000,000	5.0%	CalHFA		
Residential Development Loan Program	$100,000,000	$5,000,000	$95,000,000	$5,000,000	5.0%	CalHFA		
Affordable Housing Innovation Fund	$100,000,000	$5,000,000	$95,000,000	$5,000,000	5.0%	HCD		
Multifamily Rental Housing Programs								
Multifamily Housing Program - General	$345,000,000	$17,250,000	$327,750,000	$9,992,230	2.5%	HCD	54	$6,000,000
Multifamily Housing - Supportive Housing	$195,000,000	$9,750,000	$185,250,000	$5,685,350	2.9%	HCD	61	$3,000,000
Multifamily Housing for Homeless Youths	$50,000,000	$2,500,000	$47,500,000	(Inc in MHP)		HCD	16	$3,000,000
Other Programs								
Serna Farmworker - Loans/Grants [1]	$135,000,000	$6,750,000	$128,250,000	$12,237,141	9.1%	HCD	42	$3,000,000
Emergency Housing Assistance	$50,000,000	$2,500,000	$47,500,000	$2,520,397	5.0%	HCD	64	$750,000
Infill Incentives Grant	$850,000,000	$42,500,000	$807,500,000	$42,500,000	5.0%	HCD		
Transit Oriented Development	$300,000,000	$15,000,000	$285,000,000	$14,886,519	5.0%	HCD	60	$4,750,000
Housing Urban-Suburban and Rural Parks	$200,000,000	$10,000,000	$190,000,000	$10,000,000	5.0%	HCD		
GRAND TOTALS	**$2,850,000,000**	**$142,500,000**	**$2,707,500,000**	**$133,516,388**	**4.7%**		**792**	

[1] Assumes passage of legislation for interest repayment (.42%) on Multi-family portion.

Attachment II: Information from HCD on Proposition 1C – Multi-Year Expenditure Plan

Homeownership Programs	**Total**	**2006-07**	**2007-08**	**2008-09**	**2009-2010**	**2010-2011**
CalHome	$290,000,000	$35,000,000	$55,000,000	$55,000,000	$55,000,000	$55,000,000
BEGIN Program	$125,000,000	$0	$40,000,000	$40,000,000	$38,000,000	$0
Self-Help Housing Program	$10,000,000	$0	$3,000,000	$3,000,000	$3,500,000	$0
California Homebuyers Downpayment Assistance Program	$100,000,000	$0	$15,000,000	$30,000,000	$30,000,000	$20,000,000
Residential Development Loan Program	$100,000,000	$0	$15,000,000	$30,000,000	$30,000,000	$20,000,000
Affordable Innovation	$100,000,000	$0	$15,000,000	$30,000,000	$30,000,000	$20,000,000
Multifamily Rental Housing Programs						
Multifamily Housing Program - General	$345,000,000	$70,000,000	$140,000,000	$104,000,000	$0	$0
Multifamily Housing - Supportive Housing	$195,000,000	$20,000,000	$80,000,000	$78,000,000	$0	$0
Homeless Youth Housing	$50,000,000	$15,000,000	$15,000,000	$15,000,000	$0	$0
Other Programs						
Serna Farmworker	$135,000,000	$20,000,000	$40,000,000	$40,000,000	$22,000,000	$0
Emergency Housing Assistance	$50,000,000	$0	$10,000,000	$24,000,000	$13,000,000	$0
Infill Incentives Grant	$850,000,000	$0	$100,000,000	$200,000,000	$200,000,000	$200,000,000
Transit Oriented Development	$300,000,000	$0	$95,000,000	$95,000,000	$95,000,000	$0
Housing Urban-Suburban and Rural Parks	200,000,000	$0	$30,000,000	$40,000,000	$40,000,000	$40,000,000
Grand Total	**$2,850,000,000**	**$160,000,000**	**$653,000,000**	**$784,000,000**	**$556,500,000**	**$355,000,000**

Senate Budget and Fiscal Review—Denise Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Robert Dutton
Christine Kehoe

Wednesday, April 11, 2007
9:30 a.m.
Room 113

Consultants: Danny Alvarez and 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.

Department Budgets Proposed for Vote Only

Staff recommends a consolidated vote for all "vote-only" departments – see page 7 of this agenda

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

(1) **Boards/Bureaus without Budget Change Proposals (BCPs):** The Administration did not submit BCPs for the following entities. No Board or Bureau listed below receives General Fund support. (Dollars are in 1,000s)

		Positions		Expenditures	
		2006-07	2007-08	2006-07	2007-08
	Boards and Commissions - Organization Code 1110				
(1a)	**Architects Board**	23.5	23.5	$4,171	$4,196
(1b)	**Geologists and Geophysicists, Board for**	9.6	9.6	1,237	1,279
(1c)	**Guide Dogs for the Blind, State Board of**	1.3	1.3	161	162
(1d)	**Acupuncture Board**	9.4	9.4	2,526	2,652
(1e)	**Physician Assistant Committee**	4.4	4.4	1,121	1,182
(1f)	**Podiatric Medicine, California Board of**	5.1	5.1	1,252	1,341
(1g)	**Psychology, Board of**	12.7	12.7	3,321	3,401
(1h)	**Respiratory Care Board of California**	16.2	16.2	2,801	2,871
(1i)	**Optometry, State Board of**	6.8	6.8	1,230	1,195
(1j)	**Osteopathic Medical Board**	4.5	4.5	1,215	1,268
(1k)	**Court Reporters Board of California**	4.5	4.5	1,146	1,161
(1l)	**Structural Pest Control Board**	28.3	28.3	4,604	4,596
(1m)	**Veterinary Medical Board**	10.0	10.0	2,411	2,247
	Bureaus, Programs, Divisions - Organization Code 1111				
(1n)	**Electronic & Appliance Repair, Bureau of**	14.5	14.5	2,126	2,305
(1o)	**Telephone Medical Advice Services Program**	0.9	0.9	141	158
(1p)	**Cemetery & Funeral Bureau**	22.5	22.5	3,960	3,993
(1q)	**Naturopathic Medicine, Bureau**	0.9	0.9	122	151

(2) Boards/Bureaus with Budget Change Proposals (BCPs): The Administration submitted BCPs for the following Boards and Bureaus that make minor adjustments to funding and staff primarily in response to workload and cost changes. None of the entities listed below receive General Fund support. No concerns have been raised to Staff concerning budget changes for these entities. A brief description of the Budget Change Proposal is included under each Board or Bureau.

		Positions		Expenditures	
		2006-07	2007-08	2006-07	2007-08
	Boards and Commissions - Organization Code 1110				
	Athletic Commission	12.8	14.2	$1,776	$2,134
(2a)		Augmentation of $18,000 to provide mandated training to referees, judges, timekeepers, and physicians. (BCP 1111-01)			
(2b)		Augmentation of $522,000 to hire more temporary-help event inspectors and add 2.0 Office Technician positions. SB 1549 (Ch 691, St. of 2004, Figueroa) added Mixed Martial Arts (MMA) events to the Commission's responsibilities. The number of MMA events has significantly exceeded past estimates. (BCP 1111-02)			
	Barbering and Cosmetology, Board of	85.9	86.4	$16,354	$17,577
(2c)		Transfer 1.0 information technology positions to the Department of Consumer Affairs' centralized Office of Information Support (OIS). The Board requests no net change in funding because it is assumed the Board would purchase these services from OIS. (BCP 1110-12)			
(2d)		Augmentation of $188,000 and 1.5 positions to implement AB 861 (Ch 411, St. of 2006, Bass), which authorizes probationary licenses and requires a report. This request is consistent with the cost assumptions in the analyses for AB 861. (BCP 1110-02L)			
	Behavioral Sciences, Board of	29.4	31.3	$5,110	$5,675
(2e)		Redirection of $183,000 and the addition of 2.0 positions for enforcement workload increases. This proposal would shift existing operating expense authority to fund the 2.0 new positions. (BCP 1110-13)			
(2f)		Augmentation of $105,000 to work with the Department of Mental Health on a plan to educate, train, and license the public mental health workforce			

		Positions		Expenditures	
		2006-07	2007-08	2006-07	2007-08
		consistent with the Mental Health Services Act (Prop 63). (April 1 Finance Letter #1).			
	Physical Therapy Board	10.3	10.8	$2,432	$2,436
(2g)		Transfer of $22,000 and 0.4 positions from the Medical Board to the Physical Therapy Board, plus additional position authority of 0.1 positions. The Physical Therapy Board would directly perform the licensing cashiering function currently performed by the Medical Board. (BCP 1110-20)			
	Speech-Language Pathology and Audiology Board	5.0	5.0	$777	$918
(2h)		Augmentation of $72,000 (one-time) to conduct an examination validation study of the national examination for licensure. (BCP 1110-27)			
	Occupational Therapy, California Board of	4.7	6.5	$877	$1,033
(2i)		Augmentation of $132,000 and 2.0 positions for increased workload in enforcement (BCP 1110-22) and cashiering (BCP 1110-23).			
	Professional Engineers and Land Surveyors, Board for	52.1	53.0	$8,314	$9,105
(2j)		Augmentation of $96,000 and 1.0 position for enforcement workload growth and cost increases for enforcement expert witnesses. (BCP 1110-29)			
(2k)		Augmentation of $39,000 for subject matter experts who assist in licensure exam development and grading. (BCP 1110-30)			
	Registered Nursing, Board of	89.2	93.9	$22,323	$23,865
(2l)		Augmentation of 4.0 positions (within existing expenditure authority) to improve telephone response – the Board is successfully answering only 13,200 of 34,000 calls received monthly. Positions are funded via a $200,000 redirection of operating expense funds. (BCP 1110-25)			
(2m)		Augmentation of 1.0 position (within existing expenditure authority) to process Public Record Act requests and issue fines and citations. The position would be funded via a $59,000 redirection of operating expense funds. (BCP 1110-26)			

		Positions		Expenditures	
		2006-07	2007-08	2006-07	2007-08
	Vocational Nursing and Psychiatric Technicians, Board of	40.2	48.5	$7,160	$8,495
(2n)		Augmentation of $870,000 and 4.5 positions to address workload associated with SB 358 (Ch. 640, St. of 2003, Figueroa). SB 358 specifies that a licensee who fails to report known violations by another licensee can be fined or have their license suspended. The funding requested is actually less that than anticipated by SB 358 because the actual workload has been about half of expectations. (BCP 1110-31)			
(2o)		Augmentation of $305,000 and 4.2 positions to address workload growth in the Enforcement Program. The BCP provides a 10-year history of complaints received that shows a steady growth totaling 466 percent. (BCP 1110-32)			
	Bureaus, Programs, Divisions - Organization Code 1111				
	Arbitration Certification Program	5.4	5.7	$947	$1,014
(2p)		Augmentation of $26,000 and 0.3 positions to address deficiencies in inspection and public-outreach workloads. This Program oversees the State's motor vehicle "lemon laws." (BCP 1111-05)			
	Hearing Aid Dispensers Bureau	2.9	3.8	$745	$766
(2q)		Augmentation of $67,000 and 1.0 position to address increased ongoing licensing and examination workload. (BCP 1111-04)			
	Security and Investigative Services, Bureau of	65.9	65.9	$12,965	$11,899
(2r)		Augmentation of $199,000 and 2.5 positions (3-year limited-term) to address increased enforcement workload and unlicensed activity. (BCP 1111-06)			
	Home Furnishings & Thermal Insulation, Bureau of	29.5	30.4	$4,155	$4,574
(2s)		Augmentation of $63,000 and 1.0 position to perform increased product testing and evaluation. (BCP 1111-12)			

		Positions		Expenditures	
		2006-07	2007-08	2006-07	2007-08
	Professional Fiduciaries Bureau	na	3.8	na	$1,113
(2t)		Augmentation of $1.1 million and 3.8 positions to implement the Bureau which was created by SB 1550 (Ch 491, St. of 2006). Ongoing costs of $672,000 are consistent with SB 1550 analyses, but the first year costs exceed estimates by about $400,000 due to technology and exam preparation costs not included by DCA in the earlier estimates. (BCP 1111-01L)			
	Crosscutting Bureau BCPs	na	na	na	na
(2u)		Augmentation of $281,000 and 2.5 positions to address increased ongoing workload in the centralized Division of Investigations' Special Operations Unit. This Unit performs internal investigations of DCA Boards and Bureaus and has 29 backlog cases. (BCP 1111-18)			
(2v)		Augmentation of $302,000 and 3.0 positions to create a Case Intake, Assist, and Disposition Unit within the centralized Division of Investigations. The augmentation would institute preliminary case management and prioritization to increase efficiency. (BCP 1111-19)			
(2w)		Augmentation of $175,000 due to an approximate cost increase of 62 percent for a new facility lease. This request includes both the Bureau of Home Furnishing and Thermal Insulation and the Bureau of Electronic and Appliance Repair. (BCP 1111-11)			
(2x)		Authority for 2.0 position (funded within existing authority) to address workload in the Office of Examination Resources (OER). OER is funded through reimbursements. (BCP 1111-14)			
(2y)		Realign $116,000 in current *reimbursements* to *distributed costs* for Office of Information Services centralized website services. This proposal would result in no net cost, but would reduce paperwork. (BCP 1111-16)			
(2z)		Augment funding by $1.1 million in 2007-08 and $266,000 ongoing (special funds) to pay for moving costs for various Boards and ongoing rent. (BCP 1110-34)			

(3) 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. Specifically, the Commission adjudicates cases prosecuted before it by the Department of Fair Employment and Housing and promulgates regulations that interpret the Fair Employment and Housing Act.

The Governor proposes expenditures of $1.3 million ($1.2 million General Fund) and 7.0 positions for the Commission – an increase of $29,000. The Administration submitted one Budget Change Proposal to augment the Commission by $20,000 (General Fund) to allow it to hold six annual Commission meetings in venues throughout the state. Past budget reductions have limited the ability of the Commission to hold meetings outside of its San Francisco headquarters. Geographically dispersed meetings increase awareness of fair employment and housing laws and allow more public participation.

(4) 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 $5.3 million ($1.2 million General Fund) and 19.3 positions for the Arts Council – a decrease of $17,000. This decrease is primarily caused by a reduction in the pro rata assessment for the Council, and does not represent a real reduction in operations. The Administration did not submit any Budget Change Proposals for the Council.

(5) 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 $1.6 million (no General Fund) and 2.0 positions – an increase of $48,000 and no change in positions. An April Finance Letter requests $438,000 (special fund, three-year limited-term) to increase their training capacity from 9 to 13 pilots to address the anticipated increase in pilot retirements.

(7) 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 analyzes and makes recommendations to the Legislature on government reorganization plans.

The Governor proposes expenditures of $1.0 million (primarily General Fund) and 8.8 positions for the Commission, a decrease of $11,000 and no change in positions. The Administration did not submit any Budget Change Proposals for the Commission.

(8) 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 its constituencies.

The Governor's Budget proposes expenditures of $534,000 ($532,000 General Fund and $2,000 reimbursements) and 4.6 positions – an increase of $77,000 and 0.7 positions. The Administration submitted two Budget Change Proposals that seek to restore some of the position authority and funding deleted due to budget cuts in 2001-02 and 2002-03. The first proposal would increase the time base for the Executive Secretary from part-time to full-time at a cost of $34,000. This would increase Commission staff from 3.9 positions to 4.6 positions, still below the 5.0 positions originally authorized in 2002-03. The second proposal would augment the Commission's operating expenses and equipment funding by $44,000 to allow more out-of-Sacramento public meetings, more printed material, more external research contracts, and more staff development. The Administration indicates budget cuts totaling $28,000 were made to the operating expense budget in 2001-02.

(9) Control Section 14.00 Department of Consumer Affairs Loans

Control Section 14.00 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 2006 Budget Act. In an April 4, 2007 letter, the Department of Consumer Affairs reported that one loan was repaid in 2005-06 – a $92,000 loan from the Bureau of Automotive Repair to the Bureau of Naturopathic Medicine. No other loan activity occurred in 2005-06.

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

Staff Recommendation: Approve the budgets of the entities listed above.

Vote:

Department Budgets Proposed for Discussion

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 $3.2 million ($2.5 million General Fund) and 23.7 positions for the Agency – an increase of $1.8 million and 14.9 positions.

Discussion / Vote Issues

1. **Legislation Workload – Staffing (BCP #1).** The Administration requests $96,000 and 1.0 position to address the increasing legislative bill analysis and coordination workload. The current staffing is composed of one Legislative Deputy and one clerical assistant.

   Detail: The Agency indicates the number of Enrolled Bill Reports (EBR) increased by over 100 bills from 2005 to 2006 (from 234 to 336). Additionally, the number of direct reporting departments/boards supervised by the Agency has increased by six over the past 10 years.

   The BCP request would address workload related to EBRs which are confidential documents. Staff asked the Agency if the position would result in more *public* bill analysis and position letters from the Agency. Policy and Appropriations staff have indicated a desire for the Administration to provide more public bill information and letters so the public and the bill authors can be informed of the Administration's concerns along with workload and cost estimates. Public written information from the Administration is also helpful to the Budget Committee, because when a bill is chaptered and the Administration submits a BCP to implement the legislation, the public letter or bill analysis allows a comparison of the funding request to what the Administration assumed when the policy bill was debated.

   Staff Comment: Staff asked the Agency how many of the policy bills also had public bill analyses or letters from the Administration – at the time this agenda was finalized, that information was still pending. The Agency should indicate how this request would result in more public information from the Administration on bills.

   Staff Recommendation: Keep this issue open. Direct Staff to continue discussions with the Agency to see if they can increase the amount of public bill information.

2. **Create Office of Information Security and Protection (BCP #2 and proposed budget trailer bill language).** The Administration requests $1.7 million and 14.7 positions to merge and expand certain information technology security and consumer privacy protection functions of the State. The new Office would combine the Office of Privacy Protection, which has a mission of consumer education and advocacy on privacy issues, and the Information Security Office, whose mission is securing and protecting the State's information assets. The Administration believes this merger of existing functions will provide synergy by bringing a consumer privacy perspective to the State information security program, while adding security expertise to the consumer privacy program.

   Detail: The Office of Privacy Protection, currently within the Department of Consumer Affairs, would move to the Agency and shift $826,000 (General Fund) and 8.7 positions to the new Office. The Information Security Office, currently within the Department of Finance, would move to the Agency and shift $354,000 (General Fund) and 3.0 positions to the new Office. Additionally, the Agency would receive a net augmentation of $521,000 and 3.0 positions for the Office of Information Security and Protection.

   Staff Comment: The Administration has proposed other information technology reorganization, and this proposal should be considered in the context of the broader proposal. Senate Bill 834 (Chapter 533, Statues of 2006) created the Office of State Chief Information Officer (State CIO). The Administration proposes to shift the responsibility for review and oversight of projects from the Department of Finance to the State CIO. Subcommittee #4 heard the State CIO proposal at the March 8, 2007, hearing and held open the reorganization proposal.

   Staff Recommendation: Conform to action taken on the bigger IT reorganization proposal which is included in the Department of Finance section of this agenda. (If action on the Department of Finance issue places the IT security function somewhere other than in the State and Consumer Services Agency – reject this BCP).

0690 Office of Emergency Services

The Office of Emergency Services (OES) is responsible for assuring the state's readiness to respond to and recover from natural and man-made emergencies. During an emergency, the office functions as the Governor's immediate staff to coordinate the state's responsibilities under the Emergency Services Act. It also coordinates federal assistance for natural disaster grants. Since 2003-04, OES has administered criminal justice grant programs formerly managed by the Office of Criminal Justice Planning.

Additionally, the Office of Homeland Security (OHS) is also included in the OES budget. The OHS develops, maintains, and implements a statewide comprehensive homeland security strategy to prevent terrorist attacks within the state, reduce the state's vulnerability to terrorism, minimize damage from attacks that may occur, and facilitate the recovery effort. The OHS also serves as the state administering agency for federal homeland security grants and the state's primary liaison with the U.S. Department of Homeland Security.

The budget proposes total expenditures of $1.3 billion, an increase of $1.1 million or less than one percent from estimated current year expenditures. Over $1 billion of this amount is from federal funds, primarily local assistance funding for disaster assistance and homeland security grants. General Fund expenditures are anticipated to be $184.8 million in 2007-08, an increase of $5.3 million or approximately three percent above revised current year expenditures.

1. Proposed for Vote Only:

- **Response and Recovery Division Workload Increase.** The budget includes $1.2 million ($608,000 General Fund) and 14 positions to eliminate a significant backlog of disaster assistance claims and provide improved service to local governments and disaster victims. Note that 8 positions are two-year limited-term.

- **Fiscal Administration Best Practices (BCP #0690 – 06) –** the Office of Emergency Services requests $573,000 and 9.0 positions to implement final recommendations from the Bureau of State Audit and Little Hoover Commission reports, as well as comply with the California Prompt Payment Act. This request will limit future General Fund exposure to significant penalties due to delayed administrative processes.

- **Victim Services Workload (BCP #0690 – 014)** – The OES requests $200,000 from the Federal Trust Fund to provide 3 positions to ensure the proper oversight of administered sub-grants. These positions will increase the ability of OES to meet federal guidelines concerning timeliness of grant awards, reducing the threat of de-obligation of federal grants.

- **Hazardous Materials Emergency Preparedness Grant Authority (BCP# 0690 – 016).** The OES requests a permanent increase in Federal Trust Fund authority of $676,000 to cover the increase in federal funds awarded to California.

- **High Technology Theft Apprehension and Prosecution Program (HTTAP) (BCP # 0690 – 018).** The OES requests the removal of budget language due to a defunct funding source. The OES used to receive Edward Byrne Memorial Funds from the Bureau of Justice Programs, some of which were used to support the HTTAP program. In 2005, the federal government eliminated the program. This proposal is to remove the authority and Budget Act language.

- **Forensic Science Improvement Act (BCP# 0690 – 019).** The OES requests a permanent increase in Federal Trust Fund authority of $1.22 million to cover the increase in federal funds awarded to California. The Paul Coverdell Forensic Science Improvement Act federal grant has increased. These funds would be used exclusively for local assistance grants.

- **Victims of Crime Act (BCP# 0690 – 020).** The OES requests a permanent increase in Federal Trust Fund authority of $5.59 million to cover the increase in available federal funds awarded to California. Funds for VOCA have steadily increased and the federal award is now higher than the established authority. Consistent with this request, the OES is also increasing current year federal trust fund authority by $3.144 million.

- **Technical Program Realignment (BCP# 0690 – 027).** The OES requests the realignment of three program elements (the Evidentiary Medical Training, the Public Prosecutors/Public Defenders Training, and the Children's Justice Act) from public safety to victim services within Program 50. This is a technical change, no fiscal impact is contemplated. The OES wishes to realign the budget authority to correctly reflect the placement of this program within their organizational structure.

- **Nuclear Planning Assessment Special Account Consumer Price Index Adjustment (DOF April letter).** The OES requests an increase from the NPASA special fund of $131,000 ($38,000 State Operations, $93,000 local assistance) pursuant to Government Code Section 8610.5. This is an annual adjustment based on economic changes reflected in the CA CPI.

- **Technical adjustment to allocate price adjustment correctly (DOF April letter).** An adjustment is requested to Item 0690-002-0001 that would decrease the Criminal Justice Projects by $101,000, and provide a corresponding increase to State Terrorism Threat Assessment Center of $101,000, to more accurately schedule the OES 2007-08 price adjustments.

- **Withdrawal of Port Security Grant program proposal (DOF April letter).** An adjustment to eliminate Item 0690-111-3034 is requested to reflect the withdrawal of the fall proposal to establish a Port Security Grant Program.

- **Control Section 8.00, Anti-Terrorism Federal Reimbursements.** Control Section 8.00 permits any funds received from the federal government for anti-terrorism costs that exceed the current appropriation of federal funds for this purpose to be appropriated and allocated upon order of the Director of Finance. Allocations made to state departments may be used to offset expenditures paid or to be paid from other funding sources. Allocations may be authorized not sooner than 30 days after notification to the Joint Legislative Budget Committee.

Staff Comment: No issues have been raised with the budget changes and Control Section listed above.

Staff Recommendation: Approve the budget changes and Control Section listed above.

Discussion / Vote Issues

2. OES Chairs the Public Safety Radio Strategic Planning Committee (PSRSPC) – Informational Item

Background. Currently, the Office of Emergency Services chairs the PSRSPC. The *2006 and 2007 PSRSPC Annual Reports* to the Legislature have served as the strategic plan for statewide integrated public safety communications. Chapter 728, Statutes of 2006 (AB 1848) codifies the PSRSPC's annual report as the state's strategic plan and requires that the report contain, at a minimum, implementation strategies and timelines to achieve the identified goals and objectives. The report may also include identification of resource needs, including data formats, possible funding sources, prioritization of expenditures, and the development of common protocols that build upon industry and governmental standards for interoperability that will advance the integration of local, regional, and statewide interoperable public safety communication networks.

In addition, Chapter 56, Statutes of 2006 (SB 1132, Budget Committee) added Section 8592.7 to the Government Code. This section addresses state agency budget proposals for new or modified radio systems and requires those proposals be accompanied by a technical project plan. The technical project plan must include project scope, alternatives considered, solution justification, implementation plan, proposed timeline, and estimated costs by fiscal year. The PSRSPC is required to review the technical project plans for consistency with the state's strategic plan. DGS-TD is required to review the plans for technical consistency with the state's strategic plan.

2006 PSRSPC Report. In January 2006, the PSRSPC released a status report which is the first phase in the strategic plan for a newly envisioned statewide approach. The report supported a phased approach with immediate stopgap solutions; in addition, the report outlined goals and objectives to move the state towards an interoperable communications system.

2007 PSRSPC Report and OHS 2006 Annual Report. In early April 2007, the OES released the 2007 PSRSPC report. The report reflects the current status of state agencies' systems and challenges; outlines a vision for interoperability in California; identifies key integration steps and partnerships with local government; documents two year critical operability needs for state agencies as a first step; and establishes a workplan for 2007.

Achieving a fully functioning interoperable communications system in California will realistically take over ten years. However, many critical goals and objectives must be accomplished over the next one to five years to meet state and federal mandates and to keep California on track for interoperability.

In addition, the Office of Homeland Security recently issued their *2006 Annual Report*. In this report, the OHS indicates that "many existing agency systems have considerable deficiencies in their communications structure and need funding to purchase new systems. While interoperability is the end goal, it is important not to lose sight that agencies must first be able to communicate within their own system structures. Possibly even more important for improved interoperability than equipments standards, are integrated procedural guidelines that govern the linking and integration of these different systems in an emergency."

Generally, both the OES *2007 PSRSPC Report* and the OHS *2006 Annual Report* acknowledge the necessity for linking the independent systems via networking technologies to form a "Systems of Systems." This would provide an up-to-date communications infrastructure to integrate the various needs of the many public safety agencies in the State and a set of protocols to streamline public safety communications activities.

Staff Comments. As with all things in State government, strong leadership is critical to insure strategic planning, essential program development and implementation, and critical oversight and accountability. One of the goals identified in the *2007 PSRSPC Report* is the establishment of an effective leadership structure.

- Who is providing the leadership – is it by committee or individual – who makes the ultimate decisions? Particularly as departments work on their own projects.
- How will accountability be established?
- How is the PSRSPC carrying out its role envisioned in SB 1132? Briefly, describe how this process works.
- How or who will ensure coordination of activities at both the state and local levels – equipment purchases, training, interaction with local entities, and implementation of other activities – in order to increase efficiencies, reduce redundancies, and ensure overall compliance with strategic planning efforts?

3. **Update on Independent Gap Analysis – Informational Item.** The 2006 Budget Act requires the OES to contract for an independent gap analysis to assess the strengths and vulnerabilities of California's emergency preparedness system for catastrophic events and the projected costs to address those vulnerabilities. The analysis shall also address specific roles and possible gaps in state, local, and federal government agencies' capacity to respond, including in the areas of governance, interoperability, medical response and surge capacity, evacuation, and economic recovery, and shall consider the role of the private sector in support of government response.

   The report shall recommend specific funding and policy options to address the identified gaps. The gap analysis will measure the state's baseline emergency capability and evaluate and quantify areas where systems, resources, and organizations can be improved.

   Staff Comments. OES should provide the subcommittee with an update on the status of the gap analysis in terms of the work accomplished to date and if the project on schedule.

4. **Account for Public-Private Partnerships - (BCP #0690-015).** The Office of Emergency Services requests permanent appropriation authority of $1 million from the Disaster Resistant Communities Account. In addition, budget bill language would allow the Department of Finance to increase the amount of this account, if any additional funds are received.

   Chapter 232, Statutes of 2005 (SB 546), specifically authorizes OES to collaborate with private entities to improve the state's emergency preparedness. Chapter 232 provides broad direction as to the types of activities that OES may undertake, including conducting outreach to businesses and developing information sharing systems for use during disasters. Chapter 232 creates the Disaster Resistant Communities Account to receive any private donations to help implement the bill's purpose.

   Private response is lacking. According to the LAO, despite seeking the appropriation, OES reports that it has collected none (or very minor) donations to the account. In addition, the department could not provide a plan for how the funds would be spent even if received. Instead, OES reports that a working group of state entities, private companies, and nonprofit organizations currently is developing some spending options.

   LAO recommendation. The state has not received any private funds for Chapter 232, and the administration has no plan as to how the funds would be spent once received. By approving the administration's request, the Legislature would be writing a blank check to OES to spend any monies received on a wide array of possible activities. Instead, we recommend that the Legislature reject the request. Once donations are received, the administration should seek an appropriation based on a specific spending plan.

Staff Comment: The OES should report to the subcommittee on concrete efforts it has taken to engage private entities in pursuit of implementing Chapter 232. What areas would be of critical priority, if and when private funds materialize?

Staff Recommendation: Reduce the level of appropriation authority to $200,000 and adopt budget language requiring an expenditure plan of any funds in excess of this amount with a proviso for 30-day Joint Legislative Budget Committee (JLBC) approval notification.

5. External Consulting Services. The OES is requesting $1.9 million from the General Fund (of which $1.1 million is for external consulting services) and 7.3 personnel-years to assist the department in implementing six bills that were passed by the Legislature in 2006 aimed at improving the state's disaster preparedness. The requested staff would coordinate information and planning with various nonstate entities such as harbors, railroads, and the disabled community.

Background / Detail. The Legislative Analyst points out that $1.1 million of the total amount for implementing the bills are for external consulting services.

- $600,000 to prepare a *biennial* report for the California Emergency Council required by Chapter 502, Statutes of 2006 (AB 1889). The council is an advisory board, staffed by OES, that advises the Governor on issues related to emergencies and emergency preparedness. The report is to include a review of recent disasters and steps to address any gaps in readiness.

