Senate Budget and Fiscal Review

Subcommittee No. 4 Pt 2 2007 Agendas

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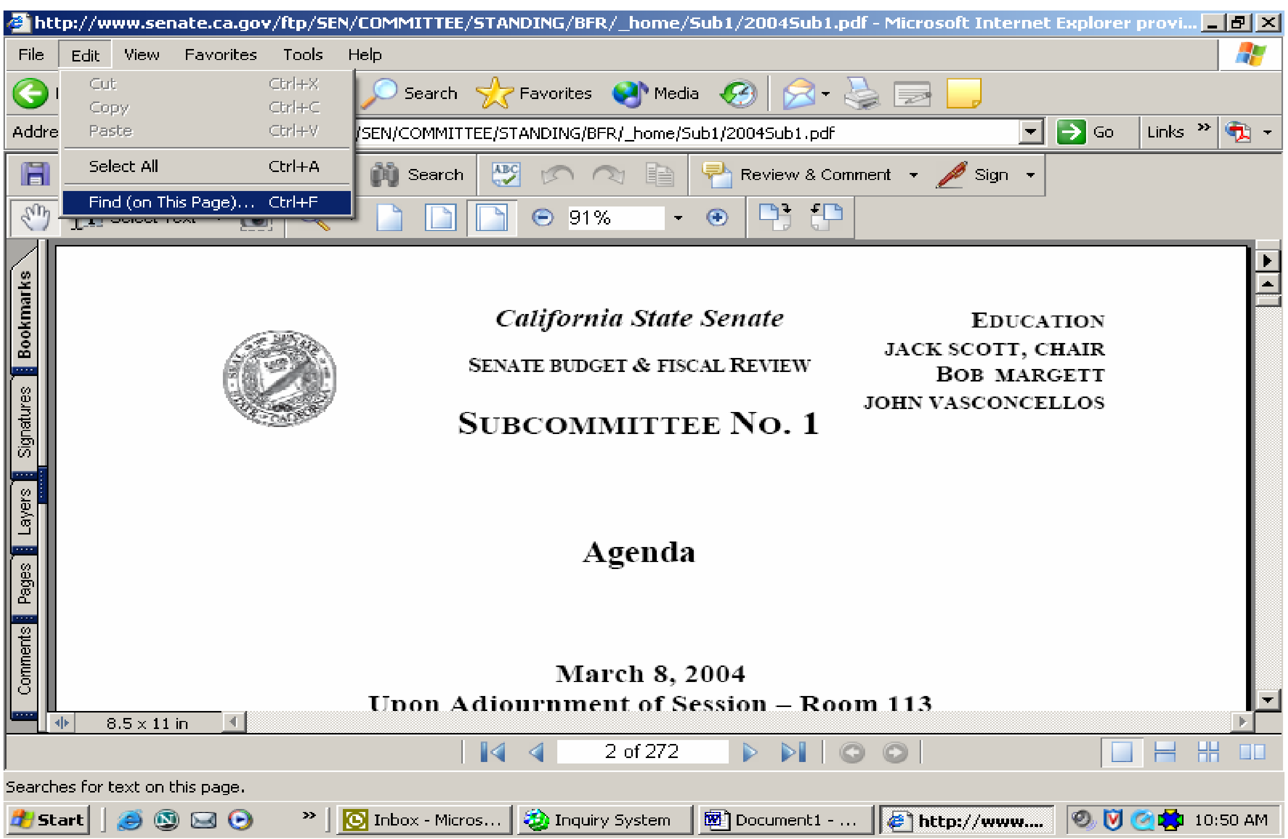

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Monday, April 23, 2007
9:00 a.m.
Room 2040

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.

Division of Juvenile Justice

Juvenile Justice System 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.

A small number of wards (under 2 percent annually) are committed to the California Department of Corrections and Rehabilitation's (CDCR) Division of Juvenile Justice (DJJ) (previously known as the California Youth Authority or CYA) and become a state responsibility. The population sent to DJJ is generally the State's most serious and chronic juvenile offenders, but this may vary by county. In addition, juveniles tried in adult criminal court for particularly serious or violent crimes are placed in a DJJ facility until their 18th birthday, at which time they are transferred to state prison for the remainder of their sentence. The CDCR currently operates eight juvenile correctional facilities and one conservation camp.

***Farrell* Lawsuit.** In 2004, the state settled *Farrell v. Tilton* that alleged poor conditions of confinement and a lack of treatment services for youth housed in DJJ institutions. As a result of this lawsuit, the state agreed to review the entire system and reform the programs provided to juvenile offenders. Beginning in 2005-06, the DJJ began implementing reforms as stipulated by the *Farrell* consent decree in the following areas:

- Mental Health
- Sex Behavior
- Disability
- Education
- Medical Care
- Safety and Welfare

The state has allocated about $166 million ($18 million one-time) General Fund over the past two budget years to comply with the *Farrell* lawsuit.

Governor's Budget Summary. The Governor's budget proposal includes $523 million to fund the juvenile institution and parole operations. This is about $8 million or 1.5 percent less than estimated expenditures in the current year due to a major proposal (described below) to realign a portion of the juvenile population to the locals. The Governor's budget also includes $4.8 million in additional monies to implement the Safety and Welfare and Mental Health Remedial Plans under the *Farrell* lawsuit. The DJJ per capita costs for 2007-08 are projected to be $216,081 annually.

1. Safety and Welfare Remedial Plan

Background. The safety and welfare remedial plan was required by the November 2004 Consent Decree that the state entered into in the *Farrell* lawsuit. The latest plan was submitted to the court in July 2006. This plan is guided by the following six principles:

- Provide safe, secure facilities.
- Provide effective rehabilitative treatment to reduce recidivism.
- Prepare youth for re-entry to the community and provide opportunities to address personal, social, physical, educational, and vocational needs.
- Strengthen the juvenile justice continuum, through collaboration with stakeholders, communities, and families.
- Implement restorative justice practices to ensure rehabilitation includes accountability to victims, the community, and themselves.
- Continuously evaluate program quality, outcomes, and effectiveness.

The department indicates that it has developed an action plan for this remedial plan. The action plan identifies the key actions and priorities the department needs to take to comply with the principles of the plan. Below is a summary of the department's key actions for complying with each of the principles in the remedial plan:

- **Safe and Secure Facilities.** The department's top priorities for improving the safety and security of its facilities are the following:
  1. Increase the staff to youth ratios.
  2. Develop and implement a long-term plan to provide smaller living units (reduce living units to no more than 40 youth and less for specialized units).
  3. Provide staff with specific skills to manage youth in a responsive manner.

- **Effective Rehabilitation.** The department plans to implement a comprehensive system that accurately assesses risks and needs of youth to match rehabilitation/treatment services to meet their needs. The department plans to utilize the Principles of Effective Intervention as the framework for the rehabilitative model. The principles for this model include the following:
  1. Risk Principle—Match the intensity of treatment/services and supervision to the risk level of the youth.
  2. Need Principle—Target criminogenic needs.
  3. Responsivity Principle—Deliver interventions in a style that is consistent with the ability and learning style of the youth.
  4. Program Integrity Principle—Ensure that staff is properly trained and there is adequate oversight/monitoring of the programs to ensure quality of service and evaluation outcomes.
  5. Professional Discretion Principle—Recognize that no assessment, criteria, or model can account for all variables and allow staff to override assessment recommendations, as appropriate.

- **Prepare Youth for Reentry.** The department plans to provide a variety of programming and services to promote health development of youths in its custody. The following programming will be made available:
  1. Strong educational focus with priority on obtaining high school diploma or GED and opportunities for post-secondary education.
  2. Vocational programs to train youth in marketable skills.
  3. Recreational and religious services will be available.
  4. Cultural awareness and sensitivity will be promoted.
  5. Rehabilitation/treatment will build on strengths, promote independence, and develop competencies and life skills.
  6. Individual treatment will be provided to address other special needs, including gender specific interventions, and gang related issues.

- **Strengthen Juvenile Justice Continuum.** The department will take steps to strengthen the continuum of services through the following efforts:
  1. Increased communication and information sharing among all stakeholders.
  2. Work towards continual improvement of the juvenile justice continuum with counties and stakeholders.
  3. Develop system improvements that find additional ways to share resources and enhance services.

4. Engage family members in all aspects of the youths' rehabilitation/treatment, when not detrimental to the youth's success.
5. Provide incentives to families for involvement in opportunities to increase skills and participate in treatment.
6. Invite families to assist in identifying opportunities of involvement and opportunities for referrals or direct services to meet needs that will assist in successful reintegration.

- **Implement Restorative Justice Practices.** The department will incorporate restorative justice principles within all of its programming. The department also plans to establish Victim Services and Restitution Specialists to ensure restorative principles are incorporated and to provide increased opportunities for victims to provide information and input to staff.

- **Continuous Evaluation.** The department plans to identify expected outcomes for each of its goals and utilize an electronic, automated tracking system.

Immediate and Phase I Efforts. The 2006 budget change proposal for the Safety and Welfare Remedial Plan identified immediate and Phase I efforts that the department would work on through the 2006-07 fiscal year. The efforts identified as immediate and Phase I include the following:

- Hire consultants to develop strategies for the following issues: (1) classification, (2) normative culture, (3) substance disorders, (4) violence reduction, (5) aggression replacement, (6) conflict resolution, (7) gang integration, (8) female offenders, and (9) re-entry.
- Issue a request for proposals for a risk/needs assessment and implement a new assessment tool.
- Identify potential providers for female offenders and issue a request for proposal for services/programs for female offenders.
- Begin converting N.A. Chaderjian Youth Correctional Facility to a specialized treatment facility.
- Implement reforms on 20 living units (reduce housing unit size and increase staffing), targeting behavior treatment programs and core rehabilitation/treatment units. (The Legislature adopted budget bill language that would target these reforms at one institution in the current year. The department chose Herman G. Stark Youth Correctional Facility as the institution it would target.)

Previous Funding for Plan. The Legislature has provided approximately $40 million in ongoing funding to implement the Safety and Welfare Remedial Plan. Including funding to increase staff-to-youth ratios and reduce the size of the housing units. Funding has also been provided for various contracts to develop a risk/needs assessment tool and an assessment of staff training needs. Funding has also been provided for ward grievance coordinators, a ward information network, and classroom security for special management units.

The funding provided for the safety and welfare remedial plan in the current year was reduced by about $7 million in the Governor's January 2007 budget proposal to reflect an updated implementation schedule of reducing the living unit size of housing units at the institutions and delays in hiring staff.

Funding and staffing for this plan is driven by the population estimate for DJJ.

Governor's Budget. The Governor's budget proposal includes $18.7 million in additional funding to implement the Safety and Welfare Remedial Plan in the budget year. The funding needed to support the fall population estimate is mainly needed to reduce the living unit size of housing units at Herman G. Stark Youth Correctional Facility and N.A. Chaderjian Youth Correctional Facility. The funding to support the full year cost of positions approved in the current year is to provide the total costs associated with positions hired partway through the current fiscal year.

Safety and Welfare Remedial Plan Budget Year Funding	**2007-08**
Fall Population	$10,717
Budget Change Proposal	980
Full Year Cost of Positions Approved in Current Year	7,002
Total	**$18,699**

The funding requested in the budget change proposal is for the following two components:

- $585,000 for four additional youth correctional officers to provide additional coverage during the midnight watch for increased checking on the safety and welfare of youth in their rooms at N.A. Chaderjian Youth Correctional Facility given that this facility is scheduled to be converted to a Special Treatment Facility in the budget year.
- $395,000 for one 2-year limited-term position and a consulting contract to develop a Juvenile Justice Operational Master Plan that will involve county participation, as well as other interested stakeholder participation and serve as a blueprint for comprehensive juvenile justice reform in California.

Update on Implementation. The department indicates that it is in various stages of implementing the immediate and Phase I efforts listed above. The following is a partial list of what the department has accomplished to date:

- The department has developed a classification system to classify all youth based on low risk and high risk for facility violence and the youth have been separated accordingly.
- The department has implemented performance based standards based on a national model at all of the institutions. This includes identifying one person at each institution that will collect the data and one person at headquarters that will compile and analyze the data submitted by headquarters.
- The department is entering a contract to train staff in Aggression Replacement.
- The department has implemented numerous other training programs for staff, including training on evidence based programs, crisis management, and motivational interviewing.
- The department has issued a request for proposals to develop a risk/needs assessment.

- The department has issued a request for proposal for secured residential placement and treatment for female offenders committed to DJJ.
- Numerous modular units have been ordered and delivered to O.H. Close Youth Correctional Facility, DeWitt Nelson Youth Correctional Facility, and Herman G. Stark Youth Correctional Facility to provide expanded treatment and education space.

The department indicates that it has made progress in the conversion of N.A. Chaderjian Youth Correctional Facility to a specialized treatment facility, but no transfers have been made to date. Furthermore, the department is continuing to work on reducing the living unit size at Herman G. Stark Youth Correctional Facility.

Vacancies a Problem. Staff finds that DJJ has a significant number of vacant positions (vacancy rate for youth correctional counselors is over 10 percent). This makes reducing living unit sizes and increasing staffing ratios difficult until sufficient staff are in place. It is unclear what strategies the department has in place to improve its recruitment efforts.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the budget change proposal to add additional youth correctional officers at N.A. Chaderjian Youth Correctional Facility.
- Hold open the budget change proposal to fund positions and a consulting contract to develop a Juvenile Justice Operational Master Plan.

2. Developing a Juvenile Justice Continuum

Background. One of the six principles of the safety and welfare remedial plan is to strengthen the juvenile justice continuum. This continuum of juvenile justice includes state DJJ facilities and county probation facilities, but also includes other supportive services such as foster care and group homes.

Previous Subcommittee Hearing. On February 28, 2007, the Subcommittee held a hearing to hear the Governor's budget proposal to realign the juvenile offender population. (The agenda from this hearing is attached as Appendix I.) This proposal would stop intake of certain lower-level juvenile offenders on July 1, 2007, and transfer about half of the current population at DJJ back to the county level. This proposal would be accompanied by a block grant of about $94,000 per offender per year to offset county costs from this change. The budget estimates that this proposal would net the state $42.9 million in General Fund savings because the budget savings would exceed the grant amount to the locals.

At the hearing, the Subcommittee learned the following:

- There are significant capacity differences among counties and not all counties could easily meet the needs of offenders currently being sent to DJJ. Concerns were raised about the Governor's July 1, 2007, timeline for realignment. These problems are especially pronounced for small rural counties and counties that do not have excess capacity in their current systems.

- There are very few mental health resources or appropriate facilities to serve this population at the local level.
- There are very few substance abuse resources or appropriate facilities to serve this population at the local level.
- There is no standardized risk/needs assessment employed by the counties to determine what sort of placement is most appropriate for the youthful offender and this leads to considerable variety among counties regarding how they use DJJ.

Governor's Budget. As mentioned above under the safety and welfare remedial plan, the Governor's budget proposal includes $395,000 General Fund to support two positions and contract funds to start the development of a Juvenile Justice Operational Master Plan that would serve as a blueprint for juvenile justice reform.

Continuum Needs Strengthened. Staff finds that more needs to be done to strengthen the continuum of options available for juvenile offenders. A large number of counties do not have adequate local options to address the needs of their juvenile offenders. This is not only a deficiency in infrastructure, but there is also a lack of resources and current capacity to provide certain specialized services to juvenile offenders. Staff finds that more needs to be done to strengthen and standardize the continuum of care for juvenile offenders from all areas of the state. Staff finds that a common risk/needs assessment tool could help in determining the best placement for juvenile offenders. The implementation of a standardized assessment tool would be an integral part in developing the right type of capacity at the local level. Staff recognizes that it will not make sense for all counties to develop the same capacity to serve certain juvenile offenders, but regional collaborative efforts could be encouraged for juvenile offenders that need specialized services.

Comparable Data Needed. Furthermore, staff finds that it is generally difficult to gather data about the juvenile justice continuum because each county does not collect the same data. Furthermore, the state also does not collect the same data as many counties. This makes even describing the state's juvenile justice continuum a challenge. Since 2004, a diverse group of stakeholders that include local law enforcement, probation, county government, state corrections, advocacy groups, and service providers have been meeting as part of the Juvenile Justice Data Project. The focus of this group has been to identify programs and processes that will improve state and local outcomes for youth in the juvenile justice system. Early on, this group identified the need to define desired outcomes, determine gaps in data collections, and propose policies to encourage implementation of evidence-based practices. However, they found that more data was needed on current county practices and what data was being collected on county services and forms of confinement. This group drafted a report that was released on April 18, 2007. Staff finds that good data that is comparable across county and state jurisdictions is needed to strengthen the continuum of care for juvenile offenders.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that staff, with input from the department, LAO, and DOF work on recommendations to improve the juvenile justice continuum.

3. Juvenile Reentry Grants

Background. As discussed above, one of the six principles that the safety and welfare remedial plan is guided by is to strengthen the juvenile justice continuum. This continuum includes the reentry of youth from DJJ facilities back into the community.

The Legislature added $10 million General Fund, to the 2006-07 Budget Act, to establish a new Juvenile Justice Community Reentry Challenge Grant program. The purpose of this program was to improve the performance and cost-effectiveness of juvenile parole, reduce the recidivism rate for juvenile offenders, and pilot innovative reentry programs. The program was designed to award grants on a competitive basis to local government and non-profit applicants that demonstrated a collaborative and comprehensive approach to the successful reintegration of juvenile parolees through the provision of wrap-around services for the juveniles.

Governor's Budget. The Governor's budget proposes to eliminate the Juvenile Justice Community Reentry Challenge Grant, in the budget year, resulting in $10 million General Fund savings.

Staff Comments. Staff finds that reentry of youth from DJJ facilities back in to the community is a weak component of the juvenile justice continuum. (The reentry of youth from county-run facilities is also a weak component of the juvenile justice continuum.)

Staff finds that many times youth leave DJJ facilities without a GED or high school diploma. It is difficult for these youth to enter a traditional school setting because of the timing of the school year and in many cases these youth may not be performing at their grade level. Most school districts and county offices' of education have relatively limited options for these youth to continue their education. Usually the options involve a significant amount of independent study, which may not be an ideal delivery method for these students. The opportunities for youth over the age of 18 to continue their education are generally even more limited.

In addition, many youth that leave DJJ may need continued mental health support. There are very few resources dedicated at the local level and in juvenile paroles to ensure that these youth continue to get the treatment and counseling that they need to be successful in their community.

Furthermore, some youth do not have a safe or rehabilitative environment in which to return after their time at DJJ. This can lead to homelessness and increased recidivism because the youth are surrounded by an environment not conducive to rehabilitation. DJJ generally has very little ability to provide family therapy and counseling that may address the root problems contributing to the youth's behavioral problems or provide alternative housing environments, especially for youth that are over 18.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Hold this issue open.
- Request that the department provide the Subcommittee with additional information about the grants and the evaluation components of these grants.

4. Education Remedial Plan—Informational Item

Background. A component of the *Farrell* Consent Decree required DJJ to improve the quality of education provided to wards in DJJ facilities. The department has prepared an educational remedial plan that was adopted by the court in 2005.

The plan is committed to establishing the following student-to-teacher ratios for various categories of wards:

- Regular education ratio decreases from 15:1 to 12:1
- Special Day Classes (designated as special education) ratio decreases from 12:1 to 10:1
- Restricted program wards get a new ratio of 5:1

Furthermore, the plan also specifies that teacher assistants be provided at a ratio of 12:1 for the English language learner population. Teacher assistants are also provided for each Special Day Class teacher, resource specialist, and two assistants are assigned to each restricted program. Furthermore, every ward with additional learning needs is provided with 104 hours a month of services from a resource specialist, school psychologist, and language, speech, and hearing specialist. Every high school serving a restricted population will have at least two school psychologists. One school psychologist is also provided to parole.

Previous Funding for Plan. The Legislature approved $17.1 million ($14.8 million Proposition 98) General Fund and 208 positions (180.5 positions funded by Proposition 98) to implement this education remedial plan in 2005-06 and 2006-07. The 2006-07 budget included an additional $6 million Proposition 98 General Fund to support teacher pay raises implemented in 2006. Funding for a substitute teacher relief pool has been established based on 5.5 percent of total instructional staff salaries.

Funding and staffing to implement this plan is driven by the DJJ population estimate.

Governor's Budget. The Governor's budget does not include additional budget change proposals for the education remedial plan, but an additional $1.5 million is provided in the Governor's budget to fully fund teacher salary increases approved in 2006-07.

Update on Implementation. The department indicates that it is in various stages of implementing the education plan. The following is a partial list of what the department has accomplished to date:

- A student/ward school attendance tracking system has been implemented.
- A pay increase for teachers at DJJ was approved by the Department of Personnel Administration that took effect on April 1, 2006, and the department has hired teachers to fill its vacancies.
- The school year was also reduced from 247 days to 220 days to improve the ability to recruit teachers by aligning the school schedule with other schools.
- The department has hired 12 mentor teachers to design and implement a Positive Behavior Management Plan for classrooms.

5. Education Continuum for Youth in the Juvenile Justice System and At-Risk Youth

Background. Each DJJ institution has a high school that provides education to the wards so that they may earn or work towards earning a high school diploma or GED while in custody. The education remedial plan provides a plan for how this education will be delivered. Youth committed to local juvenile halls and camps also attend high schools that are commonly referred to as "court schools". These schools are run by the county office of education for each county. All of these schools are funded from Proposition 98 monies.

A large percentage of youth that are on probation at the local level, but not incarcerated in a county facility, attend other alternative schools run by county offices of education and school districts. These schools include continuation schools, community schools, and community day schools. A large portion of these schools utilize independent study as their primary education delivery method. A recent report by the LAO estimates that between 10 to 15 percent of high school students enroll in one of these alternative school programs each year.

Governor's Budget. There are no specific budget proposals related to this item.

Reentry to School Districts Difficult. The majority of youth committed to a DJJ facility or other county juvenile justice facility are returned to their community and their local school district. Many times these students have a difficult time transitioning back into their high school of origin because: (1) they are significantly behind in their coursework and do not meet the requirements for their grade level, or (2) they return in the middle of the school year and cannot easily transition back into classes at a traditional high school. The majority of these students will likely end up at an alternative school or be placed on independent study.

Alternative Schools Lack Accountability. The LAO finds that existing K-12 accountability programs do not permit an evaluation of whether students participating in alternative education are making progress. Specifically, the current system allows local school districts to make referrals to alternative schools as a way of avoiding responsibility for the progress of low-performing students. Furthermore, the LAO finds that the way the state finances alternative schools blurs accountability and creates incentives that actually result in fewer services for students that are attending alternative schools. The LAO recommends that schools and school districts should be held responsible for the success of students who are referred to local alternative programs. They also recommend revising the state's alternative school accountability program so that it focuses on learning gains and graduating students from high school. Furthermore, the LAO also recommends creating a new block grant funding mechanism for the support of alternative programs that would reinforce the district's responsibility for creating effective options for at-risk students.

Staff Comments. Staff finds that the current lack of accountability and investment in alternative education options for youth is directly impacting the recidivism rate of youth at DJJ and in the local juvenile justice system. Staff finds that independent study is not an appropriate education delivery method for some students that need additional services or have learning disabilities.

Staff finds that improving the alternative school system could result in savings in the juvenile justice system and the prison system.

Furthermore, staff finds that the LAO's recommendations regarding improving accountability of alternative schools should also be applied to court schools and DJJ facilities.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Send a letter to Senate Budget Subcommittee #1 on Education to request that they adopt the LAO's recommendations to improve accountability of alternative schools, including court schools and schools run by DJJ.

6. Mental Health Remedial Plan

Background. A component of the *Farrell* Consent Decree requires DJJ to improve the quality of mental health services provided to wards in DJJ facilities. The department has developed a mental health care remedial plan that was filed with the court in 2006.

The mental health remedial plan is a plan for providing comprehensive and integrated mental health services based on evidence based standards of mental health care to juveniles served by DJJ. This includes:

- Screening
- Diagnosis
- Psychometric Assessments
- Psychotherapeutic and Pharmacotherapeutic treatment
- Consultation Services to direct care and other staff
- Leadership of clinical programs operating within a continuum of care in a variety of settings

The main principle governing treatment will be that the youth be allowed to function in the least possible restrictive environment, which they are capable of, but still ensure safety and personal growth.

Previous Funding for Plan. The Legislature approved $12.6 million ongoing General Fund to support 128 positions and implement the mental health remedial plan in 2005-06 and 2006-07.

The funding provided for the mental health remedial plan in the current year was reduced by $3.2 million in the Governor's 2007 budget proposal because the original proposal had overstated the staffing required by the plan.

Funding and staffing for this plan is driven by the population estimate for the DJJ population.

Governor's Budget. The Governor's budget proposal includes $4.1 million in additional General Fund and 53.7 positions to implement the mental health remedial plan in the budget year. This includes a reduction in the funding needed to support the fall population estimate because the original proposal had overstated the staffing required by the plan. The funding to support the full year cost of positions approved in the current year is to provide the total costs associated with positions hired partway through the current fiscal year.

Mental Health Remedial Plan Budget Year Funding	**2007-08**
Fall Population	-$2,567
Budget Change Proposal	3,844
Full Year Cost of Positions Approved in Current Year	2,813
Total	**$4,090**

The funding requested in the budget change proposal is to support establishing a third Intensive Behavioral Treatment Program housing unit. The Intensive Behavior Treatment Program housing unit is a new program under the mental health remedial plan for youth that have failed to respond to any mental health treatment offered. The department finds that youth placed in these housing units tend to be violent toward themselves and others due to ingrained personality disorders. Under the old model of treatment, their violence may have interrupted treatment. This new unit will allow for continual treatment.

This additional program is needed because the mental health remedial plan filed with the court late in 2006 required the department to further reduce its mental health units by 20 percent. This was not planned for in the budget proposal funded in 2006. Without an additional Intensive Behavioral Treatment Program, the department would have a significant waiting list of wards waiting for placement in an Intensive Behavioral Treatment Program living unit.

The budget change proposal also requests three additional youth correctional counselors for each of the Intensive Behavioral Treatment Program living units (nine youth correctional counselors in total). This would allow the department to put a youth correctional counselor in each of the classrooms on the Intensive Behavioral Treatment Program living unit consistent with how classrooms are staffed for the Behavior Treatment Programs. Behavior Treatment Programs are restricted programs for violent youth that do not have mental disorders.

Update on Implementation. The department indicates that it is in various stages of implementing the mental health plan. The following is a partial list of what the department has accomplished to date:

- Made preparations to start converting five mental health units at N.A. Chaderjian Youth Correctional Facility, one mental health unit at O.H. Close Youth Correctional Facility, and two mental health units at Southern Youth Reception Center and Clinic.
- Numerous clinical staff have been hired.
- In the process of completing a contract to provide DJJ staff with training on suicide prevention and youth with mental health disorders.
- Reduced living unit size to no more than 30 for most mental health treatment units. (The majority of these units will be further reduced when the reforms called for in the remedial plan are fully implemented.)

Staff Recommendation. Staff recommends that the Subcommittee approve the budget change proposal to support a new Intensive Behavioral Treatment Program housing unit and additional youth correctional counselors in the classrooms at these units.

7. Sex Behavior Treatment Remedial Plan—Informational Item

Background. A component of the *Farrell* Consent Degree required DJJ to improve the treatment provided to sex offenders in DJJ facilities. The department has prepared a sex behavior treatment program that was approved by the court in 2005 and is a 12-stage program that will standardize the process, assessment, and treatment of offenders from intake through parole. It implements a model and curriculum that encompasses all levels of the mental health continuum of care and can be customized for the needs of each offender.

Previous Funding for Plan. The Legislature approved $4.4 million in ongoing General Fund and 19 positions to implement the sex offender remedial plan in 2005-06 and 2006-07.

Funding and staffing to implement this plan is driven by the DJJ population estimate.

Governor's Budget. The Governor's budget does not include additional funding for the sex offender remedial plan.

Update on Implementation. The department indicates that it is in various stages of implementing the sex behavior treatment plan. The following is a partial list of what the department has accomplished to date:

- A screening tool for youth in the sex behavior treatment program was selected.
- A sex behavior treatment program policy manual has been drafted to guide the treatment program.
- Staff have attended various conferences and training on best practices on sex behavior treatment.

8. Health Care Remedial Plan—Informational Item

Background. A component of the *Farrell* Consent Decree requires DJJ to improve the quality of health provided to wards in DJJ facilities. The department has developed a health care remedial plan that was filed with the court in 2006.

The guiding concepts of the revised health care operations are the following:

- Create a centralized state medical leadership with the ability to establish health care policy for DJJ and implement and monitor health services at all facilities and supervise health services staff.
- Develop standardized policy and procedure that matches the needs of the youth and conforms to an acceptable national standard of medical and nursing care.
- Develop a system of auditing staff performance against the newly implemented policy and procedure.
- Establish a program that fosters linkages to university-based programs, public health agencies, and other youth facilities to which youth may be transferred or from which they may be accepted.

Previous Funding for Plan. The Legislature provided $7.5 million in ongoing General Fund to support 89.7 positions and implement the health care remedial plan in 2006-07.

Governor's Budget. The Governor's budget does not include additional budget change proposals for the health care remedial plan, but an additional $1.4 million is provided in the Governor's budget to fully fund positions approved in 2006-07.

Update on Implementation. The department indicates that it is in various stages of implementing the health care remedial plan. The following is a partial list of what the department has accomplished to date:

- Began tracking youth medical grievances.
- Filled the majority of headquarters health care leadership positions and health care administrator positions.
- Developed 32 policies with the remedial plan experts to ensure the provision of adequate, timely, appropriate health care.

9. Wards with Disabilities Remedial Plan—Informational Item

Background. A component of the *Farrell* Consent Decree required DJJ to make accommodations for wards with disabilities. The department has prepared a wards with disabilities program remedial plan that was adopted by the court in 2005.

The goals of the disability remedial plan are the following:

- Assure equality of opportunity and full participation for disabled wards in all department services, programs, or activities.
- Assure the elimination of discrimination against individuals with disabilities within DJJ.
- Provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities.

The plan also requires the department to screen all wards, upon intake, to determine if they have a developmental disability. (Developmental disabilities include mental retardation, cerebral palsy, epilepsy, autism, or other neurological disabilities.)

Previous Funding for Plan. The Legislature provided $3.1 million in ongoing General Fund to support 11.4 positions and implement the wards with disabilities program remedial plan in 2005-06.

Governor's Budget. The Governor's budget does not include additional funding for the wards with disabilities remedial plan.

Update on Implementation. The department indicates that it is in various stages of implementing the wards with disabilities remedial plan. The following is a partial list of what the department has accomplished to date:

- Transportation equipment for transporting disabled youth has been purchased.
- Auxiliary Aids for hearing impaired have been purchased for each facility.

- Corrective Action Plans have been completed for all facilities.
- Each facility has a sign language contract in place.
- Each facility has a wards with disabilities program coordinator.
- Staff has attended disability awareness training and a training module has been created for the Basic Cadet Academy.

10. Training for Supervisors

Background. In 2005-06, funding was provided to fund training relief for the non-supervisory classifications at CDCR. This was due to a change in the bargaining unit agreement that now requires that the mandated 40 hours of annual training be provided during an employee's regular shift. This funding did not cover training relief for supervisors.

Governor's Budget. The Governor's budget proposal includes $614,000 to support 5.9 positions to provide training relief for DJJ supervisors.

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

Board of Parole Hearings

1. Lifer Hearing Process

Background. The department entered into a Stipulated Agreement and accompanying remedial plan in March 2006 to settle the *Rutherford v. Schwarzenegger* lawsuit. This class action lawsuit was filed on behalf of lifer prisoners that had reached their minimum eligible parole dates without receiving a parole suitability hearing within the time frames required by law. The remedial plan requires the department to develop and implement a statewide networked scheduling and tracking system for life prisoner parole hearings. The court specifically included an information technology project component in the remedial plan. This case is now referred to as *Lugo v. Schwarzenegger* since the inmate named Rutherford has passed away.

The Legislature authorized $6.7 million General Fund to support additional positions at the Board of Parole Hearings to comply with the *Rutherford* lawsuit.

Governor's Budget. The Governor's budget proposal includes $4.5 million General Fund to support 19 positions, hardware, telecommunications, and contracts to implement a new information technology system for tracking and scheduling lifer prisoner parole hearings. The Department of Finance approved a Feasibility Study Report for this project on May 31, 2006.

One-Third of Lifer Hearings Postponed. In an attempt to reduce the backlog of lifer hearing, the Legislature authorized the board to switch from three person panels to two person panels. This has resulted in a significant increase in the number of parole hearings scheduled (number increased from about 4,000 to around 7,000 hearings annually). Unfortunately, about 30 percent of these hearings continue to be postponed, which increases the department's backlog and ability to comply with the federally ordered Stipulated Agreement.

Ten days prior to a parole suitability hearing, the inmates' files are mailed to the board commissioners. A large portion of postponements occur when the commissioners review the files and find that the file is not complete and specifically that the psychological evaluation has not been updated. It is unclear to staff why CDCR staff are distributing incomplete files to the board commissioners. Staff finds that this practice results in a waste of time and state resources because the commissioners and district attorneys still meet to make the postponement decision. Furthermore, it is also inconvenient and a waste of time for the victims and inmate's next of kin who may drive great distances to be in attendance at the hearing.

Inmate Files Not Corrected. Staff finds that errors are often found in an inmate's file during a board hearing. Even if all parties agree that there is an error, these errors rarely get corrected by institution staff. This results in the same issues being raised at subsequent lifer hearings. Staff finds that no one at the institution is responsible for correcting erroneous information in an inmate's record.

BPH Risk Assessment Tool. The board opted to not utilize the COMPASS risk/needs assessment being used by parole and the department to assess the risks and needs of the inmate/parolee. Instead, the department has selected two different risk/needs assessment tools. Neither of these tools is validated with the lifer population. Staff understands that training on these new risk assessment tools will be completed by the end of the current year. It is unclear why the board has decided to select a different risk assessment tool than the one being used by the department.

DJJ Board of Parole. Staff finds that, effective January 1, 2007, the juvenile commissioners and associated workload were transferred to DJJ. However, staff finds that certain key positions were not transferred to DJJ when this reorganization took place. Furthermore, it is unclear how DJJ will complete the psychological evaluations it needs to complete because funding was not provided for this purpose.

Workload Study Pending. Staff finds that $6.7 million was provided in the current year for additional positions to support the Board of Parole Hearings process. The department has also entered into a contract to conduct a workload study for both the parole revocation hearing process and the lifer hearing process. This analysis is supposed to be completed by June of this year. Furthermore, staff finds that the Executive Director for the Board of Parole Hearings has committed to ensure that all evaluations and reports are completed 60 days prior to the hearing date. However, it is not clear that the workload study was predicated on this standard.

Attorney Compensation Low for Lifer Hearings. Board appointed attorneys designated as lifer attorneys are compensated at $30 per hour with a cap of 8 hours per case. This rate includes travel, lodging, and expenses and the time cap includes the time it takes for the attorney to travel to the institution. Staff finds that this rate is extremely low when compared with other comparable attorney work. For example, the attorney rate for parole revocation hearings is set at $180 per hour. The compensation rates do not allow for a very high quality of representation for inmates in these hearings. Often the attorney does not have time to meet with the inmate before their hearing and rarely do they follow up on issues after the hearings.

Staff Recommendation. Staff recommend that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on strategies to reduce the number of incomplete files being sent to commissioners.
- Request that the department report, by May Revision, on strategies to ensure that errors in the files are corrected.
- Hold open the funding to continue implementation of the information technology system to track lifer hearings until the department reports back with the strategies listed above.

2. Parole Revocation Process

Background. The department entered into a Stipulated Agreement and accompanying remedial plan to settle the *Valdivia* lawsuit. This class action lawsuit was filed by parolees and prisoners alleging that California's parole revocation process violates due process rights under the U.S. Constitution. The department has developed a remedial plan to comply with the issues raised by the court.

Deputy Commissioners for the Board of Parole Hearings hold parole revocation hearings at numerous locations around the state including state prisons and local jails. For revocation hearings held at state prisons, records staff at the state prisons prepare the records for the hearing. However, for revocation hearings held at other locales, the parole division prepares the records for the hearing.

Governor's Budget – Population Estimate. The fall population estimate includes funding for two proposals to support the parole revocation process. The proposals are as follows:

- **Legal Representation.** The population estimate includes $1.7 million General Fund for the current year to augment the California Parole Advocacy Program that provides legal representation at Board of Parole Hearings to parolees that are returned to custody for parole violations.

  The base budget for this program is $24.9 million to fund a caseload of 80,028 ($311 per case). However, the department estimates that caseload will increase by 7,394 and the $1.7 million has been provided to fund this increase. This funds contract legal services of $185 per case and up to $60 additional for 3 percent of the cases.

- **Records Staff.** The department's fall population estimate also includes $3.4 million General Fund to support 51.9 positions for additional case records staff. The proposal would allocate 36 positions to Adult Institutions and 16 positions to Parole Operations.

  The department finds that the number of parole holds increased by 40 percent between 2004-05 and 2005-06, which represents an increase of roughly 34,000 additional parole holds. Historically, the department was funded at a ratio of 1 records staff to every 108 inmates that was a ratio based on a 1985 workload study. The department indicates that this staffing complement would not be able to meet the requirements of *Valdivia* especially given the large increase in parole holds. This budget request would establish a new records staffing ratio of two records staff for every 1,364 parole holds.

Projections Needed. Staff finds that the department is not employing a projection methodology that will anticipate the needs for these areas in the budget year. Instead, the department assumes that the budget year will be the same as the most recent year for which the department has data. This does not result in accurate budgeting by the department.

Appeals Process Not Timely. Staff finds that before an inmate/parolee can appeal a parole revocation decision to the court, they must demonstrate that they have exhausted all administrative appeals. In order to do this, the inmate/parolees must complete the inmate appeals (602) process. Staff finds that this process can take over a year, which is often longer than the revocation itself.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Hold this issue open pending May Revision.
- Request that the department base the May Revision requests on projections and not past data.

Parole Operations

1. Parole's Objective Difficult to Achieve

Background. The Governor's budget describes the primary objective of the Adult Parole Operations program is to increase the rate and degree of successful reintegration and release to society of offenders paroled from state prison. The parole program is responsible for providing direct supervision, surveillance, and apprehension of the state's parolee population. In addition, they are also responsible for providing offenders with direct support services, community referrals, and even mental health treatment. Furthermore, a recent voter initiative (Proposition 83) now requires parole to supervise a specialized population of parolees (high risk sex offenders) in perpetuity.

All inmates released from prison after serving their sentence are placed on parole. The minimum time parolees are retained on parole is generally three years.

The department reports that in 2005-06 parole returned about 67,000 parolees to prison on violations of the conditions of parole. Another 21,000 parolees were prosecuted for new crimes and were returned to prison. The total number of parolees returned to custody under these two categories represents about 70 percent of the total parole population for 2005-06.

Governor's Budget. The Governor's budget contains $809 million (primarily from the General Fund) to support parole operations in the budget year. This is about $54 million higher than in the current year and about $155 million higher than the budget for 2005-06. The increases are primarily due to the passage of Proposition 83 and other legislation related to sex offenders.

The fall population estimate included in the Governor's budget assumes that parole will be supervising 130,416 parolees in the budget year. This is slightly higher than estimated for the current year.

Vacancies Plague Parole. A recent report on vacancies from the department indicates that parole has double digit vacancies in most of its peace officer classifications. Staff finds that the department currently had over 200 vacancies in entry level parole officers. Furthermore, the department will need to recruit an additional 300 staff (mainly parole officers) to implement new supervision requirements related to sex offenders.

Parole Has Many Jobs. Staff finds that parole officers do have significant supervision responsibilities as part of their job. The intensity of their supervision responsibilities for sex offenders has increased significantly with the passage of Proposition 83. However, as stated by the department, the primary objective of parole is to increase the rate and degree of successful integration and release to society of offenders paroled from prison. Staff finds that the supervision responsibilities of parole officers in the field are so great that they may actually "crowd out" the parole agent's ability to provide services to the parolee that actually assist in transitioning a parolee successfully into society. Furthermore, the department's budget only includes about $38 million annually for programs and treatment services available for parolees (this figure does not include psychiatric outpatient services and sex behavior treatment services).