- $250,000 to prepare a report for the Legislature by January 1, 2009, on improving planning and evacuation procedures specific to disabled residents required by Chapter 600, Statutes of 2006 (SB 1451).

- $225,000 to assist in implementing Chapter 859, Statues of 2006 (AB 2274), which requires OES to integrate harbor agencies into the state's overall preparedness structure. The proposed contracts would be used for training exercises.

Consultants Not Necessary*.* According to the LAO, the consulting contracts have not been justified on a workload basis. Regarding Chapter 502, the department reports that the large contract is primarily based on researching and reviewing other reports on emergency preparedness. Yet, in response to a requirement in the *2006 Budget Act*, OES has already entered into a $647,000 contract (using federal funds) with a consulting firm to provide a report on the gaps in the state's preparedness (*see Issue #2 above on the Independent Gap Analysis)*. This report is due by July 15, 2007, and should provide much of the baseline information for the council report.

In the case of Chapter 600, it is not clear why the state emergency services coordinator position requested in the proposal would be unable to prepare the required report in 18 months by the statutory deadline.

Finally, regarding Chapter 859, the proposal provides no detail regarding the training exercises, their cost, or why federal homeland security funds are not available for this purpose.

LAO Recommends Deleting Contract Funds*.* The department has failed to justify why existing and new state staff could not prepare the reports and perform the duties required by recent legislation. Accordingly, we recommend the Legislature delete $1.1 million in contract funds included in its budget requests.

Staff Recommendation: Adopt the LAO recommendation.

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 (CAAM), 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 $23.2 million ($17.5 million General Fund) and 179.9 positions for the Science Center – a total increase of $2.2 million (and a General Fund increase of $2.3 million).

Proposed Vote-Only Issues

1. **Technical Reimbursement Correction (April Finance Letter).** The Administration requests a decrease in reimbursements of $12,000 to eliminate lease-revenue reimbursements from the primary support item because they are reflected in the lease revenue item.

   Staff Recommendation: Approve this request.

   Vote:

Discussion / Vote Issues

2. **California African American Museum Renovation/Expansion (CPBCP #1).** The Administration requests $2.3 million in 2007-08, $2.1 million in 2008-09, and $39.2 million in 2009-10 (all General Fund) to renovate and expand the California African American Museum (CAAM). The total General Fund cost is estimated at $43.6 million, which is 66 percent of the total project cost of $65.4 million – the CAAM Friends Foundation would contribute the remaining $21.8 million (33 percent).

   Detail: The Administration indicates the 24-year-old CAAM requires renovations in HVAC, fire suppression, security, and other safety issues. In addition to maintaining the current facility, the Administration wants to expand the facility from 46,000 square feet to 126,000 square feet. The additional space would provide for the following: allow for more visitors and groups at a single time; specialty space for school groups; larger library space to improve accessibility and allow the collection to expand; a new 300 seat theatre; new revenue-generating space including a café, a retail store, and meeting space; increased space for collection storage and display; and a new entrance to be in accord with the Exposition Park Master Plan.

   Suggested Discussion Issues:
   - What is the ability of the CAAM Friends Foundation to raise $21.8 million to match the State funds, and how much has been raised to date?
   - Should a minimum amount of private funding be achieved prior to starting construction?
   - Can the CAAM Friends Foundation raise more that $21.8 million to offset additional General Fund expense (note, the Science Center Phase II project cost was $140 million with about $32 million (22 percent) funded by the State and $107 million (78 percent) funded by the foundation).
   - Who will cover cost overruns, CAAM or the Foundation?
   - What will be the increased state operations cost and added positions when the expansion project is completed.

   Staff Recommendation: Hold open for further review.

3. **CAAM – Augmentation for Operations.** The Administration requests $399,000 (General Fund) for operating, technology and education collection, program and exhibition costs. CAAM indicates that budget cuts over the past several years have necessitated a reduction in operating hours, the number of exhibits, and community outreach activities. The proposal would allow CAAM to increase operating days from Wednesday through Saturday, to seven days a week.

   Detail: The operations costs that seem directly related to seven-day operation are $100,000 for facility operations and $25,000 for utilities. The remaining $274,000 would support external consultants for exhibition support ($80,000); exhibition installation and supplies ($85,000); and the remainder for data processing, inter-agency services, and communications.

   Staff Recommendation: Approve the request.

   Vote:

4. **Science Center Phase II Facility Staffing and Operations.** The Administration requests $1.9 million (General Fund) and 4.5 positions for 2007-08 to begin ramping up staff and operations for the late 2009 opening of the Phase II facility. The Phase II project is a $140 million expansion to the existing Science Center facility. Phase II staffing and costs would grow each year for three years, reaching a total of 33.25 positions and $7.1 million (General Fund) in 2009-10.

   Detail: The Science Center has both a State budget and a Science Center Foundation budget. Staff and operating expenses are split between the two budgets. For 2007-08, proposed State support for the Science Center itself (excluding CAAM and Exposition Park Management) is $16.3 million and the Foundation support is $11.8 million. The Science Center indicates that the Foundation will share in the operations cost of the new facility, contributing in the range of $6 million annually when Phase II is open. The new State positions requested are primarily associated with development, construction, maintenance, and operations of a changing set of exhibits, and the overall maintenance and operation of the Phase II facility.

   Staff Comment: In past years, the Legislature has considered alternative funding mechanisms to offset General Fund costs. Charging admission was studied and rejected because of concerns that fees would significantly reduce the number of visitors. Shifting more costs to the Foundation has been considered, but the majority of funds raised have been restricted to capitol costs instead of operations, and the Science Center indicates that the Foundation already plans to contribute to Phase II operations (about $6 million annually when fully operational).

   Staff Recommendation: Approve the request.

   Vote:

5. **Budget Bill Language – External Contracts.** The Administration requests new budget bill language that the Science Center indicates would provide them the ability to contract with the Science Center Foundation (Foundation) without going through a competitive bidding process. Similar language was included in the Budget Act in 1997 and 1998. Since the language has been deleted, the Science Center has to open contracts to competitive procurement, but indicates since the Foundation is co-located and non-profit it has an advantage over other bidders. The identified problem is the additional workload associated with competitive bidding and that other vendors are frustrated at not being able to compete with the Foundation.

Background / Detail: The proposed Provision 1 of Item 1100-001-0001 reads as follows:

> *The Legislature recognizes that specialized functions, such as exhibit maintenance, educational and guest services programs, and animal care and horticulture require specialized skills that are generally not available in state civil service. It is the intent of the Legislature to allow the California Science Center to directly acquire these services from its auxiliary partner, the California Science Center Foundation. Any such contract shall be subject to approval by the State and Consumer Services Agency and the Department of General Services and be subject to all state audit requirements.*

Government Code Section 19130, Public Contract Code 10340, and other code sections define the requirements for contracting. One of the requirements is a competitive bidding process.

Staff Comment: The identified problem does not seem to be great. The Science Center has put a personnel service contracts out for competitive bid and achieved their preferred result, which is a winning bid from the Foundation. However, if the Subcommittee finds the Science Center's request compelling, it may wish to revise the language to make the Administration's intent more explicit:

> *The operation of the California Science Center may require individual skills not generally available in state civil service to support specialized functions, such as exhibit maintenance, and educational and guest services programs including animal care and horticulture. Notwithstanding any other provisions of law, the Science Center may enter into a personnel service contract or contracts with the California Science Center Foundation without a competitive bidding process. Any such contract shall be subject to approval by the State and Consumer Services Agency and the Department of General Services and be subject to all state audit requirements.*

Staff Recommendation: Keep open for further discussion on the scope of the personnel services covered by this language and further discussions on the appropriate wording.

1110 / 1111 Department of Consumer Affairs

The Department of Consumer Affair's (DCA) 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 $242.1 million (no General Fund) and 1,350.4 positions – an increase of $15.0 million and 73.7 positions. The Bureaus are budgeted under organizational code 1111, and the total proposed budget is $204.9 million (no General Fund) and 1,407.4 positions – an increase of $16.7 million and 39.1 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.

Discussion / Vote Issues

1. **iLicensing Information Technology Project (April Finance Letter).** The Administration requests a total budget reduction of $1.7 million to be spread across many boards and bureaus to reflect delays in procurement for the iLicensing Information Technology (IT) project. The proposed budget bill includes language requiring $500,000 in efficiency savings in 2009-10, and a related report. The Finance Letter proposes to amend the language to push these savings to 2010-11, and delay the report by one year – again due to delayed procurement.

   Background / Detail. Last year, the Legislature approved total projected funding of $11.2 million over four years for an IT project with a total cost of $14.3 million (including redirected funds of $3.1). The project replaces the existing on-line Professional Licensing system with a new iLicensing system. The existing system serves seven DCA licensing entities, but cannot be expanded to include the remaining 31 programs. The Feasibility Study Report (FSR) lists benefits including processing efficiencies that reduce staff hours by about 26,500 hours, which would translate into a staff reduction of about 15 clerical positions.

   According to project documents from DCA, only one bid was received for the Project Management Consultant, and the bid was deemed insufficient in meeting the requirements. The DCA and the Department of General Services intend to reinitiate the procurement process and hope to have a contract in April 2007. The implementation date for full implementation has been moved from April 2009 to January 2010.

   Staff Recommendation: Approve this April Finance Letter request.

1110 California Board of Accountancy

The California Board of Accountancy (Board) regulates Certified Public Accountants and Public Accountants, as well as accounting partnerships and corporations.

The Governor proposes expenditures of $12.3 million (no General Fund) and 84.5 positions for the Board – an increase of $1.8 million and 16.0 positions.

Proposed Vote-Only / Consent Issues

1. **Establishment of Southern California Office / Enforcement Staffing (BCP #1110-02).** The Board requests an augmentation of $345,000 and 3.0 positions to establish a Los Angeles office, which would house 3.0 Investigative Certified Public Accountant (CPA) positions currently based in Sacramento and 2.0 new Associate Governmental Program Analyst positions and 1.0 new Supervising CPA. All Board positions are currently in Sacramento, and there are currently 7.0 Investigative CPAs to respond to complaints throughout the state. Since about 50 percent of licensees are in Southern California, the Board feels it would be efficient to locate an office in Los Angeles.

2. **Initial Licensing Unit – Staffing (BCP #1110-03).** The Board requests an augmentation of $399,000 and 6.0 positions to address the growing number of CPA license applications the Board receives. The Board indicates that the number of individuals requesting initial licenses has increased 42 percent (to 3,217) since 2000-01; and the number of firms requesting initial licenses has increased 48 percent (to 452) over the same period. Processing time has increased to approximately 84 days – exceeding the 30-day period preferred by the Board. In addition to addressing workload growth and processing times, the Board wants to expand the number of quality control audits and have a secondary review of applications.

3. **Information Services Unit - Staffing (BCP #1110-04).** The Board requests 1.0 positions (to be funded within existing budgeted resources) to address workload related to its website, IT security, and in-house network duties. The Board currently employees four Information Services staff.

4. **Renewal and Continuing Competency Unit – Staffing (BCP #1110-05).** The Board requests an augmentation of $160,000 and 2.0 positions to reinstate review and audit of licensees' mandatory continuing education requirement; and to shorten the review time for course submissions from professional conduct and ethics course providers. The Board indicates it discontinued audits of the continuing education license renewal requirement in 2003 to speed the processing of license renewals. Statute requires accountants to comply with the continuing education requirements adopted by the Board. The requirements are still in place, but the applicants claims of meeting the continuing education requirements are not currently verified by the Board. According to the BCP, it is taking approximately nine months to review and

approve a new professional conduct and ethics course – this creates a hardship for course providers.

5. **Cashiering and Mail Room – Staffing (BCP #1110-07).** The Board requests 2.0 positions (to be funded within existing budgeted resources) to address workload in cashiering and the mailroom. The Board indicates it typically receives 500 to 800 pieces of mail a day and lost its mail clerk position during the hiring freeze in 2003. The Board has a single cashiering position to process 42,000 financial transactions annually. The Board has "borrowed" various staff as needed to assist with mail and cashiering activity, but indicates two new positions are needed to fully address the workload in these areas.

Staff Recommendation: Approve the requests on the vote-only / consent list.

Vote:

Discussion / Vote Issues

6. **Practice Privilege Unit - Staffing (BCP #1110-06).** The Board requests $213,000 and 3.0 positions (three-year limited-term) to address workload related to Practice Privilege. Practice Privilege became operative on January 1, 2006, and allows out-of-state Certified Public Accountants (CPAs) to practice in California, as specified. Two positions were added for Practice Privilege in 2005-06; however, usage of the program in the January – May 2006 period was almost 600 percent about the forecast level.

    Background / Detail: SB 1543 (Chapter 921, Statutes of 2004, Figueroa) allows individuals with accounting licensees in other states to engage in the practice of public accountancy in California under certain conditions. The original assumption was that 1,000 individuals would annually provide notification to the Board. The Board received over 3,000 notifications in the January to May 2006 period alone. The sufficiency of staffing was discussed in the Subcommittee last year. The Board testified on March 22 that they might need another 4.0 positions, but indicated at the May 10 hearing that statutory changes under consideration might reduce workload and they no longer felt the additional positions were necessary. The Subcommittee approved the staffing as budgeted (no additional positions were added).

    AB 1868 (Ch. 458, St. of 2006, Bermudez) became operative on September 25, 2006 and provides a new option of practicing public accountancy in California on a "temporary and incidental" basis without holding an individual license or firm registration with the Board. AB 1868 will reduce workload for the Board.

    Staff Comment: The BCP was based on an assumption of 4,726 annual notifications. The Board indicates that they received 4,300 notifications in calendar 2006. Notifications to date, in 2007, suggest a new annual average of 2,914; however the Board has yet to develop regulations to clarify the meaning of "temporary and incidental" as added by AB 1868. The regulations could result in a further change to the number of notifications.

    Staff Recommendation: Approve the request, but ask the Board to report to the Subcommittee by March 1, 2008, on the actual number of notifications received in 2007, the Board's projection for 2008, and any resulting staffing or budget changes. (If the Board agrees to report, staff recommends no formal reporting language)

    Vote:

7. **Security Guard Services (BCP #1110-01).** The Board requests an augmentation of $149,000 to fund 24-hour security guard services at their facility. The BCP indicates that the Department of Rehabilitation is vacating the building also shared with the Board and the Department of Boating and Waterways. The Board had been paying $35,400 per year for their pro rata share of security, but with this request would take over the $149,000 pro rata cost currently paid by the Department of Rehabilitation.

Background / Detail: The Board contracted with the California Highway Patrol (CHP) to perform a security assessment of the facility. The March 2007 CHP report concurs with the benefit 24-hour-security protection. The BCP request is to take over all of the security cost currently paid by the Department of Rehabilitation, which effectively subsidies security for the Department of Boating and Waterways (who would not increase their payment under this proposal). The Board indicates that the adjusted pro rata share would be $92,000 for the Board and $92,000 for the Department of Boating and Waterways (if each paid their share). Staff understands the Board has continued to talk to the Department of Boating and Waterways and that that department may be willing to pick up their share of the increased costs.

Staff Comment: It seems reasonable that state entities at this facility should pay their pro-rata share of the security cost. If the pro rata shares are updated, the extra Board need would fall by $92,000 (from $149,000 to $57,000). If the Board held the security contract, the Department of Boating and Waterways would reimburse the Board through an interagency agreement for their share of the costs.

Staff Recommendation: Keep issue open and work with the Board to adjust this request so the Board does not fund more than their pro rata share of this cost.

1110 Board of Barbering and Cosmetology

The Board of Barbering and Cosmetology (Board) licenses barbers, cosmetologists, electrologists, estheticians, and manicurists after determining, through an examination, that applicants possess the minimum skills and qualifications necessary to provide safe and effective services to the public. Additionally, the Board conducts both routine and directed health and safety inspections of related facilities and businesses.

The Governor proposes expenditures of $17.6 million (no General Fund) and 86.4 positions for the Board – an increase of $1.2 million and 0.5 position.

Discussion / Vote Issues

1. **Exams in prison (Staff Issue).** The Board recently re-established the practice of providing exams in prisons. On December 13, 2006, the Board conducted examinations for cosmetology at Valley State Prison and Chowchilla Correctional Facility. Nine examinations were given and four candidates successfully passed the exam. The Board indicates it will be working with the Department of Corrections and Rehabilitation to schedule additional exams in the future.

   Staff Comment. Since the Department of Corrections and Rehabilitation (CDCR) is also in Subcommittee #4, the Subcommittee may want to ask the Board what challenges they experienced in re-establishing exams in prisons and what their intent is for the future of this program.

   The Subcommittee may want to ask the Department of Consumer Affairs if any other Boards are considering similar programs. From discussions with the Department, Staff understands it *may* be feasible to conduct certain Bureau of Automotive Repair (BAR) exams in correctional facilities. However, there are no plans to implement BAR exams in correctional facilities at this time.

   Staff Recommendation: Informational issue, no action necessary.

1110 Contractors’ State License Board

The Contractors’ State License Board (Board) licenses contractors and enforces licensing laws; provides resolution to disputes that arise from construction activities; and educates consumers so that they make informed choices. The Board licenses or certifies contractors in 44 classifications (e.g. plumbing, electrical, general building, etc.) and registers home improvement salespersons.

The Governor proposes expenditures of $56.8 million (no General Fund) and 406.6 positions for the Board – an increase of $2.6 million and 19.8 positions.

Proposed Vote-only / Consent Issues

1. **Criminal Background Unit - Staffing (BCP #1110-14).** The Administration requests $173,000 and 3.0 Program Technician II positions to address unanticipated workload in the Criminal Background Unit.

   Background / Detail: SB 1953 (Ch 744, St. of 2002, Figueroa) added the Board to the list of programs whose applicants are required to submit fingerprints for purposes of conducting criminal history record checks. Grounds for denial of a license include any crime or act substantially related to the qualifications, functions, or duties of a contractor. Three positions were provided to the Board in the 2004-05 budget to implement the background checks. The Board indicates that workload was underestimated and that 7.0 additional positions have been redirected to the Unit. Even with the current staffing of 11.0 positions, the BCP indicates it can take up to 4.5 months before applications are pulled for processing. The accountability measure for the Board (if this request is approved) would be pulling all applications for processing within 30 days of receipt.

2. **Examination Centers - Staffing (BCP #1110-15).** The Administration requests $190,000 and 5.0 Office Technician Typing positions to increase staffing at the four exam centers that currently only have one full-time position. The additional staff would allow these four exam centers to operate five days a week and reduce the wait times for qualified applicants to no longer than 3 weeks.

   Background / Detail: The Board scheduled a total of 41,363 licensing examinations in 1999-00, and that number has increased to 93,286 in 2005-06. The BCP indicates the four test centers currently have exam wait times of 6 to 15 weeks. The Board believes the maximum acceptable wait time is 3 weeks. The accountability measure for the Board (if this request is approved) would be scheduling exams for all qualified applicants within 3 weeks.

Staff Recommendation: Approve the requests on the vote-only / consent list.

Vote:

Discussion / Vote Issues

3. **Licensing Division - Staffing (BCP #1110-16).** The Administration requests $736,000 and 13.0 Program Technician II positions to address the increased workload that has resulted from a large increase in the number of applications and license renewals.

   Background / Detail: The Board received 41,363 original license applications in 2005-06 – up from 26,987 in 2002-03. Over the same four-year time period, staffing in the Licensing Division fell from 115 positions to 99 positions. However, even with the increase in applications and decrease in positions, the Board has been able to use overtime and temporary help to examination processing times (measured as time to "pull applications") from 19 weeks in 2002-03 to 2.9 weeks in 2005-06.

   The Board indicates it has redirected savings from other areas to overtime and temporary help in the Licensing Division. While this has allowed the Board to address workload growth and reduce processing time, it has reduced resources for other activities that the Board says will suffer if this BCP is not approved. Specifically, the Board indicates it has savings in the Enforcement Division (such as Attorney General, Office of Administrative Hearings, and Evidence/Witness) which were redirected to Licensing. The Board implemented mandatory settlement conferences for many enforcement cases which saved the Contractor State License Board Attorney General expenditures. However, the Board indicates efficiencies savings in the enforcement area are now needed to cover a higher volume of enforcement cases.

   Staff Comment: The Subcommittee may want to hear from the Board on how they generated efficiency savings in the Enforcement Division (via mandatory settlement conferences) and how this affects consumers seeking restitution from a contractor.

   Staff Recommendation: Approve this request.

1110 Dental Board of California

The Dental Board of California (Board) establishes minimal standards of competency for those individuals seeking to practice as a dentist, registered dental hygienist, and registered dental assistant. Within the Board, the Committee on Dental Auxiliaries manages the licensing and examination processes for dental auxiliary professions.

The Governor proposes expenditures of $12.8 million (no General Fund) and 63.5 positions for the Board – an increase of $1.4 million and 7.1 positions.

Proposed Vote-Only Issues

1. **SB 438 - Staffing (BCP #1110-04L).** The Administration requests $69,000 ($43,000 of that amount ongoing) and a 0.5 Staff Services Analyst position to address increased licensing workload created by the enactment of SB 438 (Ch. 909, St. of 2006, Migden), which broadened the scope of practice for oral and maxillofacial surgery permit holders. The 0.5 position would process the programs permit applications and monitor the program. The requested funding is consistent with the estimates included in bill analyses of SB 438.

2. **SB 1541 - Staffing (BCP #1110-06L).** The Administration requests $303,000 ($251,000 of that amount ongoing) and 2.0 Office Technician positions to address exam development and increased processing workload created by the enactment of SB 1541 (Ch. 908, St. of 2006, Ducheny), which creates a work experience pathway for licensure as a specialty registered dental assistant. The requested first-year funding is consistent with the estimates included in bill analyses of SB 1541; however, the ongoing costs exceed estimates by about $50,000.

3. **SB 683 - Staffing (BCP #1110-05L).** The Administration requests $63,000 ($56,000 of that amount ongoing) and 1.0 Office Technician position to address workload associated with the enactment of SB 683 (Ch. 805, St. of 2006, Aanestad), which creates an alternative pathway for licensure for an applicant who passed specified national examinations in dentistry, the California Law and Ethics exam, and has completed a clinically-based advanced education program in general dentistry. Fiscal estimates included in the legislative bill analyses of SB 1541 indicated minor costs associated with the promulgation of regulations, but did not assume any ongoing costs. However, the Board indicates late amendments to the bill increased workload to require a new Office Technician position.

4. **Dental Examiner – Compensation Rate (BCP #1110-17).** The Administration requests $171,000 ($156,000 of that amount ongoing) to increase the daily compensation from $125 to $250 for Dental Examiners (external consultants). The Board uses licensed dentists as expert examiners to evaluate the work of candidates applying for licensure. The Board indicates that licensing entities in other states pay examiners in the $200 to $300 range. While the Board has not faced difficulty to date recruiting expert examiners, they believe they will face recruitment difficulties in

the future without the compensation increase. The cost falls in 2008-09 because the "restorative technique" examination is eliminated in that year.

Staff Recommendation: Approve the vote-only proposals.

Vote:

Discussion / Vote Issues

5. **Enforcement Program – Investigator Staffing (BCP #1110-18).** The Administration requests $440,000 and 4.0 Investigator positions to address Enforcement Investigation caseload and have sufficient sworn personnel for Probation Monitors.

   Background / Detail: Currently, the Board has 9.0 Investigator positions that perform approximately 450 investigations per year. The Board also has 4.0 Inspector positions that manage a 285-probationer caseload and perform inspection of dental offices. The BCP indicates a concern that Inspectors are working out-of-class in managing the probationer caseload. The Board wants to shift this workload to Investigators.

   The Board indicates that when open cases from prior years are included, the average caseload per investigator is 142. If this request were approved, the average caseload would fall to around 95. The Board indicates that a caseload of 20-25 would be manageable, and moreover, the Medical Board has a caseload of between 20 and 40 cases per investigator. The Board has had as many as 17 Investigator positions in the past (1998), and has had staffing in the current range of 9 Investigators since.

   Staff Comment: Some of the information provided by the Board suggests that the requested positions are not sufficient to adequately staff the Board. For example, if the Medical Board comparison is valid, the staffing should be increased by another 12 or more Investigators.

   The Subcommittee may want to ask the Board what performance benchmarks they are trying to achieve and if the staffing in the BCP will be sufficient to achieve the desired performance goals.

   Staff Recommendation: Keep issue open and direct staff to work with the Board to quantify the out-year performance measures so the Subcommittee can continue to monitor staffing needs and performance.

1110 Medical Board

The Medical Board (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 $51.9 million (special fund) and 259.4 positions for the Board – an increase of $1.2 million and 1.6 positions.

Discussion / Vote Issues

1. **Implementation of Senate Bill 231 (Staff Issue).** Senate Bill 231 (Chapter 674, Statutes of 2005, Figueroa) implemented most of the key recommendations made by the Board's Enforcement Monitor and included a fee increase to close the Board's deficit. Last year, the Legislature approved a budget augmentation for SB 231 reforms. However, due to uncertainty over the sufficiency of revenues, not all of the Monitor's recommendations were funded. This year's revenue outlook may allow for the restoration of additional Investigator positions, and/or other unimplemented Monitor recommendations.

   Background/Detail: The Board's sunset review in 2002 revealed numerous and significant problems with enforcement and public disclosure practices. The Legislature responded by enacting SB 1950 (Chapter 1085, Statutes of 2002, Figueroa), which required the Board to hire an independent Enforcement Monitor to evaluate the practices of the Board and issue recommendations. SB 231 enacted many of the statutory changes necessary to implement the recommendations of the Enforcement Monitor. SB 231 specifies, among other provisions, that physicians inform the Board of court judgments and convictions; that the Board post disciplinary actions against physicians on the Internet; and that the Board is authorized to fine physicians for failure to provide requested documents. Last year, the Board submitted a budget change proposal to increase funding by $3.9 million in 2006-07, and add 0.5 permanent and 10.0 two-year limited-term positions to begin implementing the staffing and other budget-related recommendations of the Monitor's report. The Legislature augmented funding by another $225,000 and made the 10 new limited-term positions permanent.

   The independent Enforcement Monitor made several recommendations which were not included in the 2006 Budget Act and are not being requested by the Administration this year. The Monitor recommended the reestablishment of 29 abolished enforcement positions lost to the hiring-freeze earlier in the decade (only 10 positions were restored last year). Additionally, the Monitor recommended upgrading Medical Board Investigator salaries to be commensurate with Investigators at other State entities.

   The Governor's Budget forecasts a 2007-08 reserve of $8.8 million – down from the forecast 2006-07 reserve of $10.9 million. However, the Board raised licensing fees from $790 to $805 effective January 1, 2007, and the resulting annual revenue increase of approximately $800,000 is not included in the Governor's Budget.

Staff Comment: The Subcommittee may want to hear from the Board on the issue of appropriate staffing, and the issue of pay differentials for Investigator positions and related supervisors and managers. The annual cost to match the Department of Justice salaries would be approximately $1.24 million for 95 peace officer classifications and $100,000 for 14 non-peace-officer support positions.

Staff Recommendation: Keep issue open to discuss further at the April 25 hearing when the Department of Personnel Administration is heard. During budget hearings last year, the Administration indicated recruitment and retention issues of this type should go through the collective bargaining process, and not be approved in budget action prior to the collective bargaining process. However, a similar Board of Pharmacy recruitment and retention issue is on the following page and is being requested in advance of the collective bargaining process. The Subcommittee may want to discuss process issues with the Administration prior to acting in an ad hoc manner on this issue or the issue for the Board of Pharmacy.

2. **AB 2342 Study (BCP #1110-01L)**. The Board requests $100,000 (one-time special funds) to implement AB 2342 (Ch. 276, St. of 2006, Nakanishi), which requires the Board, in conjunction with the Health Professions Education Foundation, to study the issue of its providing medical malpractice insurance for physicians and surgeons who provide voluntary unpaid services to indigent patients in medically underserved areas of the state. AB 2342 makes implementation of the study requirement contingent on an appropriation of funds for that purpose and requires a report to be submitted to the Legislature by January 1, 2008.

Background/Detail: The BCP indicates the existing law waives the renewal or initial licensing fee ($805) for physicians who certify to the Board that issuance of the license or the licensure renewal is for the sole purpose of providing voluntary, unpaid service to indigent patients in medically underserved or critical-need population areas of the state. The cost of malpractice coverage is a deterrent to some doctors who would otherwise be willing to provide voluntary unpaid medical service. AB 2342 makes implementation of the study requirement contingent on an appropriation of funds for that purpose, and requires that the report be submitted to the Legislature by January 1, 2008. The requested funding of $100,000 would fund Health Professions Education Foundation (Foundation) via an interagency agreement to perform the study. The Foundation is a State entity within the Office of Statewide Health Planning and Development (OSHPD).

Staff Recommendation: Approve this request.

Vote:

1110 Board of Pharmacy

The Board of Pharmacy (Board) licenses and regulates individuals and firms that ship, store, transfer, and dispense prescription drugs and devices to patients and health care providers.

The Governor proposes expenditure of $9.6 million (special fund) and 50.5 positions for the Board – an increase of $865,000 and 2.8 positions.

Proposed Vote-Only Issues

1. **Administrative Functions – Staffing (BCP #1110-28).** The Administration requests 1.0 Staff Services Analyst position and 2.0 clerical positions to be funded within existing resources. The Board indicates these same positions were lost during the hiring freeze, earlier in the decade. The positions would address deficiencies such as dropped phone calls, delays in assisting licensees with deficient applications, and delays in assisting the Attorney General with pending cases. The cost of the positions would be paid by redirected operating expense funding.

   Staff Recommendation: Approve this request.

   Vote:

Discussion / Vote Issues

2. **Inspector Pay Differential (BCP #1110-33).** The Administration requests $576,000 to fund a $2,000/month pay differential for the Board's 24.0 Inspector positions. The Board indicates incumbents are licensed pharmacists and the Department of Health Services has a similar classification, which pays a $2,000/month differential. The Board indicates the disparity with the Department of Health Services and the private sector has caused a recruitment and retention problem. Currently, 5 of 24 authorized positions are vacant.

   Background / Detail: The BCP indicates that the maximum salary for a Board pharmacist in the Inspector position is about $76,000, versus $104,000 at the Department of Health Services (including their differential) and the mean annual salary for public and private pharmacists in California is $100,000 (Bureau of Labor Statistics May 2005 data).