Parole Coordinates with Local Law Enforcement. Staff finds that parole currently spends a significant amount of time coordinating with local law enforcement on the supervision of parolees. Furthermore, staff finds that the state is funding a significant information technology project that will make it easier to share parolee data directly with local law enforcement. These efforts may help to improve public safety, but they take time away from parole's primary objective, which is to increase the successful integration of offenders paroled from prison into the community.

Confusion Over Who Provides Services? Staff finds that there is considerable confusion about who should provide services that will assist in the successful integration of offenders that parole from prison into local communities. The department funds some services. However, local governments often have significant networks of the types of services needed by the parolees (housing, mental health services, job training). However, in some cases, local governments do not provide services to persons in their community that are on parole. For example, as part of the recidivism reduction initiative, the state is spending $2.2 million just to provide housing for sex offenders that would otherwise be homeless. Generally, it is a local government responsibility to provide housing for persons in their community that are homeless. Furthermore, some laws (Proposition 63 – mental health funding) specifically prohibits funding of services for persons that are on parole.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Hold this issue open pending updated parole population estimates at May Revision.
- Request that the department provide a plan, by May Revision, for filling the vacancies in the parole division.
- Request that the department provide, by May Revision, information on the barriers to getting local governments to provide services to parolees.

The Subcommittee should also further review the quality and content of the department's parole programs at the hearing of this Subcommittee to be held on April 26.

2. Parole Reforms

Background. As mentioned above, all inmates that parole from state prison are placed on parole. The majority of parolees will be retained on parole for at least three years and at least 70 percent will be returned to prison while on parole. Parolees are returned to prison for violations of the conditions of their parole and when they are charged and found guilty of committing a new crime. Over 75 percent of the parolees that are returned to custody are returned on a parole violation.

Governor's Budget. The Governor's budget proposal includes estimated savings resulting from modifications to the parole structure. The proposed modifications include: (1) discharge from parole for some offenders with 12 months of "clean time"; and (2) no parole for some non-serious, non-violent offenders that have no record of current or prior serious or violent crimes or sex offenses. The administration indicates that these parole changes for low-level offenders would bring California's parole practices more in line with those of other states.

The department estimates that implementation of these parole reforms would result in savings of $52.5 million in the budget year. The department estimates that the parole population would be reduced by 4,400 in the budget year for discharging some offenders with 12 months of clean time. Furthermore, the department estimates that the parole population would be reduced by 22,300 parolees if a direct discharge policy was adopted for some offenders.

LAO Recommendation. The LAO recommends that the Legislature approve both of the Governor's proposed parole reforms. Furthermore, the LAO finds that the department's proposal does not include the corresponding institution savings from these parole reforms. The department estimates that adopting these parole reforms would result in 8,100 fewer inmates in the budget year and institution savings of $164 million.

Furthermore, the LAO finds that the department has under-estimated the parole savings in the budget year because the estimate was based on current year costs. The LAO estimates an additional $5 million in savings related to parole operations.

In total, the LAO recommends a reduction to the department's budget of $169 million to reflect the full savings of the reduced parole population and the resulting savings from a reduction in the inmate population.

Staff Comments. Staff finds that these parole reforms reduce supervision for the offenders that have been committed to CDCR for felonies that are defined by law to be non-violent and non-serious. This would allow parole to focus more attention on parole populations that are at higher risks to recidivate. These reforms would also allow parole to focus on implementing the significant changes made in the way the state supervises sex offenders on parole. Staff finds that these parole reforms constitute the largest part of the Governor's strategy to immediately reduce the inmate population. The department reports that it will exhaust its permanent and temporary capacity by spring 2008. Building capacity will realistically take three years to implement and transfers of inmates to facilities out-of-state have been halted by the courts. Therefore, the parole reforms may be the only option put forth in the Governor's plan to immediately reduce the prison population.

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

3. Sex Offender Management Plan – Proposition 83

Background. In 2006, legislation (SB 1178 [Speier] and SB 1128 [Alquist]) was passed and the voters approved an initiative (Proposition 83) to make significant and wide-ranging changes to the way the state treats sex offenders. There is significant overlap between these two pieces of legislation and the voter approved initiative. The following is a summary of the most significant changes made to law by this legislation and the initiative:

- **GPS Monitoring.** Requires Global Positioning System (GPS) tracking for life for all felony sex offenders.

- **Proximity to Schools and Parks.** Prohibits all registered sex offenders from living within 2,000 feet of any school or park.
- **Sexually Violent Predators.** Allows for commitment to the Department of Mental Health (DMH) as a Sexually Violent Predator (SVP) after one offense. Makes commitment terms to DMH indeterminate. Expands the scope of offenders who must be evaluated in prison for SVP eligibility.
- **Life Terms.** Added “continuous sexual abuse of a child” and “kidnap with the intent to commit specified sex crimes” to the crimes that can carry a life sentence with the possibility of parole.
- **Internet Luring.** Adds new crimes and lengthens sentences for “attempting to lure a child for specified sex crimes.”
- **Child Pornography.** Makes possession of child pornography a wobbler (can be prosecuted as a misdemeanor or a felony) and expands the list of priors that will trigger a prison sentence. Makes other changes to increase penalties for other child pornography offenses.
- **Other Sentence Enhancements.** Adds additional crimes that qualify as strikes, habitual sex offenders, and violent felonies. Deletes probation for some sex offenses and enhances penalties for drug use while committing a sex offense.
- **Good Time Credits.** Prohibits “good time” credits for many sex offenders convicted of serious crimes.
- **Length of Parole.** Increases parole to 10 years for all violent sex crimes.
- **Risk Assessment.** Requires persons convicted of sex offenses to be assessed using a Static 99 risk assessment and other assessments while incarcerated and on parole.
- **Inmate Programming.** Creates a pilot project for sex offender control and containment programming for sex offenders that are within five years of their parole date.
- **Megan’s Law Database.** Requires that additional information about the sex offenders on Megan’s Law database be included and requires that certain persons convicted of “child annoyance” be added to the Megan’s Law database.

In 2006, the Legislature also enacted AB 1015 (Chu) to create the Sex Offender Management Board to address issues, concerns, and problems related to the community management of sex offenders.

Current Year Funding. The Governor’s budget and a Finance Letter (dated January 29, 2007) requested $30.4 million in the current year to fund Proposition 83, SB 1178 (Speier), and SB 1128 (Alquist). A subsequent Finance Letter (dated March 28, 2007) was received that reduced the original request by $11.8 million. The majority of these savings were due to overstated facilities costs in the original proposal. However, additional savings are also estimated based on more realistic expectations of the time it will take to hire staff and implement the new GPS units. Staff finds that the revised current year funding will likely be funded in a forthcoming supplemental appropriations bill.

Sex Offender Management Plan	**2006-07**			
	Budget	**3/28/07**	**Total**	**Positions**
Adult Institutions:				
Prescreening for Sexually Violent Predators	$2,784	-$1,253	$1,531	8.6
Board of Parole Hearings:				
Probable Case Hearings for Sexually Violent Predators	1,489	-99	1,390	11.7
Parole Operations:				
Passive GPS Monitoring for non-High Risk Parolees	8,840	-6,896	1,944	17.9
Active GPS Monitoring for High Risk Parolees	15,529	-2,057	13,472	29.0
Screening of Parolees for Sexually Violent Predators	1,758	-1,455	303	19.1
Total	**$30,400**	**-$11,760**	**$18,640**	**86.3**

The Department of Mental Health has also requested additional funds to implement the new laws and voter initiative in the current year. A Finance Letter (dated January 10, 2007) requested additional funding for the Department of Mental Health to implement these law changes in the current year. The original amount requested in the Finance Letter was revised and $15.7 million will be funded in the current year from the 9840 budget item (Augmentation for Contingencies or Emergencies) ($3.2 million) and SB 866 (Runner) ($12.4 million).

Governor's Budget and Finance Letter. The Governor's budget requested $77.3 million General Fund to support the Sex Offender Management Plan in the budget year. A Finance Letter (dated March 29, 2007) proposes to reduce this amount by $9.3 million General Fund. This reduction is due to overstated facilities costs in the original proposal. Furthermore, the department has determined that the modular units requested for Pleasant Valley State Prison and four other locations for screening and record keeping related to the Sexually Violent Predator screening will not occur until the budget year.

Sex Offender Management Plan	**2007-08**			
	Jan 10	**3/29/07**	**Total**	**Positions**
Adult Institutions:				
Prescreening for Sexually Violent Predators	$1,416	$1,253	$2,669	16.9
Board of Parole Hearings:				
Probable Case Hearings for Sexually Violent Predators	2,592		2,592	23.1
Parole Operations:				
Passive GPS Monitoring for non-High Risk Parolees	33,365	-6,862	26,503	82.2
Active GPS Monitoring for High Risk Parolees	35,211	-3,663	31,548	132.2
Screening of Parolees for Sexually Violent Predators	4,116		4,116	37.7
Establish the Sex Offender Management Board	586		586	2.7
Total	**$77,286**	**-$9,272**	**$68,014**	**294.8**

The Governor's budget proposal also included an additional $25 million in the budget year for the Department of Mental Health to phase in the law changes that will likely result in a larger number of Sexually Violent Predators. A Finance Letter (dated March 29, 2007) revised this funding request to $21.7 million. The Department of Mental Health projects that this amount will be further impacted by the caseload changes in the May Revision.

In-Prison Treatment Not Funded. This budget proposal does not provide funding for the establishment and operation of an in-prison sex offender treatment program. SB 1128 (Alquist) established such a program and the 2006 Budget Act included $50,000 to study sex offender treatment programs nationwide and design a program for CDCR. The LAO finds that sex offender treatment programs for inmates could improve the outcomes of participating offenders after release to parole and could significantly reduce state costs in the long term.

Residency Restrictions Not Funded. This budget proposal does not provide funding to implement the residency restrictions required under Proposition 83. The department has indicated that a significant number of parolees would have to be moved to comply with this new requirement and it is still developing an implementation plan. The LAO notes that it is unclear at this time whether additional monies will be needed to implement the residency restrictions. Staff finds that $2.2 million of the recidivism reduction funding was allocated to providing housing for sex offenders in the current fiscal year. The department indicates that it plans to allocate an additional $2.2 million in the budget year.

Rollout Plan for GPS Lacking. The LAO finds that the department is lacking a rollout plan for the GPS devices. The department's proposal assumes that all of the devices will be acquired and nearly all of the parole agents will be hired by July 1, 2007. As mentioned above, the department already has double digit vacancy rates in its entry level parole officer classification. However, staff finds that if the parole reforms proposed by the Governor were implemented, about 381 fewer parole agents would be needed to supervise the lower risk caseloads and could be redirected to support this proposal. It is not clear that there are enough parole officers in the academy to bridge the vacancy gap in the absence of implementing the parole reforms. The department has indicated that it is working on an implementation plan.

LAO Recommends Workload Adjustments. The LAO has identified three components of this proposal that it finds over budgeted in the Governor's budget proposal. First, the LAO finds that the department's proposal for additional office space is over budgeted by about $9.8 million. The LAO finds that the parole reforms proposed by the Governor would result in the need for 380 fewer parole agents. Therefore, the LAO does not believe the additional office space is needed if the parole reforms are implemented. The administration has concurred with this analysis and in a Finance Letter (dated March 29, 2007) proposes to reduce its request in the budget year by $9.8 million General Fund.

Secondly, the LAO finds that the department has over estimated the number of parole agents it will need to supervise the High Risk Sex Offender population on active GPS. The LAO estimates that the department will need 31 fewer parole agents resulting in a $3.2 million reduction in the budget year. The LAO also finds that the department estimates that the per day costs of the GPS units will increase by about 36 percent in the budget year. However, they note that the department has not provided justification for this increase and finds that this component is over budgeted by $3.1 million.

Finally, the LAO finds that the department has not provided workload analysis for the risk assessments it will conduct on sex offenders prior to release from prison. Consequently, the LAO recommends reducing the department's request to conduct risk assessments in institutions by $1.4 million.

In total, the LAO recommends reducing the department's budget proposal by an additional $7.7 million above the level of funding proposed in the Governor's budget and adjusted by the Finance Letter. The LAO withholds recommendation on the entire proposal pending a realistic implementation plan for the GPS monitoring. Furthermore, the LAO also recommends using some of the savings generated by the technical adjustments to fund a pilot project to provide in-prison treatment for sex offenders as recommend by SB 1128 (Alquist).

Staff Comments. Staff finds that it would be nearly impossible for the department to implement this budget change proposal, in the budget year, under the schedule envisioned, without redirecting resources from existing caseloads to address the new sex offender caseloads. As mentioned above, parole is plagued by a high level of vacancies and staffing up to the level needed to supervise existing caseloads and the new enhanced supervision required by Proposition 83 will be difficult in the short run. Some of the vacancies can be covered with overtime, but it is likely that the department will still have significant savings from staff vacancies in the budget year. (The current year will also likely result in savings from staff vacancies.) Furthermore, it is not clear that, under the Governor's revised proposal, the department will have sufficient office space to house new parole agents if the parole reforms are not implemented.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Hold this issue open.
- Request that the department provide, by May Revision, an implementation plan for the GPS monitoring programs.
- Request that the department report, by May Revision, on the findings of the $50,000 allocated in the current year to survey best practices of in-prison sex offender treatment.
- Request that the department report, by May Revision, with an estimate of the costs, if any, of the residence restriction component of Proposition 83.

4. High Risk Sex Offender Task Force

Background. In May 2006, the Governor issued an executive order creating the High Risk Sex Offender Task Force that was assigned to provide the administration and Legislature with recommendations for improving CDCR policies related to the supervision and placement of High Risk Sex Offenders in local communities. In August 2006, the task force issued the following recommendations:

- Implementing procedures to uniformly assess the risk to the public posed by individual sex offenders.
- Provide in-prison sex offender treatment for High Risk Sex Offenders.
- Notify victims, law enforcement agencies, and communities prior to releasing High Risk Sex Offenders from prison.
- Supervise High Risk Sex Offender parolees using the "containment model" approach.

Governor's Budget. The Governor's budget proposes $45.6 million General Fund to support six positions to implement the recommendations of the High Risk Sex Offender Task Force. The department indicates that this budget proposal would complete implementation of the "containment system" for sex offenders. The table below details the funding and positions for various components of the proposal.

High Risk Sex Offender Task Force	**2007-08**	
	Funding	**Positions**
Sex Offender Treatment	$42,700	
Polygraph Testing	1,650	
Parole Agent Training on Containment Model	640	
Parole Agents for SAFE Teams	417	3.8
Data Collection and Contract Oversight	172	1.8
Total	**$45,579**	**5.6**

LAO Recommendation. The LAO recommends that the Legislature approve the requested funding for this proposal. The LAO has recommended in past Analyses that the containment model approach is a cost-effective way to supervise sex offenders on parole.

Staff Comments. Staff finds that the current capacity to provide sex offender treatment in local communities is relatively limited. This proposal would significantly increase the funds allocated to sex offender treatment and it is unclear that local capacity exists to provide quality treatment. Furthermore, staff finds that the treatment contracts should have a research component that allows the department to track recidivism outcomes of these programs.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Hold this issue open.
- Request that staff, the department, LAO, and DOF develop trailer bill language to require a research based component in each treatment contract to ensure that the department can track recidivism outcomes of these programs.

5. Parole, Planning, and Placement Program

Background. The mission of the Parole, Planning, and Placement Program (PPP) is to put in place a “bridge” to assist newly released inmates and parole violators in their transition from the prison setting to the community and parole supervision. The central piece of this program is the Correctional Offender Management Profiling for Alternative Sanctions database commonly referred to as COMPAS. The COMPAS system is a risk/needs assessment that is designed to extract critical data to identify inmates who are at high risk of recidivism and to better target programs and community services to the parolee.

The COMPAS assessment is done by parole staff at each institution before the inmate paroles. The assessment is comprised of a Central File review, a questionnaire completed by the inmate, and an interview by parole staff. After the assessment is completed, it is reviewed by the Parole Agent II to determine if it should be referred to district social workers that will make referrals and appointments for specific services. If it is not referred to the district social workers, it is transmitted directly to the parole agent in the field.

The COMPAS assessment provides a research based risk/needs assessment of the inmate/parolee that can be transmitted electronically to the parole agent in the field. The automated nature of this system allows the department to gather statistical information on the inmate population to better assess causes for recidivism.

Governor’s Budget. The Governor’s budget proposal requests the authority to convert 25 Parole Agent II positions to 37 Parole Service Associates and one Staff Services Manager. These positions are in the institution and will be responsible for completing the COMPAS risk/needs assessment survey.

Staff Comments. Staff finds that this budget proposal better aligns the nature of the COMPAS assessment process with the appropriate staff classification. This proposal should make better use of the resources expended to support this program.

The department indicates that it is currently doing assessments on 68 percent of new commitments, parole violators with new terms, and parole violators returned to custody for six months or more. (Some inmates are currently excluded from this risk assessment, including all inmates that are part of the Mental Health Delivery System, inmates identified by the Immigration and Customs Enforcement Agency for deportation, and inmates in the fire camps.)

The department indicates that it is currently not staffed to reach all inmates before their parole date. Furthermore, the department indicates that it is sometimes difficult for them to identify all of the inmates in the system before their parole date because of the inadequacies of the department's current offender information tracking system.

The department indicates that generally there are not enough district social workers to make specific referrals and appointments for offenders that are in need of services when they parole. Staff finds that it is not clear what the role of the district social worker is versus the parole agent at the institution that is also supposed to evaluate the COMPAS assessment to determine service needs.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the budget proposal.
- Request that the department track the number of inmates they assess to determine what percentage of the population is being assessed prior to parole.

Other Issues

1. *Madrid* Compliance

Background. The CDCR was sued in the *Madrid* class action lawsuit that alleged conditions at the department's "super-maximum" Pelican Bay State Prison violated the U.S. Constitution. Specifically, the lawsuit alleged that inmates were subjected to excessive use of violent force by correctional officers; that general medical and mental health care systems there were inadequate; and that the use of a special Security Housing Unit (SHU) constitutes cruel and unusual punishment.

A January 1995 ruling, handed down by the federal district court judge handling the *Madrid* case, permitted the SHU to remain in operation as long as inmates with serious medical problems likely to be aggravated by such isolation were no longer so confined. The judge also ruled that inmates were subjected to excessive violence and received poor medical and mental health care. A special master was appointed in this case and since that time the department has been working to comply with the terms of the settlement agreement in this lawsuit.

One of the requirements of the settlement agreement was the creation of the Employment Advocacy and Prosecution Team within the department's Office of Legal Affairs. This unit was established to correct deficiencies in the department's employee disciplinary process by creating a centralized vertical advocacy model for the department.

To date, the department has allocated about $36 million General Fund to comply with the *Madrid* lawsuit.

Current Year Funding. The Governor's budget and a Finance Letter (dated January 29, 2007) included $356,000 General Fund for a $900 per month recruitment and retention bonuses for the attorneys in the Employment Advocacy and Prosecution Team in the department's Office of Legal Affairs. Additional positions (29) were added to this unit in 2006-07, but because of the constant travel, litigation pressures, and significant workload of this unit it has been difficult to recruit and retain qualified legal staff. The court ordered that salaries be enhanced starting November 1, 2006.

Governor's Budget. The Governor's budget proposal includes $535,000 General Fund to support these recruitment and retention bonuses in the budget year.

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

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Robert Dutton
Christine Kehoe

Wednesday, April 25, 2007
9:30 a.m.
Room 113

Consultant: Brian Annis

Public Employment and Retirement

Department Budgets Proposed for Consent / Vote Only

8385 California Citizens' Compensation Commission

The seven-member California Citizens' Compensation Commission meets annually and is responsible for setting the salaries and benefits for State Legislators, Governor, Attorney General, Lieutenant Governor, Secretary of State, Controller, Treasurer, Superintendent of Public Instruction, Insurance Commissioner, and Board of Equalization members.

The Governor proposes expenditures of $14,000 (all General Fund) and no positions for the Commission – the same amount as 2006-07. The Commission meets annually and is staffed by the Department of Personnel Administration. The Commission budget funds travel expenses and stipends for the annual meeting – Commissioners do not receive a salary.

8320 Public Employment Relations Board

The Public Employment Relations Board (PERB) is responsible for administering and enforcing California's public-sector collective bargaining laws and to assist employers and employees in resolving their labor relations disputes.

The Governor proposes expenditures of $6.2 million (primarily General Fund) and 44.0 positions for the Board – an increase of $508,000 (General Fund) and 3.0 positions. The Administration submitted two Budget Change Proposals for PERB:

1. Staffing for Workload Growth (BCP #1**).** The Governor requests $393,000 (General Fund) and 3.0 legal positions for workload growth primarily measured by the number of annual unfair practice charges. The number of unfair practice charges is expected to increase from an actual of 870 in 2004-05 to 1,359 in 2007-08. PERB indicates that the new positions *may* not be sufficient to fully address the backlog of 150 cases. However, given that this is a General Fund cost, the Board is being conservative in this request, and may return with an additional request next year if the requested positions do, in fact, turn out to be insufficient.

2. Restoration of Funding for Fact Finding Process (BCP #2). The Governor requests a total of $85,000 (General Fund) to restore funding for the daily payments to collective-bargaining "Factfinders." The rate was $600 per day from 1997-98 through 2002-03, but fell to $100 per day due to unallocated budget reductions in 2003-04. The Board then redirected salary savings in 2004-05 and 2005-06 and paid $800 per day. This request would continue funding at the $800 per day level, and support the level of fact finding services actually used in 2005-06. PERB indicates that the same fact finders in the private sector command a fee of $1,400-$2,200 per day for the same service they provide for PERB at the $800/day rate.

Control Section 3.50 Benefit Charges against Salaries and Wages

Control Section 3.50 of the budget bill specifies what benefit expenditures shall be charged against appropriations from which salaries and wages are paid. The language in this control section is identical to language approved with the 2006 Budget Act.

Control Section 4.01 Employee Compensation Savings

Control Section 4.01 provides authority for the Director of Finance to adjust Budget Act appropriations for savings from the Alternative Retirement Program and any budget savings achieved through new collective bargaining agreements. Similar language was included in the 2006 Budget Act.

Control Section 4.11 Establishing New Positions

Control Section 4.11 requires that new positions approved in the budget be established effective July 1, 2007, unless otherwise approved by the Department of Finance. Additionally, it requires the Controller to submit monthly reports to the Department of Finance that lists new positions approved in the budget that will be abolished pursuant to Government Code Section 12439. This control section was first added to the budget in the 2004 Budget Act. Staff understands this control section was added to reduce the practice of departments delaying the establishment of new positions and using the resulting savings for other purposes.

Control Section 4.20
Contribution to Public Employees' Contingency Reserve Fund

Control Section 4.20 sets the employer's contribution to the Public Employees' Contingency Reserve Fund at 0.290 percent of the gross health insurance premiums paid by the employer and employee for administrative expenses. This rate is adjusted annually, as necessary, to maintain a three-month reserve in the fund. The 2006 Budget Act set the rate at 0.270 percent; however, the Administration indicates a rate of 0.270 is needed for 2007-08 to maintain the three-month reserve. The Control Section additionally allows the Director of Finance to adjust the rate, with a 30-day notification to the Legislature, as necessary to ensure a three-month reserve.

Control Section 11.11 Privacy of Information on Pay Stubs

Control Section 11.00 requires that all departments distribute pay warrants and direct deposit advices to employees in a manner that ensures that personal and confidential information is protected from unauthorized access. Identical language was approved with the 2006 Budget Act.

Control Section 29.00 Personnel-Year Estimates

Control Section 29.00 requires the Department of Finance to calculate and publish a listing of total personnel-years and estimated salary savings for each department and agency. These listings must be published at the same time as the publication of: (a) the Governor's Budget; (b) the May Revision; and (c) the Final Change Book. Similar language was approved by the Legislature with the 2006 Budget Act.

Control Section 31.00 Administrative Procedures for Salaries and Wages

Control Section 31.00 specifies Department of Finance oversight responsibilities concerning salaries and wages, and the establishment of positions. The control section also establishes notification requirements for the Administration to report to the Legislature when positions are administratively established and when a position is re-classed to a position with a minimum salary step exceeding $6,506 per month. Similar language was approved by the Legislature with the 2006 Budget Act.

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

Staff Recommendation: Approve all the consent / vote only budgets and Control Sections.

Vote:

Department Budgets Proposed for Discussion

1880 State Personnel Board

The State Personnel Board (SPB) is responsible for California's civil service system. The SPB provides a variety of recruitment, selection, classification, goal setting, training and consultation services to State departments and local agencies. The Board is composed of five members, who are appointed by the Governor, and serve 10-year terms.

The Governor proposes expenditures of $23.9 million ($5.5 million General Fund) and 161.3 positions – an increase of $1.7 million and 24.7 positions.

The proposed budget included $794,000 (reimbursements) and nine positions to implement SPB's portion of the Financial Information System for California (FI$CAL) information technology project, which would be coordinated by the Department of Finance. On April 11, 2007, the Subcommittee denied the FI$CAL proposal and that action included conforming action to remove the $794,000 and nine positions from the SPB budget – no further action is necessary.

Issues Proposed for Consent / Vote Only

1. **21st Century Project (BCP #7).** The Governor requests $109,000 (reimbursement authority) and a one-year limited-term position for SPB's participation in the State Controller's 21st Century human resources information technology project.

2. **Reimbursable Exam Services to State Departments (BCPs #13 & 14).** The Governor requests a total of $817,000 (reimbursements) and 8.0 positions for the following reimbursable exam services to other State departments: $236,000 and 2.0 positions to administer departmental-specific examinations (BCP #13); and $581,000 and 6.0 positions for test validation and construction (BCP #14).

3. **Bilingual Fluency Examinations (BCP #15).** The Governor requests a total of $96,000 (reimbursements) and 1.0 position for the Bilingual Fluency Testing Program. The SPB currently offers fluency testing in six languages (Spanish, Mandarin, Cantonese, Tagalog, Punjabi, and Vietnamese). With this request, the SPB would work to develop exams for fluency in Arabic, Armenian, Cambodian, Farsi, French, German, Hebrew, Hindi, Ilocano). Government Code Section 7290-7299.8, the Dymally-Alatorre Bilingual Services Act, requires every State agency serving a substantial number of non- or limited-English proficient people to "employ a sufficient number of 'qualified' bilingual staff."

Staff Recommendation: Approve all the consent / vote only issues.

Vote:

Discussion / Vote Issues

4. **Centralized Internship Program (BCP #8).** The Governor requests $482,000 (reimbursements) and three positions to begin implementation of a centralized internship program for college students. The program would begin by placing science and engineering students within the California Environmental Protection Agency (CalEPA), but would eventually expand to other student majors and State departments. The Administration indicates that this is motivated by the surge in retirements that the State is expecting over the next five years.

   Staff Comment: Staff understands that CalEPA has withdrawn support for the new program in 2007-08, and that the Administration would support the deletion of this funding for 2007-08. The Administration would continue to study the benefit of a centralized internship program and would return with a revised proposal next year if warranted.

   Staff Recommendation: Reject this proposal.

   Vote:

5. **Information Technology (IT) Classification Reform (BCP #1).** The Governor requests $571,000 (General Fund) and four positions to administer the selection phase for the new IT classifications. Last year, the Legislature approved funding of $640,000 in the Department of Personnel Administration's budget to develop an IT classification and reform plan. With this request, the SPB would fund ongoing examination administration, automation, validation and evaluation, maintenance and skills-based certification.

   Background / Detail: In general, the IT reforms involve the consolidation of existing classes, and skills identification, so that an individual's unique mix of IT skills is recognized and hiring departments can better match the job needs with an applicant. The IT classification reform effort was done with union support.

   Staff Comment: The IT classification and examination reform is the first of many job areas that the Administration hopes to modernize. In general, the Administration's approach with IT jobs and the continuing modernization plan is to reduce the number of classifications, expand web-based testing, and centralize testing at the SPB. The goal is to simplify the process for applicants, expand the pool of qualified applicants, and reduce the time it takes to hire a qualified individual. The HR Modernization plan is a discussion issue in the Department of Personnel Administration section of this agenda. The Subcommittee may want to hear testimony on the SPB's role in the HR Modernization proposal.

   Staff Recommendation: Approve this request.

   Vote:

6. **California Department of Corrections and Rehabilitation (CDCR) Exams (BCP #18).** The Governor requests $231,000 (reimbursements) and 2.0 positions to expedite the exam development and hiring processes for the medical, mental health, and dental classifications at CDCR. The Court Receiver for the *Plata* lawsuit has identified SPB as the focal point to develop automated tests and has indicated support for the two positions to work specifically on CDCR health-related exams.

   Staff Comment: Since CDCR is also under the purview of this Subcommittee, the Subcommittee may want to additionally hear from SPB on the broader range of topics concerning CDCR and the Receiver. Staff understands that the following issues are currently under discussion between SPB and the Receiver:

   - The creation of 250 new CEA positions at CDCR.
   - The creation of a new doctor discipline procedure.
   - Extension of the amount of time employees can be considered temporary.

   Staff Recommendation: Approve the budget request.

   Vote:

1920 State Teachers' Retirement System

The State Teachers' Retirement System (STRS) administers retirement and health benefits for more than 735,000 active and retired educators in the public schools from kindergarten through the community college system. Unlike public employees covered under the California Public Employees' Retirement System (PERS), STRS members do not participate in the social security system. According to a June 2005 actuarial analysis, STRS is about 86 percent funded for estimated long-term obligations, leaving an unfunded liability of $20 billion. The LAO indicates that this level of unfunded obligation is about average among large public pension systems.

Proposition 162, approved by voters in 1992, amended the California Constitution to provide the STRS Board with authority over the administration of the retirement system. However, the STRS operations budget is still a Budget Act appropriation which the Legislature adopts. The STRS Board adopted a 2007-08 budget that anticipates benefit and administrative expenditures of $8.5 billion (and 777.2 positions) – up $774 million (and 60.5 positions) from 2006-07. Administration, including services to members and employers, is up about $12 million, and benefit costs are up about $761 million. In the 6300 Budget Item, the Governor is proposing $1.048 billion (General Fund) in State contributions to STRS – up from the $959 million provided in 2006-07. Note: 2006-07 funding included a one-time reduction of $120 million that related to a past accounting adjustment.

The State funds teachers' retirement based on two statutory formulas:

- Benefits Funding – the State's contribution is statutorily based on 2.017 percent of the teachers' salaries. The 2007-08 cost is budgeted at $501 million General Fund.
- Supplemental Benefit Maintenance Account (SBMA) – The State's contribution is fixed by statute at 2.5 percent of teachers' salaries and is intended to provide retiree purchasing power protection. The Governor proposes statutory changes to vest purchasing power protection at 80 percent of initial retirement level, which the Department of Finance believes would result in a State savings of $75 million and a revised contribution of $547 million or 2.2 percent of salaries. (See issue #2 below for additional detail).

(See next page for issues).

Issues for Discussion and Vote:

1. **Risk from Ongoing Litigation (Informational Issue).** As part of the 2003-04 mid-year budget revisions, legislation was enacted (SB 20X, Committee on Budget and Fiscal Review, Chapter 6, St. of 2003) to suspend the Supplemental Benefit Maintenance Account payment on a one-time basis to save the General Fund about $500 million. The STRS Board sued the State claiming Chapter 6 unconstitutionally violated the contractual rights of system members. In May 2005, a Superior Court ruled in favor of STRS, requiring the State to repay the $500 million plus 7 percent interest. The Department of Finance has appealed the ruling arguing that the payment is not constitutionally required, and the California Retired Teachers group has appealed the interest rate calculation, arguing that a 10 percent interest rate should be awarded.

   LAO Recommendation: The Legislative Analyst indicates that an appellate court decision could come in calendar year 2007, and a decision unfavorable to the State could result in a General Fund cost of $650 million to $800 million (depending on the ordered interest payment and the date of the decision). If the court rules in favor of STRS, the LAO recommends that the payment be made from General Fund reserves, or if reserves are insufficient, from low-interest borrowing.

   Staff Recommendation: Informational issues – no action required.

2. **New Purchasing-Power-Protection Vesting & Related Savings (Governor's Budget Trailer Bill).** The proposed budget reduces the Supplemental Benefit Maintenance Account (SBMA) State contribution from 2.5 percent of salary to 2.2 percent – for an annual estimated savings of about $75 million (from reducing this contribution from $622 million to $547 million). The Administration indicates that this contribution level is sufficient to maintain the existing purchasing-power-protection benefit based on a 2005 actuarial analysis. In return, the Administration proposes to vest this purchasing-power-protection benefit at 80-percent of an individual's initial retirement allowance (instead of the current vesting that sets the States contribution at 2.5 percent of salary without a specific level of purchasing-power-protection). Because the funding cut would be tied to a new vested benefit, the Administration argues this proposal is substantially different from the 2003-04 suspension currently under litigation (see issue #1 above).

   Background / Detail: As actuarial analyses are performed over time, the State would have to pay more or less than 2.2 percent of salary – whatever was estimated as necessary to maintain the 80-percent purchasing power protection. However, the proposed trailer bill language cites 2.2 percent specifically instead of the amount needed to maintain the 80-percent benefit – so further statutory change would likely be needed if the contribution level necessary to maintain the new vested benefit changed from 2.2 percent.

   LAO Recommendation: The Legislative Analyst recommends that the Legislature reject the Administration's proposal. The LAO finds there are risks in creating a new vested benefit, because under certain inflation assumptions, this proposal could increase State costs over the long-term (instead of producing the annual savings of about $75 million as the Administration calculates). Additionally, the LAO recommends that any benefit changes be made in concert with a comprehensive plan to address retiree pension and health costs.

   Staff Comment: STRS contracted for an actuarial analysis that estimates the Governor's proposal has a 68 percent chance of saving the State money, and a 32 percent chance of increasing State costs. Inflation rates exceeding 3.5 percent over a period of years would likely trigger State costs instead of savings. The Department of Finance did not have any information on how quickly costs would increase if inflation did exceed 3.5 percent. However, if a high-inflation period, such as that from the 1970's, did reoccur, State costs from this proposal could be in the hundreds of millions if not over a billion dollars annually. It should also be noted that STRS or other interested parties could choose to litigate the proposed change if they believed the new vesting was not a comparable benefit to the current statutory funding of 2.5 percent of salary.

   Staff Recommendation: Keep open for the May Revision.

Department of Personnel Administration & Related Issues

8380 Department of Personnel Administration

The Department of Personnel Administration (DPA) represents the Governor as the "employer" in all matters concerning State employer-employee relations. The Department is responsible for all issues related to salaries, benefits, position classification, and training. For rank and file employees, these matters are determined through the collective bargaining process and for excluded employees, through a meet and confer process.

The Governor proposes expenditures of $93.6 million ($33.7 million General Fund) and 233 positions for DPA – an increase of $1.8 million and 16.6 positions.

The proposed budget included $1.1 million (reimbursements) and 11.0 positions to implement DPA's portion of the Financial Information System for California (FI$CAL) information technology project, which would be coordinated by the Department of Finance. On April 11, 2007, the Subcommittee denied the FI$CAL proposal and that action included conforming action to remove the $1.1 million and 11.0 positions from the DPA budget – no further action is necessary.

Vote-Only Issues:

1. **Office of Financial Management and Economic Research - Staffing (BCP #2).** The Governor requests $149,000 (General Fund) and 2.0 new positions to address workload associated with salary surveys and fiscal analyses associated with bargaining union contracts and side letters. The DPA indicates that some of this workload results from increased legislative reporting added by SB 621 (Ch 499, St. of 2005, Speier).

2. **Communications and Electronic Publications Request (BCP#3).** The Department requests 2.0 new positions, to be funded within existing budgeted resources, to staff a communications and electronic publications team to disseminate employee benefit information. The positions would allow DPA to electronically disseminate employee benefit material currently only available by hardcopy. As more material is added to the DPA website, the Department expects printing and postage costs to fall, thus the positions are funded through redirected operating expense funding. A technical change is needed to correctly shift the operating expenses to personnel services (at no net cost) – approval of this issue should include approval of the technical correction.

3. **Savings Plus Program – Contract Costs (BCP #4).** The Governor requests $726,000 (special fund) to fund increased costs for the Third Party Administrator and external auditors for the Savings Plus Program and the Alternative Retirement Program. Funding for the third-party costs comes from plan participants – either from monthly administrative fees or reimbursements received from the programs' investment providers. A similar request was approved last year; however, DPA indicates program enrollment has exceeded expectations resulting in higher third-party costs.

4. **Rural Health Care Equity Program Adjustment (April Finance Letter).** The Governor requests a reduction of $2.4 million (General Fund) to adjust Rural Health Care Equity Program (Program) funding to recognize that Blue Shield Health Maintenance Organization established operations in Humboldt County on May 1, 2007. The Program provides subsidy amounts ranging from $500 to $1,500 per year for current and retired State employees who reside in a rural area not served by a health maintenance organization (HMO). Since Humboldt County is now served by an HMO, this budget adjustment is consistent with the statutory provisions of the program.

Staff Recommendation: Approve the consent / vote only budget requests.

Vote:

Discussion / Vote Issues

5. **California Department of Corrections and Rehabilitation (CDCR) Workload (BCP #1).** The Governor requests $173,000 (reimbursements) and 2.0 positions to expedite the process of establishing new classes, modifying existing classes, setting up pay differentials, and generally advising executive management on issues related to CDCR lawsuits and secondary adjustment in other departments.

   Staff Comment: Since CDCR is also under the purview of this Subcommittee, the Subcommittee may want to additionally hear from DPA on what efforts they have undertaken and will undertake in the future related to CDCR and the Receiver.

   Staff Recommendation: Approve the budget request.

   Vote:

6. **Human Resources Modernization Project (April Finance Letter #1).** The Department requests $2.8 million (General Fund), 5.0 new positions, and 70 redirected/loaned positions, to begin development and design for the Human Resources (HR) Modernization Project. Included in this request, is $2.0 million for consultants to develop a Feasibility Study Report (FSR) for a related information technology project, and assist with the design and development of strategies and models. The DPA indicates this proposal is, in part, a response to the Legislative direction last year to develop a comprehensive civil service modernization plan. In addition to the BCP, the Administration has provided committee staff with a document titled, Taking HR to a New Level – Vision for Modernizing California's HR System, dated March 2007, that provides more details on the plan. The Administration indicates this project will include comprehensive reform of the hiring, promotion, and compensation processes of the State, with the goal of expanding the pool of available qualified employees for State jobs. The loaned positions would come from various departments and the project would span seven to eight years.

   Background / Detail: Last year, the Legislature approved funding of $640,000 in the Department of Personnel Administration's budget to develop an information technology (IT) classification and reform plan. The Legislature rejected additional funding of $360,000 for other HR modernization, because the Administration did not have sufficient details on how the funding would be used or a written plan for overall HR modernization. In general, the Administration's approach with IT jobs and the continuing modernization plan is to reduce the number of classifications, expand web-based testing, and centralize testing at the SPB. The goal is to simplify the process for applicants, expand the pool of qualified applicants, and reduce the time it takes to hire a qualified individual. The IT reform effort has union support, and past experience suggests the Administration will need union support for future efforts to be successful.

   DPA indicates that the ongoing new staffing for the life of this project would be constrained to the 5 new positions requested here. Up to 70 existing positions (in DPA and other departments) would be redirected for short-term or long-term assignments related to specific occupation groups or other project tasks. If net new staffing is kept to the 5 positions, the majority of the cost of this proposal would likely be related to the IT project. Since no FSR has been drafted, DPA is unsure of the cost; however, the cost could be sizable.

   Staff Comment: If approved and implemented, the Administration plan would represent a significant change to how state workers are hired, promoted, and compensated. The Subcommittee may want to ask DPA to provide a brief overview of their plan. The LAO has reviewed the plan and will be able to comment.

   Staff Recommendation: Hold this request open for further review and discussion.

7. **"Head Hunter" Services for Medical Classifications (April Finance Letter #2).** The Department requests $1.0 million (two-year limited term General Fund) to hire a recruitment contractor to locate and develop a pool of prospective healthcare professionals to fill State jobs at the California Department of Corrections and Rehabilitation, the Department of Mental Health, the Department of Developmental Services, and the Department of Veterans Affairs.