   Staff Comment: According to the Board, the Inspector positions are represented by Bargaining Unit 19, which recently negotiated a two-year contract with an effective date of July 1, 2006. Since these differentials and other employee compensation enhancements are generally negotiated in the collective bargaining process, it is unclear why this differential was not included in last year's contract or why it is not held for inclusion in the next contract (which would begin July 1, 2008).

   Staff Recommendation: Keep issue open to discuss further at the April 25 hearing when the Department of Personnel Administration is heard (consistent with the recommendation concerning the similar issue for the Medical Board). During budget hearings last year, the Administration indicated recruitment and retention issues of this type should go through the collective bargaining process, and not be approved in budget action prior to completion of the collective bargaining process (with the exemption of court-ordered salary increases and related adjustments). The Subcommittee may want to discuss process issues with the Administration prior to acting in an ad hoc manner on this issue or the issue for the Medical Board.

1111 Bureau of Private Postsecondary and Vocational Education

The Bureau of Private Postsecondary and Vocational Education (Bureau) is responsible for overseeing and approving private postsecondary vocational and degree-granting institutions to ensure they meet specified minimum statutory standards of quality education, fiscal requirements, and student protection. Under current law, the Bureau sunsets on July 1, 2007.

The Governor proposes expenditures of $11.4 million (no General Fund) and 74.7 positions for the Bureau – an increase of $3.0 million and 20.3 positions from adjusted 2006-07 expenditures.

Discussion / Vote Issues:

1. **Sunset of Bureau / Legislation to Recreate the Bureau (BCP #1111-20):** The Administration requests an augmentation of $3.4 million and 20.3 positions to address additional workload at the Bureau. The request is contingent on policy legislation being enacted in 2007 to recreate the Bureau in statute after its July 1, 2007, sunset.

   Background / Detail: Efforts to reform the Bureau and/or extend the sunset for the Bureau were unsuccessful in 2006. The Governor vetoed AB 2810, which would have extended the sunset to July 1, 2008, indicating that that measure did not include any reforms. The veto message indicated that the Governor would support reform legislation in 2007. Because the Bureau sunsets on July 1, 2007, and the Constitution prohibits the creation of a new office with urgency legislation (Article 4, Section 8), the Bureau cannot be extended, or recreated, until January 1, 2008.

   Staff understands that two policy bills, SB 823 (Perata) and AB 1525 (Cook) would respectively recreate the Bureau on January 1, 2008, and provide for some student protections in the interim period of July 1, 2007, through December 31, 2007.

   Staff Comment: The proposed Bureau budget is a placeholder. The Administration indicates it will update the proposed budget through a spring Finance Letter as policy bills are amended and move through the legislative process.

   The Subcommittee may want to ask the Administration how the July 1, 2007, sunset and a possible January 1, 2008, recreation will affect the Bureau's staff and budget for 2007-08.

   Staff Recommendation: Keep this issue open pending the progress of related policy legislation and expected budget revisions from the Administration.

1111 Bureau of Automotive Repair

The Bureau of Automotive Repair (Bureau) 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 $167.0 million (no General Fund) and 598.5 positions for the Bureau – an increase of $14.6 million and 12.4 positions.

Proposed Vote-Only Issues

1. **Interagency Agreement with the DMV (BCP #1111-10).** The Bureau requests a budget reduction of $383,000 to reflect a recalculation in the interagency payment to the Department of Motor Vehicles (DMV). The DMV performs services related to the Smog Check Program, such as receiving smog check certifications, responding to telephone and mail inquires, and collecting Smog Abatement Fees. The recalculated cost of these services is $5.0 million – down from $5.4 million.

2. **Smog Check Program – Contract Management Positions (BCP #1111-08).** The Bureau requests the addition of 3.0 Associate Info System Analyst positions and 1.0 Information Systems Technician Specialist position to provide contract oversight of the vendor that runs the Next Generation Electronic Transmission (NGET) system. These positions would be funded within existing resources. The NGET system is the central database and communications network for the Smog Check system. This system became operational in 2006 and replaced a 1996 system run by another vendor. Both the new and old system provide for transmitting and processing Smog Check inspection data on a real-time basis and allowing the paperless transfer of Smog Check certificates of compliance. The request is based on a recommendation from the NGET Independent Project Oversight Consultant to improve Bureau staffing and business practices to mitigate risk in the operation and maintenance phase of the project.

Staff Recommendation: Approve these requests.

Vote:

Discussion / Vote Issues

3. **Implementation of AB 1870 (BCP #1).** The Bureau requests an augmentation of $12.3 million (Vehicle Inspection and Repair Fund) and 9.1 positions in 2007-08 to implement AB 1870 (Ch. 761, Statutes of 2006, Lieber), which requires the Bureau to incorporate a visible smoke test into the Smog Check Program and authorizes the Bureau to pay consumers $1,500 or more (if the Department determines a higher-amount is cost effective) to retire a vehicle that fails its biennial Smog Check inspection. The cost of AB 1870 implementation in 2008-09 and ongoing would be $22.9 million and 13.0 positions.

   Background / Detail: AB 1870 requires the Bureau to implement a visual smoke inspection procedure as a component of the Smog Check inspection. The new test, which starts January 1, 2008, will rely on the technician's observations instead of new equipment. A visual test is needed because the equipment does not test for particulate matter or tail pipe smoke and therefore a vehicle burning excessive amounts of motor oil and causing harmful emissions can pass the test. Existing law provides for "referee" inspections when drivers dispute the results of a smog test, and 36 referee locations currently exist. The Bureau estimates that 800 car owners will annually dispute negative results from the AB 1870 visual test.

   The Bureau indicates it will use the AB 1870 authority to increase the payment for retirement of high-polluting vehicles from the current $1,000 to $1,500. The Administration estimates the higher payment will result in an additional 7,854 vehicle retirements annually at an additional cost of $21.7 million (which comprises the majority of the $22.9 million in ongoing costs).

   Staff Comment: The Vehicle Inspection and Repair Fund has a current year fund balance of over $50 million and an outstanding loan to the General Fund of over $100 million. Funds appear sufficient to fund higher vehicle retirement payments, without increasing fees.

   Staff Recommendation: Approve this request.

   Vote:

1700 Department of Fair Employment and Housing

The mission of the Department of Fair Employment and Housing (Department) 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 $24.3 million ($18.6 million General Fund) and 228.2 positions for the Department – an increase of $2.6 million and 16.2 positions.

Proposed Consent / Vote-Only Issues:

1. **Housing Discrimination Workload - Staffing (BCP #1).** The Department requests $873,000 (General Fund) and 7.0 positions to improve housing case processing. The Department is increasingly unable to meet the 100-day closure requirement for housing complaints.

   Background / Detail: Both State and federal fair housing law require that housing investigations be completed within 100 days of the filing of a complaint, unless it is deemed impracticable to do so. The Department reports that in 2005-06, it was unable to meet the U.S. Department of Housing and Urban Development (HUD) requirement to close 50 percent of its cases in 100 days and this resulted in the loss of over $200,000 in federal funds. The Department indicates the loss of federal funds will continue and grow if staff is not augmented. The number of housing complaints filed grew from 801 in 2001-02 to 1,205 in 2005-06.

   Staff Recommendation: Approve this request.

   Vote:

Discussion / Vote Issues:

2. **Decentralization of Los Angeles District Offices (BCP #3).** The Department requests one-time funding of $400,000 (General Fund) to vacate a downtown Los Angeles (LA) office and move staff to three new decentralized offices in the LA District.

   Background / Detail: The BCP indicates that the Department had 13 locations prior to 2002-03, but reduced the number to 10 to reduce costs. The Department has observed a decrease in the volume of complaint fillings in areas where offices were closed. The hope is that additional offices can improve accessibility for those suffering employment or housing discrimination and the move can be accomplished *without increasing aggregate ongoing facility costs.*

   Staff Comment: The Department indicates there are some uncertainties related to new rent levels; however, their current lease is expiring and rent will likely increase if they retain their centralized structure. The Department indicates that this proposal would not result in the need for additional positions. The Subcommittee may want to ask the Department if they plan to absorb any cost increases, such as unanticipated rent costs, or whether they will likely return with a related request in next year's budget.

   Staff Recommendation: Approve this request.

   Vote:

3. **Restoration of the Mediation Program (Staff issue).** Last year the Legislature augmented funding by $250,000 and redirected $250,000 to re-establish a mediation program at the Department (action in Budget Conference Committee). The Department had conducted an employment mediation pilot program in 2001-02 and an independent cost-benefit analysis found mediation saved money. However, the Department felt there were offsetting costs and that, overall, mediation produced no net benefit. The Governor vetoed the augmentation, indicating doubt about whether the mediation program could be implemented at a cost lower than $1.0 million (which was the cost of the pilot).

   Background / Detail: In addition to the employment mediation program, the federal government funded a housing mediation program in 2002-03 and 2003-04. The Department recently established a voluntary mediation program in the employment area. However, given the governor's veto message suggesting a minimum $1.0 million cost for an effective program, it is unclear how effective this new program will be.

   Staff Comment: The Subcommittee may want to ask the Department to briefly summarize their former employment and housing mediation programs and explain their new voluntary employment program works.

   Staff Recommendation: Hold this issue open for further review.

4. **Legal and Administration Workload - Staffing (BCP #2).** The Department requests $1.5 million (General Fund) to add 6.0 attorney positions and 4.0 administrative positions. This request would allow the Department to address workload that did not diminish when positions were cut earlier in the decade to reduce General Fund costs.

Background / Detail: Overall Department staffing is still significantly lower than the 284.7 positions authorized for 2002-03. The Department had 19 Counsel positions in 2002-03 and currently has 10. The legal workload, measured in accusations issued and civil complaints filed, has increased over the most recent four year period. The Department indicates it is lacking budget staff to perform monthly expenditure analyses; it is lacking sufficient accounting positions to perform required reconciliations and analyses; and it is experiencing a procurement backlog. The Department indicates it can address these deficiencies and others with the addition of 4.0 administrative positions.

Staff Comment. While attorney positions have been lost as the number of complaints filed has increased, the Department was not able to identify any unmet workload. However, the Department indicated the existing attorneys were working longer hours. The Subcommittee may want to hear from the Department on how it assesses the staffing need for attorneys.

Staff Recommendation: Keep this issue open for further review. If there turns out to be savings opportunities from this issue, the Subcommittee may want to consider shifting this saving to reestablish a mediation program (re: issue #3 on the prior page).

Vote:

8500 Board of Chiropractic Examiners

The Board of Chiropractic Examiners (Board) 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 $3.1 million (no General Fund) and 14.9 positions for the Board – an increase of $66,000 and no change in positions.

Issues for Discussion:

1. **Problems at the Board (Staff issue**). On March 28, 2007, the Senate and Assembly Business and Professions Committees held a joint hearing concerning alleged improprieties at the Board. The alleged improprieties include violations of open-meeting laws and personnel procedures. A new Interim Executive Director, Mr. Brian Stiger, has been appointed to help address the problems at the Board. Staff understands the scope of the new Executive Director's assignment includes a review of staffing and expenditures.

   Staff Comment: The Subcommittee may want to hear from Mr. Stiger, or another appropriate representative, on what activities are underway to correct problems at the Board and whether any related budget proposals will be forthcoming for 2007-08.

   Staff Recommendation: Hold the Board's budget open because further review of the Board by the Administration and the Legislature could result in budget changes for 2007-08.

2. **iLicensing Information Technology Project (April Finance Letter).** The Administration requests a budget increase of $14,000 (special fund) for the Board of Chiropractic Examiners to participate in the Department of Consumer Affairs (DCA) iLicensing Information Technology Project. A related iLicensing issue is in the DCA section of this agenda. This proposal would add the Board of Chiropractic Examiners to the DCA boards and bureaus who will fund the development of the system and then benefit from the completed on-line licensing system.

   Background / Detail. Last year, the Legislature approved total projected funding of $11.2 million over four years for an IT project with a total cost of $14.3 million (including redirected funds of $3.1). The project replaces the existing on-line Professional Licensing system with a new iLicensing system. The existing system serves seven DCA licensing entities, but cannot be expanded to include the remaining 31 programs.

   Staff Recommendation: Approve the April Finance Letter request.

8860 Department of Finance

The Department of Finance is responsible for advising the Governor on fiscal matters, preparing the annual executive budget, evaluating the operation of state government, and developing economic and demographic information. In addition, the department oversees the operation of the state's accounting and fiscal reporting system. The Office of State Audits and Evaluations assesses the operation of the state's programs. Finally, the Office of Technology, Review, Oversight, and Security serves as the administration's information technology project review unit.

The Governor's budget proposes expenditures of $84.4 million ($68.8 million General Fund and $15.6 million in reimbursements) to support the activities of DOF in 2007-08. This is an increase of $33 million, or 64 percent, above estimated current-year expenditures. This increase is due primarily to the continued development of a new computer system (detailed further below).

1. Proposed for Vote Only

- **Correction and Rehabilitation Litigation Coordination and Oversight (BCP# 8860 – 06).** The DOF requests $132,000 General Fund and one position to provide oversight to the Department of Corrections and Rehabilitation and coordination within the Administration on Corrections litigation issues. In addition, this position will serve as the liaison to the Legislature to allow for a single point of contact on all corrections litigation issues.

- **Transform Fiscal Systems and Consulting Unit (FSCU) (BCP# 8860 – 02).** The DOF requests $696,000 (non-General Fund) and five additional positions for the FSCU. In addition, the funding for FSCU will be realigned to reflect the statewide service it provides. The proposal results in a General Fund savings of $249,000.

- **Change three limited-term positions to permanent positions and reclassify one position (BCP# 8860 – 04).** The DOF requests $350,000 reimbursement authority and the conversion of 3 limited-term positions to permanent in order to carry on the activities attendant to the issuance of bonds, facilitate refunding, monitoring, and departmental training activities; and provide centralized information for debt management. In addition, given the complexity and volume of bonds being issued and the increased use of lease revenue bonds, DOF requests the reclassification of one Finance Budget Analyst position to a Staff Counsel III (specialist) to provide support on the plethora of legal concerns surrounding bond issuances.

- **Budget Bill Language to provide additional printed copies of the budget to the Legislature.** The Legislature is requesting a total of ten additional copies of the printed State Budget – five each to the Rules Committees of each house. <u>Provision 4 of the Item 8860 contains the key language which shall be amended to include, "….five copies to the Senate Rules Committee and five copies to the Assembly Rules Committee, and (2)…."</u>

DISCUSSION / VOTE ISSUES

1. **Financial Information System for California (FI$Cal)**. The budget includes $35.7 million General Fund and 238 permanent positions to support a revised special project report for a comprehensive statewide financial system named the Financial Information System for California (FI$Cal). Ultimately, the projected total cost of this project is $1.3 billion (of which $788 million is General Fund).

   Background. In the fall of 2005, DOF embarked on the planning phase of an information technology (IT) project to replace its internal budget system. The Budget Information System (BIS) project, as it was named, was planned to replace DOF's budget development system. The total budget for BIS was projected at $138 million ($68 million General Fund). The existing budget system involves the collection of data in multiple systems. The objective of BIS was to implement a single, statewide budget data repository that would meet DOF's budget development needs and the needs of individual state departments. Under the plan, departments would enter their budget requests into BIS and submit them to DOF online. This information would form the basis of the Governor's budget proposal and would allow changes to be tracked throughout the legislative budget process.

   DOF, based on feedback from state departments, now proposes to dramatically expand the BIS project. The new proposal is to implement a single, statewide financial system which would encompass budgeting, purchasing, cash management, and accounting. The expanded BIS project has been renamed FI$Cal. The BIS project proposed a seven-year effort to purchase and implement a statewide budget system by 2012. Departments would have been responsible for interfacing their existing financial systems to the new budget system. In contrast, the FI$Cal project plan proposes full implementation by 2015 for over 100 state entities.

   The DOF proposes to procure and implement enterprise resource planning (ERP) software. The ERP is an industry term for software that integrates processes to help business better manage its activities. The project would supply each participating department with a new integrated financial system. The Fi$Cal project cost is estimated to be $1.3 billion over the next decade with as many as 691 staff positions involved in project development. The ongoing costs, once the project is fully implemented, are expected to total $88 million annually. After full implementation, the primary ongoing costs are computer processing at the Department of Technology Services ($45 million), state staff ($16 million), and software licenses ($10 million).

   Benefits and Risks. The key benefits of an ERP come from the standardization of the business processes and the automation of transactions. The software assumes a set of common business processes and provides the framework to automate paperwork. An important assumption underlying the project is that state departments will modify their operations to fit within the ERP framework.

The LAO indicates that a major benefit of an ERP, the standardization of business processes, also creates the greatest challenge and biggest risk – that being implementation of software without customization. LAO analysis indicates that ERP systems have been implemented in some state departments; however, none have experienced the true benefit of standardized processes, because customization has occurred for various reasons. The longevity of the system's usefulness is proportional to the extent that the software is implemented without customization.

Staff Comments: Two years ago the Legislature recognized the difficulty of maintaining the current aging legacy budget systems; and the Budget Information System (BIS) was the solution at that time. However, the departure from BIS to FI$Cal and its requisite funding commitment -- in excess of $1.1 billion is alarming. By way of example, the 2008-09 (one-year) General Fund cost of FI$Cal is approximately $221 million, which is $153 million over the estimated total GF cost for BIS. In addition, on February 22, the full Budget Committee held a hearing on IT Management Processes, and at that hearing it was revealed that the state does not have a great track record on implementation of major IT projects. This project would be the most significant project to date.

In addition, the FI$Cal project may have the unintended effect of creating an IT "brain drain" since the best personnel from every affected department and agency (since salaries are scheduled at the top step for every classification) would potentially be re-directed to this project.

As with all budgets, priorities must be made. With the state's fragile fiscal condition at this point, committing huge amounts of General Fund dollars annually over the next several years will potentially put other Legislative priorities at risk.

Staff Recommendation:
Deny the proposed FI$Cal project.

2. **Office of Technology Review, Oversight and Security (OTROS).**
The budget proposes to transfer $3.3 million General Fund and 29 positions from OTROS to a newly created Office of the Chief Information Officer (OCIO). As envisioned by the Administration, the OCIO would incorporate the project oversight and review function of the Department of Finance's Office of Technology Review, Oversight, and Security (OTROS). (Information security components of OTROS would shift to the State and Consumer Services Agency.) Twenty-six positions in OTROS would shift to the OCIO to continue the project oversight and review activities.

The Administration has submitted trailer bill legislation eliminating the SB 834 provisions and replacing them with broader authority and responsibilities and consolidating OTROS into the OCIO.

According to DOF, transferring the OTROS function to the OCIO will allow the State CIO to shape project planning documents and to exercise statewide direction, strategic planning and management, as well as control functions such as approval/disapproval of proposed projects, or providing conditional project approval.

Background. Senate Bill 834 (Chapter 533, Statutes of 2006) established the Office of the State Chief Information Officer (OCIO) to provide state IT with leadership, legal and legislative support, strategic planning, governance, policies, standards, expertise, and portfolio management. However, SB 834 did not specify how the OCIO will be staffed, budgeted, etc.

Currently, OTROS reviews IT projects for risk and benefits. The OTROS analysts coordinate their reviews with the associated DOF budget analyst so that IT projects are approved for funding within the context of the overall state budget. According to the LAO, in poor economic times, DOF has denied funding for new IT projects and delayed projects that were in progress in order to manage costs. For projects that are approved for implementation, OTROS has developed a three-tier oversight process. Projects are categorized by key factors – such as cost and the experience of the project manager – to determine if they are low, medium, or high risk. Low- and medium-risk projects are principally overseen at the departmental and agency levels. Focusing on high-risk projects, OTROS performs independent oversight to see that projects stay within scope, schedule, and cost.

LAO Alternative. On March 8, this subcommittee heard the LAO analysis and recommendations on the OCIO and the shift of both OTROS functions to this office. At that hearing, <u>the LAO recommended an alternative structure that would maintain OTROS at the Department of Finance and shift security policy responsibility to the OCIO</u>, while emphasizing the OCIO role as the state's IT program expert and should be responsible for planning, policy, and standards development.

Staff Comments.
- The Department of Finance should report at the hearing on how it will maintain its role in approving budget proposals concerning IT projects without the expertise currently provide by OTROS.
- Does DOF envision a change in their final fiscal control over IT projects?

Staff Recommendation. Adopt the LAO recommendations in this area and maintain OTROS at DOF and shift security policy responsibility to the OCIO. Request that the LAO assist in drafting any necessary language to insure this action is achieved.

3. **Department of Finance Staff Compensation**. The DOF requests $1.5 million ($1.2 million General Fund, $121,000 Special Funds, and $165,000 reimbursements) to fund a 15 percent increase in compensation for staff in Budgets and a 10 percent increase in compensation for staff in the Office of State Audits and

Evaluations and the Fiscal Systems Consulting Unit. The salary increases and the amount subject to retirement would be phased-in over three years.

DOF indicates it has experienced significant problems in retaining key personnel in the areas of budget, audits, and accounting. According to DOF, due to the complexity of the budget process and the number of departments/agencies, a Budget Analyst does not reach the “journey” level of competence until they have completed three budget cycles. The average number of years of experience for Budget Analysts has declined from 3.4 years to 2.7 years in the last four years. This requires DOF to be in a perpetual recruiting mode searching for graduate students, interdepartmental transfers, and hires from the Staff Services Analyst lists to replace departing staff. Generally, individuals who leave DOF do so for various reasons, the most common being fewer work hours (and ability to celebrate the holidays) and higher pay. Similar stories regarding problems in recruitment and staff retention in the areas of accounting and auditing also exist.

What about a Comprehensive Approach to Recruitment and Retention? The overall issue of recruiting and retaining staff in all levels of state government has been the topic of discussion in recent years. DOF indicates that the Department of Personal Administration is in the process of developing a strategic plan for comprehensive reform of state civil service. The plan will address areas such as DOF where there is a higher expectation for staff than in other departments. However, implementation of any plan will likely take many years and DOF indicates they cannot afford to continue to lose staff at the rates that have occurred in the past few years.

Staff Comments. Basically, will additional compensation solve all that ills DOF? Under the current salary structure, a Budget Analyst at DOF earns a minimum of five percent more than a Budget Analyst in a line department. According to DOF, this amount of additional compensation has not been sufficient to retain staff when the workload, expectations, and impact on personal lives are so different between DOF and every other state agency. It remains to be seen whether additional compensation can overcome all other obstacles to a quality of life response.

Staff Recommendation. Hold this item open for further review.

4. **Staff Counsel III (Specialist) Position to Support the Governor’s Strategic Growth Plan.** The DOF requests the addition of one Staff Counsel III (Specialist) position and $139,000 reimbursement authority to provide legal advice for the increased workload and to assist in the workload generated from currently authorized financings.

Staff Comments. In the past, DOF has made a compelling case for additional staff needed to provide essential oversight and management of the various bond activities now facing the state. Two years ago, the Legislature provided limited-term positions at the DOF for these purposes.

Staff Recommendation. Reject this proposal. As part of the "Vote Only Approval" agenda, subcommittee staff has recommended approving DOF's (BCP# 8860 – 04) request for $350,000 in reimbursement authority and the conversion of 3 limited-term positions to permanent and the reclassification of one Finance Budget Analyst position to a Staff Counsel III (specialist) to provide support on the plethora of legal concerns surrounding bond issuances.

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Thursday, April 12, 2007
10:00 a.m. or Upon Adjournment of Session - Room 112

Consultant: Keely Martin Bosler

5525 California Department of Corrections and Rehabilitation

Background

Background. The California Department of Corrections and Rehabilitation (CDCR) is responsible for the incarceration, training, education, and care of adult felons and non-felon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and re-incarceration of those parolees who commit parole violations. The department also sets minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides grants to local governments for crime prevention programs.

The department operates 33 adult prisons, including 11 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates eight juvenile correctional facilities, including three reception centers. In addition, CDCR manages 13 Community Correctional Facilities, 44 adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and 202 adult and juvenile parole offices.

In 2005, the CDCR was created pursuant to the Governor's Reorganization Plan 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency were consolidated into CDCR. The departments consolidated into the current CDCR are: the Youth and Adult Correctional Agency; the California Department of Corrections; the California Youth Authority; the Board of Corrections; the Board of Prison Terms; and the Commission on Correctional Peace Officers' Standards and Training.

Prison Overcrowding and "Bad" Beds. The California prison system is currently overcrowded, which has resulted in the activation of over 16,000 "bad" beds, which are bunks on dayroom floors and gyms. This means that about 10 percent of the prison population is currently housed in "bad" beds. Some of these beds have been in operation for decades. "Bad" beds impact prison operations on many levels. They make it more difficult for prison officials to maintain safe conditions for prison staff and inmates and reduce the space available for inmate programs. Furthermore, the overcrowding of the prison facilities has overburdened the basic infrastructure of the institutions resulting in sewage spills and shortages of safe drinking water.

The overcrowded conditions are projected to worsen over the next several years as the population continues to grow. Over the past 20 years, the state inmate population has grown at an average annual rate of 5 percent. If this trend continues, the LAO indicates that the state prison system will be deficient 152,900 beds by the year 2022.

How are Inmates Housed? Inmates in state prison are housed according to classification levels. An inmate's classification level is based on the inmate's commitment offense, in-institution behavior, and other factors. Inmates are assigned a classification level of I through IV. A Level I classification is the lowest-risk inmate that typically has a less serious commitment offense.

Lower-risk inmates (Level Is and IIs) are typically housed in dorm-style housing, while higher level inmates are typically housed in celled housing. A large portion of the inmates in "bad" beds are lower level inmates. However, at reception centers, where classification levels are often mixed, this may not be the case.

LAO Gap Analysis. The LAO has performed a gap analysis that compares the state's current permanent prison bed capacity (excluding "bad" beds) to the prison population. This analysis finds that the current prison system does not have the right mix of beds to safely house the current prison population. For example, the state prison system is currently deficient dormitory beds for Level I and Level II inmates (the majority of these inmates are in "bad" beds). The prison system is also deficient beds in the highest-security celled housing for Level IV inmates and beds in celled housing at reception centers. The LAO finds that the prison system does have a surplus of beds in celled housing appropriate for Level III inmates, but a large portion of this housing is in older prisons that have unique security concerns as compared to the new Level IV celled housing units. The following table summarizes the LAO's gap analysis:

LAO Inmate/Security Housing Unit Gap Analysis - Men	**Surplus/ Deficit (-)**
Level I	-7,524
Level II	-7,237
Level III	8,386
Level IV	-6,324
Reception Center	-4,350
Special	857
Total	-16,192

2006 Special Session. On June 26, 2006, the Governor called a special session of the legislature on prison overcrowding and recidivism. The Governor offered the following proposals in an attempt to help address the overcrowded conditions:

- **New Prison Construction**. $1.2 billion from lease-revenue bonds and $11.7 million from the General Fund for the construction of two new prison facilities (9,000 new beds).
- **Construction of Beds at Existing Prisons**. $2.5 billion from lease-revenue bonds and $238 million from the General Fund to construct over 16,000 beds at existing prisons, re-activate the Northern California Women's Facility as a male reception center, and convert female beds at the California Rehabilitation Center to male beds. These funds would also be used to support the construction of additional medical space at existing prison facilities.
- **Re-Entry Program Facilities.** $2 billion from lease-revenue bonds to construct re-entry facilities and authorize CDCR to enter into a lease for a state or city/county operated inmate housing facility.
- **Transfer of Inmates Out of State.** Legislation and $2.1 million from the General Fund to transfer inmates with Immigration and Customs Enforcement holds to out of state prisons (private and public).
- **Female Community Correctional Centers.** Legislation to authorize contracts for up to

4,500 beds in local community correctional centers.

- **Male Community Correctional Facilities.** Legislation to authorize contracts for 4,000 beds in local community correctional facilities.
- **Southern California Training Academy**. Legislation to allocate $55 million from lease-revenue bonds and $6.9 million from the General Fund to construct and staff a new correctional officer training academy in Southern California.

On August 30, 2006, the State Senate passed the following components of the Governor's special session proposal along with some other proposals:

- **Construction of Beds at Existing Prisons.** SB 10xx (Machado) authorized $606 million in lease-revenue bonds and appropriated $312 million from the General Fund for the construction of 5,340 prison beds and to address various infrastructure issues at existing prisons.
- **Parole Reentry Challenge Grant.** SB 11xx (Machado and Runner) appropriated $25 million from the General Fund for competitive grants to counties to reduce the recidivism rate of parolees.
- **Transfer of Inmates Out of State.** SB 12xx (Machado) authorized the department to transfer inmates out of state on a voluntary basis.
- **Female Community Correctional Centers.** SB 9xx (Speier) authorized the department to enter into contracts for up to 4,500 beds in community facilities for female inmates.
- **Information Technology Advisory Committee.** SB 8xx (Bowen) established an advisory committee to CDCR to assist in the development and implementation of enterprise-wide integrated information technology systems for the department.

The State Assembly did not act on these pieces of legislation and, as a result, the Legislature did not pass any of the Governor's proposals to address overcrowding and recidivism during the special session.

Governor's Emergency Proclamation. The Governor declared a State of Emergency on October 4, 2006, citing that California's prisons are beyond capacity and that action needed to be taken immediately to remedy the situation. Soon after the declaration, the department entered into contracts with several private prisons outside of the state to house volunteer inmates. To date, the state has transferred 358 inmates out of state to private prison facilities in Arizona (279) and Tennessee (79). The Governor's budget proposal contemplated transferring 994 inmates in the current year and 2,260 inmates in the budget year to correctional facilities out of state. The total cost of these contracts is estimated to be $31 million General Fund in the budget year, but the administration proposes to offset these costs with savings from not housing the inmates in state institutions of about $20 million. Therefore, these contracts are projected to cost about $10 million General Fund in the current year. These costs are projected to grow to $13 million General Fund in the budget year.

Out of State Inmate Transfer Lawsuit. On February 20, 2007 a superior court judge ruled that the Governor's plan to transfer inmates to out of state correctional facilities was illegal. The judge found that the Governor's actions violated the Emergency Services Act. The state has appealed the case to the State Appeals Court. Meanwhile, the department has continued to identify inmates that can be transferred out of state.

2007-08 Governor's Infill Prison Bed Construction Plan

Background. As mentioned above, the Governor called a special session in June of 2006. At this time the Governor proposed $1.2 billion in lease-revenue bonds and $11.7 million in General Fund monies to construct two new prison facilities (9,000 beds). The Governor also proposed $2.5 billion in lease-revenue bonds to construct over 16,000 beds at existing prisons.

In response to these proposals, the Senate approved SB 10xx (Machado) in August 2006 to authorize $606 million in lease-revenue bonds for construction of 5,340 prison beds and to address various infrastructure issues at existing prisons. This legislation died in the Assembly.