   Background / Detail: The Finance Letter documents high vacancy rates and extensive use of overtime for medical classifications. Additionally, many departments mitigate vacancies by contracting out for services, which is a more costly option. Therefore, if this request resulted in a sizable net gain in State hires and reduced use of overtime and contract services, it could result in net savings. The concern, however, is that the funding is spent without producing the desired results.

   Staff Comment: The LAO has suggested that options such as performance based contracting be explored and that the funding level be further examined. The Subcommittee may want to hear from both DPA and the LAO on these concerns.

   Staff Recommendation: Keep open for further review.

8. **Recruitment and Retention Issues (Discussion Issue).** The Subcommittee has heard several recruitment and retention budget issues at hearings over the past month. Among these are a budget request for a pay differential for represented Inspectors at the Board of Pharmacy and a pay differential for non-represented employees at the Department of Finance. The Subcommittee also discussed pay differentials for Investigators with the Medical Board, although the Administration has not presented a budget request for the Medical Board.

Background / Detail: Various budget subcommittees have expressed concern over several years concerning recruitment and retention, and compaction issues. Last year, for example, extensive time was spent discussing Game Warden pay and high vacancy rates. For that issue, the Administration indicated it would be inappropriate for the Legislature to augment the Department of Fish and Game budget to address the issue, because augmentations of this type should only follow collective bargaining. The Legislature accepted this argument for Game Wardens and augmented the 9800 budget item instead, to provide available funding for Game Wardens or other classifications contingent on the results of collective bargaining. The Legislature has recognized an exception to this practice when it comes to crises situations that result from high vacancies for direct health care providers – for example, funding has been provided for pay increases for medical staff at the Department of Mental Health (DMH), the Department of Developmental Services (DDS), and the Department of Veterans' Affairs (DVA), in advance of collective bargaining.

Staff Comment: The Subcommittee may want to hear from DPA and the Department of Finance on when it is appropriate to augment the budget for compensation increases in advance of collective bargaining, and what efforts are currently underway to address longstanding recruitment and retention and compaction issues.

Staff Recommendation: This is a discussion issue – no action is necessary. However, the Subcommittee may want to consider this discussion, when open budget issues, such as the Board of Pharmacy request, are acted upon at future hearings.

Department of Personnel Administration / State Compensation Insurance Fund – Cross Cutting Issues.

At the March 14, 2007 hearing, the Subcommittee discussed the administration of the workers' compensation system for State employees and the roles of the Department of Personnel Administration (DPA) and the State Compensation Insurance Fund (SCIF) play in providing overall administrative support and oversight for the program. The Subcommittee asked the two departments to provide additional detail and suggest solutions to some oversight gaps raised by a recent Sacramento County District Attorney investigation.

Issues for Discussion

1. **Cost of the Workers' Compensation for State Employees (Informational Issue).** The cost to the State for employees' workers' compensation is displayed in the below table, although actual budget authority is provided in the budgets of individual departments that 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

Staff Comment: At the March 14 hearing, the Subcommittee requested additional detail to explain why administrative costs have increased while direct benefit costs have decreased. SCIF provided the Subcommittee additional detail, which is Attachment I at the end of this agenda. The following bullets provide the major reasons for the administrative cost increase:

- While the number of new claims has fallen, the total claims inventory has increased from 33,650 in 2002-03 to 42,400 in 2007-08 (estimate).
- Non-department costs, such as Department of Finance, pro rata, and bank charges have increased from $2.6 million in 2005-06 to $5.8 million in 2007-08 (estimate).
- Staffing caseload was reduced from 184 per adjuster in 2005-06 to about 157 in 2006-07 and 2007-08 (via additional staff). The caseload per adjuster is now similar to the 2002-03 level, and, according to SCIF, similar to that used by private insurers.

Staff Recommendation. Informational issue – no action necessary. The additional information provided by SCIF seems to address the concerns raised by the Subcommittee at the March 14 hearing.

2. Administration of Workers' Comp for State Agencies (Staff Issue). 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 paid directly by SCIF (and then SCIF bills departments), but other benefits are paid directly 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 the March 14, 2007, Subcommittee agenda for further detail on the CHP).

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 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. The Sacramento District Attorney (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.

March 14, 2007 Hearing: The Subcommittee asked SCIF and DPA to provide a plan to address the following concerns.

- The Master Agreement does not require SCIF to report the failure of 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 that 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).

DPA Response: In a March 30, 2007 letter, DPA indicates it will take the following actions to respond to the Subcommittee's request:

- DPA and SCIF are drafting language to formalize the process by which SCIF will report departments that fail to provide required information. A contract amendment will be signed, SCIF will report non-compliance to DPA, and the DPA Director will send written directives to the non-compliant departments. If desired, DPA indicates it will report annually regarding the number of referrals and the status of any unresolved referrals (*Committee Staff recommends Supplemental Report Language to implement this report)*.
- DPA will work with the State Controller to add a field to the 21st Century Project human resource IT system which will require a workers' compensation claim number with a new Industrial Disability Leave (IDL) claim. This should prevent improper IDL claims in advance of validation of the workers' compensation claim. In addition, DPA issued a memo to all departments to reinforce that an IDL claim may not be processed to the Controller in advance of SCIF claim approval.
- DPA recommends that if the Legislature desires a resumption of the audit function, it be performed by the Bureau of State Audits (BSA) instead of DPA. (*Committee Staff recommends the Department of Finance's Office of State Audits and Evaluations (OSAE) perform the audit, instead of the BSA – see the staff recommendation below*).

SCIF Response: In e-mails on March 16 and April 5, and subsequent visits to the Capitol, SCIF indicates it will take the following actions to respond to the Subcommittee's request:

- DPA and SCIF are drafting language to formalize the process by which SCIF will report departments that do not comply with the requirements of the Master Agreement.
- The State Contract Services Manager, Frank Floyd, sent a letter to all State Contract Claims Managers on March 16, 2007, requiring them to report any department non-compliance to him immediately, and to conduct appropriate staff training. SCIF provided the PowerPoint training document related to this action.

Staff Comment: Both DPA and SCIF quickly implemented actions to address the Subcommittee's concerns and provided detailed responses. However, two issues are left open for further Subcommittee action:

1. Does the Subcommittee want to add Supplemental Report Language (SRL) requiring DPA to report annually to the Legislature regarding the number and nature of referrals from SCIF on departments' non-compliance with the Master Agreement and the status of any unresolved referrals?
2. Does the Subcommittee want to restore a periodic audit function, placed either at DPA, the Bureau of State Audits, or the Office of State Audits and Evaluations?

Staff Recommendation. Staff recommends that the Subcommittee adopt Supplemental Report Language to require annual reporting from DPA on departments' compliance with the Master Agreement. Staff recommends that the Subcommittee adds budget bill language to one of the departments in its purview – a department that is also a large user of workers' compensation benefits (such as the CHP or Caltrans), to require that the department contract with the Office of State Audits and Evaluations to audit their administration of the workers' compensation system. The cost of the audit would be absorbed within the existing budget of one of these large departments, and the audit would be available for Legislative review next year - at that time, the Subcommittee could consider an audit of a new department in 2008-09, or decide to only implement audits on an ad hoc basis as circumstances warrant.

9800 Augmentation for Employee Compensation

This budget item includes funding for pay and benefit increases for those costs that exceed the baseline costs already included in individual department budgets. Generally, this item includes employee compensation funding based upon approved Memoranda of Understanding with the State's 21 bargaining units and funding for health benefit inflation. Also included is compensation increases for excluded employees as is determined by the Department of Personnel Administration or other authorized entities.

The Governor's Budget proposed $972 million ($468 million General Fund). Included in this amount is a funding request of $22.7 million ($20.8 million General Fund) to increase salaries for specified medical classifications at the Department of Developmental Services, the Department of Veterans' Affairs, and the Department of Mental Health, to bring pay in those classifications within 18 percent of the court-ordered salary for the same classifications in the Department of Corrections and Rehabilitation – the court order relates to the *Plata v. Schwarzenegger* lawsuit. Also included is funding of $114 million (General Fund) for correctional peace officer payments resulting from litigation. No funds are set aside to pay for any potential costs related to a new agreement with Bargaining Unit 6, which represents Corrections Officers. Unit 6 is the only unit currently working with an expired contract.

Discussion / Vote Issues:

1. **Update on 9800 Assumptions:** The follow assumptions have changed since January 10, 2007, or may change in the coming months:
   - COLA – the actual Cost of Living Adjustment (COLA) increase to be provided for many bargaining units on July 1, 2007, is 3.4 percent instead of 3.3 percent as estimated in the Governor's Budget. This will increase costs by approximately $10 million ($5 million General Fund).
   - CCPOA lawsuit costs – The State will incur higher compensation costs in 2006-07 and ongoing due to court decision related to a California Correctional Peace Officer Association (CCPOA) lawsuit. A January 19, 2007, Finance Letter added costs above the Governor's budget of $153.5 million in 2006-07, and $46.3 million in 2007-08, both General Fund. The total lawsuit costs through 2007-08 are $439.8 million which is $199.8 million more than assumed in the Governor's budget (all General Fund over 2006-07 and 2007-08).
   - Status of CCPOA bargaining – The CCPOA is the only bargaining unit currently working without a contract, and consistent with the normal practice, no funding is included in the 9800 item in advance of a contract. The LAO indicates each 1 percent salary increase will result in a reduction to the General Fund reserve of $35 million.

   Staff Comment: The Subcommittee may want the Administration to summarize the changes since the Governor's Budget was proposed and preview any further changes that may be coming with the May Revision.

Staff Recommendation: Hold open because further adjustments could come with the May Revision.

2. **Contingency Funding (Governor's Budget).** The Administration requests a $32 million contingency ($16 million General Fund) in the 9800 budget item for unanticipated costs. The Administration indicates this could cover costs in excess of estimates for current commitments, or funding for new commitments.

   Staff Comment: Last year, the Legislature added funding of $30 million to address non-specified recruitment and retention issues. While this was not specified in the language, the funding was largely a result of concerns with Game Warden pay. The language required a 30-day notification period to the Legislature. The contingency funding requested this year does not tie to any identified recruitment and retention issue (stated or unstated) and a 30-day notification period is not proposed.

   LAO Recommendation: The Legislative Analyst recommends the Subcommittee reject the contingency funding because it may allow the Administration to raise pay for employees without legislative review.

   Staff Recommendation: Reject the contingency funding – consistent with the LAO recommendation. If the Subcommittee later decides to add funds for recruitment and retention (similar to last year's action), that can be done as a separate action.

   Vote:

CalPERS–Related Public Employment Issues

1900 Public Employees' Retirement System

The Public Employees' Retirement System (PERS) provides benefits to about one million active and inactive members and about 441,000 retirees. PERS membership is divided approximately in thirds among current and retired employees of the State, schools, and participating public agencies. The Constitution grants the PERS Board "plenary authority and fiduciary responsibility for investments of moneys and administration of the system" as specified. PERS sets the State's retirement and healthcare contribution levels – consistent with union contracts negotiated by the Governor and approved by the Legislature, and vested benefits. This budget item shows PERS benefit and administrative expenditures. State retirement contributions for current employees are built into individual department budgets and Control Section 3.60 (see also the "Control Section 3.60" section later in this agenda). State funding for 2007-08 Health and Dental Benefits for Annuitants is contained in Budget Item 9650 (see also the "9650 Health and Dental Benefits for Annuitants" section later in this agenda). The special authority provided to PERS by the Constitution does not extend to the component of the Health Benefits Program funded from the Public Employees' Contingency Reserve Fund, and, therefore, PERS submits BCPs and Finance Letters to the Legislature for budget changes in those areas.

The PERS Board adopted a 2007-08 budget that anticipates benefit and administrative expenditures of $13.6 billion (and 1,954 positions) – up $1.2 billion (and 1.9 positions) from 2006-07. Administration is relatively unchanged, so this increase is due to increased benefit costs. The State's retirement contribution for current employees is estimated at $2.7 billion (including $1.5 billion General Fund) – an increase of $80 million (including a $44 million General Fund increase) relative to 2006-07. The State's 2007-08 cost for health and dental benefits for annuitants is estimated at $1.1 billion General Fund – an increase of $38 million (note, the General Fund is partially reimbursed by special funds after the budget is enacted). The State's retirement contribution and annuitant health and dental contribution will be re-estimated by PERS around the time of the May Revision and the budgeted amounts will be adjusted at that time.

According to a June 2005 actuarial analysis, PERS is about 83 percent funded for estimated long-term obligations, leaving an unfunded liability of $14.8 billion. These figures are based on the actuarial value of assets methodology that includes some asset smoothing to adjust for short-term fluctuations.

(See next page for issues).

Issues Proposed for Consent / Vote Only

1. **Health Care Decision Support System Innovative Progress Project (BCP #1).** PERS requests $3.3 million in 2007-08 and $3.7 million in 2008-09 from the Public Employees' Contingency Reserve Fund to proceed with a competitive re-procurement for this health care data. This request would continue the practice of PERS contracting with a vendor to collect health-related data feeds from health plans and provide analytical tools to access, manipulate, and report on the data. Most PERS funds are continuously appropriated, but some health-related activities are appropriated in the Budget Act and Budget Change Proposals are submitted by the Department.

2. **Medicare Part B Positions (April Finance Letter #3).** PERS requests a budget augmentation of $659,000 (Contingency Reserve Fund) and 5.0 permanent positions to support on-going activities with the processing of Medicare Part B Income Related Monthly Adjustment Amount reimbursements. Effective January 1, 2007, the Social Security Administration implemented new rules for the calculation of Medicare Part B premiums, which are based on individual annual incomes rather than a flat rate as was done in the past. PERS indicates that the additional 5.0 positions are needed to address workload associated with the program change.

3. **Medicare Part D Positions (April Finance Letter #4).** PERS requests a budget adjustment to shift expenditure of $509,000 for 5.5 positions from the Special Deposit Fund to the Contingency Reserve Fund.

Staff Recommendation: Approve all the consent / vote only budget requests**.**

Vote:

Issues for Discussion / Vote

4. **Health Research and Information Systems Cost Avoidance - Positions (April Finance Letter #1).** PERS requests a budget augmentation of $552,000 (Contingency Reserve Fund) and 4.0 permanent positions to support program changes that PERS indicates will result in cost avoidance of over $5 million per year. The new positions would align PERS health information systems with internal and external electronic trading partners to improve transactional efficiencies. Savings are expected through: Kaiser Permanente health premium surcharge reductions; reduction in claims costs paid by the State of California which should be paid by the federal government; system efficiencies; and tighter quality control measures that reduce system issues; and claims retroactivity reduction.

   Staff Comment: PERS estimates this proposal would have a 9:1 benefit to cost ratio – meaning $9 would be saved for every $1 spent. The Subcommittee may want to ask PERS if any realized savings can be accurately tracked. PERS should be prepared to indicate if any further cost-avoidance opportunities exist.

   Staff Recommendation: Approve this request.

   Vote:

5. **May Finance Letter to Update PERS Budget.** Last year, PERS submitted a May Finance Letter to adjust the Budget Bill for those portions of their budget that are solely determined by the PERS Board. The PERS Board usually adopts a final budget in May of each year.

   Staff Recommendation: Keep the CalPERS budget open, pending the CalPERS Board of Administration action in mid-May on the 2007-08 Budget.

9650 Health and Dental Benefits for Annuitants

This budget item provides funding for health and dental benefit services for more than 210,000 retired state employees and their dependents. The cost split between annuitants and the State is set by Government Code 22871, which establishes a "100/90" formula. Under the formula, the average premiums of the four largest health plans sets the maximum amount the State will contribute to an annuitant's health benefit. The State contributes 90 percent of this average for the health benefits of each of the retiree's dependents. The California Public Employees' Retirement System (PERS) negotiates health care rates with providers and future negotiations will affect the final cost to the State. A revised cost figures should be available in May or June. This funding covers 2007-08 costs and does not provide money to begin pre-funding retirement health costs for current State employees.

Budget Item 9650 includes $1.057 billion ($1.019 billion General Fund) for Health and Dental Benefits for Annuitants – an increase of $38.0 million (note, the General Fund is partially reimbursed by special funds after the budget is enacted for about one-third of these costs). In past years, the funding for this item was based on a forecast of budget-year costs. This year, the proposed budget-year amount is the sum of current-year costs and the Medicare Part D subsidy (see also Medicare Part D discussion below). The Department of Finance also set aside $80 million (General Fund) in an "off budget" expenditure line item titled "Various Departments" to address possible additional retiree health costs beyond those included in the 9650 item.

(See next page for issues).

Discussion / Vote Issues:

1. **Budgeting for Retiree Health (Governor's Budget).** The Administration has budgeted a total of $1.137 billion for retiree health in 2007-08 ($1.057 billion in the 9650 budget item and $80 million in a special set-aside expenditure item). The LAO indicates that this 12 percent budget increase over 2006-07 is less that the 14 percent average increase experienced over the past three years, and is less than the 16 percent average increase experienced over the last seven years. If the actual cost growth for 2007-08 ends up tracking the average increases in recent years, the State might incur costs of $25 million to $50 million above budgeted amounts. Note, the cost increase is not solely driven by health care inflation, but also by growth in the retiree and dependent population.

   Staff Comment: The Subcommittee may want to consider both the appropriate amount to budget for this expenditure and the appropriate mechanism for budgeting. Unlike past years, the Administration has not built a forecast of expenditures into the 9650 item. Instead, the Administration has kept 9560 at the current-year baseline level, added Medicare part-D revenue, and set aside an additional $80 million in a non-designated expenditure item. Staff understands the motivation behind this change is to benefit the State in negotiations with health plans by not indicating the State's estimate of the final cost. If this is deemed desirable, then it may be more appropriate to move the $80 million into the General Fund reserve, as is done for collective bargaining. Secondarily, the total amount budgeted for retiree health is $25 million to $50 million below what recent experience would suggest. The LAO notes that CalPERS could reduce premium costs by increasing co-payments, but the CalPERS Board rejected a co-payment increase in June 2006.

   Staff Recommendation: Hold the budget for this item open for the May Revision. While the Legislature may want to consider changes as to how this is budgeted and the appropriate amount to budget (mindful of its effect on the General Fund reserve), the ultimate cost will be determined by negotiations between CalPERS and health care plans.

2. **Medicare Part D Revenue (Staff Issue):** As indicated on previous pages, the Governor's Budget assumes $38.0 million in federal government reimbursements associated with Medicare Part D, which is the new prescription drug benefit. The Administration proposes that the State continues to receive these reimbursements and that the funds be used to offset the State's retiree healthcare costs.

   Background / Detail: The federal Medicare Modernization Act was signed into law in December 2003 and established Medicare Part D. The Part D benefit is designed to provide Medicare beneficiaries with affordable drug coverage. The federal government created the Part D subsidies to encourage employers, such as the State, to continue offering drug benefits to retirees, instead of shifting enrollees to the Medicare plan. The California Legislature adopted AB 587 (Ch. 527, St. of 2005, Negrete McLeod) which requires CalPERS health program participants who are eligible to participate in Medicare Part D to enroll only in a CalPERS health plan.

   2006 Budget Act - Budget Bill Language: In the spring of 2006, the CalPERS Board considered alternatives to using Part D reimbursements to offset State costs, including using the funding to lower costs for CalPERS enrollees and/or directing the Part D subsidies to the health plans instead of to the State. In response, the Legislature added budget bill language to direct the Part D reimbursements to a special deposit account with the intent that this would retain legislative oversight over the use of the funds. However, CalPERS obtained an opinion from the Attorney General that says the Part D funds should be deposited in the Contingency Reserve Fund (instead of the stand-alone special deposit fund that would segregate the funding until a new appropriation is provided).

   Staff Comment: In past budgets, PERS has been able to provide some General Fund relief while also maintaining existing benefit levels. In 2005, PERS adopted a rate stabilization plan to spread market value asset gains and losses over 15 years instead of 3 years. While that change will be cost neutral over the long term, it did stabilize State costs and resulted in a General Fund savings of $150 million in 2005-06. The Governor's proposal would seem to present PERS with a similar opportunity – to maintain existing benefit levels, while still aiding the General Fund with a $38 million benefit. Staff understands that PERS has concerns with this proposal – the Subcommittee may want to hear from PERS on these issues and ask for any suggestions on how this proposal could be revised to provide the same General Fund benefit, but also mitigate some of their concerns.