Governor's Budget. The Governor's budget proposal includes a new Strategic Growth Plan that outlines infrastructure investments for the state. This plan contains $2.3 billion in lease-revenue bonds to construct 16,000 prison beds at existing prisons. This is the same proposal that was made by the Governor in the 2006 special session on corrections.

The following chart summarizes the Governor's infill prison bed plan by bed type:

Infill Prison Bed Plan by Security Level	**Number of Beds**
Level I and II	10,420
Level III	2,223
Level IV	1,505
Reception Center	2,090
Total	16,238

These beds would be added at 26 different institutions around the state. Included in these numbers are 2,250 new stand-alone administrative segregation unit beds. Administrative segregation unit beds are used by the department for short-term detention of inmates that must be separated from the general population for the safety of others or for their own safety.

The CDCR estimates that it will activate the prison beds on the following schedule if the proposal is authorized by July 1, 2007:

Infill Prison Bed Plan Approximate Completion Date	**Number of Beds**
July 1, 2009	5,340
July 1, 2010	3,270
July 1, 2011	4,908
July 1, 2012	2,720
Total	16,238

Governor's Other Proposals Impact Bed Need. The Governor's budget includes a package of proposals to address overcrowding in the state's prison systems. The Governor's infill prison bed construction proposal should be evaluated in the context of these other proposals. Major components of the Governor's package to reduce overcrowding include the following proposals to reduce the state prison population:

- **Shift Adult Offenders to Jail.** This proposal would change where the sentence for certain offenses are served from prison to jail.
- **Direct Discharge.** This proposal would allow for certain offenders to be directly discharged from prison without parole.
- **One Year Clean Time Discharge.** This proposal would allow for certain offenders to be discharged from parole early after one year of clean time.

The proposals above, if enacted, would mainly impact Level I inmates, thereby reducing the number of dormitory beds needed in state prison.

Right Mix of Beds Critical. As mentioned above, the state prison system is currently overcrowded, which has resulted in the need to activate "bad" beds. Furthermore, the LAO finds that the current state prison system does not have the right mix of beds to house its inmate population. These two conditions reduce the safety of the institutions for staff and inmates. When conditions are less safe, programming is reduced. Staff finds that the right mix of beds is critical to improving safety within the institutions.

LAO Finds Size and Mix Wrong. The LAO identified several concerns pertaining to how the Governor's package of proposals to reduce overcrowding fit together as a whole. The LAO finds that if all of the Governor's proposals are adopted (bed construction and proposals to reduce the population) it would result in a dramatic surplus of prison beds and would provide the wrong mix of beds for the inmate population. Specifically, the LAO finds that if the Governor's package of proposals were adopted it would result in a significant surplus of Level II and Level III beds, but that the department would continue to have a deficit of Level IV beds.

The LAO recommends approving only the infill projects to add Level IV and reception center beds. This would result in 3,595 additional beds in celled housing units at eight different institutions.

Timing is Critical. The LAO recommends that the Legislature carefully consider proposals that will help to relieve overcrowding in the short term, particularly in the next one to three years. The LAO finds that the department will likely exhaust any excess capacity in dayrooms and gyms within this timeframe.

As referenced above, the department estimates that it could have 5,340 beds built within the next two years. This timeline relies on a design-build contract and a streamlined environmental review process. Even under these circumstances, staff finds that the department's assumptions are overly optimistic for several reasons (see below).

CDCR's Schedule is Optimistic. The CDCR is exempted by Public Contracts Code 10106(d) from going through the capital outlay process at the Department of General Services. Therefore, CDCR and its Office of Facilities Management oversee all of the capital outlay projects it undertakes, including the infill prison bed construction proposal. Staff finds that the department's Office of Facilities Management does not have the staff to manage all of the projects proposed in the infill bed plan, especially given their current workload (see other ongoing and new infrastructure projects in the rest of the agenda). Furthermore, staff finds that this office has suffered significant staffing reductions since the last wave of prison construction in the 1980s.

The department has indicated that it will need to hire a significant number of new staff to oversee construction of the infill bed projects. The department will need to hire these staff before project teams can be developed. Furthermore, the department has not completed a Project Management Plan, which is a plan used in large capital outlay projects to determine the staff needed to oversee the entire project. Staff recognizes that the department will utilize contracted firms to handle some of this workload, but it is critical that a core state staff is in place to ensure proper oversight and coordination.

Secondly, the department's timeline for constructing the infill beds depends on its core business services functioning in a timely manner, including the contracts, personnel, accounting and legal divisions. As this Subcommittee heard at a hearing on March 15, 2007, the majority of these functions within the department are not operating in a timely manner. The department currently has long delays in its contracting division and the accounting division is not able to pay invoices in a timely manner.

Furthermore, staff finds that the remote location of many of the construction sites means that the department will likely have difficulty finding contractors willing to bid for the contract. This problem has often caused delays for CDCR and other state departments like the Department of Parks and Recreation that have remote properties.

In addition, the department indicates that there are several other steps that need to be taken before construction will start on the infill bed projects. These steps include hiring engineers and architects and establishing project and schedule controls. Staff finds that given the size of these projects it will be critical that the department establish project and schedule controls and hires sufficient staff to oversee these efforts before construction commences. Otherwise, these projects may experience significant cost overruns. (As referenced later in this agenda, several of the department's recent capital outlay projects have experienced cost overruns approaching 50 percent. While a portion of these cost overruns are due to increased costs associated with materials, a large portion of the cost overruns are due to major scope changes that the department did not anticipate.)

Finally, all of the prisons where the department is proposing to build infill housing require major infrastructure upgrades to accommodate the *current* overcrowding. These infrastructure upgrades include waste water treatment, water supply, and electricity capacity. Many of the facilities are currently operating under Cease and Desist Orders from the Regional Water Quality Control Boards. If the "bad" beds are not removed from these housing units, the infill bed proposal will exacerbate the infrastructure problems. The department indicates that it plans to address the infrastructure issues while it constructs the new infill beds. However, it is not clear whether the infrastructure upgrades will accommodate both the infill beds and the "bad" beds or just the infill beds. Furthermore, if there are delays in these infrastructure projects (which are likely because of the factors listed above) there may be delays in the department's ability to activate new infill housing units.

Capital Outlay Budget Proposals Lack Detail. The department has not submitted traditional capital outlay proposals for the infill bed projects. Staff finds that the department has submitted essentially the same package of information that was submitted in August 2006, except that the numbers have been adjusted by 5 percent for inflation. The department has only determined what it will cost "on paper" to build the additional housing units and has not considered site specific issues that make these projects more or less costly. The department indicates that it has only done 11 site assessments for the infill proposal even though they propose to build new housing units at 26 different institutions. The lack of background and site specific work will likely result in large cost overruns and delays in the future as the department starts the construction process and encounters site specific problems.

Furthermore, the lack of detail makes it difficult to determine how the department arrived at the costing of the project. There is very little information on anything about the project except for the number of beds being built. For example, it is not clear whether the department is proposing to build adequate programming space, dining space, and yard space consistent with standards for constructing prisons.

In addition, the LAO finds that the amount budgeted for Architectural and Engineering services is significantly higher than is expected for these projects. Again, the department has not provided sufficient information to justify these expenditures.

Operational Costs Not Identified. Furthermore, the LAO finds that the department has not identified operational costs associated with the infill bed proposal. The LAO indicates that the costs to staff and operate these new housing units will likely be in the hundreds of millions of dollars. Staff estimates that the infill proposal will likely require an additional $750 million General Fund to the department's operating costs annually. However, if the "bad" beds are taken down there should be some offsetting savings that will result. Given the current level of overcrowding and the population projections, the department may not take down the "bad" beds even if the new infill prison bed plan is approved.

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

Critical Infrastructure for Infill Bed Plan

Background. As mentioned above, the Governor called a special session in June of 2006. At this time the Governor proposed $238 million from the General Fund to fund critical infrastructure projects and provide CDCR with additional staff to support the infill construction proposal.

In response to these proposals, the Senate approved SB 10xx (Machado) in August 2006 that contained $312 million from the General Fund for various infrastructure projects at existing prisons and for staff to support the infill construction activities. The vast majority of these infrastructure improvements are needed in order to add additional prison beds to the existing prisons. This legislation died in the Assembly.

Governor's Budget. The Governor's budget proposal includes $271 million in General Fund monies to address various infrastructure issues at the existing prisons that, for the most part, accommodate the additional prison beds proposed in the infill proposal ($29.5 million is for infrastructure upgrades at institutions where no new beds are proposed for construction).

All Infill Sites Require Major Upgrades. As mentioned above, new beds are proposed at 26 different institutions and every one of these institutions has critical deficiencies in its existing infrastructure. The chart below identifies the major types of infrastructure deficiencies and illustrates that most institutions have more than one critical infrastructure deficiency:

Infill Prison Bed Plan Existing Infrastructure Deficiencies	**Number of Institutions with Deficiencies**
Drinking Water	20
Waste Water Treatment	18
Electrical	20
Other	14

Many of the infrastructure deficiencies involve a major upgrade of the existing waste water treatment plant or upgrade to the electrical capacity for the entire institution. The department has not provided details on how much each of the infrastructure upgrades will cost, but instead has provided only a rough estimate of what, collectively, the infrastructure upgrades at each institution will cost. Staff finds that the department has submitted essentially the same package of information that was submitted in August 2006, except that the numbers have been adjusted by 5 percent for inflation. The lack of information on the scope of these projects raises concerns related to the potential for significant cost overruns.

Is Infrastructure Sized Correctly? Another concern raised by the lack of detail provided by the department is the determination of whether the infrastructure upgrades are sized correctly. For example, is an upgrade to a waste water treatment plant sufficient to support the infill beds, but not sufficient to support the infill beds and "bad" beds. It is also not clear whether the upgrades to the electrical system are sufficient to address the future information technology needs of the department (see below). Furthermore, it is not clear that the infrastructure improvements bring the department into compliance with regulatory agencies. Many of the department's institutions are currently operating under Cease and Desist Orders and if the violations are not dealt with the department could face significant penalties or even lawsuits from neighboring communities impacted by the pollution caused by some prisons.

LAO Recommends Smaller Package. As mentioned above, the LAO only recommends approving Level IV and reception center housing units that are part of the infill bed plan. Consistent with this recommendation, the LAO recommends approving $46 million for infrastructure improvements at the eight institutions where the department proposes to add Level IV and reception center beds.

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

Reentry Beds – Capital Outlay

Background. As mentioned above, the Governor called a special session in June 2006. At this time the Governor proposed $2 billion in lease-revenue bonds to construct re-entry facilities and authorize CDCR to enter into a lease for a state or city/county operated inmate housing facility.

In response to this proposal, the Senate approved SB 11xx (Machado and Runner) that appropriated $25 million from the General Fund for competitive grants to counties to reduce the recidivism rate of parolees. The intent of these grants was to fund supportive services that would help parolees transition back into their communities. The legislation died in the Assembly.

Governor's Budget. The Governor's budget proposal includes $1.6 billion in lease-revenue bonds or contracting authority to construct up to 7,000 beds in coordination with local governments for inmates nearing their parole date and revoked parolees. These facilities would be designed to provide additional re-entry services for inmates before they are paroled into their communities.

LAO Finds Details Lacking. The LAO withholds recommendation on the funding for reentry facilities pending the receipt of key fiscal and operational details regarding these facilities. The LAO notes that research studies suggest that the establishment of reentry beds and programming could benefit public safety by reducing recidivism. However, basic details about this proposal have not been provided including: (1) the basis for the construction cost estimate, (2) proposed programs, and (3) specific facility locations.

The LAO does not recommend approving funding for reentry facilities until more details have been provided. However, they suggest that the Legislature limit any funding in the budget year for these facilities to funding for preliminary plans. This would provide the Legislature with additional time to get information from the department about the scope and cost of these facilities. The LAO estimates that preliminary plans would cost about $45 million General Fund. The LAO also suggests that the reentry facilities may be a good fit for serving short-term parole violators. The LAO sites that parole violators, generally, have a high need for services that could be provided in a reentry facility, including substance abuse, job training, and education. The LAO notes that diverting parole violators from reception centers could also help with the overcrowding at reception center facilities.

Staff Comments. Staff finds that dedicated reentry facilities could significantly help in preparing inmates for parole. This mission is more difficult at a "mainline" institution where inmates are separated by classification and not by the amount of time they have left on their sentence before parole. Furthermore, bringing inmates closer to the community where they will parole can help to strengthen family bonds and/or coordinate with community services that will provide a more secure safety net for the inmate upon release.

Staff also finds that these facilities could work well for short-term parole violators that return to prison because of a dirty drug test or other parole violations that carry relatively short recommitment terms. Transporting short-term parole violators to reception centers is inefficient and does not provide an opportunity for rehabilitative programming, because many short-term parole violators spend their entire sentence at the reception center with extremely limited access to rehabilitative programming. (Generally, reception centers have very little programming because the goal of the reception center is to classify and process the inmate to determine the best permanent placement for the inmate.)

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

- Hold this issue open.
- Request that the department submit at May Revision draft guidelines that could guide the development of the reentry facility concept.

Coleman Ordered Mental Health Capital Outlay

Background

***Coleman* Court's General Approach to Facility Modifications.** The Special Master and the court overseeing the settlement of the *Coleman* lawsuit have taken a multi-pronged effort to improve mental health care facilities within the department. The court has pursued interim and temporary measures to improve mental health care facilities in the short-term. Many of these short-term efforts have already been implemented or are currently being constructed.

However, the department has also been working on a long-term Mental Health Bed Plan that will provide a plan for permanent mental health bed capacity that will provide various levels of care. These beds and facilities will provide a more appropriate place to house the most seriously mentally ill inmates on a long-term basis and provide appropriate housing for inmates needing acute care. A revised version of this plan was submitted to the court in December. The Special Master and the court had some comments on the plan, but for the most part were satisfied by the number and mix of beds put forward in the plan. The department is now setting forth on a plan to construct the beds in the plan.

In addition to building beds to provide more appropriate housing for the mentally ill population in prison, the department is also implementing other court orders to improve suicide prevention. These court orders do not just target the diagnosed mentally ill population in prison, but the entire prison population. In order to comply with this plan, facility improvements are being made to prison facilities across the state.

Mental Health Bed Plan – December 2006. The CDCR has developed a Mental Health Bed Plan in response to the October 20, 2006, court order in the *Coleman* lawsuit. The court order directed CDCR to develop a final long range bed plan for the provision of various levels of mental health care, including appropriate beds and programming space for the Enhanced Outpatient Program (EOP) inmate population. Inmates are classified as EOP if they have current symptoms and/or require treatment for the following mental disorders:

- Schizophrenia
- Delusional Disorder
- Schizophreniform Disorder
- Schizoaffective Disorder
- Brief Psychotic Disorder
- Substance-Induced Psychotic Disorder (excludes intoxication and withdrawal)
- Psychotic Disorder Due to a General Medical Condition
- Psychotic Disorder not Otherwise Specified
- Major Depressive Disorders
- Bipolar Disorders I and II

The department submitted a plan to the court in December 2006. This plan expects the following permanent mental health bed capacity to meet the projected mental health population for June 2011:

Expected Permanent Mental Health Bed Capacity by Type of Bed	Number of Beds Female	Male	Total
Enhanced Outpatient Program - Long-term beds for EOP inmates that require significant services to function well.	297	4,488	4,785
Mental Health Crisis Beds - Short-term licensed beds for inmates in mental health crisis that need intensive 24-hour care. Length of stay not to exceed 10 days generally.	25	342	367
Acute - Short-term licensed beds for inmates that require 24-hour mental health treatment to prevent danger to themselves and others. The average length of stay at this level is two to three months.	42	240	282
Intermediate Care Facility - Longer-term licensed beds for inmates that need intensive mental health care services. Length of stay not to exceed nine months.		314	314
Intermediate Care Facility - High Custody - Same as above, but for high custody inmates.		312	312
Administrative Segregation Unit - Housing units for temporary segregation of EOP inmates that are pending investigations, evaluation, and/or disciplinary action. Similar to regular ASU, but with space to deliver treatment services.	24	752	776
Psychiatric Services Unit - Housing units for EOP inmates that have been found guilty of an offense committed in the institution, or have been deemed to be a threat to the safety of others or the security of the institution. Similar to Security Housing Units (SHU), but with space to deliver treatment services.	10	448	458
Total	**398**	**6,896**	**7,294**

The department currently operates some mental health beds that it will continue to operate under this plan. However, in order to meet the requirements of this bed plan the department will need to construct new mental health facilities. The department plans to build the following new mental health beds to comply with the *Coleman* settlement agreement:

New Mental Health Beds to Be Constructed by Type of Bed	**Number of Beds**		
	Female	**Male**	**Total**
Enhanced Outpatient Program	168	2,532	2,700
Mental Health Crisis Beds	3	110	113
Acute	17	90	107
Intermediate Care Facility		230	230
Intermediate Care Facility - High Custody		120	120
Administrative Segregation Unit	15	453	468
Psychiatric Services Unit		256	256
Total	**203**	**3,791**	**3,994**

The majority of the beds will be built at the following five prisons, which are referred to as Consolidated Care Centers:

- California State Prison, Sacramento
- Richard J. Donovan Correctional Facility
- California Men's Colony
- California Institute for Men
- California State Prison, Los Angeles County

In addition to these prisons, additional beds will be added to the Salinas Valley State Prison, which already has a significant mental health mission. The California Medical Facility in Vacaville will also continue its mental health mission, but no new beds for this facility are part of the mental health bed plan. In addition, existing housing units will be modified around the state to ensure that most of the other prisons have a limited number of Mental Health Crisis Beds.

The California Institute for Women will be the equivalent of a Consolidated Care Center for the women. However, some new mental health beds will also be built at the other two prisons that house female inmates.

Currently, the department is housing mentally ill inmates at many different institutions. Therefore, the plan has identified 1,749 beds that will no longer be dedicated to mentally ill inmates after the new facilities are constructed. The majority of these beds are at California Men's Colony and Mule Creek State Prison. This will enable the department to return these beds to general population inmates.

Construction Projects Approved Before December Bed Plan. In addition to the housing units in the December bed plan, the department is also constructing four other projects that were approved before the December plan. These projects are a 50 bed Mental Health Crisis Bed unit at both California Men's Colony and California Medical Facility, a project to convert general population beds to 150 EOP beds at California State Prison, Los Angeles County, and a 64 bed Intermediate Care Facility at California Medical Facility. The department expects to complete construction of the 50 Mental Health Crisis Beds at the California Medical Facility by December 2007. The 50 bed Mental Health Crisis Bed project at California Men's Colony may be added to the Consolidated Care Center plan for this institution. The other two projects are in the preliminary planning stage.

Department Revision to Mental Health Bed Plan. The department recently submitted a summary of the Mental Health Bed Plan that was slightly different than the plan submitted to the court. This plan contained additional housing units for non-mentally ill inmate workers at each of the Consolidated Care Center institutions. The department indicates that because each of these centers will be stand-alone units they will need inmate workers to help maintain the facilities. The department now plans on adding 1,330 additional beds in 270-design celled housing units at the Consolidated Care Center institutions. The department plans to build one inmate worker housing unit (accommodates 190 inmates) at each of the following institutions:

- California State Prison, Sacramento
- Richard J. Donovan Correctional Facility
- California State Prison, Los Angeles County

Furthermore, the department plans to build two new inmate-worker housing units at both of the following institutions:

- California Institute for Men
- California Men's Colony

Update on Mental Health Bed Projects Approved in 2006 Budget Act. The 2006-07 Budget Act contained $50.8 million from the General Fund to support various mental health capital outlay projects. Several of these projects were modified or have been permanently cancelled based on the latest Mental Health Bed Plan submitted to the court in December 2006. The following projects were approved as part of the 2006-07 Budget Act and will continue without modifications:

- **Intermediate Care Facility (High Custody) – California Medical Facility.** $3.9 million General Fund was provided for preliminary plans to build a 64 bed facility**.** Design and environmental review will commence in April 2007.
- **Enhanced Outpatient Program Treatment Space – California State Prison, Sacramento.** $250,000 General Fund was provided for preliminary plans for this project and the plans are complete.
- **Enhanced Outpatient Program Treatment Space – California State Prison, Los Angeles County.** $250,000 General Fund was provided for preliminary plans for this project and the plans are complete.

The following projects were approved as part of the 2006-07 Budget Act and will continue, but with major modifications as per the December 2006 Mental Health Bed Plan:

- **Acute/Intermediate Care Facility/Mental Health Crisis Beds – California Institute for Women.** $2.2 million General Fund was provided for preliminary plans to build a 25 bed facility. Design is underway and environmental review is completed for the 25-bed facility. The December plan added an additional 20 beds to this project. The Legislature was notified of the change in a Finance Letter (dated March 15, 2007) and the department is pursuing the design of the new project with existing funding.
- **Intermediate Care Facility – Salinas Valley State Prison.** $7.9 million General Fund was provided for preliminary plans to build a 128 bed facility. Environmental review for this project is underway. This project has been re-scoped to a 70 bed administrative segregation unit.

The following projects were approved as part of the 2006-07 Budget Act and will not continue:

- **Acute – California State Prison, Sacramento.** $15 million General Fund was provided for preliminary plans for a 350-bed facility. This project was never started.
- **Intermediate Care Facility – California State Prison, Sacramento.** $7 million General Fund was provided for preliminary plans for a 128-bed facility. This project was never started.
- **Enhanced Outpatient Program Treatment Space – Mule Creek State Prison.** $250,000 General Fund was provided for preliminary plans for this project and the plans are complete. However, this project has been canceled.
- **Temporary Intermediate Care Facility – California Medical Facility.** $5.5 million General Fund was provided for working drawings and construction to convert 30 temporary Intermediate Care Facility beds to permanent beds. Working drawings for this project had been started, but the project has now been canceled.
- **Temporary Intermediate Care Facility – Salinas Valley State Prison.** $8.5 million General Fund was provided for working drawings and construction to convert temporary Intermediate Care Facility beds to permanent beds. Working drawings for this project had been started, but this project has been canceled.

Given the various changes to the department's mental health bed plans since the 2006-07 Budget Act was enacted, a significant amount of money should revert to the General Fund. Staff estimates that about $36 million should be reverted to the General Fund.

Other Court Ordered Capital Outlay Modifications. The *Coleman* court has ordered other changes to the state prison infrastructure outside of the Mental Health Bed Plan. The department submitted to the court the court ordered Administrative Segregation Unit Suicide Prevention Plan on October 2, 2006. This plan requires the department to create intake cells in Administrative Segregation Units in prisons across the state. The intake cells will be modified to reduce the apparatus the inmate can use to commit suicide. The Legislature was notified in a Finance Letter (dated January 29, 2007) that it needed $2 million General Fund to make modifications to create the new intake cells. The Legislature has not appropriated funds for this project. The department indicates that it has started retrofitting cells by redirecting funds from other department activities.

The *Coleman* court has also required the department to implement an Enhanced Outpatient Program (EOP) for the most seriously mentally ill at Reception Centers. However, the department does not anticipate the need for capital outlay modifications at this time.

Governor's Budget

Mental Health Crisis Beds – California Men's Colony. $3.6 million General Fund is proposed for preliminary plans for the construction of a new 50-bed facility. This proposal will replace the emergency temporary operation of the Outpatient Housing Unit at California Men's Colony as Mental Health Crisis Beds as ordered by the *Coleman* court on May 1, 2006. The total project is expected to cost $55.7 million or $1.1 million per bed to construct these beds.

Psychiatric Services Unit – California Institute for Women. $423,000 General Fund is proposed for preliminary plans for the conversion of the East Wing of the Support Care Unit at the California Institute for Women to a 20 bed Psychiatric Services Unit. The total project is expected to cost $4.5 million or $225,000 per bed to convert these beds. This proposal is not part of the December Mental Health Bed Plan, but the *Coleman* court issued a court order in late March directing the department to construct these beds.

Issues

Court Has Not Approved Plan. The *Coleman* court has not approved the December 2006 Mental Health Bed Plan. The LAO withheld a recommendation in their Analysis on the mental health bed proposals pending action by the federal court. The department has indicated that the court may reevaluate and make a decision regarding the department's bed plan in the next few weeks.

Costs High for California Men's Colony Proposal. The Governor's budget proposal to build 50 Mental Health Crisis Beds is expected to cost $1.1 million per bed. These are extremely high per bed costs. The department indicates that these high costs were expected because the building was scoped as a stand-alone building. The department now proposes to include this project as part of the Consolidated Care Center planned for the California Men's Colony. This is part of the department's December 2006 Mental Health Bed Plan that is currently pending before the court.

Current Year Funding Should Revert. As was mentioned above, the 2006-07 Budget Act included $50.8 million General Fund for various capital outlay projects to build mental health beds. A large portion of these projects were amended by the December 2006 Mental Health Bed Plan. Therefore, staff estimates that approximately $36 million should be reverted to the General Fund. The department has not put forward a proposal to revert these monies even though they have indicated that they have stopped planning on several of the projects.

Department has Redirected Funds. The department has commenced work on several court ordered projects, including the conversion of the administrative segregation units to prevent suicide. The department indicates that it has commenced work consistent with the court orders. However, the Legislature has not approved monies for this work. Therefore, the department has had to redirect monies from other activities and/or projects to fund these new court-directed projects. The Legislature has not received information about what activities and/or projects the monies have been redirected. Staff finds that this information is critical to legislative oversight and transparency of the budget process, because when the Legislature approved the budget act in 2006 they expected that the funding would be used to support certain activities and projects. The redirection means that some of these activities and/or projects are not being funded in the current year.

Transparency Needed on Inmate-Worker Beds. The Mental Health Bed Plan that was submitted to the court did not include a provision for additional inmate-worker beds. As mentioned above, the department recently revised the Mental Health Bed Plan to include a provision for 1,330 additional beds for inmate workers. The department has not provided any details regarding these new housing units, except that they are needed because the mental health

Consolidated Care Centers at five institutions will be stand-alone and will need inmate workers. The department has also indicated that the housing for these inmate-workers will be celled. Generally inmate-workers are lower-level inmates that live in dorm-style housing. Staff finds that additional information is needed regarding these housing units before action should be taken.

Plan is Complicated and Confusing. Staff finds that the department must complete a significant number of capital outlay-type projects to comply with *Coleman* court orders. Staff finds that the department's current information regarding these projects is disjointed and confusing. For example, the department is pursuing projects in the December Mental Health Bed Plan, but it is also pursuing projects approved before the bed plan and other projects that do not augment permanent bed capacity. The sheer number and diversity of the different projects that the department is undertaking makes it difficult to track. Staff finds that the department needs to improve its tracking of these projects, which would improve the transparency of the department's efforts to comply with the *Coleman* settlement. For example, the department could prepare one document that contains all of the *Coleman* related projects, including when and where they were authorized, what funding has been provided, and the status of each project.

Recommendations

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

- Deny the proposal to fund preliminary plans for the 50 Mental Health Crisis Beds at the California Men's Colony, with the understanding that this project will likely be part of a larger Consolidated Care Center proposal in the future.
- Approve the proposal to fund preliminary plans for the 20 Psychiatric Services Unit beds at the California Institute for Women.
- Request that the department prepare a proposal to revert monies at May Revision for the capital outlay projects approved in 2006 that are no longer being pursued.
- Request that the department and DOF provide information regarding where the monies have been redirected from to fund *Coleman* court directives in the current year.
- Request that staff, LAO, DOF, and the department work on an annual report that tracks all of the mental health capital outlay projects being pursued so that transparency can be improved.

Plata Related Medical Care Capital Outlay

Background. The federal court-appointed Receiver took over medical care at CDCR about one year ago. Since that time, the Receiver has undertaken several initiatives to improve medical health care within the prisons. One of these initiatives is to commence planning for 5,000 multi-purpose medical beds including beds appropriate for geriatric inmates, terminally ill inmates, and inmates with mobility issues at up to seven sites across the state. Those sites under consideration include:

- California Men's Colony
- California Institution for Men
- California State Prison, Sacramento
- Richard J. Donovan Correctional Facility
- California State Prison, Los Angeles County
- Deuel Vocational Institution
- California Medical Facility
- Fred C. Nelles Juvenile Correctional Facility (this facility is now closed)

In order to plan for the construction of 5,000 medical beds, the Receiver's office is conducting a survey of the prison population to determine what type of specialized housing and treatment space is needed. The Receiver's office has not completed this survey to date and in his most recent quarterly report to the court has indicated that this effort has been hindered by a lack of reliable data on the burdens of chronic disease and physical impairment in the prison population. The Receiver indicates that this survey data is critical to properly planning for facility and medical care needs and has retained a consultant that will help in developing an assessment tool that can be used to assess inmate health and assign them to levels of care. The Receiver estimates that the consultant will complete their work by July 2007.

500 Correctional Treatment Center Bed Project. The Receiver had launched a project to identify and secure 500 additional Correctional Treatment Center-type beds within 180 days. This effort was undertaken in an effort to reduce the department's current overuse of expensive acute beds and beds in community hospitals. The Receiver had determined that many inmates could be more appropriately and less expensively treated when recovering in alternative housing. After surveying viable options for identifying 500 additional Correctional Treatment Center-type beds in the short run, the Receiver has decided to fold this project into the overall 5,000 bed project.

San Quentin Project. In addition to the efforts above, the Receiver's office has also started a pilot project to address physical plant deficiencies at California State Prison, San Quentin. The plan includes three phases and is estimated to cost $175 million. The first phase will include various projects to "create space" for longer term projects, improve level of services in Neumiller Infirmary Building, and create temporary structures to provide basics to San Quentin medical personnel. The first phase includes the following projects:

- **Personnel Office**. A personnel office will be constructed to support recruitment and hiring of medical, mental health, and dental staff at the institution. The Receiver's office indicates that conceptual design for this building is complete and that working drawings are being developed.