   LAO Recommendation: The Legislative Analyst recommends that the Legislature approve the Administration's proposal to use the Part D reimbursements to offset State costs, instead of to increase benefits or costs to state retirees. The LAO indicates this direction is consistent with the intent of both federal and State law. The LAO recommends technical language changes in conformance with this recommendation.

   Staff Recommendation: Hold open for further discussion and review.

3. **New Government Accounting Rules: Pre-funding Retirement Healthcare.** Among other provisions, Governmental Accounting Standards Board Statement 45 (GASB 45) requires government financial reports to quantify the unfunded liabilities associated with retiree health benefits. To be GASB 45 compliant, the State will have to estimate and report unfunded retiree health benefits with financial reports in 2009 that provide account records for the 2007-08 fiscal year. While most state and local governments, including the State of California, have pay-as-you-go retiree healthcare, GASB 45 may lead to a number of states prefunding these benefits.

   Background / Detail: Last year, the Legislative Analyst estimated the State liability may be in the range of $40 billion to $70 billion; and the annual cost to fully pre-fund this benefit, over 30 years, may be in the range of $6 billion. No money is proposed for pre-funding health benefits in 2007-08; however, Executive Order S-25-06 signed on December 28, 2006, created the Public Employee Post-Employment Benefits Commission to examine unfunded retirement benefits. This Commission is charged with delivering a plan by January 1, 2008, that would include a proposal to address the government's unfunded retiree health and pension obligations.

   The 2006 Budget Act included $252,000 for the State Controller to contract with actuaries to produce the State's first retiree health liability valuation, consistent the new accounting rules. That valuation is expected to be released in calendar year 2007 – perhaps as early as May.

   LAO Recommendation: The Legislative Analyst recommends that the Legislature: (1) begins to set aside money to address state retiree health liabilities, and (2) require improved disclosure of these liabilities by local governments, including school districts.

   Staff Comment: The Subcommittee may wish to ask the LAO to summarize their report and recommendations and ask the Administration to respond.

   Staff Recommendation: Keep the 9650 Budget Item open – revised cost figures may be available with the May Revision of the Governor's Budget.

Control Section 3.60 Contributions to Public Employees' Retirement Benefits

Control Section 3.60 of the budget bill specifies the contribution rates for the various retirement classes of State employees in the California Public Employees' Retirement System (CalPERS). This section also authorizes the Department of Finance to adjust any appropriation in the budget bill as required to conform to changes in these rates.

The State's contributions to CalPERS in 2007-08 are currently estimated at $2.8 billion ($1.5 billion General Fund) – an increase of $80 million over 2006-07 (including a $44 million General Fund increase). The following table provides proposed rates with historical comparisons, and is copied from the LAO's *Analysis of the 2007-08 Budget Bill*.

Figure 1

State Retirement Contribution Rates

1991-92 Through 2007-08 (As Percent of Payroll)

Fiscal Year	Misc. Tier 1	Misc. Tier 2	Industrial	Safety	Peace Officer/ Firefighter	Highway Patrol
1991-92	11.80%	4.00%	13.40%	17.40%	17.40%	21.70%
1992-93	10.3	3.4	12	15.7	15.6	17.1
1993-94	9.9	5	11.8	15.5	15.2	16.9
1994-95	9.9	5.9	10.6	13.9	12.8	15.6
1995-96	12.4	8.3	9	14.2	14.4	14.8
1996-97	13.1	9.3	9.3	14.7	15.4	15.9
1997-98	12.7	9.8	9	13.8	15.3	15.5
1998-99	8.5	6.4	4.6	9.4	9.6	13.5
1999-00	1.5	—	—	7.5	—	17.3
2000-01	—	—	—	6.8	2.7	13.7
2001-02	4.2	—	0.4	12.9	9.6	16.9
2002-03	7.4	2.8	2.9	17.1	13.9	23.1
2003-04	14.8	10.3	11.1	21.9	20.3	32.7
2004-05	17	13.2	16.4	20.8	23.8	33.4
2005-06	15.9	15.9	17.1	19	23.6	26.4
2006-07	17	16.8	17.9	19.3	24.5	31.5
2007-08a	16.8	16.5	17.7	19.1	25.6	31.1

California Public Employees Retirement System estimates

Staff Comment: The above rates show significant annual fluctuations, which is primarily based on the investment market. The rates in 2005-06 through 2007-08 reflect CalPERS' new rate stabilization policy, which builds gains and losses in the value of assets into the actuarial calculation of the plans' asset value, over 15 years, instead of the three years of the prior policy. While the rates generally fall slightly in 2007-08, due to investment growth (investments grew about 12 percent in 2005-06, compared to the system's normal projected investment return of under 8 percent annually), the overall State contribution rises by $80 million primarily because of payroll growth. The LAO notes that the Peace Officer and Firefighter (POFF) group rate increase is due to the enhanced "3 percent at 50" retirement benefit that took effect for correctional officers and firefighters on January 1, 2006, and is reflected in the rates for the first time in 2007-08. The POFF contribution for 2007-08 is expected to total $755 million (General Fund), which is about half of the total General Fund retirement cost.

Issues for Discussion:

1. **PERS Revision of 2007-08 Retirement Contribution Rates.** As was indicted in the CalPERS section of this agenda, Proposition 162, approved by voters in 1992, amended the California Constitution to provide the PERS Board of Administration with authority over the administration of the retirement system and set contribution rates. The CalPERS Board is expected to adopt new rates at the May 16, 2007, meeting. The budget will then be adjusted to reflect the new rates and costs.

   Staff Comment: The Administration expects to submit a May Finance Letter to reflect the adjusted rates.

   Staff Recommendation: This is an informational issue – no action is needed.

2. **Pension Obligation Bonds.** The Governor's Budget assumes that pension obligation bonds (POBs) will be sold in 2007-08, yielding $525 million in General Fund revenues.

   Background / Detail: In 2004, the Legislature enacted a law authorizing the sale of up to $2 billion in POBs to fund the State's CalPERS obligation. Litigation has delayed the issuance of bonds and the Administration has reduced the assumed bond proceeds: the 2005 Budget Act assumed bond proceeds of $525 million from a 2005-06 issuance; the 2006 Budget Act assumed no bond sales would occur in either 2005-06 or 2006-07, but assumed a bond issuance in 2007-08 in the long-term budget assumptions. A 2007-08 bond issuance totaling $525 million is included in this year's Governor's Budget for 2007-08. The Administration is currently appealing a November 2005 Sacramento Superior Court decision that found the bonds unconstitutional. The practical effect of a delay in bond issuance beyond 2007-08 is a reduction to the General Fund reserve of $525 million.

   Staff Recommendation: The Subcommittee may want to hear testimony from the Department of Finance and the LAO on the issue of building $525 million in Pension Obligation Bond revenue into the 2007-08 budget.

   Staff Recommendation: Hold this item open pending the May Revision forecast.

Attachment I – Administrative Cost of Workers' Compensation for State Employees

MASTER AGREEMENT BUDGET COMPARISON
FISCAL YEARS 2005/2006 - 2007 / 2008

FISCAL YEAR	PROGRAM COMPONENT	AMOUNT	
2007/2008	• Direct Claims & Legal Costs and Operational Expenses	$58,275,000	
	• Support Staff Departments (Corporate Legal, Information Technology, Human Resources, etc.)	$7,940,000	
	• Non-Departmental Costs (Department of Finance, Pro Rata Fees & Bank Charges)	$5,785,000	
			$72,000,000
2006/2007	• Direct Claims & Legal Costs and Operational Expenses	$56,500,000	
	• Support Staff Departments (Corporate Legal, Information Technology, Human Resources, etc.)	$7,625,000	
	• Non-Departmental Costs (Department of Finance, Pro Rata Fees & Bank Charges)	$3,875,000	
			$68,000,000
2005/2006	• Direct Claims & Legal Costs and Operational Expenses	$50,740,000	
	• Support Staff Departments (Corporate Legal, Information Technology, Human Resources, etc.)	$7,400,000	
	• Non-Departmental Costs (Department of Finance, Pro Rata Fees & Bank Charges)	$2,555,000	
			$60,695,000

FISCAL YEAR	DISABILITY INVENTORY	ADJUSTER STAFFING	AVERAGE CASELOAD	LEGAL INVENTORY	LEGAL STAFFING	AVERAGE LEGAL CASELOAD	SERVICE FEE
2007/2008	**42,400 (Est.)**	**268**	**158**	**12,725 (Est.)**	**68**	**187**	**72,000,000**
2006/2007	**42,214**	**268**	**157**	**12,569**	**68**	**185**	**68,000,000**
2005/2006	**42,115**	**229**	**184**	**11,923**	**62**	**192**	**60,694,499**
2004/2005	**41,014**	**226**	**181**	**12,631**	**61**	**207**	**56,108,906**
2003/2004	**36,606**	**214**	**171**	**11,892**	**63**	**189**	**53,605,978**
2002/2003	**33,650**	**218**	**154**	**10,080**	**62**	**175**	**53,106,805**

The increase in Service Fees the last two years is due to higher staffing levels; General Salary Adjustments for staff in 2006 (3.5%) with the impact being felt this year; cost of living adjustments scheduled for July 2007; State Pro Rata fees assessed by the Department of Finance (covering centralized services provided by Departments such as Finance, State Controller, State Personnel Board, Legislature, etc). Presently, ERF/OASDI and Employee Health Insurance contributions amount to 40.4% of payroll. Salaries and benefits presently account for 82.6% of our direct costs for claims, legal, and staff support services.

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Thursday, April 26, 2007
Upon Adjournment of Budget and Fiscal Review Committee
Room 112

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.

Current Prison Population. Currently, there are approximately 172,000 inmates in the California state correctional system. About 166,000 inmates reside in institutions managed by CDCR. The majority of the remaining inmates are incarcerated in private community correctional facilities.

About 20 percent of the total prison population is inmates with life sentences, inmates with life sentences without the possibility of parole, and inmates condemned to death. This means that about 80 percent of the inmate population of nearly 138,000 inmates currently incarcerated will parole. According to the department, the average length of time an inmate serves in prison is about two years.

Current Parole Population. Currently, there are approximately 125,000 offenders under the supervision of parole. The majority of these offenders will be placed on parole for three years.

The department reports that, in 2005-06, parole returned about 67,000 parolees to prison on violations of the conditions of parole. Another 21,000 parolees were prosecuted for new crimes and were returned to prison. The total number of parolees returned to custody under these two categories represents about 70 percent of the total parole population for 2005-06.

Governor's Reducing Recidivism Plan. The Legislature appropriated $52.8 million General Fund to the department to expand and initiate strategies to reduce recidivism in the 2006 Budget Act. The department submitted a recidivism reduction plan submitted to the Legislature in August 2006. This plan proposed funding 29 items. Some of the items were directly related to reducing recidivism and some of them were not. The funding for these strategies is proposed to increase to $93.9 million in the budget year, a $41.1 million increase in funding. The individual strategies that are part of the recidivism reduction strategies will be discussed in this agenda under the appropriate topics.

Visiting and Family Connections

1. Visiting and Family/Friend Connections

Background. A significant number of academic studies have found that there is a strong positive relationship between parole success and the maintenance of strong family ties while in prison. Research has shown that programs that are geared toward maintaining, establishing, or re-establishing general societal links such as family while incarcerated are critical to the success of an offender on parole. Visiting can also have a positive impact on inmate behavior while incarcerated.

Several years ago, CDCR reduced visiting due to budget reductions. The majority of CDCR institutions allow visiting only two days a week. Meanwhile, the total population at each of the department's institutions has increased significantly because of overcrowding. Some institutions now have over 7,000 inmates, but still limit visiting to two days a week. Historically, the department has allowed significantly more visiting than is currently granted.

Furthermore, because it is economically prohibitive for some families to physically visit CDCR institutions, many rely on the telephone to maintain strong family ties. The department's current telephone contract requires that inmates make collect calls to their families. These calls are extremely expensive for inmate families and are many, many times higher than regular telephone rates. This telephone contract also has a provision that generates about $26 million in profit for the General Fund annually.

Reducing Recidivism Plan—Visiting. The recidivism reduction plan allocates $4.5 million in the current year and $5.2 million in the budget year to establish 61 positions to accommodate a third day of visiting at the following ten institutions:

- California Rehabilitation Center
- California Training Facility
- California State Prison, Solano
- Mule Creek State Prison
- California Institution for Men
- California Medical Facility
- California State Prison, Corcoran
- Centinela State Prison
- Substance Abuse Treatment Facility
- California State Prison, Los Angeles County

The funding and positions also support hiring social workers for each of the ten institutions listed above plus Central California Women's Facility and Valley State Prison for Women. The funding also supports a bus once a month from northern and southern California that transports children to visit their mothers at the two women's facilities located near Chowchilla.

The department indicates that hiring of the social workers has been delayed and there was a delay in implementing the "get on the bus" program, but the latter program is now fully implemented.

Governor's Budget. The Governor's budget does not contain any proposals to further expand visiting.

Current Year Savings. Staff finds that there should be some savings in the current year due to delays in hiring the social workers and implementing the "get on the bus" program.

More Details Needed on Social Workers. The department indicates that it is providing a social worker at each visiting site with a third day of visiting to assist families in developing strategies to deal with various issues, including issues related to family reunification upon parole. Staff finds that additional information is needed about the services that the social workers will provide and how they will coordinate their efforts with parole staff at the institution in developing parole plans.

Staff Comments. Staff finds that the department's current visiting policies are not conducive to maintaining strong family connections. Given the volume of inmates at some institutions and the limited number of days for visiting, visits are often cut short and visitors are turned away. Furthermore, staff finds that individual institutions sometimes arbitrarily change or add rules related to visiting, thereby denying access to some visitors. These policies are not consistent with the department's rehabilitation mission. As stated above, research finds that strong societal links to family or friends may significantly reduce offender recidivism.

Furthermore, staff finds that the department's current telephone contract is contrary to the department's rehabilitation mission. The contract generates significant revenues for the General Fund from high priced phone calls between inmates and their families, which discourages family connections.

The visiting policies are currently the responsibility of the Division of Adult Institutions. The entire CDCR should be focused on actions it can take to reduce recidivism, but generally the Division of Adult Programs takes the lead on developing these efforts. Given this, it is unclear who in the department would take the lead on developing strategies that would improve visiting and the ability of offenders to continue strong family connections while incarcerated.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on savings in the current year related to delays in hiring social workers and implementing the "get on the bus program."
- Request that the department provide, by May Revision, information on the costs to extend a third day of visiting to ten additional institutions in the budget year.

Crosscutting Rehabilitation Programs

1. Expanding and Implementing Quality Programs

Background. As mentioned above, $52.8 million General Fund was added to CDCR's budget for various strategies to reduce recidivism. A plan for expending this funding was delivered to the Legislature after the funding was approved in August 2006.

Governor's Budget. The Governor's budget proposal includes $41.1 million in additional expenditures to build on and expand funding provided in the current year.

Overall Evidence Based Strategy Needed. The department's overall approach to rehabilitation has suffered for many years and the department is currently in a state of rebuilding. As is demonstrated later in this agenda, the department decided to pursue numerous strategies to improve programming provided by the department and expand the programming opportunities available. However, the current approach is currently lacking a research and evaluation strategy to ensure that programs and services can be evaluated and funding can be appropriately targeted to the programs that are the most cost effective at reducing recidivism.

Staff finds that the department currently does not have adequate systems for tracking participation and outcomes of the programs it is implementing. Furthermore, the current information technology proposal (Strategic Offender Management System) does not include an education and program tracking component. Staff finds that a good tracking system is paramount to developing evidence based cost-effective programming strategies.

Who gets it done? Staff finds that there is some confusion about who in the department is responsible for: (1) identifying the programming needs at an institution, (2) identifying programming space at the institution, (3) identifying unique opportunities for programming based on employee or community resources, and (4) the on-the-ground implementation of programming at the institution. The current system seems to be an ad hoc mix of the warden and programming staff at headquarters. Staff finds that more needs to be done to clarify the relationship between programming staff at headquarters, the warden, the principal at the institutions, and the mission based associate directors in ensuring appropriate programming is implemented at the institutions.

Furthermore, it is unclear what the process is for duplicating a good program at one prison to other prisons.

A significant amount of coordination is needed at all levels of the department in order to get programming implemented and staff finds that the institutions should be involved early on to identify potential issues with implementing and expanding programs.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on its plans to put an information technology system in place that will enable data collection so that its rehabilitative programming efforts can be continually evaluated.

2. Expert Panel

Background. The Legislature approved $900,000 and budget bill language in the 2006-07 Budget Act to fund an expert panel to review the current state of programming within CDCR and make recommendations for improving the programming delivered to inmates and parolees. The Expert Panel is made up of a diverse group of stakeholders including members of academia and correctional managers from other states.

Governor's Budget. The Governor's budget does not provide additional funding for this one-time effort.

Staff Comments. The department indicates that the report should be completed by the required deadline of June 30, 2007. The report will include an assessment of the department's current programs and a blueprint for a model correctional program. This information should help in determining the best use of programming dollars. Staff finds that additional information is needed on how the $900,000 has been allocated in the development of this report.

Staff Recommendation. Staff recommends that the Subcommittee take the following action:

- Request that the department provide a detailed accounting for how the expert panel funding has been allocated in the current year.

3. SB 618 Program—Case Management Approach

Background. Legislation (SB 618, Speier) enacted in 2005 encourages CDCR to participate, with interested counties, in developing and implementing plans to transfer the duty of needs and risk assessments to the county probation departments and courts. The legislation authorized the department to pilot this project in three counties.

So far, the department has developed a multi-agency plan in San Diego County to transfer the inmate screenings done at CDCR reception centers to the county, with the exception of medical screenings. Under this contract, the county will develop a more comprehensive "life plan" for the offenders in this program that will be tracked by a case manager throughout incarceration and parole.

The inmates participating in this program will be transferred to Richard J. Donovan Correctional Facility in San Diego County for the period of their incarceration and will be provided the services they need as defined by their life plan. This program is limited to non-violent offenders.

Reducing Recidivism Plan—SB 618. The department has reported that, as part of its reducing recidivism plan, it has allocated funding to implement the SB 618 program in San Diego County in the current year and continue the effort in the budget year. The figure below summarizes the funding for this program:

Reducing Recidivism Proposal:				
SB 618	**2006-07**		**2007-08**	
In Thousands	**Dollars**	**Positions**	**Dollars**	**Positions**
Contract with San Diego County	$1,656	0.0	$3,295	0.0
Contract for Project Manager	250	0.0	250	0.0
Contract for Data Technical Services	17	0.0	50	0.0
Training	188	0.0	505	0.0
Software	500	0.0	0	0.0
Travel	75	0.0	75	0.0
Headquarters Staff	248	2.6	555	6.0
RJ Donovan Correctional Officer Positions	178	2.7	188	3.0
RJ Donovan Equipment	135	0.0	135	0.0
CIW Social Worker Positions	177	2.7	182	3.0
Total	**$3,424**	**8.0**	**$5,235**	**12.0**

Governor's Budget. The Governor's budget proposal does not include any other proposals related to this program.

Program Has Had Slow Start. The department indicates that implementation of this program has been delayed due to issues raised by the federal court-appointed Receiver over medical care and space issues at the institution. Due to delays, the program did not start until April 2007. So far, 17 inmates are participating in the program. The department estimates that four to six additional inmates will be added to the program each week. Furthermore, the department has identified four vocational programs and academic programs that will deliver needed services to the inmates in this program. Staff finds that, given the delays in the current year, there should be some savings in the current year.

Potential Benefits of Case Management Approach. Staff finds that one of the unique components of this program is the case management approach of the program. The department has indicated that a case manager has been assigned to each inmate and this case manager will be responsible for getting the inmate the skills and services that are recommended in his or her life plan. The consistency inherent in this approach is unique in CDCR where there are few consistent contacts for offenders that are responsible for making sure they get the programming they need.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department provide additional information about the contract with San Diego County.
- Request that the department report, by May Revision, on savings in the current year related to delays in implementing this program.

4. Re-Entry Partnerships

Background. As discussed at the April 12 hearing of this Subcommittee, re-entry 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. These facilities could also work well for short-term parole violators that return to prison for violations that carry a relatively short commitment term.