- **Replacement Parking Spaces**. San Quentin currently does not have adequate parking for its staff or escort vehicles to transport inmates to medical appointments off prison grounds. The Receiver's Office has indicated that additional parking spaces have been added and placed into service.
- **Relocation of Walk Alone Yards**. Walk alone yards in the Upper Yard will be relocated to the "C" Yard to make room for temporary clinical offices and examination areas in the Upper Yard. The Receiver's Office indicates that documents are being prepared to solicit construction bids.
- **Medical Supply Warehouse**. A new central warehouse will be constructed to replace the current system that houses medical supplies in more than four spaces on the institution's grounds. A conceptual plan has been developed for a medical warehouse, but a decision has been made to integrate the medical warehouse into the development of a main warehouse at San Quentin.
- **Trauma Treatment Area Renovations**. The Trauma Treatment Area in the Neumiller building will be relocated from the northern entrance to within the building's core on the first floor. Renovation and construction is currently underway and should be complete by May 2007. This will provide four trauma treatment areas for patients and provide more adequate space for personnel.
- **Ventilation Upgrades to North Block**. The Receiver has initiated a plan to improve air ventilation in North Block and increase the overall cleanliness of the North Block.
- **Expansion of West and East Block Rotundas for Sick Call**. This project will make use of space in the rotundas of East and West Blocks for expanded clinical areas for sick call. Currently, medical personnel are using converted cells that are inadequate. Designs are currently being developed to utilize the rotundas.
- **Other Upgrades**. The Receiver also proposes to make various other upgrades to clinical space in the North Block, Adjustment Center, and Gym. These upgrades are currently being developed. Trailers have also been procured and are in use for office space for medical care personnel.

The second phase of the Receiver's San Quentin Project includes the following:

- **Primary Care/Specialty Medical Services Modular in Upper Yard.** These modular units will be put in place after the "walk alone" yards are moved to "C" yard to augment the inadequate medical treatment space in the Neumiller Building. These modular units will be used until a permanent Central Health Services Building can be constructed. Planning for this project is in the final stages.
- **Minor Remodel of Medical Records Unit.** Minor changes will be made to the existing Medical Records Unit until a permanent Central Health Services Building can be constructed. Modifications are currently being planned.
- **Minor Remodel of Receiving Modular.** Reception of new inmates is currently conducted in modular buildings at San Quentin. Minor changes will be made to provide additional space for mental health screening and medical personnel.

The third and final phase of the San Quentin Project involves the construction of a new Central Health Services Building at San Quentin. The current plan is to raze Building 22, one of the oldest buildings in Marin County, and construct a new building in its place. The majority of Building 22 is not being used by the prison because of seismic issues. The new facility would include a 50-bed correctional treatment center, a reception center, and treatment space for mental health and dental clinicians. The concept design is in its final phase and environmental work for this project has commenced. In a Finance Letter (dated March 15, 2007) the Legislature was notified that $492,593 General Fund was transferred, from the $100 million in unallocated funds set aside to be directed by the Receiver in the 2006-07 Budget Act, for environmental impact documents related to the construction of a new Central Health Services Building at San Quentin.

Governor's Budget. The Governor's budget proposal includes $1 billion in lease-revenue bonds for construction of specialized beds, treatment space, and program space for health care services. The administration indicates that these funds will be set aside until cost estimates of specific projects become available from the court-appointed Receiver in *Plata v. Schwarzenegger.*

The Receiver, in his most recent report to the court, indicates that there is general agreement among the court appointed experts in the *Coleman* and *Perez* lawsuits that the Receiver should take the lead on the construction of the 5,000 medical beds, including clinical space and treatment centers.

Most Bond Funding Premature. The Receiver has indicated, in his most recent report to the court, that the survey of inmate needs is critical before planning can commence on new health care beds. The Receiver does not expect that the survey will be complete before July 2007. It will likely take some time after the survey is complete to develop a plan for the beds, including developing the types of beds that are needed. Therefore, staff finds that it is premature to expect that funding will be needed to construct new facilities in the budget year. (The exception may be the San Quentin Project where considerably more planning has been completed.)

The LAO withheld recommendation in their Analysis on the $1 billion in lease-revenue bonds for medical facilities because no specific projects had been submitted to the Legislature. Since the LAO Analysis was released, the administration has come forward with some details regarding the San Quentin Project. However, to date information commensurate with what would be included in a capital outlay budget change proposal has not been received.

Furthermore, the LAO recommends that the Legislature only provide funding for site acquisition and preliminary plans. The LAO indicates that this approach may require direct General Fund appropriations to initiate projects and in future years the Legislature could authorize lease-revenue bonds to finance the construction of these projects.

$1 Billion Likely Not Enough. Even though bond funding may be premature, staff finds that the $1 billion in lease-revenue bonds for specialized beds, treatment space, and program space for health care services will likely not be enough to cover all of the projects needed to comply with the settlement agreements. Specifically, preliminary plans to comply with the *Perez* lawsuit alone are estimated to cost about $1.4 billion. Staff estimates that the costs associated with the mental health bed plan are also likely to be over $500 million. Furthermore, development of a capital outlay plan to comply with the *Plata* lawsuit is still being developed and the costs are largely unknown.

How Will Construction Proceed? To date, the Receiver has contracted directly for support in developing capital outlay projects needed for compliance with the *Plata* settlement. These projects are currently in the planning stages, but it is unclear whether they will proceed to construction through the normal state capital outlay process. The Receiver has indicated that he intends to employ the design-build process for construction of the Central Health Care Services Building at San Quentin. This process generally requires special authorization by the Legislature and allows the state to contract with one firm to both design and build a facility. The Receiver has also indicated that to the extent possible his office plans on following other state processes regarding capital outlay, including complying with environmental regulations, prevailing wage, and reporting to the Public Works Board. However, because of the unique position and power of the Receiver there is some uncertainty about how this process will work.

The LAO recommends that, to the extent practical, the Legislature apply its standard budgetary processes to carefully review and act upon capital outlay budget requests submitted to it in behalf of the Receiver. The LAO finds that the Legislature continues to bear the responsibility, under the State Constitution, to appropriate funds and to enact an annual budget to support state programs.

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

- Hold this issue open.
- Request that staff, the LAO, DOF, and the department request additional information on the San Quentin Project from the Receiver to determine what level of funding is appropriate for this project in the budget year.
- Request that staff, the LAO, DOF, and the department request to work with the Receiver to develop a standardized process for proceeding with capital outlay projects to ensure adequate information for the Legislature to provide fiscal oversight.

Perez Related Dental Care Capital Outlay

Background. In December 2005, the department entered into a Stipulated Agreement to settle the *Perez v. Hickman* lawsuit claiming inadequate dental care in state prisons. This Agreement lowered the ratio of inmates to dentists from 950 inmates to one dentist to 515 inmates to one dentist. Additional treatment space is needed to accommodate this higher level of staffing.

The 2006-07 Budget Act included $1.7 million General Fund to the department to develop capital outlay plans to add additional dental treatment and office space to implement the *Perez* settlement. The department indicates that $500,000 was utilized to plan for treatment and office space at the first seven institutions where the new lower inmate to dentist ratio is being implemented.

Finance Letter. A Finance Letter (dated March 29, 2007) proposes $15.1 million General Fund for preliminary plans for dental treatment and office space at the following seven prisons:

- Avenal State Prison
- Calipatria State Prison
- Centinela State Prison
- Chuckawalla Valley State Prison
- Ironwood State Prison
- Kern Valley State Prison
- Folsom State Prison

These are the first seven institutions where the new lower inmate to dentist ratio is being implemented. The total cost of these projects is estimated to be $285 million.

Details Lacking. Staff finds that the department is requesting money for preliminary plans in the construction of seven major capital outlay projects. However, very little information has been provided to describe these projects. Staff has not received information commensurate with what is typically included in a capital outlay budget change proposal. Furthermore, the department has not submitted a Space Needs Study that was the basis for these proposals.

Coordination Needed. The Receiver has made numerous findings regarding the lack of adequate treatment space and program space for medical care. However, at this time, the Receiver has not developed a plan for addressing these space shortfalls at most of the institutions. (The Receiver is currently working on the San Quentin Project to address deficiencies at this institution as a pilot project.) As mentioned earlier in this agenda, there has been agreement among the experts in the three major health care lawsuits (including *Perez*) that the Receiver will take the lead on the construction projects to build 5,000 additional beds and the necessary clinical and treatment space. Staff finds that these projects have not been coordinated with efforts by the Receiver, because at this time the Receiver has not developed plans to address the space shortfalls at these institutions. Coordination is needed to ensure that the space at the facilities is best used to meet the collective needs of medical, mental health, and dental care in the most efficient manner.

Projects Should Be Scheduled Separately. Staff finds that these seven major capital outlay projects are proposed as one mega project. Staff finds that it would be easier to track if these projects were scheduled separately and tracked separately in the budget document.

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

- Hold this issue open.
- Request that the department provide additional detail on the scope of the projects, including the Space Needs Study developed.
- Request that staff, the LAO, DOF, and the department request to work with the Receiver and other court appointed experts in the *Perez* and *Coleman* lawsuits to determine the best way to proceed with these projects to ensure coordination among the lawsuits.

Farrell Related Minor Capital Outlay

Background. In 2004, the state settled the *Farrell* lawsuit that alleged poor conditions of confinement and lack of treatment services for youth housed in Division of Juvenile Justice institutions. Beginning in 2005-06, the department started implementing reforms as stipulated in a Consent Decree in the following seven functional areas:

- Mental Health
- Sex Behavior
- Disability
- Education
- Medical Care
- Safety and Welfare

The department has developed remedial plans for each of these areas, which has required the addition of a significant number of new staff. The current juvenile institutions do not have adequate or appropriate space to house these staff and/or space for these staff to deliver programming.

The 2006-07 Budget Act included $12.5 million General Fund to fund minor capital outlay projects to increase the programming and office space to start the implementation of the *Farrell* reforms. The department indicates that the majority of this funding was utilized to purchase portable units to provide temporary treatment space and classroom space. The department has also expended about $5.7 million ($2.9 million federal funds) to upgrade the telecommunications switch at each juvenile institution to accommodate the additional space. The department indicates that it is also funding an architect to design a new 280 bed core treatment facility and has indicated that in the future hopes to site one of these facilities in both Northern California and Southern California.

Finance Letter. A Finance Letter (dated March 29, 2007) requests $5 million for preliminary plans, working drawings, and construction for various minor capital outlay projects to increase programming space and office space for new staff to implement the *Farrell* implementation plans. The department indicates that $3 million is needed to supplement money provided in the current year to make modifications at seven Behavior Treatment Programs. The remaining $2 million is needed to renovate space for additional treatment space, classrooms, office space, and medical treatment space.

The proposal includes budget bill language to exempt these projects from state law that limits minor capital outlay projects to $400,000 or less. The budget bill language would allow the department to fund minor capital outlay projects to comply with the *Farrell* lawsuit that cost up to $600,000.

Details Lacking. Staff finds that very little information has been provided to describe these projects. Information on individual projects has not been put forward. Furthermore, the per foot costs for renovating the new Behavior Treatment Programs has more than doubled in cost since initial planning. However, no information has been provided to describe why these costs have doubled. Furthermore, it is unclear whether this request, combined with the funding provided in the current year, meets the space requirements of the remedial plans.

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

- Hold this issue open.
- Request that the department provide additional details on where the new modular units were placed and what needs they met, including what has been done to improve conditions at the Herman G. Stark Youth Correctional Facility (this facility was supposed to be the focus of the department's reform during the current year).
- Request that the department provide additional details on what the new funds will support including where additional classrooms, etc., are needed within the system and whether this is adequate to meet the space requirements of the remedial plans.

San Quentin Condemned Inmate Complex

Background. The 2003-04 Budget Act authorized $220 million in lease-revenue bonds for the design and construction of a new Condemned Inmate Complex for condemned male inmates at California State Prison, San Quentin. The original project was designed to provide 1,408 beds which were projected to meet the department's condemned inmate population needs through 2037. However, because of increased costs related to this project cost containment measures were taken in September 2005 to: (1) eliminate one housing unit, thereby reducing the number of beds by 18 percent; and (2) change the project scope for warehouse and maintenance support space from the construction of freestanding buildings to the conversion of existing dormitory buildings. Even with these cost containment measures, it was recognized that the project had a 6 percent budget deficiency in September 2005. The preliminary plans for this project were approved by the Public Works Board in November 2005.

There are currently 604 condemned inmates at San Quentin. The capacity of the current condemned housing is 634 beds. The new Condemned Inmate Complex would provide 1,152 beds.

Governor's Budget. The Governor's budget proposal includes $116.5 million in lease-revenue bonds to address additional funding needed to complete construction of the Condemned Inmate Complex at California State Prison, San Quentin. This is a 53 percent increase in estimated costs, since 2003, despite reducing the size of the project.

Project is Expensive. The LAO finds that the costs for this project will be nearly twice the cost of other high security beds. The main reasons for these higher costs are due to the location of the project. In particular, engineering requirements are more challenging at San Quentin because of the instability of the soil. Also, labor and materials are more expensive in the Bay Area than other potential sites for such a facility. This project is estimated to cost $300,000 per bed to construct. This is considerably higher then other high security beds.

Environmental Impact Report Caps Population at San Quentin. The LAO finds that the Environmental Impact Report that was developed for this project restricts the total number of inmates that can be housed at San Quentin to 6,558. The LAO finds that this limit may prevent the department from using all of the cells being vacated with the relocation of the condemned inmate population to a new Condemned Inmate Complex. Furthermore, the Receiver is currently pursuing the San Quentin Project that includes the construction of a 50-bed correctional treatment center, which may bring the total population at San Quentin closer to the cap.

LAO Recommends Moving Project. The LAO recommends that the Legislature cancel the condemned housing project at San Quentin and use the remaining funding authorized to build additional prison capacity for condemned and maximum-security inmates at a lower cost per bed elsewhere. This could include: (1) building a new condemned inmate complex at an existing prison or at a new site, or (2) constructing new Level IV capacity and moving condemned inmates to Level IV housing at an existing prison. The LAO indicates that some states house condemned inmates with other Level IV population in a single facility and suggests that this could also be an option.

The department indicates that the unique site specific costs that could be avoided if the Condemned Inmate Complex was built at another prison are about $33 million. The department indicates that these costs are less than the land acquisition and waste water treatment facilities that may need to be acquired or expanded to meet the needs of a new condemned housing unit. Staff finds that the costs associated with adding additional housing units for the condemned inmate population should not be any different from the department's infill bed plan, where the department has not needed to acquire additional land.

Furthermore, the department indicates that moving the Condemned Inmate Complex to another institution would most likely delay the start of construction by two years. The department estimates that it will be ready to go to construction during the upcoming budget year if the project is built at San Quentin.

Staff Comments. Staff finds that there was considerable debate regarding moving the Condemned Inmate Complex to an alternative site in 2003 when the project was authorized. A drawback that surfaced during this debate was that moving the condemned population to a remote prison facility would make it more difficult for specialized legal representation to have access to the condemned inmate population. State law allows for automatic appeals and habeas corpus appeals for all condemned inmates.

Furthermore, there would likely be local community opposition to moving the condemned inmate population to any other location in the state.

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

Correctional Officer Training Academy

Background. Currently, the department operates one main correctional officer training academy called the Richard A. McGee Correctional Training Center located in Galt. The department is also currently utilizing the Northern California Women's Facility in Stockton as a satellite training facility. Between the training facility in Galt and the satellite facility in Stockton, the department currently has the capacity to train 2,520 cadets annually. The department was provided $58 million to fund these expansions in the current year. The basic training academy in Galt will graduate 250 cadets on April 20, 2007.

The department is also developing collaborative relationships with the California Community College Chancellor's Office to pilot the delivery of basic academy training to students enrolled in four community colleges (Santa Rosa, Napa, Fresno, and Susanville). These efforts help to improve the recruitment of citizens living near CDCR institutions. These pilots have, or will, produce about 135 new correctional officers this year.

The department estimates that it will need about 4,600 additional adult correctional officers in the budget year. This number may increase further based on actions taken by the Receiver to ensure that custody staff is available to deliver health care services in a safe manner. The number may also increase if additional housing units are constructed as proposed in the Governor's infill prison bed plan. The department reports that it currently has 1,780 correctional officer vacancies. (This does not include correctional classifications with supervisory responsibilities.)

2006 Special Session. As mentioned above, the Governor called a special session in June of 2006. At that time, the Governor proposed $55 million from lease-revenue bonds and $6.9 million from the General Fund to construct and staff a new correctional officer training academy in southern California. In response to this proposal, the Senate approved SB 10xx (Machado) in August 2006 to authorize $7.2 million General Fund for planning to establish a new training academy for correctional officers in southern California. (This funding was also proposed to fund per diem costs for correctional officer cadets that would be displaced from the relocation of cadets currently utilizing the abandoned Northern California Women's Facility for training.)

Governor's Budget and Finance Letter. The Governor's budget proposal includes $105 million in lease-revenue bonds to acquire land, develop preliminary plans and working drawings, and construct a new correctional officer training academy in southern California. The Governor's budget also includes $29.9 million in General Fund monies to support these efforts. The department indicates that it has assumed the allocation of $17.5 million for the acquisition of 100 acres for the site of the new academy.

Details Lacking. Staff finds that the department is requesting funding for a major new facility. However, very little information has been provided to describe this project. Staff has not received information commensurate with what is typically included in a capital outlay budget change proposal. In addition, the department has not identified a site for the academy, which makes it difficult to estimate actual costs of acquiring land or constructing the facility.

Furthermore, the estimate of the cost of this proposal increased from $58 million in the Governor's budget proposal to $135 million in the detail provided to the Legislature on February 8, 2007. Staff has not received information to justify this increase and has not received information on the ongoing operational costs of this facility. The LAO withholds their recommendation until additional information is provided on the construction and operational costs of the academy.

Correctional Officers in Demand. Staff finds that the department needs to recruit more correctional officers. The department currently has over 1,700 vacancies, which adversely impacts department operations. A high number of vacant correctional officer positions reduce safety at the institutions for staff and inmates. High vacancies also contribute to high levels of staff burnout due to large amounts of overtime that must be worked. Furthermore, the Receiver has indicated, in his most recent report, that he plans to create health care access teams because of a lack of custody staff available to accompany inmates to medical appointments. In addition, other operations within the institution, including visiting and programming, can be adversely impacted by a lack of custody staff.

Southern California Academy May Improve Recruitment Efforts. The LAO finds that having an academy in Southern California may help the department recruit more officers and fill its vacancies. The department indicates that it is difficult to recruit cadets from southern California who may be unable or unwilling to move and be away from their families for the 16-week academy. Staff concurs with these findings.

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

- Hold this issue open.
- Request that the department provide additional information on the proposal, including information on the basic components of the facility.

Other Capital Outlay

1. Waste Water Treatment Plant Upgrades

Background. Overcrowding at the adult institutions has significantly impacted existing infrastructure systems, most notably, wastewater systems. These systems are often required to operate at or above the maximum intended capacity, resulting in an increased health and safety risk to CDCR staff, inmates, the public, and the environment. Overcrowding the prison sewage and wastewater systems has caused the discharge of waste beyond treatment capacity, resulting in sewage spills and environmental contamination. These spills can contaminate groundwater drinking supplies and place the public's health at risk. Furthermore, the department's wastewater issues have already resulted in multiple fines, penalties, and notices of violation to the CDCR from environmental control agencies (mainly the Regional Water Quality Control Boards). The department has been issued fines and wastewater violations at the following facilities, among others:

- California Men's Colony
- Deuel Vocational Institution
- California Correctional Center/High Desert State Prison
- Mule Creek State Prison

Governor's Budget and Finance Letter. The Governor's budget proposal and a Finance Letter (dated March 29, 2007) propose funding for the following Waste Water Treatment Plant (WWTP) upgrades:

- **California Correctional Center/High Desert State Prison.** The Governor's budget proposal includes $28.9 million General Fund for working drawings and construction for a project to make major upgrades to the WWTP that serves both of these prisons.

  The Finance Letter proposes $22.6 million General Fund in additional funding for this project to expand the scope of the project to meet the Regional Water Quality Control Board's Waste Discharge Requirement (WDR) permit requirements. This facility is currently operating under a Cease and Desist Order issued by the Board in July 2005 and the Governor's January proposal did not account for all of the upgrades needed to meet the WDR permit requirements. Specifically, the new project scope includes construction of an additional storage pond, the lining of five existing storage ponds, doubling of acreage needed to spray effluent, and the demolition and replacement of five support buildings. Total costs for this project are now estimated to be $54.6 million. Of this total, $3.2 million was appropriated in 2005-06 and 2006-07.

- **Deuel Vocational Institution.** The Finance Letter proposes to revert $25 million General Fund allocated for the construction of a new WWTP at this prison in 2006-07 due to delays with this project. The Finance Letter also proposes an additional $37 million General Fund so that construction of this project can continue in the budget year. Based on the most recent construction estimates for this project, costs have increased by over 40 percent since last April. The department indicates that it is currently operating this plant under a Cease and Desist Order issued by the Regional Water Quality Control Board and that the delays in the project will make it impossible to meet the Board's compliance schedule. Total costs for this project are now estimated to be $40 million. Of this total, $3.1 million was appropriated in 2005-06 and 2006-07.

- **California Correctional Institution.** The Finance Letter proposes $8.7 million in lease-revenue bonds for increased construction costs related to major upgrades of the WWTP at this prison. Funding for this project was first allocated in 1997-98. The department indicates that there have been major increases in the construction costs since the estimate for this project was completed in January 2005. Total costs for this project are now estimated to be $29.5 million. Of this total, $20.8 million was appropriated in 2005-06 and in several other previous budget years.

- **Chuckawalla Valley State Prison/Ironwood State Prison.** The Governor's budget proposal includes $5.7 million General Fund for working drawings and construction to rehabilitate the WWTP that serves both of these prisons.

  The Finance Letter proposes to reduce the amount provided in the Governor's budget by $4.4 million General Fund due to scope changes that require additional preliminary plans and working drawings before construction can commence. This proposal results in a request of $550,000 for additional preliminary plans and $724,000 for working drawings in the budget year. The revised proposal would replace the existing trickling filter system with an oxidation ditch and total costs for this project are now estimated to be $24.7 million. Of this total, $455,000 was appropriated for preliminary plans in 2006-07.

- **Sierra Conservation Center.** The Finance Letter proposes to revert $11.8 million General Fund allocated in 2005-06 for construction of a new effluent disposal system that includes a pumping station, a pipeline, and a new reservoir. The Finance Letter also proposes an additional $18.8 million General Fund so that construction of this project can continue in the budget year. This project went out for bids in May 2006. All of the bids exceeded the state's estimate, especially the bids related to the construction of the reservoir. Total costs for this project are now estimated to be $21.2 million. Of this total, $2.4 million was appropriated in previous budget years starting in 1998-99.

- **Centinela State Prison.** The Governor's budget proposal includes $5.5 million General Fund for construction of various upgrades to the WWTP at this prison.

  The Finance Letter proposes to increase construction-related costs for this project by $896,000 General Fund. The department indicates that this funding is needed for fire sprinklers in a chemical building and other electrical upgrades not identified in the initial preliminary plans. Total costs for this project are now estimated to be $7.4 million. Of this total, $988,000 was appropriated in 2005-06 and 2006-07.

- **California State Prison, Corcoran/Substance Abuse Treatment Facility.** The Governor's budget proposal includes $5 million General Fund for construction of numerous upgrades to the WWTP that serves both of these prisons.

The Finance Letter proposes to increase construction-related costs for this project by $913,000 General Fund. The department indicates that this funding is needed due to significant increases in the cost of equipment needed to complete this project, including electrical equipment. Total costs for this project are now estimated to be $6.5 million. Of this total, $554,000 was appropriated in 2005-06 and 2006-07.

- **Mule Creek State Prison.** The Governor's budget proposal includes $390,000 General Fund for preliminary plans to make numerous upgrades to the WWTP at this prison. This prison was issued a Notice of Violation of its WDR permit requirements by the Regional Water Quality Control Board in September 2006. Total costs for this project are estimated to be $4.9 million.

Water Use Efficiency Important. It is unclear whether water use efficiencies have been implemented at all of the institutions listed above. Staff finds that $11 million General Fund was provided in the current year for various maintenance efforts and that some of the funding was provided for flushometers (meters that limit the number of times in an hour an inmate can flush his/her toilet) and other water use efficiency measures. Staff finds that implementing water use efficiencies can be more cost effective than expanding WWTP facilities. However, given the overall magnitude of the overcrowding at some of these institutions, staff finds that water use efficiency will not meet all of the needs of the department. Nevertheless, staff finds that the department should have a policy of pursuing all water use efficiency options before taking efforts to greatly expand an institution's WWTP.

Costs Out of Control. The costs of several of the projects listed above have increased significantly since the preliminary planning stage. In some cases the department's estimates have nearly doubled, including the projects at the California Correctional Center/High Desert State Prison and the Deuel Vocational Institution. Staff finds that the department needs to do more to contain costs and ensure that the original scope of the project is accurate before proceeding to preliminary plans and working drawings. Furthermore, more needs to be done to ensure that these projects stay on schedule. Two of these projects, California Correctional Institution and the Sierra Conservation Center projects, were first funded in the 1990s. Staff finds that the same lack of cost controls and schedule controls could impact the infill bed housing plan or other major capital projects that are currently being proposed. Cost overruns on these much larger projects could be significantly more than these WWTPs.

How Will Facilities be Sized? The department has proposed infill projects at the majority of the facilities that need WWTP upgrades. Furthermore, the Receiver and the department have proposed building additional beds at some prisons that will further stress the WWTP at certain institutions. All of these upgrades are being designed to accommodate current overcrowding, except for the Chuckawalla Valley State Prison/Ironwood State Prison project. This means that if the department stays in the "bad" beds and also builds the new infill beds and/or health care beds, it is likely that the WWTP upgrades will not accommodate the expanded demands on the infrastructure. The department has indicated that each of these projects pose different challenges for expansion. Furthermore, the department indicates that it plans on issuing change orders to contracts it has already awarded if the infill beds are approved. Staff finds that issuing large change orders to projects that have already been awarded compromises the state's negotiating position and may significantly increase the costs of the project.

Specific Project Issues. Staff has identified the following issues with the projects listed above:

- **California Correctional Center/High Desert State Prison.** The scope of this project has changed dramatically to comply with requirements of the Regional Water Quality Control Board. However, the department finds that it can complete the preliminary plans for the new scope within the funds already appropriated for the preliminary plans. The Legislature has not received a notification to change the scope of this project. Given the major changes to the scope and projected delays it is unclear that construction funding is needed in the budget year. Furthermore, if the Legislature approves the infill bed plan that would add 750 beds to these prisons, this project would have to be further amended. This would result in a further delay to the project or a costly change order.
- **Deuel Vocational Institution.** This project has had significant cost overruns. Staff finds that some of these cost overruns could have been avoided if the preliminary planning for this project had been more accurate and complete.
- **California Correctional Institution.** This project has been delayed significantly. Staff finds that delays in this project have increased the costs of the project. Furthermore, if the Legislature approves the infill bed plan that would add 875 beds to this prison this project would have to be further amended. This would result in a further delay to the project or a costly change order.
- **Chuckawalla Valley State Prison/Ironwood State Prison.** The scope of this project has changed to comply with requirements of the Regional Water Quality Control Board. The Legislature has not received a notification to change the scope of this project. This project can accommodate the additional infill housing being planned for these prisons.
- **Sierra Conservation Center.** Staff finds that it is difficult to understand what is driving the increased costs for this project. Additional information is needed from the department. Furthermore, if the Legislature approves the infill bed plan that would add 400 beds to this prison, this project would have to be further amended. This would result a further delay to the project or a costly change order.
- **Centinela State Prison.** If the Legislature approves the infill bed plan that would add 590 beds to this prison, this project would have to be further amended. This would result in a further delay to this project or a costly change order.
- **California State Prison, Corcoran/Substance Abuse Treatment Facility.** The Governor's infill bed plan includes 150 new beds for the Substance Abuse Treatment Facility. However, additional upgrades may still need to be made to this WWTP given the current deficiencies in overcrowded conditions.
- **Mule Creek State Prison.** If the Legislature approves the infill bed plan that would add 400 beds to this prison, this project may have to be further amended. However, since this project is in the preliminary planning stage, changes could be made relatively easily.

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

- California Correctional Center/High Desert State Prison – Approve funding for working drawings and hold open funding for construction.
- Deuel Vocational Institution – Approve Finance Letter for this project (reversion

language and funding for construction).

- California Correctional Institution – Hold this issue open, pending action on the infill bed plan.
- Chuckawalla Valley State Prison/Ironwood State Prison – Approve the Governor's budget and Finance Letter proposals and request that a scope change be issued for this project.
- Sierra Conservation Center – Hold this issue open pending additional information on what is driving the increased costs for this project.
- Centinela State Prison – Hold this issue open.
- California State Prison, Corcoran/Substance Abuse Treatment Facility – Hold this issue open.
- Mule Creek State Prison – Approve this budget proposal.
- Request that the department provide information on the water use efficiency measure that it has taken at each of these institutions.
- Request that staff, the LAO, DOF, and the department develop and report, by May Revision, on strategies to address cost controls and schedule controls on the department's capital outlay projects.
- Request that the department develop estimates and report by May Revision on what funding and modifications are needed to expand the scope of each of these projects to accommodate infill beds and health care beds that have been identified, where applicable.

2. Sierra Conservation Center - Water Supply Treatment Plant

Background. The Sierra Conservation Center is located in the Sierra Nevada foothills near the town of Sonora. The center pre-treats raw water from Lake Tulloch for all uses at the center, including drinking, showering, toilets, and kitchen uses.

Governor's Budget and Finance Letter. The Governor's budget proposal and a Finance Letter (dated March 29, 2007) propose funding for a filtration structure for the water supply treatment plant at the Sierra Conservation Center. The Governor's budget includes $2 million General Fund for working drawings and construction of a filtration structure for the water supply treatment plant at the Sierra Conservation Center.

A Finance Letter proposes to reduce the amount provided in the Governor's budget by $1.8 million General Fund due to delays in the construction of this project. The total cost of this project is now estimated to be $2.2 million. Of this total, $151,000 was appropriated in 2006-07 for preliminary plans.

Is This Proposal Sized Correctly? The administration proposes to add 400 beds to the Sierra Conservation Center in the infill bed plan. It is unclear whether this facility will accommodate additional capacity at this institution.

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

- Hold this issue open.
- Request that the department develop estimates and report by May Revision on what

funding and modifications are needed to expand the scope of each of this project, if needed.

3. Solid Cell Fronts

Background. In order to improve the safety of staff, the department started an effort to retrofit old administrative segregation units with open barred cell fronts and cell doors to a solid cell front design. The solid cell front design reduces the opportunity for gassing or spearing attacks by inmates upon staff.

Governor's Budget and Finance Letter. The Governor's budget proposal and Finance Letter (dated March 29, 2007) includes funding for an ongoing project to replace the bar construction of cell fronts in the Administrative Segregation Units with solid cell fronts. This modification will also require modifications to the heating/ventilation system and utilities. The budget and Finance Letter includes funding for the following conversions:

- **California Institution for Men.** The Governor's budget proposal includes $5.6 million General Fund for construction to convert 204 cells and 12 showers.