Reducing Recidivism Plan—Re-entry Partnership Initiative Project. As part of the reducing recidivism plan, the department allocated funding to the parole division to develop re-entry partnerships with cities and counties to construct re-entry facilities. The figure below summarizes the funding for this effort.

Reducing Recidivism Proposal: **Re-entry Partnership Initiative Project**	**2006-07**		**2007-08**	
In Thousands	**Dollars**	**Positions**	**Dollars**	**Positions**
Additional Parole Agents	$447	4.6	$739	8.0
Additional Support Staff	103	1.4	138	2.0
Contracts for Space and Services	750	0.0	750	0.0
Total	**$1,300**	**6.0**	**$1,627**	**10.0**

Reducing Recidivism Plan—Re-entry and Recidivism Office. As part of the reducing recidivism plan, the department allocated funding to create a new Re-entry and Recidivism Office. The figure below summarizes the funding for this effort.

Reducing Recidivism Proposal: **Re-entry and Recidivism Office**	**2006-07**		**2007-08**	
In Thousands	**Dollars**	**Positions**	**Dollars**	**Positions**
Additional Staff	$1,202	12.5	$1,551	16.0
Contracts for Expert Consultants	776	0.0	776	0.0
Project Management Consultants	250	0.0	0	0.0
Training in Master Plan Development	45	0.0	45	0.0
Policy Development Workshops	100	0.0	100	0.0
Travel	168	0.0	168	0.0
Computers, Software and Training	150	0.0	150	0.0
Supplies and Printing	50	0.0	50	0.0
Total	**$2,741**	**12.5**	**$2,840**	**16.0**

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.

The Governor's budget proposal also includes $77,000 General Fund to fund one position to support the Re-entry Advisory Committee created by legislation (AB 3064, Public Safety) enacted in 2006. This committee would advise the Secretary on all matters related to the successful statewide planning, implementation, and outcomes of re-entry programs and services offered by CDCR.

Funding for Re-entry Partnership Initiative Redirected. Staff finds that the department has redirected some of the funding provided for the re-entry partnership initiative project to support activities not related to the development of partnerships to construct re-entry facilities. Specifically, the department has indicated that this money has been used to support a gang suppression task force in Los Angeles. This effort does not support reducing recidivism and is not consistent with the purpose of the original appropriation of funds.

The department has used some of these funds to support the development and issuance of a Request for Information to cities and counties regarding their interest in developing re-entry partnerships with the department. As of April 2007, the department has confirmed interest from 17 counties and seven cities.

Role of Re-Entry and Recidivism Office Unclear. Staff finds that the Re-entry and Recidivism Office cannot be found on the department's most recent organization chart. Furthermore, it is unclear how these staff and this funding relate to the funding provided for the Re-entry Partnership Initiative Project. Furthermore, staff has not been provided additional information on what this office plans to do with these staff and funding.

The department indicates that it has recruited and hired some positions for this office. However, because they are requesting to hire peace officer positions at headquarters, additional approvals are needed. Staff finds that some savings are likely in the current year because of delays in hiring staff.

It is also unclear what the funding for expert consultants will be used for in the current year and the budget year. Staff also finds it unusual that computer equipment and training for master plan development need to be funded in both the current year and budget year.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request additional information on how the funding for the Re-Entry Partnership Initiative has been expended in the current year.
- Delete funding for the Re-Entry Partnership Initiative in the budget year since it does not support reducing recidivism.

- Delete funding for the Re-entry Office until the department can provide information on who they will report to, what they will be responsible for, and how they will coordinate with the Re-Entry Advisory Committee.
- Approve budget proposal for the Re-Entry Advisory Committee.

5. Office of Research

Background. The department used to have a significant research office that conducted correctional research on and contracted for corrections research on best practices to improve public safety and reduce recidivism. However, budget reductions reduced the department's research staff, leaving the bare minimum in research capacity.

Reducing Recidivism Plan—Research. As part of the reducing recidivism plan, the department allocated additional funding to rebuild its research office. The figure below details how the department proposes to allocate the funding in the current and budget years.

Reducing Recidivism Proposal: Research	**2006-07**		**2007-08**	
In Thousands	**Dollars**	**Positions**	**Dollars**	**Positions**
Research Staff for Adult Program Plans	$82	1.0	$89	1.0
Research Staff for External Collaborations	93	1.0	99	1.0
Research Staff for Program Evaluation	372	4.0	372	4.0
Contract Funding for Program Evaluation	1,000	0.0	1,000	0.0
Research Staff for Basic and Applied Research	93	1.0	99	1.0
Contract for Needs/Services Gap Research	140	0.0	70	0.0
Contract for Gender Responsive Research	140	0.0	80	0.0
Other Research Staff	443	4.8	471	5.0
Contract for Fellows Program	288	0.0	480	0.0
Research Staff for Program Enhancement	349	4.0	349	4.0
Operations Expenditures and Equipment	506	0.0	506	0.0
Total	**$3,506**	**15.8**	**$3,615**	**16.0**

Governor's Budget. The Governor's budget proposal does not include additional funding to augment the department's research efforts.

Staff Comments. Staff finds that good research is necessary to implement evidence based programs and practices. However, little information has been provided to staff to describe what will be accomplished with these additional research funds.

Furthermore, since the department has not had many research staff in recent years, many programs and divisions have entered contracts for research without going through the Office of Research. It appears that some attempt to coordinate these research efforts are needed.

There is a need for a research component for nearly every one of the department's programs and practices. Staff finds that this proposal helps to address the void that currently exists.

In addition, staff finds that an annual report summarizing the department's research efforts would provide useful oversight information to the Legislature.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report by May Revision on the mission and current research objectives of the research program.
- Request that the department report by May Revision with a strategy to coordinate all of the research contracts managed by various divisions within the department.
- Request that staff, the department, LAO, and DOF develop an annual reporting requirement for the research department.

6. Right Prison Right Mission

Background. The Right Prison Right Mission effort was developed a few years ago to 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. The department has developed a plan to realign the mission of some institutions, but the department indicates that implementation of the plan has been delayed because of the current overcrowding conditions and the lack of "swing space" that is necessary when changing the mission of housing units and moving inmates. Furthermore, compliance with various court cases including *Plata* and *Coleman* has complicated this process as the courts develop plans that will significantly change the mission of some institutions.

Reducing Recidivism Plan—Right Prison Right Mission. As part of the reducing recidivism plan, the department allocated $350,000 in the current year to fund the Right Prison Right Mission effort.

Governor's Budget. The Governor's budget proposal does not include any proposals specifically related to this effort.

The population estimate does include funding to complete the conversion of a yard at Chuckawalla Valley State Prison to a Sensitive Needs Yard. The request is for an additional 6.2 correctional officer positions to provide visiting room security and appropriate escorts for inmates that attend programs outside of their yard.

Staff Comments. Staff finds that the department did not use the funding allocated to the Right Prison Right Mission effort for this purpose. The department indicates that this funding was used to support temporary help to plan for dealing with the overcrowded conditions.

Staff recognizes that the department's overcrowded conditions have reduced the department's flexibility in managing the population. However, a plan such as Right Prison Right Mission could improve the safety of the institutions and improve the rate at which inmates could program.

Staff Recommendation. Staff recommends that the Subcommittee take no action at this time because, at a March 15 hearing, the Subcommittee requested the following from the department:

- Requested 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.

7. Pre-Release Programs

Background. The department currently offers some classes for inmates, in the months prior to release, that are intended to provide them some of the key skills needed to enter the world of work as well as realistic expectations about life on parole. One pre-release program is operated by the department's education office. Another in-prison program, known as the Offender Employment Continuum, is operated by the parole division. The latter program previously included a post-release employment component. However, this component of the program was eliminated by CDCR due to the anticipated loss of federal funding.

The department has reported that, as of December 2006, approximately 1,300 inmates were in the pre-release program operated by the education office. The LAO estimates that about 11,000 inmates participate in this program annually. The LAO reports that only 2,400 inmates participate in the Offender Employment Continuum program annually. The department allocated $9.8 million to these programs in the current year.

As discussed at the April 23, 2007 hearing of this subcommittee, the department also has the Parole, Planning, and Placement program that utilizes the COMPAS tool to assess inmate risks and needs before they are paroled. This tool identifies the recommended level of supervision and the types of services the parolee would benefit from once released.

Reducing Recidivism Plan—Estelle Transitional Program. The department has reported that $420,000 has been allocated to support one position in the current year to fund a pilot of the Estelle Transition Program at Pelican Bay State Prison. This program provides computer-based pre-release programming to inmates that will parole out of the Security Housing Unit (max-security administrative segregation unit) at Pelican Bay State Prison. The department proposes to continue to fund the one position to manage this program in the budget year with $82,000.

Reducing Recidivism Plan—Pre-Parole Planning. The department has reported that it has allocated $2.8 million and six positions to contract for services that will assist inmates in applying for federal and state benefits for which they are entitled, prior to release. These benefits include veteran benefits, social security, and supplemental security income. The department plans to expand this program in the budget year to provide $4.7 million for these contracted services and to support seven positions to manage the contract and provide other support to the program.

Governor's Budget. The Governor's budget includes $400,000 General Fund ($1.3 million over a four-year period) to fund legislation (AB 1988, Chan), enacted in 2006, to support a pilot program in Alameda County to reduce recidivism. The funding will support a pre-release assessment component and provide the parolee with wrap-around services.

Current Year Savings. Staff anticipates that there will be some savings in the current year due to delays in contracting to provide pre-parole services.

Pre-Release Programs Could be Enhanced. The LAO finds that the current capacity for pre-release programs is too limited and can only be offered to one in ten inmates prior to their release. Furthermore, staff finds that there are few incentives for inmates to participate in these programs because they usually have to quit paid prison jobs to enroll in these programs. In addition, it is not clear that the content of these courses delivers skills and information that helps reduce recidivism because the pre-release programs offered by the education division have not been evaluated.

The relatively smaller Offender Employment Continuum program run by the parole division has been evaluated with positive results (16 percent reduction in recidivism). However, since the post-parole component of this program has been eliminated, it is unclear if the evaluation remains relevant.

Staff Comments. Staff finds that many offenders would benefit from programs in the institution that provide direct links to housing, jobs, or other services. For example, some community-based programs meet with the offender in prison and pick them up when they are released. It is unclear whether this will be the level of services provided in the Alameda County pilot project.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department provide, by May Revision, savings estimated from the delays in contracting for pre-parole services in the current year.
- Request that the department provide, by May Revision, information on what it would take to re-establish the post parole component of the Offender Employment Continuum.
- Request that the department provide, by May Revision, information on how it will mange the Alameda project and whether it can be managed through an existing program.

8. Female-Specific Programming

Background. After the reorganization of CDCR in 2005, there has been significantly more focus on implementing strategies and programming that are specifically geared towards female offenders. Under the reorganization, an Associate Director of Female Offender Institutions was created to ensure that practices and programming implemented was appropriate for females.

Reducing Recidivism Plan—Gender Responsiveness. The department's recidivism reduction plan includes a significant initiative to design and implement evidenced based, gender specific rehabilitative services to enhance female offender programming success. The figure below summarizes the efforts proposed for funding.

Reducing Recidivism Proposal: Gender Responsiveness *In Thousands*	**2006-07** Dollars	Positions	**2007-08** Dollars	Positions
Develop female appropriate risk/needs assessment.	$200	0.0	$125	0.0
Develop female appropriate classification system.	150	0.0	0	0.0
Increase Family Reunification: Special Parent/Child Visits and Baby Nursery for Pregnant Inmates	614	1.0	334	1.0
Develop contracts for multi-service residential center beds for female parolees.	108	0.0	533	3.0
Develop and implement a 200 bed gender responsive substance abuse and trauma program at Leo Chesney CCF.	1,154	1.0	1,049	1.0
Training for staff on female offenders.	718	0.0	718	0.0
Study of victimization and female offenders.	25	0.0	0	0.0
Staffing analysis for female institutions.	50	0.0	200	0.0
Total	**$3,019**	**2.0**	**$2,959**	**5.0**

Funding for the multi-service residential center beds is proposed to be $1.6 million in the current year and $13.2 million in the budget year to provide 575 beds statewide for female parolees. The funding for this program is contained in the Residential Services section of the reducing recidivism plan.

Reducing Recidivism Plan—Life Skills Development. The department's recidivism reduction plan also includes $125,000 in the current year to develop, print, and purchase the following gender specific curricula:

- Women's Conflict Anger Lifelong Management
- Women's Parenting
- Women's Health and Nutrition
- Women's Re-Entry Resources
- Women's Fitness
- Women's Substance Abuse Recovery

Several of these curricula have been developed and are currently being piloted in programs at the Valley State Prison for Women.

Governor's Budget. The population estimate contained in the Governor' budget proposal includes $3.8 million General Fund to activate a 35-bed community based facility in Fresno and to lay the ground work for developing 4,350 additional beds in community facilities for female offenders. These community facilities will provide wrap-around services to meet the specific needs of the female offenders.

Current Year Savings. Staff finds, that because of delays in implementing the new substance abuse program at Leo Chesney Community Correctional Facility, there may be some savings in the current year.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on estimated savings in the current year from delays in implementing the gender responsiveness initiative.
- Hold open the Governor's proposal to fund the female beds that are contained in the population estimate pending the May Revision.

Rehabilitation Programs: In-Institution

1. Basic Education Programs

Background. The department has some basic education classes at nearly all of its 33 institutions. The exceptions are North Kern State Prison, Wasco State Prison, and Deuel Vocational Institution that currently have no basic education programs. Each of these three institutions have reception center missions.

The department reports that the average reading level of all inmates in prison is less than a seventh grade reading level.

The figure below summarizes the total population that is currently enrolled in basic education programs at the department, which is less than 9 percent of the inmate population that will be paroled.

In-Institution Adult Basic Education Programs	**Number of Students Dec-06**
English Language Development	1,274
Adult Basic Education I	2,210
Adult Basic Education II	3,376
Adult Basic Education III	2,500
General Education Development	1,983
High School	371
Total	**11,714**

Reducing Recidivism Plan—Basic Education Components. The department has reported that basic education components of the recidivism reduction plan will fund two different efforts. These efforts include the following:

- **Risk/Needs Assessment.** The department proposes to use the Correctional Offender Management Profiling for Alternative Sanctions or COMPAS risk/needs assessment tool to assess offenders as they enter prison at four reception centers. (Parole is currently assessing inmates prior to parole.) This assessment will give the department some indication of the basic educational and job training needs of the offender. The department indicates that the assessment will be done at four reception centers (Deuel Vocational Institution, Richard J. Donovan Correctional Facility, California Institution for Men and Valley State Prison for Women) starting in June 2007.
- **Additional Education Assessments.** The department also proposes to institute a full battery of education assessments including Tests of Adult Basic Education (TABE), Comprehensive Adult Student Assessment System (CASAS), and Interest Determination, Exploration, and Assessment System (IDEAS). These assessments will provide more information on the educational needs of the offender. The department plans to roll out these assessments at the same four reception centers by August 2007, pending the identification of space at the institutions.

Below is a summary of how the department indicates the funding will be allocated in the current year and the budget year. (It is unclear to staff what the Individualized Comprehensive Life Plan funding is now being spent on since the department has decided to utilize the COMPAS risk/needs assessment tool that was already being used by parole.)

Reducing Recidivism Proposal: Inmate Education	**2006-07**		**2007-08**	
In Thousands	**Dollars**	**Positions**	**Dollars**	**Positions**
Individualized Life Plan Development	$1,000	0.0	$1,000	0.0
Additional Teachers	812	11.0	1,634	22.0
Additional Office Assistants	704	16.5	1,426	33.0
Educational Materials	142	0.0	142	0.0
Other Supplies and Printing	431	0.0	481	0.0
Total	**$3,089**	**27.5**	**$4,683**	**55.0**

Governor's Budget Proposal. The Governor's budget proposal includes $4.9 million General Fund to provide schedule and pay parity with the Division of Juvenile Justice for all teachers and vocational instructors in adult institutions. The actual cost of this proposal is $36.6 million, but the administration proposes to redirect salary savings from teacher vacancies to fund the majority of the proposal.

Education Programs Essential Element of Rehabilitation. The LAO finds that education programs are, in general, less cost-effective than vocational programs in reducing recidivism. The LAO notes that the department currently spends nearly twice as much on academic education as vocational training programs. However, they also note that educational programs are an essential building block for some inmates that lack basic literacy and English language skills that are needed to be successful in vocational programs. Furthermore, a GED is a requirement for many jobs and training programs.

Funding for Teacher Raise Not Transparent. The administration's proposal to use salary savings from vacant teacher positions is not transparent since the department will intentionally have to hold the vacant teacher positions as vacant to fund this proposal. Furthermore, staff finds that the main reason for instituting raises to the teacher classification outside of the bargaining process is to fill vacancies and retain staff. The department will not be able to fill vacancies if the funding for these positions is supporting the teacher pay of the filled positions.

Furthermore, the department indicates that it is currently funding a substitute teacher pool with redirected vacant positions. Staff finds that maintaining a substitute teacher pool is important to keeping classrooms open, but the current mechanism for funding the pool is not transparent.

Teacher Vacancies High. The department reports that over 20 percent of CDCR's teacher positions are vacant and recruitment has been difficult because of the relatively low pay and schedule. Staff finds that the new schedule that aligns the teacher's schedules with a regular school year and the pay raises should help to reduce vacancies and avoid losing teachers.

Incentives to Complete Education Needed. Staff finds that basic education programs provide inmates with skills that are essential to reintegrating into the community. These skills include basic literacy and basic math skills. The department reports that over 50 percent of the inmates are employed in jobs at the prisons. These jobs can range from Prison Industry Authority jobs, construction projects, custodial jobs, to kitchen duty. Inmates often cannot have a job and participate in an educational program. Since inmates are paid a nominal amount for their job there is actually a disincentive for many inmates to participate in an education program.

Staff finds that incentives could be implemented by the administration that provide better jobs or vocational placements for inmates that have completed basic education programs. These incentives would also help in encouraging inmates to complete their basic education programs in a timely manner and without the fear that if they complete their basic education program they will have no other programming options.

Computers Not Utilized. Staff finds that computers could be utilized to improve the department's ability to increase literacy among the inmate population. Currently, the department does not utilize computers in their education programs. Staff finds that computer literacy programs and other computerized programs can allow for more individualized programs that will enable inmate students to progress in a way that may not be possible in a classroom setting. Furthermore, basic computer skills are now an important basic skill that could help improve the offenders' reintegration into the community.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on a strategy to fill vacant teacher positions.
- Request that the department report, by May Revision, on strategies to encourage inmates to participate in basic education programs.

2. Vocational/Job Skill Development Programs

Background. The department currently has approximately 29 different vocational programs that provide training and job skills that may help inmates with employment opportunities when they parole. Most of the institutions had some vocational programs as of December 2006, with the exception of seven institutions. Deuel Vocational Institution, High Desert State Prison, North Kern State Prison; Richard J. Donovan State Prison, California State Prison, Sacramento, Salinas Valley State Prison, and Wasco State Prison did not have vocational programs. However, these institutions all have either reception center missions or house inmates that are classified as Level IV inmates (inmates with the highest risk for violence).

The figure below summarizes some of the major vocational programs at the institutions as of December 2006. The department estimates that about 8,900 inmates were involved in vocational programs as of December 2006, which is about 6 percent of the inmate population that will be paroled.

In-Institution Vocational Programs	**Number of Students Dec-06**
Office Services and Related Technologies	1,697
Electronics	744
Janitorial	611
Landscape Gardening	581
Graphic Arts	548
Welding	534
Auto Mechanics	497
Auto Body	446
Other	3,228
Total	**8,886**

Reducing Recidivism Plan—Vocational and Life Skills Education Expansion. The department has reported that the funding for this component of the plan will be utilized to expand vocational programs across the state. The department is in various stages of activating 19 new vocational programs that will accommodate about 500 student/inmates at eight institutions.

The department indicates that it has also initiated efforts to restore 18 vocational programs at four high security prisons. These additional vocational programs should be able to accommodate another 500 student/inmates.

The department also planned to hire two educational program consultants to ensure that the vocational programs are up to date and consistent with industry standards. The figure below summarizes the funding to implement this effort.