  The Finance Letter proposes to increase the amount provided in the Governor's budget by $588,000 General Fund due to a revised construction cost estimate. The department indicates that, given the shortage of inmate beds, the department has determined that only one-half of one floor will be available to the contractor to work on at a time. This will lengthen the duration of the construction contract from 12 months to 16 months. Total costs for this project are estimated to be $7.4 million. Of this total, $1.2 million was appropriated in 2005-06 and 2006-07.

- **California Medical Facility.** The Governor's budget proposal includes $4.1 million General Fund for construction to convert 126 cells and 6 showers.

  The Finance Letter proposes to increase the amount provided in the Governor's budget by $438,000 General Fund due to a revised construction cost estimate. The department indicates that given the shortage of inmate beds the department has determined that only one-half of one floor will be available to the contractor to work on at a time. This will lengthen the duration of the construction contract from 12 months to 16 months. Total costs for this project are estimated to be $5.3 million. Of this total, $759,000 was appropriated in 2005-06 and 2006-07.

- **Deuel Vocational Institution.** The Governor's budget proposal includes $504,000 General Fund for preliminary plans to convert 144 cells.

  The Finance Letter proposes to reduce this amount by $99,000 General Fund due to a refined estimate of actual costs prepared by the department. Total costs for this project are now estimated to be $6.4 million.

- **Correctional Training Facility.** The Governor's budget proposal includes $504,000 General Fund for preliminary plans to convert 144 cells.

  The Finance Letter proposes to reduce this amount by $99,000 General Fund due to a refined estimate of actual costs prepared by the department. Total costs for this project are now estimated to be $6.5 million.

Staff Comments. Staff finds that gassing attacks on staff should be reduced when new housing units are constructed to accommodate the mentally ill population. Furthermore, the infill housing plan includes several new administrative segregation units, which will allow the department to convert existing administrative segregation units back to general population housing units. Therefore, the overall size of this project may be smaller if the infill bed plan is approved and the mental health bed plan is implemented. However, staff finds that none of the projects proposed for funding in the budget year would receive a new administrative segregation unit in the infill bed proposal.

Furthermore, the department has identified additional changes that may be needed to the two projects proposed for construction in the budget year. These changes may increase the costs of the projects.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Hold open funding for the construction phase at the California Institution for Men and California Medical Facility.
- Approve budget and Finance Letter for preliminary plans phase at the Deuel Vocational Institution and Correctional Training Facility.

4. Small Management Yards

Background. The CDCR is required, by a court order from the 1970s, to provide at least ten hours per week of out of cell exercise to inmates in administrative segregation. Historically, the department would accommodate this requirement by releasing 15 to 25 inmates at one time into an exercise yard. The department cites that the increased complexity of the administrative segregation inmate population has made it more difficult to release large groups of inmates without the threat of violence. Therefore, several years ago, the department started to construct small management yards and so far 921 small management yards have been implemented.

The small management yards are approximately 150 square feet and can accommodate two inmates at one time. They are made of a metal fencing-type material and have a combination toilet and sink.

Governor's Budget. The Governor's budget proposal includes $911,000 General Fund for preliminary plans and working drawings to add 179 small management yards at the following institutions:

- **California Correctional Center –** 20 yards
- **Sierra Conservation Center –** 20 yards
- **California State Prison, San Quentin –** 31 yards
- **North Kern State Prison –** 20 yards
- **Correctional Training Facility –** 38 yards
- **California Correctional Institution –** 50 yards

This proposal does not allocate monies for construction of these yards in the budget year. However, the department estimates that it will cost $7.4 million in total to complete this project. The department proposes to utilize Inmate/Ward labor to complete the construction of these yards.

Staff Comments. Staff finds that the department plans on constructing 262 additional small management yards in order to complete the roll out of small management yards at every institution. The department plans on requesting funds for design of these facilities in two additional phases over the next two budget years.

Staff Recommendation. Staff recommends that the Subcommittee approve this request as proposed.

5. California Men's Colony Kitchen

Background. The kitchen at the West facility of the California Men's Colony was constructed in the 1940s using wood construction. Surveys by engineering firms in 1992 and 1995 found significant water damage had compromised the structure because of the wood construction and the years of use. In addition, two surveys conducted in 2006 found moderate to severe mold infestation in the kitchen and the dining areas. To date, some rooms in the kitchen have been sealed off and are no longer in use because of the high concentration of mold. The department also has indicated that over 25 percent of the floor area is severely affected by water damage.

The West facility currently houses 2,800 Level I and Level II inmates. Inmates have been housed in this facility continuously since 1984 without any major modifications to improve the kitchen facility.

Governor's Budget. The Governor's budget proposal includes $10.5 million for working drawings ($258,000 General Fund) and construction ($10.3 million in lease-revenue bonds) to replace the central kitchen at the West facility of California Men's Colony. This project was first funded in 1998 and has been delayed several times.

Staff Recommendation. Staff recommends that the Subcommittee approve this request as proposed.

6. Folsom State Prison – Officers and Guards Building

Background. In 2002, the department completed a $2.5 million seismic retrofit of the historic Officers and Guards Building at Folsom State Prison. Further modifications are needed to this building before it can be used as office space. The Officer and Guards Building is outside of the secure perimeter of the prison.

Folsom State Prison currently lacks adequate space to accommodate the levels of health care mandated by the federal courts. The prison currently has an administration building that is within the secure perimeter of the prison. The administration building currently houses the Warden's office, records, and other management activities.

Governor's Budget. The Governor's budget proposal includes $370,000 General Fund for working drawings to convert the historic Officers and Guards Building at Folsom State Prison in to office space for prison administrative staff and inmate records personnel.

Staff Comments. Staff finds that this project will provide for additional space in the current administration building within the secure perimeter that can be converted to health care space. This should reduce the need to build additional space to meet health care space needs.

Staff Recommendation. Staff recommends that the Subcommittee approve this request as proposed.

7. Deuel Vocational Institution – Electrical Power Substation

Background. The department utilizes groundwater as the water supply source for the institution. The groundwater no longer meets the Department of Health Services' drinking water standards and in 2003 a project was funded to implement a reverse osmosis system to ensure that the groundwater was treated to a level suitable for drinking. Furthermore, the department is also currently planning to make major upgrades to its current waste water treatment facilities. Both of these facilities require additional electrical capacity.

Finance Letter. A Finance Letter (dated March 29, 2007) proposes to revert $2.2 million General Fund for working drawings and construction appropriated in 2006-07 for a new electrical power substation to serve the Deuel Vocational Institution. The Finance Letter also proposes to provide $3.9 million General Fund to continue working drawings and construction of this project in the budget year. The department indicates that foundation costs have increased significantly due to a recently completed soils report. In addition, raw materials needed to complete this project, including copper and core steel, have increased from 50 to 80 percent in the past year. Total costs for this project are now estimated at $4.1 million. Of this total, $250,000 was appropriated in 2006-07 for preliminary plans.

Costs Out of Control. The costs of this project have increased significantly since the preliminary planning stage. Staff finds that some of the increased costs are due to materials, but the majority of the increased costs are due to a significant change to the foundation required for this facility. Staff finds that the department could avoid these cost overruns if it ensured that the original scope of the project was accurate before proceeding to preliminary plans and working drawings.

Staff Recommendation. Staff recommends that the Subcommittee approve this Finance Letter proposal (reversion and language and funding for working drawings and construction).

8. Sierra Conservation Center – Firing Range

Background. Correctional officers in armed posts participate in regular fire arms training. At some institutions all correctional officers participate in regular fire arms training. Some prisons have firing ranges to accommodate this training on site.

The department indicates that the firing range at the Sierra Conservation Center is used for training by the department, as well as local law enforcement.

Finance Letter. A Finance Letter (dated March 29, 2007) proposes $361,000 General Fund for preliminary plans for a new pistol and rifle firing range at the Sierra Conservation Center. This is a new project to relocate an existing training facility that is now close to new homes (Shotgun Estates) adjacent to the facility. The total costs for this project are estimated at $8.6 million and would include the construction of a classroom. The current firing range does not include classroom facilities.

Staff Comments. Staff finds that the firing range is important to ensuring adequate training for the correctional officers. However, staff also finds that the department is currently pursuing a number of high priority projects to improve the safety for correctional officers within the institutions by relieving overcrowding. It is not clear that the department will have enough internal resources to manage all of the projects it needs to pursue and may need to prioritize.

Staff finds that there may be multiple options that could be pursued that do not include constructing a new firing range at this time. These options include developing a relationship with a regional firing range that will accommodate the department's training needs, traveling to a nearby prison to utilize their firing range, and making modifications to the existing firing range to limit the risks to the nearby property line.

Furthermore, staff finds that additional information is needed regarding the mutual aid arrangement between the department and local law enforcement to share the firing range. It is unclear whether the department is reimbursed by local law enforcement for the use of this facility.

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

- Reject this proposal.
- Request that the department develop and submit an alternative proposal for consideration in future budget years that includes a cost sharing with the local government agencies to help defray the costs of moving this facility.

9. Statewide Project Planning

Background. The department manages a significant number of facilities. Most of these facilities are old and decaying. This requires constant vigilance by the department to ensure that the state's correctional system is maintained and can be fully utilized.

Governor's Budget. The Governor's budget proposal includes $2 million General Fund for advanced planning and budget packages for future capital outlay projects.

Staff Comments. Staff finds that the Governor's budget increases the amount of money provided to the department by $750,000 in the budget year. This increase is justified given the large volume of work projected over the next several years. Furthermore, the department's current planning is inadequate and does not result in budget proposals that have enough information for appropriate fiscal oversight by the Legislature. Staff finds that additional monies may improve the department's abilities to provide more detailed plans for future capital outlay projects.

Staff Recommendation. Staff recommends that the Subcommittee approve this request as proposed.

Maintenance and Equipment

1. Maintenance Funding

Background. The capital facilities of the adult prisons operated by CDCR represent an investment in today's dollars of as much as $20 billion. Despite having made this significant investment, the state faces a growing backlog of special repair work that now exceeds $200 million. This is partly the result of an aging prison infrastructure and sustained high levels of overcrowding of facilities but also due to the way that CDCR has managed and organized the responsibilities of keeping its adult institutions in good repair.

Governor's Budget. The Governor proposes $69 million General Fund to augment the department's baseline budget for maintenance, special repairs, and major equipment purchases. Specifically, this budget request proposes to fund the following activities:

- **Special Repairs Program.** $12 million to maintain the same level of funding for special repairs as was provided in the current year and augment it by $1 million.
- **Parts and Materials Inventory.** $10 million to ensure that preventive maintenance is not deferred or neglected due to lack of adequate materials or parts.
- **Roof Maintenance.** $6.4 million to create regional maintenance teams to undertake ongoing preventative maintenance and minor repairs to roofs.
- **High Voltage Maintenance.** $6 million to perform preventative maintenance of high voltage switchgears, transformers, generators, and distribution networks.
- **Heating and Ventilation Maintenance.** $5.9 million to create three regional maintenance teams to perform preventive maintenance of heating and ventilation systems all the facilities.
- **Electrified Fence Repairs.** $3.1 million for electrified fence system repairs.
- **Road and Parking Lot Maintenance.** $1.6 million to create a pilot project to repair and replace institution roads and parking lots.
- **Fire Alarm Maintenance.** $1 million to develop maintenance contracts with fire alarm and suppression system maintenance companies.

This proposal does not include any additional positions to carry out the maintenance. The department indicates that it plans to redirect vacant maintenance positions from the institutions to headquarters to support this budget proposal.

Maintenance Efforts Not Well Managed or Organized. The LAO has found significant problems in the way that CDCR has organized and managed its responsibilities for keeping its adult institutions in good repair. These problems are aggravating the maintenance and repair problems, contributing to a lack of preventative maintenance and the growing backlog of special repairs of its facilities. Specifically, the LAO finds the following:

- **Prisons Not Provided Guidance**. There is a general lack of policy guidance from headquarters to the prisons regarding what maintenance work will be prioritized or completed. It is up to the Warden at each institution to determine the use of the maintenance allotment provided to the institution.

- **Preventative Maintenance Not Well Tracked or Coordinated.** The department does have an information technology system to track maintenance of its facilities. However, due mainly to lack of staff this system has not been effectively utilized. In addition, nobody at headquarters is trained to analyze the maintenance data that is submitted from the institutions. Furthermore, CDCR does not maintain a list of equipment that needs replaced.
- **Headquarters Authority Fragmented.** Currently the Adult Support Division determines the allocations for maintenance, while the Office of Facilities Management makes funding decisions about large special repair projects. This fragmentation of authority over maintenance undermines the department's effective use of state resources to prioritize funding.
- **State Maintenance Funding Redirected.** Data from the department indicates that many of the adult institutions are not spending all of their maintenance funds on maintenance. Recent data shows that 16 of the 33 institutions diverted more than 10 percent ($4 million) of their maintenance funding to non-maintenance items. This does not include salary savings from vacant maintenance positions.
- **Wardens Have Little Training.** Wardens generally have little training in maintenance issues and are generally not evaluated based on the maintenance of their facilities.
- **Institution Funding Based on Outdated Formula.** The current allocation methodology used to allocate maintenance funds is based on historic allocations. The current formula does not account for the age of the facility, its physical size, its mission, or the number of inmates it houses. Furthermore, the per square foot allocation can vary widely between institutions.
- **Staffing Not Available for Preventative Maintenance.** Generally there is not enough maintenance staff to handle preventative maintenance. Maintenance staff is needed for critical projects that require immediate response. The number of maintenance staff at individual institutions is not consistent with or based on objective measure of their maintenance and repair needs, such as their size, age, or the mission of their facility.
- **Use of Inmate Labor Limited.** Inmate labor is relatively limited for maintenance work because frequently inmates do not have specialized skills needed for some projects and current labor agreements require a staff trade worker to supervise maintenance workers at all times.

Efforts Underway to Address Maintenance Problems. The department indicates that it is beginning to improve its management and special repair functions. The department has established a Maintenance Services Branch within the Office of Facilities and Management to improve coordination of maintenance of CDCR facilities. These staff will be tasked with tracking maintenance activities. The new branch will be staffed with redirected vacant positions from the field. The department has also indicated that it intends to contract with a private firm to conduct a comprehensive assessment of the condition of the department's facilities and determine the level of funding and staffing that is needed for deferred, preventative, and corrective maintenance.

LAO Recommendations. The LAO makes several recommendations to improve maintenance of the department's facilities. The LAO recommends that the department take the following actions to improve maintenance operations:

- Direct CDCR to revise the formula used to allocate maintenance funding to the institutions. The new formula should account for the age, mission, and inmate population of each institution.
- Direct CDCR to modify the official duty statement of the Associate Warden of Business Services at each prison to make these state officers responsible for overseeing the maintenance budget.
- Move the responsibility for the allocation of maintenance funding from the Adult Support Division to the Office of Facilities Management.
- Direct CDCR headquarters to provide more policy guidance to the institutions on maintenance priorities and strategies.
- Take steps to reduce the vacancy rate for maintenance employees, ensure that future collective bargaining agreements provide more flexibility for the use of inmate labor, and expand maintenance staffing.
- Incorporate juvenile facilities into the department's maintenance tracking system.

Furthermore, the LAO recommends that the Legislature take the following actions to ensure that maintenance efforts at the department are improved:

- Approve the maintenance budget proposal but reduce it by $4 million to reflect a rough estimate of the funding that is currently being redirected by the department to support other purposes.
- Refrain from funding additional maintenance needs until the department has demonstrated improvements in the way it manages and organizes maintenance and special repairs responsibilities.
- Ensure maintenance funding is spent on maintenance by separately scheduling the item within the main support item or adopting budget bill language allocating a specified amount of the department's budget to maintenance.
- Modify state law to require that management audits conducted of wardens evaluate the performance of wardens in the maintenance of the facilities they are managing.
- Request a report that updates the Legislature on the department's efforts to take the actions listed above to improve its maintenance efforts.

Proposal is Good First Step. Staff finds that the Governor's budget proposal and the actions that the department has started to take are a good first step to improving maintenance of the state's prison infrastructure. However, staff recognizes that this money will not solve the current backlogs of special repairs that are well over $200 million. Furthermore, staff concurs with the department's plans to employ a consultant to evaluate the current maintenance needs of the institutions. This will provide a good starting point for evaluating future budget requests to solve the department's maintenance problems. Staff recognizes that the solution to this problem will be a multi-year effort.

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

- Approve the maintenance budget proposal less $4 million as recommended by the LAO and request that the department stop redirecting maintenance funding in its base budget.
- Approve budget bill language that ensures that the department expends these funds only on maintenance activities (similar to Provision 22 of 5225-001-0001 of the 2006 Budget Act).

- Request staff, the LAO, DOF, and the department to develop trailer bill language to require that management audits conducted of wardens evaluate the performance of wardens in the maintenance of the facilities they are managing.
- Request that the department provide an update on its efforts to take various actions to improve its maintenance efforts as detailed in the LAO Analysis.

2. Equipment Funding

Background. Similar to maintenance funding, staff finds that equipment replacement has generally been under-funded at the department. Furthermore, in some cases, a portion of funding that has been provided for equipment replacement has been redirected to support other department activities. The LAO estimates that a majority of institutions regularly diverted 15 percent of their equipment budget ($3.5 million annually) to other non-equipment activities. The department's statewide equipment budget in the current year is $23 million General Fund.

Governor's Budget. The Governor's budget proposal requests $23 million General Fund for equipment replacement. This would double the baseline funding for equipment replacement. Specifically, this request includes:

- Telephone System Repairs/Upgrades - $4.4 million
- DJJ Private Branch Exchange - $1.1 million
- DJJ Cable Plant Replacement - $2.4 million
- Trunked Radio Systems Infrastructure Replacement - $10 million
- Hand-held Radio Replacement - $1.8 million
- Bus Replacement & Modifications - $3.3 million

Juvenile Investments Need Careful Consideration. The LAO has raised concerns about the major investments in upgrading the telecommunications systems at the DJJ institutions ($3.5 million) given the Governor's proposal to reduce by half the DJJ's population. The LAO finds that making major infrastructure improvements to DJJ facilities that may be closed or abandoned in future years is not a wise use of state funding. Staff finds that the telecommunications systems at the juvenile institutions are some of the oldest and most out-of-date systems in the state. Staff finds that these upgrades are needed if the state wants to continue to operate these facilities. Staff also finds that the Legislature approved $5.7 million to upgrade the telecommunications switch at each of the juvenile institutions in the current year.

Telecommunications Upgrades Impact Information Technology Proposal. Staff finds that the department has also proposed major upgrades to the telecommunications capabilities of the department's institutions in the Consolidated Information Technology Infrastructure Project. It is unclear how this proposal to repair and upgrade the system is being coordinated with the information technology efforts. Staff finds that more information is needed on how these proposals are coordinated.

Radio System is Outdated. Staff finds that the department's current radio system is outdated and needs replaced. Of the 27 trunked radio systems that the department has, nearly all of them are over 12 years old and have been discontinued by the vendors. Furthermore, the number of hand-held radios employed by the department has increased considerably and the department has not been provided with funding to ensure a regular replacement schedule. Current funding allows for replacement every nine years, which is 50 percent longer than is recommended by the manufacturer. Nevertheless, staff finds that radio usage has increased significantly in the institutions over the last several years. It is unclear what is driving this usage and how the radios are used in the institution.

Bus Fleet Replacement Proposal is Aggressive. The department's current fleet of buses is old and outdated and in some cases do not meet current emission requirements. However, staff finds that the department may be able to make changes to these buses to rehabilitate the engines and retrofit them to meet emissions standards instead of the aggressive replacement schedule being proposed by the department. Staff finds that these buses are built to last a long time and can survive for several million miles if properly maintained. Furthermore, staff finds that some school districts keep comparable buses much longer given that there are still 300 buses manufactured before 1977 in use by school districts around the state. The department's oldest bus was manufactured in 1985.

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

- Staff recommends that the Subcommittee hold this issue open.
- Request that the department provide additional information, by May Revision, on the scope of the upgrades proposed for DJJ facilities, including an estimate of sunk costs if these institutions are abandoned.
- Request that the department provide additional information, by May Revision, on how this proposal coordinates with the Consolidated Information Technology Infrastructure Project.
- Request that the department provide additional information, by May Revision, on the policies that impact the role of radios within the institution, including information about why radio usage has increased.
- Request that the department provide additional information, by May Revision, on what funds it needs to replace buses that cannot be retrofitted to meet air standards.

Information Technology Issues

1. Consolidated Information Technology Infrastructure Project

Background. Currently, most of the department's information technology systems are past their useful life (many were designed and implemented in the 1970s). Furthermore, the department cannot improve these systems without first addressing serious deficiencies in the telecommunications and electrical infrastructures of the institutions. The current electrical infrastructure at some prisons will not support the use of additional computer technology. Furthermore, the department currently does not have the technology to utilize information technology devices (computers) in various places within the institutions outside of the Warden's office. The institutions generally have very little computing capabilities, records staff often do their work without the assistance of computers, and some institutions were not connected to the Internet until just a few years ago.

Governor's Budget. The Governor proposes $118.5 million General Fund in the budget year to fund the Consolidated Information Technology Infrastructure Project. The Project proposes to consolidate the department's current information technology infrastructure and provide the basic network infrastructure for planned and future projects to centrally track and update inmate information. This proposal proposes to put in place the foundation that is needed to run any information technology applications.

The Governor's budget proposes to finance this project using the GS $MART financing program administered by the Department of General Services. The administration estimates that financing this project could save $86 million in the budget year. However, the administration has not provided an estimate of what the total project costs will be, including financing costs under a GS $MART financing arrangement. The administration proposes budget bill language to allow for funding to be reverted when a GS $MART financing arrangement has been made.

Plan Does Not Employ Latest Technology. Staff finds that the goals of the Consolidated Information Technology Infrastructure Project are a necessary first step to implementing any information technology applications. This Project is akin to building the foundation that is needed to run any information technology applications. However, staff finds that the department plans on using outdated technology that will take considerable effort to implement at the institutions. The department's plan is to run cable and fiber optic wiring to every housing unit and treatment space at the institutions. In the first year the department plans on making sure there is adequate wiring at administrative buildings and in the health care treatment spaces. However, staff has been informed by the Receiver's office that they do not plan on using cable or fiber optic technology. The Receiver's office plans on using wireless technology to run their health care information technology programs. Furthermore, staff has learned that the Receiver's office has already put in place a wireless network for the medical facilities at California State Prison, San Quentin at a cost that is considerably lower than running cable to through the 150 year old buildings at San Quentin.

Furthermore, staff finds that it will take a considerable amount of time before the cable and fiber optic systems are in place because of the considerable capital outlay that will need to be done at each institution to get the wiring to the correct spots at each institution. Staff understands that it would take considerably less time to roll out a wireless network for each institution.

Project Needs Coordinated. Staff finds that a significant portion of this project consists of capital outlay-like upgrades to the department's existing electrical and telecommunications infrastructure. Furthermore, as referenced above, the department is also undergoing other projects to upgrade electrical and telecommunications systems at the departments. It is not clear to staff that these proposals have been coordinated to ensure cost effective upgrades that are coordinated and limit the number of times we have to make modifications to the system.

IT Issues Versus Infrastructure Issues. Staff finds that some of the work in this proposal will be accomplished by staff in the information technology department and other work will be done by the Office of Facilities Management. Staff has requested that the department provide information on the division of labor proposed in this budget change proposal. Staff has not received this information.

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

- Hold this issue open.
- Request that the department provide additional information by May Revision on why it is not using the latest and most cost effective technology for this information technology infrastructure upgrade.
- Request that the department and DOF develop options by May Revision for using wireless technology for some or all of the infrastructure upgrades.
- Request that the department provide additional information by the May Revision on how it will coordinate the efforts of the Consolidated Information Technology Infrastructure Project with other infrastructure projects to upgrade electrical and telecommunications infrastructure.
- Request that the department provide additional information by the May Revision on the division of labor in this budget proposal between the Information Technology Division and the Office of Facilities Management.

Capital Outlay Staffing

Background. The Office of Facilities Management is responsible for all of the projects outlined in this agenda. This is a significant increase in workload for this office. Furthermore, several of these capital outlay programs are new, complex, and require a great amount of coordination with other programs.

Furthermore, staff finds that the budget documents submitted by the department to fund capital outlay projects are uniformly inadequate and do not provide the Legislature with the information that it needs to provide prudent fiscal oversight.

The department has indicated that the Office of Facilities Management currently has 300 authorized positions. Information has not been provided on how many of these positions are currently vacant and how many staff are in each branch. These positions support operations of five main branches. The branches under the Office of Facilities Management include:

- Telecommunications Branch
- Design Standards and Review Services
- Inmate/Ward Labor Program
- Maintenance Services
- Project Financing and Administration

During the 2006 special session on prison overcrowding, the Governor put forward a proposal to augment the department's internal capital outlay staffing support by $21.7 million in the budget year. A portion of this was included in SB 10xx (Machado), which was ultimately passed by the Senate and failed in the Assembly.

Governor's Budget and Finance Letter. The Governor's budget and a Finance Letter (dated March 29, 2007) provide funding for a few small augmentations to the staff within the Office of Facilities Management. These proposals include the following:

- **Inmate/Ward Labor Program.** The budget proposal includes $551,000 in reimbursement funds to support seven positions to manage additional workload associated with the management and supervision of projects undertaken by CDCR's Inmate/Ward Labor Program at juvenile institutions. The department indicates that it has established these positions administratively in the current year and needs $181,000 in additional reimbursement authority in the current year to fund these positions.
- **Training Academy.** The Finance Letter requests $521,000 General Fund to establish five positions to coordinate the development of a correctional officer training academy in southern California.

The department is also requesting additional positions in the Consolidated Information Technology Infrastructure Project, but it is not clear to staff which positions will be assigned to the information technology department and which staff will be assigned to the Office of Facilities Management.

No New Positions to Support Majority of Proposals. The administration has not put forward any proposals to augment capital outlay staffing levels at the department given the large number of new capital outlay programs being proposed in the Governor's budget. Staff finds that the department, in correspondence with the Receiver, has estimated that staffing to address health care capital outlay alone would require 130 additional staff. Furthermore, no additional staff has been requested to support the infill bed proposal, which would be implemented on an expedited schedule that would likely take more staff resources. In addition, no positions have been requested to help implement the doubling of funding provided for maintenance. The department indicates that it is redirecting vacant positions from the field to headquarters to implement this program. While it is unclear to staff what the current 300 positions are responsible for on a daily basis, it is clear that the workload for the Office of Facilities Management will increase significantly if just a small number of the capital outlay budget proposals are approved.

Staff finds that the department has historically relied heavily on outside private contractors for the majority of its capital outlay programs, but it is critical that there is adequate state staff to oversee and direct the work of the contractors. Without adequate oversight, the department may not be able to provide the level of fiscal accountability that is required when public works projects are funded. Furthermore, staff notes that the department is exempt from utilizing the services of the Department of General Services so the CDCR is the only state entity that provides oversight of the work of outside contractors.

Inmate/Ward Labor. Staff finds that the department administratively established the inmate/ward labor positions in the current year to meet the needs of projects that were funded last summer. It is unclear to staff why these positions were not anticipated last year when the budget was being deliberated. In the future the department should try and avoid establishing positions administratively especially for efforts that are foreseen. Furthermore, it is unclear whether the department needs its reimbursement authority increased in the current year to fund the new positions.

Training Academy Positions Do Not Fit. Staff finds that the department likely needs additional staffing to support this and other capital outlay proposals detailed in this agenda. However, staff finds that the composition of the staffing proposal is not consistent with the current needs of the department in developing a new southern California training facility. The department is requesting a project director, an Associate Governmental Program Analyst, two telecommunications systems analysts, and a correctional sergeant. Given that this project is in the preliminary planning stage it is unclear why two telecommunications systems analysts are needed These positions may be needed once a more developed proposal has been put together, but in the preliminary plan stage it is not clear why these positions are needed.

Staff Recommendation.

- Approve $551,000 in reimbursements and establish the seven positions for the inmate/ward labor program at the juvenile institutions.
- Request that the department provide additional justification for the positions being requested to support the new training academy.
- Request that the department and DOF provide, by May Revision, additional information on what staffing is needed to ensure adequate fiscal oversight of the capital outlay projects being proposed in the Governor's budget.

Local Assistance Infrastructure Issues

1. Jail Bed Grants

Background. The county jails across the state are generally overcrowded. The Sheriff's Association indicates that, in 2005, nearly 20,000 inmates were given pretrial releases or were released early from their jail sentences due to a lack of jail space. Furthermore, 20 of the 58 counties are currently under court-ordered population caps and a dozen other counties have self-imposed population caps. These population caps mean that, when a jail is full, someone in custody has to be released.

Governor's Budget. The Governor's budget proposal includes $5 billion to add 45,000 new jail beds statewide, including $4 billion in state lease-revenue bonds and $1 billion in local matching funds. The proposal envisions the following mix of new beds:

- Adult Dormitory Beds – 17,000 beds estimated at $100,000 per bed for a total of $1.7 billion. These beds, with overcrowding, will accommodate 25,500 inmates.
- Adult Jail Cells – 16,500 cells estimated at $200,000 per cell for a total of $3.3 billion. These cells, with overcrowding, will accommodate 24,750 inmates.

The Governor's budget also includes a proposal to shift offenders with sentences of three years or less that have committed certain non-violent crimes from state prison to local jail. The administration estimates that this would result in 25,000 fewer inmates in state prison and the additional jail beds would help to meet this need.

Role of State Funding for Jail Beds. Staff finds that there is historical precedence for providing state monies to support local jail construction. However, staff finds that the Legislature should evaluate this proposal in the context of other proposals that provide funding for local law enforcement and crime prevention programs. This Subcommittee has heard testimony from local agencies in opposition to the Governor's proposal to shift offenders with sentences of three years or less to local jails. However, staff finds that the Legislature should consider this proposal in the context of the Governor's proposal to provide state monies to build local jail beds.

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

2. Local Juvenile Facility Grants

Background. For the most part, the Juvenile Justice system in California is managed and funded by local government. Following the arrest of a juvenile, law enforcement has the discretion to release the juvenile to his or her parents or to take the suspect to juvenile hall and refer the case to the county probation department.

Generally, probation officials decide how to process the cases referred to them and about one-half of the cases referred to probation result in the filing of a petition with the juvenile court for a hearing. Judges declare the juvenile a ward of the court almost two-thirds of the time. The vast majority of wards (over 98 percent) are placed under the supervision of the county probation department. These youth are typically placed in a county facility for treatment (such as juvenile hall or camp) or supervised at home. Other wards are placed in foster care or a group home.

Governor's Budget. The Governor's budget proposal includes $500 million to build local juvenile facilities, including $400 million from state lease-revenue bonds and $100 million in local matching funds. The administration estimates that these funds will build 5,000 new juvenile beds at a cost of $100,000 per bed.

The Governor's budget also includes a proposal to stop intake at the state Division of Juvenile Justice (DJJ) for certain offenders and transfer certain offenders currently housed at DJJ back to their county of commitment.

LAO Recommendation. The LAO recommends that the Legislature reject the proposal to allocate $400 million in state lease-revenue bonds to construct additional local juvenile facilities. The LAO finds that the current proposal to provide additional resources to build local juvenile facilities was not based on an independent validation of the needs of local law enforcement.

Furthermore, the LAO finds that the current county juvenile justice system has a surplus of beds in both juvenile halls and camps of about 4,000 beds. The LAO recognizes that some modifications may be needed, to existing space at the county level, to modernize and provide for more specialized treatment space, but they indicate that this can be done for less than $100,000 per bed.

Staff Comments. Staff finds that even though there is a surplus of beds at the local level for juvenile commitments, it may not be the right mix of beds. Generally, juvenile halls are not utilized for longer term commitments of youth. The average stay in these facilities is relatively short and the population is transitory, which makes it an environment that is difficult to deliver meaningful programming and consistency. Some counties have developed ranch facilities or youth centers that provide a more stable environment for delivering rehabilitative programming and education. However, staff understands that many of these facilities are filled.

Furthermore, staff finds that, in general, there are very few treatment facilities at the local level to serve the mentally ill youth population. Some of the youth being housed at DJJ that would be transferred back to the counties have mental disorders and significant behavioral issues. Most counties do not currently have placement options that would easily accommodate these youth.

Furthermore, staff finds that some communities may not need to build additional institution type settings, but may be better served by expanding its network of group homes and foster care placements. It is important that there be a continuum of placement options for local probation and courts to ensure the best possible placement for a youth based on their needs and risk level.

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

SUBCOMMITTEE NO. 4 Agenda

Senator Mike Machado, Chair
Senator Robert Dutton
Senator Christine Kehoe

Thursday, April 19, 2007
10:00 a.m. or Upon Adjournment of Session
Room 112

Consultant: Bryan Ehlers

Item Number and Title **Page**

Vote-Only Items

Discussion Items

Departments with Issues Proposed for Vote-only

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 Governor's budget funds 226.6 positions (with 4.0 new positions) and expenditures of $24.4 million ($6.6 General Fund).

The Treasurer's Office also plays a central administrative role to the following state boards, authorities and commissions:

Budget Item	Title
0954	**Scholarshare Investment Board**
0956	**California Debt and Investment Advisory Commission**
0959	**California Debt Limit Allocation Committee**
0965	**Calif, Industrial Development Financing Advisory Comm.**
0968	**California Tax Credit Allocation Committee**
0971	**Calif. Alt. Energy & Advanced Trans. Financing Authority**
0977	**California Health Facilities Financing Authority**
0985	**California School Finance Authority**

The Treasurer serves as chair or member of these various agencies that organizationally report to the State Treasurer's Office (STO). Several 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.

1. FISCal Support. The STO requests 4.0 positions and $481,000 to support the Department of Finance's FISCal technology project. The FISCal project is a long-term IT project to procure a comprehensive statewide financial management system, incorporating budgeting, accounting, procurement, cash management, and related components.

Staff Comments: This request conforms to the primary FISCal proposal in the Department of Finance (DOF) budget which was denied by this Subcommittee.

Staff Recommendation: DENY the request (to conform with action on the DOF budget).

VOTE:

2. State Boards, Authorities, and Commissions with No Budget Changes. No changes are requested to the budgets of the following state boards, authorities, and commissions reporting to the STO (see description above):

0954 Scholarshare Investment Board
0956 California Debt and Investment Advisory Commission
0959 California Debt Limit Allocation Committee
0968 California Tax Credit Allocation Committee
0971 California Alternative Energy and Advanced Transportation Financing Authority
0977 California Health Facilities Financing Authority

Staff Recommendation: APPROVE the budgets.

VOTE:

0965 California Industrial Development Financing Advisory Commission

The California Industrial Development Financing Advisory Commission (CIDFAC) seeks to create employment opportunities and support local economic development by providing low cost financing through the issuance of Industrial Development Bonds (IDBs) to manufacturers through its partnerships with local governments. The CIDFAC is mandated to provide technical assistance to local government issuing agencies such as: cities, counties, economic development authorities, redevelopment agencies, or joint power authorities. Additionally, the CIDFAC independently reviews IDB applications to ensure compliance with federal and state statutes and approves the sale of IDBs by local authorities.

1. BCP: Appropriation Reduction. The CIDFAC requests a baseline reduction of one position and $150,000 to align expenditures with declining revenues.

Staff Comments: The CIDFAC relies on revenues from fees associated with its review of IDB applications and approval of the sale of IDBs by local authorities; however, a persistently weak economy over the last four years has suppressed manufacturing finance activity and caused a significant drop in CIDFAC revenues. Although the CIDFAC anticipates that recent federal legislation may make the CIDFAC more attractive and potentially generate future staffing requests, this proposal is intended to better align expenditures with current revenues.

Staff Recommendation: APPROVE as budgeted.

VOTE:

0985 California School Financing Authority

The California School Financing Authority (CFSA) oversees the statewide system for the sale of revenue bonds to reconstruct, remodel, or replace existing school buildings, acquire new school sites and buildings to be made available to public school districts (K-12) and community colleges, and to assist school districts by providing access to financing for working capital and capital improvements. The CSFA consists of the following three members: the State Treasurer who serves as chair, the Superintendent of Public Instruction, and the Director of Finance.

1. BCP: Charter School Facilities Implementation of Proposition 1D. The CSFA requests $300,000 in external services funding to meet its Charter School Facilities Program (Program) obligations, which increased from $400 million to $900 million when Proposition 1D (The Kindergarten-University Public Education Facilities Bond Act of 2006) was approved by the voters on November 7, 2006.

Staff Comments: Combined, Proposition 47 in November 2002, and Proposition 55 in March 2004, and Proposition 1D provide over $35.5 billion for building new schools and modernizing old facilities, both traditional public and charter schools. Under these measures, the CSFA was funded $100 million, $300 million, and $500 million, respectively. Under state law, CSFA is charged with making a financially sound determination for all Program applicants, conducting ongoing monitoring and due diligence of the financial soundness of each applicant receiving and apportionment; and carrying out due diligence on guarantors.

The CSFA is currently staffed with three positions (including an Executive Director) to process applications for $400 million in bond funds provided under Proposition 37 and Proposition 55; however, this staffing level is insufficient to address the workload anticipated (review of applications and ongoing determinations of awardee financial soundness) with the addition of $500 million in funding. Staff notes, statute allows the CSFA to charge administrative costs against bond proceeds, not to exceed 2.5 percent, and subject to Department of Finance approval.

Staff notes, this request was submitted as part of the Governor's January 10 Budget, but was only an initial estimate of needed resources. Based upon additional analysis, a subsequent request (see Issue #2 below) was submitted in April 2007 for 2.0 additional positions and associated funding.

Staff Recommendation: APPROVE as budgeted.

VOTE:

2. Finance Letter: Charter School Facilities Implementation of Proposition 1D. The CFSA requests 2.0 positions (Associate Governmental Program Analysts) and $129,000 (in addition to the request above—Issue #1) to meet its Charter School Facilities Program obligations, which increased from $400 million to $900 million when Proposition 1D (The Kindergarten-University Public Education Facilities Bond Act of 2006) was approved by the voters on November 7, 2006.

Staff Comments: See Issue #1.

Staff Recommendation: APPROVE the request.

VOTE:

8910 Office of Administrative Law

The Office of Administrative Law (OAL) reviews administrative regulations proposed by over 200 state regulatory agencies, and assists those agencies through a formal training program, as well as through less formal methods, to understand and comply with the Administrative Procedures Act. Through its Reference Attorney service, the OAL also provides legal advice to state agencies and members of the public regarding California rule making law. The Governor's budget funds 20.9 positions (including 2.0 new positions) and $2.9 million in General Fund expenditures.

1. BCP: Converted Limited-Term Attorney Positions to Permanent. The OAL requests conversion of 2.0 two-year limited-term positions.

Staff Comments: The OAL budget was previously approved as a vote-only item in this Subcommittee; however, concerns were subsequently raised in Assembly Budget Subcommittee No. 4 regarding the OAL's periodic redirection of these positions away from monitoring of underground regulations to other nondiscretionary functions (including reviews of pending regulation). As a result, that subcommittee adopted the Budget Bill Language below requiring the OAL to report on these practices, thereby providing the Legislature with a better understanding of whether the positions are being used for the purpose for which they were approved.

> *Item 8910-001-0001, Provision 1.*
>
> *On or before January 10, 2008, the Office of Administrative Law shall report to the appropriate fiscal committees of the Legislature and the Joint Legislative Budget Committee the following information for the 2006-07 fiscal year: 1) the total number of hours the positions assigned to the enforcement of Government Code 11340.5 were diverted away from underground regulation review to other activities of the Office of Administrative Law; 2) a detailed listing of the activities and rationale for the diversion of the positions assigned to the enforcement of Government Code 11340.5; and 3) a listing of the total number of received petitions for investigation of violations of Government Code 11340.5, including the reasons for accepting or declining these petitions.*

Staff Recommendation: APPROVE Budget Bill Language (conform to Assembly action).

VOTE:

9210 Local Government Financing

The Local Government Financing budget items provide certain types of general financing and law enforcement grants to local governments. Proposed spending in 2007-08 is $294.3 million (all General Fund)—essentially the same as in the current year. The large reduction of $1 billion in the current year, compared with 2005-06 is due to $1.2 billion of one-time funding provided 2005-06 to make local governments whole for the Vehicle License Fee "Gap Loan."

Several programs are funded in the Budget, including the following:

- ***Juvenile Justice Crime Prevention Act.*** *The Governor's budget proposes $119 million for local juvenile justice grants—the same amount as in the current year.*

- ***Citizens' Option for Public Safety (COPS).*** *The Governor's budget also proposes to maintain COPS funding at $119 million—the same as in the current year. The program provides per-capita grants for local police departments, sheriffs, and district attorneys.*

- ***Rural and Small County Law Enforcement Grants.*** *The Governor's budget fully funds this program at $18.5 million, which provides grants of $500,000 to 37 counties.*

In addition, the Governor's Budget includes funding for the two programs discussed in the following issues.

1. Local Detention Facility Fees. The Administration includes an appropriation of $35 million for activities associated with local detention facilities. Chapter 1805, Statutes of 2006 (AB 1805, Committee on Budget) established that counties, cities and counties, and certain cities may apply to the Controller to receive funding for local detention facilities and related equipment when an appropriation is made for that purpose. These subventions will be allocated to each county and to cities that operate jails in proportion to each entity's booking fee revenue in 2006-07. Starting in 2007-08, local governments may no longer charge general booking fees. Instead, counties and cities that operate Type One jails may charge a "jail access fee" up to the full cost of processing a booking, but the new fee would be assessed only on the number of non-felony bookings for any local entity that exceed that entity's most recent three-year average of bookings. Arrests for driving under the influence offenses, domestic violence, and violation of protective orders would be excluded from this calculation. If the state provides less than $35 million in jail subventions in any year, counties and cities could then reinstate general booking fees.

Staff Comments: Provision 1 of Item 9210-105-0001 cites Government Code Section 29550, which provides for Booking Fee Subventions; however, the Department of Finance indicates that this is an error—the provision should reference the new jail facility subventions. The citation in the language should be corrected to Section 29552.

Staff Recommendation: APPROVE as budgeted with technical correction to cite Government Code 29552 in the Budget Bill Language.

VOTE:

2. Reduction to Redevelopment Bond Debt Backfill. The Administration proposes to reduce subventions to redevelopment agencies for bond debts by $1.9 million. This backfill was created to enable payment of debt service after statute reduced personal property tax subventions to redevelopment agencies. Budget bill provisional language is proposed to reform the allocation of this subvention in accordance with the reduced appropriation.

Staff Comments: Provision 3 of the language proposed in the Governor's Budget requires the State Controller to prorate the subventions if they are inadequate to meet debt-service needs. Although the $800,000 provided in the appropriation should be adequate, it would be preferable to delete the proration language and instead ensure that the full amount needed to pay debt service (beyond the amount of revenues otherwise available to agencies) will be available by adding the following Budget Bill language (as Provision 3):

> *Notwithstanding any other provision of law, the Director of Finance may authorize an expenditure in excess of the amount appropriated in this item, to the extent necessary to fund all allocations required pursuant to Provision 2, not sooner than 30 days after notification in writing of the necessity thereof is provided to the chairpersons of the fiscal committees of each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.*

Staff Recommendation: Approve the item, but replace the proration language in Provision 3 with the Budget Bill Language proposed above.

VOTE:

9625 Interest Payment to the Federal Government

These budget items, in accordance with federal law, provide for interest payments on federal funds held by the state in advance of their expenditure. The federal assistance programs affected are those programs that have $216 million or more in federal fund expenditures. For the majority of these programs, state agencies request federal funds in advance of the warrant (i.e., check) issuance. State agencies use this funding technique because the State Constitution requires that the funds be deposited before the warrants are issued. Interest payments to the federal government are due no later than March 31 each year. The March 31, 2007 payment will be for the interest liability incurred during the state's 2005-06 fiscal year.

The Governor's Budget includes $30 million from the General Fund and $900,000 from the State Highway Account in the State Transportation Fund to make estimated interest payments in 2007-08.

Staff Recommendation: APPROVE as budgeted.

VOTE:

9840/9850 Augmentation for Contingencies or Emergencies

These budget items were first adopted in the Budget Act of 2004 to provide a “pay as you go” alternative to the prior practice under which the administration was authorized to “spend at a rate that would result in a deficiency.” Under the new process, the Administration must provide the Legislature with notification of any departmental requests to fund *unanticipated* expenses prior to them being incurred. Approved unanticipated expenses are funded with either a transfer of funds from Item 9840 or a supplemental appropriation sought through legislation.

The Administration’s use of the funds appropriated in Items 9840 and 9850 ($49 million General Fund, $15 million each for special funds and nongovernmental cost funds, and $2.5 million of loan authority) is governed by the provisions of the item, which prohibit the use of these funds for the following purposes: (1) any prior-year expenditure, (2) startup costs not yet authorized by the Legislature, (3) costs that the administration had knowledge of in time to include in the May Revision, and (4) costs that the administration has the discretion to incur or not to incur.

The Administration also may request, via the Chair of the Joint Legislative Budget Committee and the fiscal chairs in each house, enactment of supplemental appropriations bills to augment the amount in this item for specific needs, or if funding needs exceed the amount appropriated in this item. These requests must comply with the similar restrictions to the transfers discussed above.

Staff Comments: For the current year, the Governor's Budget estimates that $70.5 million ($45.7 million General Fund) will be spent from this item, and an additional $703 million (General fund) will be provided in supplemental appropriations bills. The Department of Finance indicates that this amount now has increased by $28.1 million. The largest amounts of supplemental appropriations have been for the Department of Mental Health (past liabilities for Early and Periodic Screening, Detection, and Treatment—EPSDT—services) and for the Department of Corrections. The budget does not include any set-aside for supplemental appropriations in 2007-08 although they generally total hundreds of millions of dollars annually.

Staff Recommendation: APPROVE as budgeted.

VOTE:

Departments with Issues Proposed for Discussion

0860 Board of Equalization

The State Board of Equalization (BOE), the Franchise Tax Board (FTB), and the Employment Development Department (EDD) 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. BOE also assesses utility property for local property tax purposes, oversees the administration of 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.

The Governor's budget funds 3,800.5 positions (including 80.9 new positions) and proposes $390.2 million in total expenditures ($218.1 million General Fund).

DISCUSSION ISSUES:

1. Informational Issue: Recruitment and Retention. In recent years, the BOE has experienced problems in recruitment and retention, resulting in high vacancy rates, particularly among auditors, that threaten state revenues.

Staff Comments: At the previous hearing, the BOE reported to the Subcommittee on recent efforts it has made to address the recruitment and retention issue, and indicated progress has been made toward reversing the trends noted above. The Chair requested the BOE to provide the Subcommittee with an assessment of potential barriers to continued vacancy reductions and plans to address those barriers. The BOE response (see below) identified: (1) salaries and (2) the exam process as the two main areas of concern, and highlighted the need to work with the Department of Personnel Administration and the State Personnel Board to address these challenges.

1. Salaries

- **<u>Competitiveness</u>:** Potential candidates and some experienced BOE employees leave the agency for "higher-paying" jobs in county, federal or private domains.
- **<u>Compaction Issues</u>:** Both BOE and service-wide classes are affected by the salary inequities that currently exist. In some cases, employee's salaries are higher than those of the supervisor.

  <u>BOE Proposed Solution</u>

  BOE will continue to work with the Department of Personnel Administration (DPA) in identifying salary issues as they relate to specific BOE classifications. BOE will work with the DPA to address compaction issues. In addition, the BOE will continue to pursue permanent hiring above minimum provisions for auditor and compliance series.

2. Exam Process

- Complexities exist with the current exam process.

  BOE Proposed Solution

  BOE will work with the Department of Personnel Administration and the State Personnel Board to establish deeper classes in order to streamline examination process and eliminate multiple exams to progress through a promotional series.

2. BCP: E-Filing Infrastructure Project. The Governor's Budget proposes to expand BOE's SUT electronic filling program to include businesses with multiple locations and those required to pay with electronic funds transfer (EFT), and to automate the delinquent prepayment process and make other improvements. To accomplish these goals, the administration requests two positions and $1,460,000 ($949,000 General Fund and $511,000 reimbursements) in 2007-08, and three positions and $431,000 ($280,000 General Fund and $151,000 reimbursements) in 2008-09.

Staff Comments: The BOE has been converting to electronic technologies in the filing and processing of tax returns and remittances, which has advantages to both taxpayers (minimizing record keeping requirements, increased filing accuracy, and reduced costs) and to tax agencies (decreased processing time, reduced storage costs, fewer staff needed, improved data accuracy, and easier information exchange for enforcement and compliance purposes). Additionally, processing electronically filed returns and remittances costs a fraction of the costs associated with paper documentation.

At a previous hearing, the Subcommittee heard concerns raised by the LAO that, although this proposal represents stage three of a plan to move the agency and the taxpayers it serves towards a more electronically integrated business model, estimates of savings to the state had yet to be quantified. Consequently, the Chair requested the BOE to report back with its best estimate of possible out-year savings in order to provide the Subcommittee with some sense of the potential magnitude.

The BOE has since provided legislative staff with the following table of potential savings estimates:

Fiscal Year	Participation Level	Potential Personnel Year Savings	Potential Direct OE&E Savings[1]	Potential Total Savings[2]
2008-09	10%	$794,897	$132,565	$927,462
2009-10	20%	1,589,794	265,130	1,854,924

Staff notes that the BOE is still unwilling to speculate on potential savings in 2007-08 because the program is still in its early stages and data is unreliable; however, the BOE indicates that beginning in 2008 e-filers will have the option of remitting payment by

[1] Operating expense and equipment (OE&E) includes general expense, printing, postage, communications, insurance, and other miscellaneous.
[2] Excludes facilities costs that are fixed and would only result in cost avoidance savings should the BOE need to obtain lease space outside the headquarters facility.

check (currently they must use e-payment), and this is anticipated to have a marked impact on participation levels. For example, the e-filing participation rate is currently 2.5 percent, but the BOE expects it to quadruple by 2008-09 as the result of the new remittance policy combined with the following filing strategies the department intends to pursue to market e-filing:

- ***Combine Seller's Permit and E-Client Registration Process***
  Individuals selling tangible personal property in California must register for a seller's permit with the BOE. At the time of registration for a seller's permit, the BOE plans to also register taxpayers for e-filing.
- ***Discontinue Sending Paper Tax Returns***
  Paper tax returns are sent to sales and use taxpayers that report either on a monthly, quarterly, fiscal yearly or calendar yearly basis whether or not they e-file (unless the taxpayer has elected to no longer receive paper returns). The BOE is developing a pilot project to discontinue sending paper returns to certain taxpayer groups.
- ***Outreach Efforts***
  The BOE has developed an Outreach Plan that will focus on new and innovative approaches to marketing e-services, such as on-line tutorials/videos, focus groups and speaking engagements.

While e-filing promises to be the technology of the future in collecting state revenues, the data above indicates that far higher levels of participation are necessary before the state will see significant savings. In the short term, the Subcommittee may wish to consider Budget Bill Language to require the BOE to keep the Legislature informed of steps taken and progress achieved toward the 10 percent participation projected for 2008-09. Additionally, the Legislature may wish to consider future legislation to mandate e-filing (as has been done in various other states) to ensure participation and capture the full potential savings of this technology.

Staff Recommendation: APPROVE the request with Budget Bill Language requiring the BOE to report to the Legislature no later than March 1, 2008, on steps taken and progress achieved toward reaching a 10 percent participation level in its e-filing program.

VOTE:

VOTE-ONLY ISSUES:

1. BCP: Continuation Of International Fuel Tax Agreement (IFTA)/North American Free Trade Agreement (NAFTA) Interim Program. The Administration requests authority to spend $842,000 (federal funds) in the budget year and establish 8.5 limited-term positions during the same period. This funding will support program enhancements necessary to allow the BOE to continue hosting Mexican Truckers in the IFTA and ensuring that Mexican truckers properly report and pay fuel taxes in California.

2. BCP: Motor Vehicle Fuel Audit Staff Augmentation. The Administration requests $715,000 (Motor Vehicle Fuel Account) and 5 audit positions to take advantage of new data generated by an automated reporting system and ensure tax compliance within the BOE's transportation tax programs; the motor vehicle fuel tax, diesel fuel tax, and jet fuel tax. The BOE anticipates revenues of $14 million associated with these positions, a 21:1 benefit-cost ratio, while the DOF projects $19 million.

STAFF RECOMMENDATION ON VOTE-ONLY ITEMS: APPROVE AS BUDGETED.

VOTE on Vote-Only Issues 1-2:

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. The Governor's budget funds 5,174.5 positions (including 240.7 new positions) and expenditures of $623.4 million ($518 million General Fund).

DISCUSSION ISSUES:

1. BCP: Tax Gap. The FTB estimates that the tax gap, the difference between what taxpayers actually pay and what they should pay, is around $6.5 billion/year. In a typical tax year approximately 89 percent of all taxes owed are ultimately paid, with the remaining 11 percent constituting the tax gap. The tax gap is harmful to the state in many ways, but principally because: (1) those who pay their fair share pay higher taxes to cover the gap, and (2) tax collections are undermined by the public perception that some are not paying their fair share.

The tax gap is manifested in three forms: manipulated tax filings through underreporting of income and overstating deductions, nonfiling of tax returns, and underpayment of amounts owed. Underreporting income and overstating deductions is by far the most common form (80 percent of total) with nonfiling and underpayments making up the remaining causes (about 10 percent each).

The Administration requests funding of $19.6 million General Fund and 230 positions to support existing efforts to narrow the tax gap and develop new initiatives to further close that gap. Anticipated revenues in the budget year are approximately $77.5 million in the budget year. These important and far-reaching proposals include the extension of positions and activities approved in prior budgets. The continuing initiatives include efforts to detect preparers of fraudulent returns, identifying new information sources to identify non-filers, and augmenting audit and collections staff.

The new initiatives focus on longer-term approaches to narrowing the tax gap and are based on a recently developed strategic plan to address the tax gap. They include: expanding the corporate non-filer program, addressing out-of-state tax avoidance, and improving methods for detecting under reporters.

Consistent with past years' practice, the Legislature will seek to clarify the benefits of these initiatives, gauge the impact on taxpayer behavior, and explore other means to narrow the $6.5 billion tax gap even further.

Staff Comments: In its analysis of the Governor's Budget, the LAO noted concerns with this proposal and recommended redirecting some of the proposed funding to tax gap enforcement activities with a higher benefit-to-cost ratio. While the LAO remains a proponent of providing funds where they will generate the most General Fund revenue, based on additional information from the FTB the LAO now recommends the following:

- Reallocate $865,000 from the proposed Underground Economy Criminal Investigations program, with $615,000 directed to augment the Corporate Nonfiler program (which has a significantly higher benefit-cost ratio), and reserve $250,000 to pay a portion of contractor expenses associated with assessment of a “software overlay” approach for the three tax agencies (per LAO’s Report on Tax Agency Information and Data Exchange). [Staff notes this issue was heard previously in this Subcommittee and the agencies continue to work toward developing a proposal to present to the Legislature.]
- Given the low benefit-cost ratio (BCR) of 2.2:1 reported for the Underground Economy Criminal Investigations program, fund the program on a two-year limited-term basis to allow for a future reevaluation.

The LAO estimates the above recommended changes to the proposed tax gap initiatives would generate approximately $2 million of additional General Fund revenue in the budget year at the same overall level of expenditures contained in the Governor’s Budget.

Staff Recommendation: APPROVE the LAO recommendation.

VOTE:

2. Additional Savings from E-Services. The LAO points out that information provided by FTB indicate ongoing growth in electronic filing of returns and remittances. 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 as society becomes increasingly computer oriented. The department reports that it expects 9 percent annual growth in electronic remittances through 2008, and 4 percent to 7 percent annual growth in electronic returns over the same period.

Reflecting the growth in electronic filings and remittances—and the large savings associated with the use of this technology—the department’s budget for processing has been reduced almost every year since 2001-02. These annual reductions ranged from $400,000 to about $1 million.

The 2007-08 budget includes savings of $298,000 due to increased electronic filing for the Personal Income Tax (PIT). However, no budget reductions were proposed related to increased electronic remittance processing or reductions in mailed and printed tax forms and booklets due to more use of online forms and other information. The board is also expanding the Business Entities E-File (BEEF) system, but did not account for any savings associated with increased electronic filing of BEEF returns.

LAO Recommends $500,000 Reduction to Capture Savings. Based on information provided by FTB, LAO recommends a reduction of $500,000 for 2007-08 to account for savings associated with increased use of business-entity electronic return processing, electronic remittance processing, and associated reductions in the amount of paper printing and mailings.

Staff Comments: At a previous hearing, the FTB indicated that it would prefer to retain the savings identified above in order to offset the potential impact of the unallocated reduction that is proposed in the Governor's Budget ($100 million in Control Section 4.05 plus an additional $46 million in Control Section 4.04). The Chair requested the FTB and the DOF to work with staff and the LAO to review the potential impact of the unallocated reduction.

In subsequent conversations, the DOF indicated that the FTB could absorb $900,000 of the unallocated reduction within its Operating Expense and Equipment budget, but would likely need to delay filling new positions if it were required to absorb the remaining $500,000 proposed in the Governor's Budget. According to the DOF, this would necessitate programmatic reductions that could impact General Fund revenues; however, the DOF did not specify which program areas would be affected.

Staff notes that the $500,000 savings that is in question was identified by the LAO, and was not factored into the Administration's proposed unallocated reductions. Therefore, the Subcommittee should request an explanation of how the Administration originally expected the FTB to take the reductions without impacting revenues. Additionally, staff notes that the Director of Finance has the discretion to provide departments with target reduction amounts and therefore the DOF could adjust the FTB's share of the unallocated reduction if General Fund revenues were going to be adversely impacted.

Staff Recommendation: APPROVE the LAO recommendation and reduce the FTB budget by $500,000.

VOTE:

3. BCP: Legal Support for Abusive Tax Shelters. The Administration requests $1.3 million and 10 new positions to address Abusive Tax Shelter workloads.

Staff Comments: In a previous hearing, the Chair requested clarification on the magnitude of the problem of abusive tax shelters and the staffing required to address them (including in out-years).

The FTB response indicates that the extent of the problem of abusive tax shelters is not well documented because users of tax shelters actively seek to avoid detection. However, based on what is known, the FTB believes that there is sufficient workload to merit the staffing requested and that this investment will result in additional revenues of approximately $1.4 billion (above and beyond the $1.4 billion collected during the Voluntary Compliance Initiative (VCI), but inclusive of the additional $348 million in subsequent tax shelter assessments). Given the extreme complexity of abusive tax shelter cases, the combativeness of representatives and investors, and the fact that the VCI accelerated the easiest cases, the FTB has estimated that it may take up to eight years to collect this revenue.

According to the FTB, while the Abusive Tax Shelter program has been a success, there is no indication that abusive tax shelters will go away at any time in the near future. The FTB expects that as California's economy continues to grow and global competition increases, individuals and companies will continue to seek ways to minimize their tax burden, and the products available will constantly seek to push, and ultimately step over, the line between tax planning and tax abuse. For example, even after nearly a decade of discussion and calls for better enforcement at the federal level, the U.S. Senate Permanent Subcommittee on Investigations reported, in August 2006, a loss of over $100 billion annually from offshore tax havens and tax shelter abuses. The FTB believes that high profile enforcement and public disclosure will continue to make a big dent in abusive tax shelter investments and discourage investors from considering abusive schemes; however, constant vigilance will be the only mechanism to successfully control the proliferation of new iterations of tax shelter schemes.

The FTB does not project that additional auditor, attorney, or collector position requests will be made in the future to produce the $1.4 billion in revenue currently estimated to be realized from the abusive tax shelter program. Should the FTB's efforts identify a new inventory of tax shelter cases which will generate additional revenues and require resources, the department would redirect resources from lower cost-benefit workloads and/or present the Legislature with the opportunity to fund those workloads.

The LAO previously articulated concern over the future staffing needs of this program, noting that while attorneys may be necessary to process the up-front workload, collectors and auditors would likely be necessary as well. However, the FTB has clarified that while the targets of the requested attorneys are generally well-funded, they are relatively few in number. Thus, the FTB expects that audits and collections activities could be handled within existing resources. Given this clarification, the LAO and staff have withdrawn their concerns.

Staff Recommendation: APPROVE as budgeted.

VOTE:

4. BCP: Restoration to Customer Service Level. The administration requests $1.3 million and 27 positions to restore staffing levels in the Franchise Tax Board’s Contact Centers and related supporting workloads. These call center positions were eliminated in recent years to meet budget reduction targets and the department now asks that they be restored in order to restore taxpayer and tax practitioner customer service and meet a response target of responding to 95 percent of all calls with 80 percent answered within 2 minutes.

Staff Comments: In a previous hearing, the Subcommittee learned that this request would improve the level of calls answered from 73 percent to 83 percent, but would not achieve the FTB customer service goal identified above. The Subcommittee heard discussion as to whether this incremental improvement in service was worth the $1.3 million cost of this proposal, and the Chair requested the FTB to provide the Subcommittee with monthly estimates of call volumes, answer rates and wait times. Additionally, the Chair asked the FTB to work with staff and the LAO in discussions about an adequate level of service within the framework of the unallocated reduction addressed in Issue #2 (above).

In response to the Chair’s request, the FTB provided the tables below which reflect the Level of Access (LOA), Level of Service (LOS) and Average Wait Times associated with current and proposed staffing levels. The LOA represents the percentage of calls the answered by an FTB Customer Service Representative (CSR) compared to total calls received, while the LOS represents the percentage calls answered within the FTB's two-minute target time period. The Average Wait Time represents the time a caller spends on hold waiting to talk to a live agent after their call has been received by the Interactive Voice Response (IVR) system and they have made a selection to request to speak to a CSR. Staff notes, the amount of time a caller spends "surfing" the IVR is not included in these statistics, nor does the FTB record this data.

As Table 1 indicates, existing staff levels provided an average LOA of approximately 67 percent in 2006, meaning that 33 percent of callers (nearly 700,000) seeking to speak to a CSR failed to do so. Notably, the percentage of calls answered in each month (LOA) does not necessarily correlate directly to the level of calls "offered" (that is, the number of calls received by the IVR system). While the highest LOA corresponds to the lowest level of calls (in December) and the lowest LOA corresponds to the highest level of calls (in May), the LOA remains relatively low (hovering between 50 and 60 percent) throughout the months of June, July, and August, even as calls decline by almost 50 percent from the peak over that period. The Subcommittee will want the FTB to speak to these trends and identify potential solutions to increase the number of calls answered during these months of the year.

Table 1 – Level of Access (LOA) for 2006

	Offered	Answered	LOA
06-Jan	121,553	101,330	83.40%
06-Feb	239,529	175,331	73.20%
06-Mar	269,817	201,619	74.70%
06-Apr	265,170	189,476	71.50%
06-May	320,076	130,952	40.90%
06-Jun	222,774	129,564	58.20%
06-Jul	182,435	95,458	52.30%
06-Aug	152,604	84,870	55.60%
06-Sep	97,002	90,620	93.40%
06-Oct	100,364	89,494	89.20%
06-Nov	86,528	74,220	85.80%
06-Dec	80,155	72,718	90.70%
	2,138,007	1,435,652	**67.15%**

Table 2 (see next page) breaks down the LOA shown in Table 1 into Peak and Non-Peak averages, and additionally shows the LOS and Average Wait Time associated with these periods. The FTB defines the Peak period as January through June, thus, the relatively low LOA of 72.6 percent for the Non-Peak period is due to the fact that the averages for July and August (approximately 52 percent and 56 percent, respectively) skew the average for the remainder of the months (which tend to hover in the vicinity of 90 percent). Table 2 indicates that during the Peak period only 15 percent of callers requiring a human response made contact with a CSR within 2 minutes, and in fact the Average Wait Time was over 6 minutes. During the Non-Peak period, customer service improved to only 40 percent of calls answered by a CSR within 2 minutes and an average wait of approximately 4 minutes.

Table 2 – Level of Access (LOA), Level of Service (LOS), and Wait Times Over Peak and Non-Peak Periods for 2006.							
Level of Access			**Level of Service**			**Average Wait Time**	
Peak	**Non-Peak**	**Total Average**	**Peak[1]**	**Non-Peak[1]**	**Total Average [1]**	**Peak[2]**	**Non-Peak[2]**
64.5%	72.6%	67.1%	15.2%	40.6%	24.1%	6:17	4:08

[1] This percentage is a weighted average. [2] Although this is the average wait time, some callers waited 30-40 minutes to speak with a agent.

Table 3 uses the same display as Table 1, but reflects FTB projections of the call workload to be addressed by the proposed new staff in Fiscal Year 2007-08. Based on call volumes similar to 2006, the FTB expects this $1.3 million proposal to enable it to answer approximately 14 percent more calls (or 294,000) over the course of the year. This equates to a cost of $4.42 per additional call answered; however, it is necessary to view Table 4 to get a sense of what the proposed expenditure would buy in terms of improved LOA and Average Wait Time.

Table 3 – Projected Level of Access (LOA) for Fiscal Year 2007/08 (Including 27 Positions Requested)

	Offered	**Answered**	**LOA**
06-Jan	121,553	115,475	95.00%
06-Feb	239,529	216,718	90.48%
06-Mar	269,817	244,296	90.54%
06-Apr	265,170	233,434	88.03%
06-May	320,076	167,130	52.22%
06-Jun	222,774	162,423	72.91%
06-Jul	182,435	127,242	69.75%
06-Aug	152,604	116,797	76.54%
06-Sep	97,002	92,152	95.00%
06-Oct	100,364	95,346	95.00%
06-Nov	86,528	82,202	95.00%
06-Dec	80,155	76,147	95.00%
	2,138,007	1,729,362	**80.89%**

Assumptions: (1) same level of "offered" calls by month as 2006 calendar year; (2) resources are allocated in a manner consistent with current allocation; and (3) methods of workload management are applied.

Table 4 breaks the Fiscal Year 2007-08 projections into Peak and Non-Peak and displays the LOS and Average Wait Time for these periods. As compared to Table 2, the proposal would improve Peak LOS by approximately 25 percent and decrease Average Wait Time during peak months by approximately 1 minute and 45 seconds. During the Non-Peak period, the proposal would increase LOS by approximately 25 percent, but Average Wait Time would remain relatively constant at 4 minutes per call. This last conclusion appears counter-intuitive, but would seem to suggest that despite fewer calls during the Non-Peak period, the length of the average call (perhaps due to the complexity of questions) increases significantly. The Subcommittee should request the FTB to clarify this issue.

Table 4 – Projected Level of Access (LOA) and Level of Service (LOS) and Average Wait Time Over Peak & Non-Peak Periods for Fiscal Year 2007/08 (Including 27 Positions Requested)

PEAK	Offered	Answered	LOA	LOS	Avg. Wait Time
Jan-Jun	1,438,919	1,139,476	79.19%	40%	4:30

NON-PEAK	Offered	Answered	LOA	LOS	Avg. Wait Time
Jul-Dec	699,088	589,886	84.38%	65%	4:00

Overall, this proposal would provide an incremental increase in calls answered (at a cost of approximately $4.42 per call) and a reduction in wait times during the Peak period of the year. The optimal or desirable level of service to provide to FTB customers is a policy decision that must be weighed against other pressures on the General Fund; however, based on the FTB's own criteria, this proposal would result in progress toward achieving the department's customer service goals. If the Subcommittee decides to approve this proposal, it may wish to require the FTB to report on actual customer service outcomes in order to better inform future deliberations on customer service should those discussions arise.

Staff Recommendation: APPROVE as budgeted with Budget Bill Language requiring the FTB to report on actual customer service outcomes resulting from the additional staffing.

VOTE:

VOTE-ONLY ISSUES:

1. BCP: E-Commerce Portal Infrastructure. The Administration requests $1.5 million General Fund and one position to replace the current Internet infrastructure at the Butterfield Way campus in Sacramento and provide redundancy to accommodate growth in the FTB's e-commerce programs. These programs facilitate taxpaying by providing online filing services and other capabilities previously done by mail or phone. This request represents year one of a three-year project of which total costs are expected to be $4.5 million.

2. Centralized Reverse Proxy Services. The Administration requests to redirect $298,000 in e-file savings (first realized in the current year) to enhance the security of FTB's Internet servers. Centralized Reverse Proxy Services will provide additional protection against unauthorized access via the Internet by allowing for only one well-guided point of entry and thereby resolving several data security vulnerabilities.

STAFF RECOMMENDATION ON VOTE-ONLY ITEMS: APPROVE AS BUDGETED.

VOTE on Vote-Only Issues 1-2:

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. The Governor's budget funds 3,703 positions (including 67.5 new positions) and $1.2 billion in expenditures, of which $9.2 million is from the General Fund.

DISCUSSION ISSUES:

1. BCP: Fleet Analysis and Reporting System. The budget includes a request for two positions and $614,000 in 2007-08 (Service Revolving Fund) and four positions and $1.3 million (Service Revolving Fund) in 2008-09 to continue development of a Fleet Analysis and Reporting System to improve tracking state vehicles. Once fully implemented, the department expects revenues in excess of $2 million from surplus vehicle sales.

Staff Comments: According to the DGS, as of December 2005, the executive branch owned 51,628 vehicles, including approximately 37,000 passenger vehicles (or nearly 72 percent of the fleet), of which 31,766 were gasoline-powered sedans, SUV's, and light duty trucks, 4,892 were alternative fuel vehicles, and 357 were hybrid vehicles. Although nine agencies own 82 percent of the passenger fleet and119 agencies own at least one vehicle, only the DGS, the California Highway Patrol, Caltrans, Parks and Recreation, and the Department of Water Resources have a fleet management system in place. Altogether, only 60 percent of the state fleet is covered by an asset management system.

The system under DGS development is a data warehouse that will extract information from existing fleet management systems and provide statewide reporting and analysis capabilities. Given immediate access to current and accurate fleet data, the DGS Office of Fleet Administration will be able to perform analyses to estimate green house gas emissions, identify underutilized vehicles, and produce reports that may be used to right-size the statewide fleet – simultaneously reducing taxpayer costs and carbon footprint.

At the a previous hearing, the Chair requested the DGS to work with the LAO to develop performance measures so that the Subcommittee could adopt Budget Bill Language requiring the DGS to report on project outcomes. The DGS responded with the following program objectives:

OBJECTIVE	MEASURE
1. Improve Vehicle Utilization for the Statewide Fleet	98 percent of Statewide fleet meets current utilization targets within 2 years of system implementation.
2. Dispose of Vehicles not Meeting Minimum Utilization Standards	Dispose of at least 75 percent of vehicles not meeting minimum utilization standards.
3. Lower Total Cost of Ownership for the Statewide Light Duty/ Passenger vehicles	Reduce the Statewide Light Duty/Passenger Fleet size by eliminating 4.6% excess of obsolete vehicles.
4. Improve Fleet Fuel Efficiency	Improve the average miles per gallon (MPG) for the Statewide fleet from the initial baseline for five consecutive years.
5. Reduce Time Required to Prepare Standard / Ad Hoc Statewide Reports	Reduce the time necessary to prepare/respond to statewide reports from an average of 2-4 months to two business days for standard reports and five business days for ad hoc reports.
6. Meet State and Federal Reporting Mandates	DGS will meet 100% of State and Federal Reporting mandates.
7. Create one-time savings through the sale/repurposing of underutilized vehicles	$2.4 million achieved in one-time net savings.

The objectives and measures proposed by the DGS above generally provide a useful basis for identifying and quantifying progress toward successful implementation of the Fleet Asset Management System. However, staff notes concern that the proposed fuel efficiency measure lacks specificity, and the DGS has not identified the baseline MPG. Since the proposed goal of improving the average MPG for the fleet over five consecutive years could be achieved by posting only meager gains (e.g. 0.01 MPG per year), the Subcommittee will want the DGS to commit to a specific MPG target or a national annual bench mark.

Pursuant to the Chair's request, the DGS also worked with staff and the LAO to develop the following Budget Bill Language requiring the DGS to report on progress toward the above objectives:

Item 1760-001-0666, Provision X

The Department of General Services shall report to the Department of Finance and the appropriate fiscal committees of the Legislature on April 1, 2009 to provide an implementation progress report and on April 1, 2010 to provide the status of the following areas: (1) Progress on meeting statewide fleet utilization targets; (2) Disposal of vehicles not meeting minimum utilization standards; (3)

Trend of statewide fleet size; (4) Trend of statewide fleet average fuel efficiency; (5) Timeframes associated with producing standard and ad hoc reports; and (6) Savings and cost avoidances achieved to date and potential for additional savings and cost avoidances.

Staff Recommendation: APPROVE with Budget Bill Language.

VOTE:

2. BCP: Support for the Governor's Executive Orders on Energy Efficiency and Green Buildings. The Administration requests 5.0 positions and $428,000 (Service Revolving Fund) to support the Bureau of Property Management's (BPM) implementation of Executive Orders S-12-04 and S-20-04 which require DGS to reduce energy purchases for state-owned buildings and to design, build, and operate "greener" buildings.

Staff Comments: This request (as well as the request in Issue #4 below) is part of a $13.8 million, six-year project to meet the energy conservation and efficiency goals articulated in Executive Orders S-12-04 and S-20-04. According to the DGS, existing staffing levels are insufficient to support the additional workload created by the executive orders.

> **Executive Order S-12-04** directs the DGS to institute energy conservation measures that will reduce energy consumption during stage II electrical emergencies in advance of private actions that occur in state II and stage III electrical emergencies. Additionally, state agencies are required to pursue energy consumption reduction measures at all facilities where conservation can be achieved cost effectively.
>
> **Executive Order (EO) S-20-04** commits the state to reducing state-building electricity usage by retrofitting, building and operating the most energy- and resource-efficient buildings by taking all cost-effective measures described in the Green Building Action Plan (GBAP) for state-owned buildings. The EO also directs agencies to undertake measures to reduce grid-based energy purchases for state-owned buildings by 20 percent by 2015. Included in these measures are designing, constructing, and operating all new and renovated state-owned facilities paid for with state funds as "LEED Silver" or higher certified buildings (based on the Leadership in Energy and Environmental Design rating system for existing buildings—LEED-EB).

Staff notes that the goals of the EOs above are substantially in line with the broader aims of Chapter 488, Statutes of 2006 (AB 32, Nunez)—the Global Warming Solutions Act of 2006, which requires the Air Resources Board to adopt regulations to reduce statewide greenhouse gas emissions (GGEs) to 1990 levels by 2020. However, it is not entirely clear how or whether the energy efficiency efforts being pursued in this request fit into a comprehensive state policy to implement AB 32. The Subcommittee will want the DGS to clarify the relationship between this request and the requirements of AB 32, and explain how this request fits into an overall strategy for reducing of GGEs in the most cost-effective manner possible (i.e. at the highest benefit-to-cost ratio).

Staff Recommendation: HOLD OPEN.

3. BCP: Private Consultants for Green Building Initiative. The Administration seeks $3.0 million (Service Revolving Fund) to secure private consultants to pursue Leadership in Energy and Environmental Design rating system for existing buildings (LEED-EB) goals for eleven state office buildings. This energy efficiency goal ties to Executive Order (EO) S-20-04. Consultants will conduct in-depth evaluations of building operations and train building managers on how to operate a more energy efficient building. The cost for this consulting service will be shared by the departments occupying the eleven affected buildings.

Staff Comments: This request is a counterpart to the proposal in Issue #3 and is reflective of the fact that LEED-EB certification is highly technical and requires engineering expertise specific to the performance factors considered for LEED-EB accreditation.

The Subcommittee will again want the DGS to clarify the relationship between the request and the requirements of AB 32, and explain how these energy efficiency efforts fit into a comprehensive state policy for the maximum reduction of GGEs at the least possible cost. Additionally, given the Administration's long-term goal to reduce energy use in state-owned building by 20 percent by 2015, the Subcommittee may wish to inquire why the DGS plans to use the $150/hour consultants ongoing instead of training state employees over time to replace the consultants at a more moderate rate of compensation.

Staff Recommendation: HOLD OPEN.

4. BCP: Augmentation for Building Security Services. The Administration requests $1.1 million (Service Revolving Fund) to fund increased costs contained in the Master Security Services Agreement for 15 state buildings. This agreement and procurement of private security services is overseen by the California Highway Patrol, who had previously provided security services for these buildings.

Staff Comments: This Subcommittee heard a similar issue last year and raised concerns that the state has no standard security requirement for its buildings, and that since 9/11 requests for security augmentations have occurred on a piecemeal basis. Budget Bill Language was subsequently included to require the DGS to report on the nature and level of security expenditures at state-owned buildings of 50,000 square-feet or more. Staff notes that the report was due to the Legislature by March 15, 2007, but has yet to be submitted. Because the Subcommittee will want the DGS to speak to the need for this proposal within the context of the report findings, further discussion on this issue should await a future hearing after the report has been released.

Staff Recommendation: HOLD OPEN.

VOTE-ONLY ISSUES:

1. Capital Outlay BCP: Renovation of H and J Buildings—Patton State Hospital. The budget includes $4.0 million (Earthquake Safety Bond Funds) for preliminary plans and working drawing phases of a project to create intermediate "swing space" and seismically renovate four buildings at the hospital. Due to growth in the hospital population at all state hospitals, the Department of Mental Health is unable to relocate the patients during construction.

2. Capital Outlay BCP: Structural Retrofit—Sierra Conservation Center, Department of Corrections Jamestown Facility. The Department of General Services requests $168,000 (Earthquake Safety Bond Funds) for working drawings for the California Department of Corrections Jamestown Buildings E and F. DGS has determined these structures to be seismically deficient. Total project costs are expected to be $1.7 million.

3. Capital Outlay BCP: Vacaville Correctional Medical Facility, Wings U, T, and V. The Department of General Services requests $688,000 (Earthquake Safety Bond Funds) for working drawings for the Vacaville Correctional Medical Facility, Wings U, T, and V. DGS has determined these structures to be seismically deficient. Total project costs are expected to be $3.0 million over four years.

4. Capital Outlay BCP: Vocational Building at the California Correctional Center in Susanville. The Department of General Services requests $331,000 (Earthquake Safety Bond Funds) for preliminary plans and working drawings for the Vocational Building at the California Correctional Center in Susanville. DGS has determined this structure to be seismically deficient. Total project costs are expected to be $6.5 million over three years.

5. Capital Outlay BCP: Department of Mental Health Metropolitan State Hospital – Wards 206 and 208 in Norwalk, California. The Department of General Services requests $363,000 (Earthquake Safety Bond Funds) for working drawings for the Department of Mental Health Metropolitan State Hospital – Wards 206 and 208 in Norwalk, California. DGS has determined these structures to be seismically deficient. Total project costs are expected to be $4.4 million over three years.

6. Capital Outlay BCP: CDC Tehachapi Chapels Facility (Building H). The Department of General Services requests $200,000 (Earthquake Safety Bond Funds) for preliminary plans and working drawings for the Chapels Facility (Building H) at the California Department of Corrections Tehachapi facility. DGS has determined this structure to be seismically deficient. Total project costs are expected to be $2.1 million over three years.

7. Capital Outlay BCP: Structural Retrofit for the Walker Clinic. The Department of General Services requests $225,000 (Earthquake Safety Bond Funds) for working drawings for the California Institute for Women—Walker Clinic at Corona. DGS has determined this structure to be seismically deficient. Total project costs are expected to be $3.0 million over three years.

Staff Comments: At a previous hearing, the Chair requested concrete information from the Administration on the future plans for this facility. According to the CDCR, the CIW

Walker Clinic seismic renovation encompasses the seismic retrofit of the Walker Housing Unit, which the CDCR plans to use to house a 20-bed mother/infant reunification program (referred to as Bonding Mothers with Babies) upon completion of the seismic renovation.

8. Capital Outlay BCP: California Institute for Women Infirmaries at Corona-Infirmary Building. The Department of General Services requests $224,000 (Earthquake Safety Bond Funds) for working drawings for the California Institute for Women Infirmary at Corona. DGS has determined this structure to be seismically deficient. Total project cost is expected to be $2.7 million over three years.

Staff Comments: Currently, the CIW Infirmary seismic renovation project includes retrofitting the Out-Patient Housing Unit (OPHU), wound care clinic, seven medical treatment beds, and the OBGYN clinic. At this time, the OPHU is being used as a temporary Psychiatric Services Unit (PSU) until a permanent structure can be built. The PSU includes 10 single cells for female offenders. CDCR staff indicate that Preliminary Plans for a permanent 20-bed PSU was included in the 2007 Governor's Budget, with funds for Working Drawings and Construction proposed for the 2008-09 Budget. CDCR staff estimate that the construction of the 20-bed PSU will be completed some time during the 2010-11 budget year. Upon completion of the permanent PSU, the 10 single cells in OPHU will be used as a Mental Health Outpatient Housing Unit. All other areas included within the scope of the CIW Infirmary seismic renovation (wound care clinic, seven medical treatment beds, and the OBGYN clinic) will continue as currently constituted.

CDCR staff indicate that none of the programs/missions identified above are impacted by the 45 bed Intermediate Mental Health Facility that is planned for CIW.

9. Capital Outlay BCP: Sacramento Public Safety Communications Decentralization. The budget includes $4.8 million (various funds) to commence a design phase for the relocation of two critical public safety communications from the top floor of the Resources Building in Sacramento. The Administration seeks to relocate this type of facility from the downtown area to a more seismically sound structure, at a cost of $29.5 million General Fund.

10. BCP: Energy Contract Service Attorney. The Administration requests one attorney position to provide in-house legal services for energy-related legal issues. The Department of General Services' believes their growing involvement in energy purchases and programs necessitates increased staff legal support.

11. BCP: Baseline Funding Adjustment for Natural Gas Services. The budget includes $63.1 million (Service Revolving Fund) to permanently increase the department's baseline natural gas budget up to $234.3 million, the expenditure level of the current year. This increase is driven by the state's expanded use of natural gas energy, growth in the number of state agency natural gas consumers, and the price of natural gas. The Natural Gas Services Program began in 1997-98 with a budget of $27 million and has been augmented five times since then, reaching the current level of $234.3 million.

The CY increase ($63m) came in a provision request. This request makes that additional funding permanent. The cost factors driving the anticipated increase are number of sites, usage, and price.

12. BCP: Central Heating and Cooling Plant, Sacramento. The budget includes an augmentation of $380,000 (Service Revolving Fund) in the budget year and 2008-09 for private consultant services related to water quality monitoring, regulatory compliance and consultation, and special environmental studies for the waste discharge into the Sacramento River. Unless the department submits meets these water quality requirements, they may be subject to penalties and fines approaching $25,000/day. The department expects that plant renovations to be completed in 2009 will conclude the need for these consulting services.

13. BCP: California Public Utilities Commission Building: Special Repairs and Maintenance. Pursuant to a Memorandum of Understanding between the California Public Utilities Commission and the Department of General Services, the budget includes $3.1 million (Service Revolving Fund) for special repairs and deferred maintenance at the Edmund G. Brown building in San Francisco.

14. BCP: Building Maintenance and Operations for Department of Justice Lab Facility, Santa Rosa. The budget includes $180,000 (Service Revolving Fund) ongoing to provide custodial, engineering, and grounds keeping services at the Department of Justice's new lab in Santa Rosa. Construction on this facility is nearly complete and it is expected to be ready for occupancy on July 1, 2007.

15. BCP: CalTrans Building Operations and Maintenance. The budget includes $235,000 (Service Revolving Fund) ongoing and three positions to provide building operations and maintenance services at three properties in Sacramento.

16. BCP: Earthquake Safety Public Buildings Rehabilitation Bond Fund. The Administration requests to eliminate two positions and $651,000 in expenditure authority for the Earthquake Safety Public Buildings Rehabilitation Bond Fund. A position to handle project management duties for eight proposed earthquake safety projects would be funded from the Architectural Revolving Fund.

17. BCP: Secretary of State Building: Conversion to Individual Rate Building. The Administration seeks $14.1 million (Service Revolving Fund) to: (a) repair the Secretary of State (SOS) headquarters; and (b) transition the costs of debt service and set up a building rental rate for the SOS to include a six-cents special repairs reserve account to fund future repairs to the building. The department asserts that the SOS does not have the expertise or funds available to ensure the building is properly maintained and repaired and has asked the DGS to manage repayment of debt service and repairs for the building.

18. Revised Budget Bill Language for Tenant Improvements on DGS Individual Rate Buildings. In the previous hearing, the Subcommittee heard testimony on the following Budget Bill Language that was agreed to by all parties:

Revised Provisional Language

9. The Director of the Department of Finance is authorized to increase this item for purposes of funding tenant improvement projects to facilitate the backfill of vacant space within stand-alone DGS bond funded office buildings. This provision shall only be used to augment expenditure authority for DGS stand-alone individual rate office buildings where a $0.03 tenant improvement surcharge has been approved by the Department of Finance and is included in the monthly rental rate. Department of Finance approval is contingent upon justification for the proposed tenant improvement projects to be provided by the Department of General Services including an analysis of cost impacts and how the tenant improvements will improve the state's utilization of the facility. Any augmentation made in accordance with this provision shall not result in an increase in any rate charged to other departments for services without the prior written consent of the Department of Finance. Any augmentation made pursuant to this provision may be authorized not sooner that 30 days after notification in writing of the necessity therefore is provided ~~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~~.

19. BCP: Conversion of Expiring Positions to Permanent in Office of Public School Construction. The Administration requests $1.1 million ($331,000 General Fund) ongoing to make permanent 13 expiring positions (June 30, 2007) in the Office of Public School Construction (OPSC), Fiscal and Program Services Office. The OPSC asserts that not extending these positions would slow the processing of construction applications for the School Facilities Program. Twelve of these positions were approved in 2004-05 with the understanding that the DGS would seek additional positions as workload needs were refined.

20. BCP: School Facilities Program Staffing (AB 127). The Administration requests $575,000 (2006 School Facilities Fund) and seven permanent positions to support the implementation of Chapter 35, Statutes of 2006 (AB 127). This legislation enabled the construction of new schools to accommodate enrollment growth and modernize existing schools by providing $7,329,000,000 in general obligation bonds. The proposed staff would better enable the Office of Public School Construction (OPSC) to support this construction effort and accomplish related tasks described in AB 127.

21. BCP: State Relocatable Classroom Program. The Administration requests $4.5 million ongoing (School Building Aid Fund) to cover operating costs and continue the implementation of the phase-out plan for the State Relocatable Classroom Program (SRPC). The request includes $44,000 to fund travel expenses for the SRCP inspector.

22. BCP: Office of Administrative Hearings. The Administration requests to make permanent 73 limited-term Office of Administrative Hearings (OAH) attorney and support positions. These positions do not expire until June 2008 so there will be no fiscal impact in the budget year. The cost to make these positions permanent will be $9.2 million (Service Revolving Fund) ongoing starting in 2008-09. These staff provide services for the Special Education Dispute Resolution Program, which mediates between school districts and parents of developmentally disabled children. The department has faced difficulty in fully staffing for this program due to the limited-term nature of the existing positions. Funding for these positions is provided through an interagency agreement with the Department of Education (CDE).

Staff Comments: At a previous hearing, the Chair requested the DGS to work with staff and to verify this staffing request was consistent with workload. Based on additional information provided by the DGS, staff concerns have been addressed.

23. BCP: Asset Enhancement of Current Surplus Properties. The budget includes a one-time augmentation of $1.6 million (Property Acquisition Law Money Account) for external consultant services to enhance the valuation of three current surplus properties and remediate soil contamination at a Los Angeles property. The proposed consultant services will cost $1.1 million and the soil remediation $500,000. The properties to be prepared by a consultant are the Lanterman Developmental Center in Pomona; the Fairview Developmental Center in Costa Mesa; and Los Angeles Civic Center. The Department reports that the sale of these properties has the potential to increase the market value of these properties by as much as $30 million.

24. BCP: Infrastructure Studies for DGS Buildings. The budget includes $230,000 (Service Revolving Fund) for the preparation of two infrastructure studies of DGS buildings. These studies are normally conducted every 20-25 years. The two buildings to be studied are the Gregory Bateson Building and the State Personnel Board Building, both in Sacramento.

25. Budget Bill Language to Reappropriate Funding for City of Richmond Hall of Justice and City Hall.

1760-492--Reappropriation, Department of General Services.

As of June 30, 2007, the balance 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 2003 (Ch. 157, Stats. 2003), Budget Act of 2004 (Ch. 208, Stats. 2004), and Budget Act of 2005 (Ch. 38, Stats. 2005), is reappropriated and shall be available for expenditure until June 30, 2008:

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, 2008, these funds will no longer be available for expenditure and shall not be reappropriated.

26. BCP: Support for Department of Finance's FISCal Project. The budget includes 18 positions and $1.9 million (Reimbursements) to support implementation of the Department of Finance's FISCal project. This project seeks to update budget-related IT infrastructure throughout state agencies and the Legislature. The total FISCal request for the budget year (directed by the Department of Finance) is $35.7 million General Fund and 238 positions.

STAFF RECOMMENDATION ON VOTE-ONLY ITEMS: APPROVE issues 1-25 as budgeted. DENY issue 26.

VOTE on Vote-Only Issues 1-26:

9620 Payment of Interest on General Fund Loans

These budget items provide funding for interest payment on General Fund loans and provide that the Department of Finance may adjust these appropriation amounts to make the necessary interest payment, but must notify the Legislature 30 days prior to making any such adjustment.

Staff Comments: General Fund cash-flow is uneven over the course of any given fiscal year. The inflow of cash to the General Fund is typically less than the outflow of disbursements during the first 6-8 months of the fiscal year, but this trend reverses in the final 4-6 months. To bridge the gap and meet its cash needs, the General Fund usually borrows funds both internal and external to the state to cover short-term cash needs in anticipation of revenues. The external portion of this cash-flow borrowing is accomplished through the issuance of Revenue Anticipation Notes (RAN). By way of example, on a cash basis for the period ending February 28, 2007, the state spent $17.2 billion more than it had in General Fund receipts (which totaled $58.2 billion while disbursements totaled $75.4 billion). The state started the year with a cash balance of $9.2 billion, leaving an $8 billion cash deficit which is addressed by internal borrowing of $6.5 billion and the issuance of a $1.5 billion RAN. Similarly, the Governor's Budget anticipates the need to issue a $3.5 billion RAN in 2007-08.

The RAN allows the state to borrow at low, short-term tax-exempt rates up to an amount limited by federal arbitrage rules. Typically, the size of the RAN proposed is determined by the DOF, the State Controller's Office, and the State Treasurer's Office, and is based on the amount needed to cover any projected cash shortfall and to provide a reasonable cushion to account for uncertainty. The state is free to invest the proceeds of any spare balances at the Pooled Money rate, which is a generally a higher taxable rate.

According to the DOF, the $3.5 billion RAN in the Governor's Budget is based on minimizing the amount of the state's external borrowing, and does not meet the federal limit. However, the amount of the proposed RAN is subject to change with new fiscal forecasts as a result of the May Revision.

The Subcommittee may wish the Administration and the LAO to:

1. Discuss strengths and weaknesses of the state's existing cash-flow borrowing strategy (of minimizing the state's external borrowing) as it relates to other potential strategies.
2. Comment generally on the factors that are considered in determining what constitutes a reasonable cash "cushion," and the adequacy of the proposed cushion.

Staff Recommendation: HOLD OPEN.