Reducing Recidivism Proposal: **Vocational and Life Skills Education** ***In Thousands***	**2006-07** **Dollars**	 **Positions**	**2007-08** **Dollars**	 **Positions**
Vocational Instructors	$700	9.5	$1,410	19.0
Vocational Equipment	935	0.0	10	0.0
Educational Materials	38	0.0	38	0.0
Supplies	190	0.0	190	0.0
Educational Program Consultant	189	2.0	189	2.0
Total	**$2,052**	**11.5**	**$1,837**	**21.0**

Reducing Recidivism Plan—Carpenter Pre-Apprenticeship Program. The department also proposed allocating $322,489 in the current year and budget year to support four correctional officers to enable the department to expand the carpenter pre-apprenticeship program at Folsom State Prison to about 130 inmates. This program allows inmates to obtain pre-apprenticeship certification through a local carpenter's union. The inmates that complete this program will be admitted to the union one step above entry level after they have paroled. This program is operated by the Prison Industry Authority.

Governor's Budget. The Governor's budget does not include any proposals to further expand vocational/job skill development programs.

More Apprenticeship Programs Needed. Staff finds that the carpenter pre-apprenticeship program is preferable to other vocational programs because it provides a direct link to a specific employment opportunity for an inmate upon parole. Other vocational programs do not have this link. Staff finds that the department should do more to develop these types of relationships with unions and industries so that inmates may have more direct links to employment upon parole.

Vocational Programs Cost Effective. The LAO cites that correctional research finds that vocational programs are among the most cost effective programs for reducing recidivism. The LAO notes that CDCR currently does not evaluate its vocational programs to determine their impact on recidivism. Furthermore, the LAO also finds that the current capacity of existing programs is too limited. As mentioned above, the department only has room to accommodate less than 6 percent of the inmate population that will definitely parole from prison.

Need for Custody Staff Unclear. Staff finds that the proposal to expand the carpenter pre-apprenticeship program at Folsom State Prison includes additional correctional officers to assist in expanding this program. Staff assumes that these officers are needed to ensure inmates get to and from the program safely and without contraband. Staff finds that the department has not requested additional correctional officers for the expansion of the vocational programs and it is not clear whether they are needed for these programs to properly function.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department identify a strategy, by May Revision, to expand the apprenticeship program.

- Request that the department report, by May Revision, on the need, if any, for custody staff to ensure that vocational programs operate.

3. Anger Management and Self-Help

Background. The department indicates that, as of December 2006, it had 230 inmates participating in conflict/anger management courses. This is less than two-tenths of one percent of the inmate population that is eligible to parole. It is unclear whether the programs currently implemented by the department are evidenced based.

The department also has small self-help programs at some institutions that are often led by volunteer resources, including victim reconciliation programs.

Reducing Recidivism Plan—Life Skills Development. The department has reported that a part of their recidivism reduction plan is to allocate $160,000 in the current year and budget year to purchase the curriculum for Impact of Crime on Victims from the federal Office for Victims of Crime. The department indicates that the curriculum will not be completed until November 2007 and the funding allocated to this effort in the current year is not needed.

Governor's Budget. The Governor's budget does not include any proposals to expand anger management and other self-help programs.

Staff Comments. A large number of inmates in state prison are heavily affected by gang culture and the attitudes and beliefs that are part of this culture. Furthermore, many inmates have problems dealing with anger. While some inmates in the Mental Health Delivery System may be receiving anger management counseling, staff finds that there are few to no opportunities for this type of therapy in the general population.

Furthermore, it is not clear to staff how the Impact of Crime on Victims curriculum will be used if it is purchased. There will be savings in the current year because the department indicates that the updated curriculum will not be completed in the current year.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, at May Revision, with the savings estimated in the current year related to the Victims curriculum that will not be purchased until the budget year.
- Request that the department report, by May Revision, on a strategy to increase the anger management and self-help programs available to inmates.

4. Volunteer Programs

Background. Numerous prisons (mainly those located in more urban areas) have significant volunteer resources from surrounding communities. Volunteers run a vast array of programs for inmates. The programs range from a college program at San Quentin to various religious programs and victim reconciliation programs.

Reducing Recidivism Plan—Community Partnership Managers. The department has reported that a part of their recidivism reduction plan is to allocate $179,000 in the current year and $308,000 in the budget year to hire three community partnership managers at San Quentin State Prison, Folsom State Prison, and Avenal State Prison. These managers will plan, organize, and coordinate community resources to better deliver volunteer services and programs to inmates.

Governor's Budget. The Governor's budget does not include any proposals to expand this pilot project.

Staff Comments. Staff finds that all institutions had community partnership managers before budget cuts reduced these positions. Staff finds that these managers can be helpful liaisons between the community and the prison and provide coordination for community volunteer resources. Staff finds that the leadership at some institutions currently does not provide enough time and attention to the value of community resources, which results in discouraging volunteer programming efforts. In some communities, volunteer resources can be significant and can help to supplement state programming efforts that are only provided to a relatively small percentage of the inmate population.

Furthermore, staff finds that the community partnership managers can also help arrange ways in which inmates can help the communities where the prisons reside. For example, these managers can help organize community works projects done by inmate-work crews or other projects that give back to the community. Staff finds that if these programs are properly designed they not only benefit the community, but can also provide inmates with self-worth and self-esteem issues that have contributed to their criminogenic behavior.

Staff finds that developing strong relationships with the communities near prisons can be a "win-win" situation for the prison (staff and inmates) and the community and should be a priority for the department. However, under the current proposal, only three of the 33 adult institutions and nine of the juvenile institutions have community resource managers. This means that these efforts have to be undertaken by other management staff at the institution and it is unclear that these efforts are a priority at this time.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on adding Community Resource Managers at another ten institutions in the budget year.
- Request that the department report on a strategy for developing Community Resource Manager Plans that will enable headquarters and the Legislature to determine what the Community Resource Managers are doing for the institution and inmate population.

5. In-Prison Programs: Special Populations

Background. The department's plan to reduce recidivism also included programming opportunities for certain special populations in state prison. In most cases, these funds are being used to start new programs to serve populations with services that are not currently available.

Reducing Recidivism Plan—In-Prison Sex Offender Treatment Program. As part of the reducing recidivism plan, the department allocated $50,000, in the current year, to leverage $250,000 in federal funds to identify best practices for sex offender treatment programs being used nationally and identify in-prison sex offender treatment programs to be used in California. No funds are proposed to be allocated to this effort in the budget year.

Reducing Recidivism Plan—Alternative Education. As part of the reducing recidivism plan, the department has allocated $1.2 million in the current year and budget year to support 16 positions to deliver adult basic education to inmates that are part of the Enhanced Outpatient Program (inmates diagnosed with a serious mental disorder) at eleven different institutions. Inmates that are part of the Enhanced Outpatient Program have not generally had the opportunity to participate in basic education programs. The department plans to deliver the education programming in smaller group classes.

Reducing Recidivism Plan—Health Care Services. The department allocated $25,000, in the current year, to develop a Behavior Management Program for the mental health population using a Dialectical Behavior Therapy approach. This therapy was originally created to treat individuals with borderline personality disorder and to develop core mindfulness skills, emotion regulation skills, interpersonal effectiveness skills, and distress tolerance skills. Funds were used to develop a program and train staff in this therapy approach.

Governor's Budget. The Governor's budget proposal does not include additional proposals to augment programming to special populations within CDCR.

Staff Comments. Recent legislation (SB 1178, Alquist) required that the department pilot a program to provide in-prison treatment to sex offenders. The department has not allocated funding to provide this treatment in the budget. This issue was discussed at the April 23 hearing of this Subcommittee.

Staff Recommendation. Staff recommends that the Subcommittee take no action at this time since the Subcommittee requested the following at the April 23 meeting of the Subcommittee:

- Request that the department report, by May Revision, on the findings of the $50,000 allocated in the current year to survey best practices of in-prison sex offender treatment.

6. Other In-Prison Programs

Background. The department identified various other initiatives to start or enhance various in-prison programs or facilities that provide programming, services, and skills to inmates.

Reducing Recidivism Plan—Peer Education. As part of the reducing recidivism plan, the department has allocated $250,000 in the current year and the budget year to train inmates as peer educators on various public health care issues, including HIV, AIDS, sexually transmitted disease, and other health issues. The Receiver over medical care has requested that this program be redesigned and enhanced and to be piloted at four institutions.

Reducing Recidivism Plan—Library Awareness Program. As part of the reducing recidivism plan, the department has allocated $50,000 in the current year and $272,000 in the budget year to augment and maintain the recreational library book collections at each of the institutions. This funding will provide $1,500 to each institution in the current year to augment their library collections.

Reducing Recidivism Plan—Recreation and Leisure. As part of the reducing recidivism plan, the department allocated $396,000 for art supplies and $165,000 for physical education equipment in the current year and budget year.

Governor's Budget. The Governor's budget proposal does not include any other funding for projects similar to these projects.

Current Year Savings. Staff finds that, because of delays in implementing the new peer education program, there may be some savings in the current year.

Coordination of Arts Program Unclear. Staff finds that numerous Arts in Corrections teachers were eliminated during budget reductions. The department has indicated that in some cases these teachers are now overseeing the bridging programs (independent workbook programs). The department is proposing to purchase art supplies for various institutions, but it is unclear that every institution has a mechanism to deliver the programming to the inmates. Staff finds that art projects can be very beneficial in reaching some inmates that may not function well in traditional academic settings.

Library Issues. Staff finds that library access may be extremely limited at some institutions because of inadequate staffing. Furthermore, it is unclear whether headquarters or individual institutions determine the rules for providing access to the library. Staff has found that access to the library is very limited at some institutions.

Furthermore, staff finds that there are many sources for zero cost or low cost used books and magazines available in the community. For example, many public libraries and used book stores no longer take used book donations. Staff finds that library collections could be enhanced significantly for very little cost if the department developed relationships with communities to acquire unwanted used books and magazines.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on how the Arts in Corrections program or other art programs will be implemented.
- Request that the department report, by May Revision, on strategies for collecting used books to supplement the institution library collections.

Rehabilitation and Support Programs: Parole

1. Parolee Employment

Background. In California and nationwide, there is ample research evidence that parolees have difficulty finding and maintaining stable employment. Studies of California parolees have found that from 20 percent to 40 percent of parolees are fully or frequently employed. At any given time, this means that approximately 70,000 to 100,000 parolees do not have regular employment. Correctional experts frequently identify stable housing, sobriety, and employment as key factors in a parolee's success once he or she has been released to the community.

Governor's Budget. The Governor's budget proposal includes $3.4 million General Fund to replace a reduction in Workforce Investment Act (WIA) funding of the same amount. This funding supports four parolee employment programs and the Female Offender Treatment and Employment Program. In this proposal, the administration presents a four year plan to replace the majority of the WIA funds supporting these programs (currently $9.7 million) and replace them with General Fund. This proposal would leave the department with only $2 million in WIA funds by 2010-2011, which is a 77 percent reduction over current funding levels.

LAO Findings. Correctional experts frequently identify stable housing, sobriety, and employment as key factors in a parolee's success once he or she has been released to the community. The LAO finds that the administration has in recent years expanded programs to address homelessness and substance abuse among offenders, but that little has been done to address parolee unemployment. The LAO finds several shortcomings of the current parolee employment-related programs. These shortcomings include the following:

- Capacity of existing programs too limited.
- Evaluation limitations hamper strategic approach.
- Mix of programs to reduce unemployment not most cost-effective.
- Funding structure of Parolee Job Program does not provide incentives for good performance.
- Department could improve casework.

LAO Recommendations. The LAO makes several recommendations to improve the department's parolee employment-related programs. These recommendations include the following:

- Reject proposal to reduce federal WIA funding.
- Target funding to most cost-effective programs.
- Consider other employment assistance models, including adding a social worker to all parole offices.
- Require the department to track employment and program outcomes.
- Improve funding process for job referral programs.
- Clarify policies and procedures regarding parole agents' role in assisting parolees with employment placements.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Reject Governor's proposal to reduce WIA funding for CDCR programs.
- Request staff, the department, LAO, and DOF work on a package of reforms for the department's parole employment-related programs consistent with the LAO's recommendations.

2. Residential Services

Background. The department currently provides some residential programs for parolees in which job preparation is frequently a component. These programs include: (1) Residential Multi-Service Centers for homeless parolees, (2) Parole Service Centers which are typically used for parole violators, and (3) the Female Offender Treatment and Employment Program (FOTEP) for female parolees with substance abuse problems.

The 2006-07 budget includes $54 million for the three residential programs listed above, which is enough to serve about 6,400 offenders annually.

Reducing Recidivism Plan—Residential Services. As part of the plan to reduce recidivism, the department included a substantial amount of funding for residential services for parolees. The figure below summarizes the funding proposed to be allocated for these services.

Reducing Recidivism Proposal: Residential Services	**2006-07**		**2007-08**	
In Thousands	**Dollars**	**Positions**	**Dollars**	**Positions**
Female Residential Multi-Service Centers	$1,600	0.0	$13,150	0.0
Additional Parole Agents for Female Centers	0	0.0	611	5.0
Contract Analyst for Female Centers	70	0.8	94	1.0
Community Based Coalition (CBC) - LA County	3,596	0.0	14,044	0.0
Additional Parole Agents for CBC	0	0.0	523	4.0
Additional Staff for CBC	474	5.0	1,707	20.0
Sex Offender Housing	2,213	0.0	2,213	0.0
Total	**$7,953**	**5.8**	**$32,342**	**30.0**

Residential Centers Relatively Expensive. The LAO finds that evaluations of the department's Residential Multi-Service Centers and the Female Offender Treatment and Employment Program did reduce recidivism by about 12 percent. However, the LAO also found that it was one of the less cost-effective programs because providing supportive housing is relatively more expensive because of the level of service being provided.

Furthermore, the department indicates that it regularly does not contract for all of the beds it is funded for, resulting in annual savings. The LAO finds that, in January 2007, the department did not have contracts for 370 beds funded in the 2006-07 budget, which is approximately $8.5 million in unused funding annually.

Some Offenders Need Supportive Housing. Staff finds that there are certain populations of offenders that would benefit from supportive housing. Specifically, offenders that suffer from mental illness who are in the Enhanced Outpatient Program while in prison may benefit from residential services that can provide the wrap-around services that they need to successfully re-enter the community. Furthermore, this population is limited from accessing similar types of services provided by the counties because parolees generally do not have access to mental health services funded by the counties. Offenders that suffer from chronic homelessness may also benefit from supportive housing.

Current Year Savings. Staff finds that some of the contracts for additional residential service beds in the current year have been delayed, which will likely result in budgetary savings in the current year.

More Detail on CBC Needed. Very little information has been provided to staff about the Community Based Coalition to provide supportive housing in Los Angeles County. This is a new effort and more information is needed to understand what is planned by the department.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on the projected savings in the current year due to delays in activating additional residential beds.
- Request that the department report, by May Revision, with an update of the number of funded residential service beds it does not have contracts for in the current year.
- Request that the department provide, by May Revision, additional detail on the Community Based Coalition in Los Angeles County.
- Request that staff, the department, LAO, and DOF work on an effort to improve the availability of supportive housing placements for parolees with mental illness.

3. Parole Outpatient Clinics

Background. The department provides treatment and supervision to mentally ill parolees through its Parole Outpatient Clinic Program. The mission of the program is to reduce the symptoms of mental illness among parolees, lower the rate of recidivism, and improve public safety. To accomplish these goals, the program supplies clinical services such as evaluations of mental health status, medication management, and individual or group therapy.

Reducing Recidivism Plan—Increasing Clinical Services to Mentally Ill Parolees. As part of the department's plan to reduce recidivism, funding was allocated for additional services for mentally ill parolees. The figure below summarizes how the department plans to allocate this funding.

Reducing Recidivism Proposal: **Clinical Services to Mentally Ill Parolees**	**2006-07**		**2007-08**	
In Thousands	**Dollars**	**Positions**	**Dollars**	**Positions**
Additional Psychiatrists	$430	2.7	$617	4.0
Additional Psychologists	651	7.0	1,055	12.0
Additional Psychiatric Social Workers	1,756	24.4	2,966	44.0
UCLA Evaluation	125	0.0	125	0.0
Computer Equipment	60	0.0	0	0.0
Total	**$3,022**	**34.1**	**$4,763**	**60.0**

Governor's Budget. The Governor's budget proposal does not include additional funding for this program in the budget year.

Service Linkages Weak. Currently, the department has a separate casework management program that involves a pre-release assessment that will enable the field to better plan for treatment for the offender upon release. This is similar to the COMPAS assessment, but is instead for the population in the Mental Health Delivery System. Staff finds that the department currently does not do pre-release screenings for all of the offenders in the Mental Health Delivery System that are paroling from prison. Studies have found that this reduces the offenders' success in accessing mental health services while on parole.

Mental Health Treatment Mandatory. The department has indicated that with the reducing recidivism expansion to Parole Outpatient Clinics it plans to mandate some mental health treatment for offenders on parole. While staff finds that this effort may increase the likelihood that some parolees will access treatment at the Parole Outpatient Clinics, it is not clear whether it will be a violation of parole that will warrant additional prison time if the offender fails to access services at the Parole Outpatient Clinics. The return to prison for some mentally ill offenders may further exacerbate their mental illness and not work towards stabilizing the offenders mental condition.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on its efforts to screen more offenders before they parole.
- Request that the department report, by May Revision, with more details on how it plans to enforce mental health treatment as a mandatory condition of parole.

4. Community Partnerships

Background. The department's community partnership efforts had been reduced over the last several years due to budget reductions. This has reduced the department's ability to partner with local community organizations and governments to deliver services to parolees that will ease the transition from prison into the community.

As part of the reducing recidivism plan, the department issued a statewide Request for Application, in October 2006, to allocate grants to individual initiatives to reduce recidivism of parolees by community-based and governmental entities. These applications were reviewed and scored by an internal expert team. The department awarded grants in December 2006.

Reducing Recidivism Plan—Community Partnership Organization. As part of the reducing recidivism plan, the department proposed to allocate $575,000 to support six positions in the current and budget years to support and manage the Division of Community Partnerships. The focus of this division is to conduct outreach and helps develop linkages and collaborative relationships with external stakeholders in private/non-profit and public sectors to improve public safety through successful re-entry programming.

Reducing Recidivism Plan—Pilot Projects Grant Program. As part of the reducing recidivism plan, the department proposed to allocate $750,000 to pilot project grants in the current year, and budget year, to demonstrate innovative, collaborative re-entry programming. The figure below summarizes how the department plans to allocate these grants.

Reducing Recidivism Proposal:
Pilot Project Grant Program

In Thousands	**2006-07**	**2007-08**	**2008-09**
EIMAGO	$125	$300	$300
Fresno Pacific University	50	120	120
Northern California Service League, San Francisco	48	116	116
Northern California Service League, Santa Clara	116	259	259
Options for Recovery Services	121	291	291
PRIDE Industries	30	72	72
Second Chance	75	180	180
Weingart Center Association	125	300	300
Total	**$690**	**$1,638**	**$1,638**

Reducing Recidivism Plan—Inter-Governmental Partnership Grants. As part of the reducing recidivism plan, the department proposed to allocate $1.4 million on inter-governmental partnership grants to encourage and support local governments in establishing innovative re-entry programming for improved offender outcomes. The figure below summarizes how the department's plan to allocate these grants.

Reducing Recidivism Proposal: Intergovernmental Partnerships ***In Thousands***	**2006-07**	**2007-08**	**2008-09**
Program Grants:			
City of LA Community Development Department	$208	$500	$500
City of Oakland	208	500	500
Los Angeles Countywide Criminal Justice Coordinating Committee	208	500	500
San Francisco Sheriff's Department	208	500	500
Santa Barbara Sheriff's Department	113	270	270
Vallejo Police Department	208	500	500
Planning Grants:			
City of San Bernardino Office of the Mayor	42	58	0
City of Pomona Community Development Department	40	55	0
Los Angeles County Sheriff's Department	42	58	0
Madera County District Attorney's Office	13	18	0
Monterey County Workforce Investment Board	42	58	0
Santa Cruz County Alcohol and Drug Program	42	58	0
Total	**$1,374**	**$3,075**	**$2,770**

Governor's Budget. The Governor's budget does not include any additional proposals to support community partnerships.

Community Partnerships are Critical. Building community partnerships are critical to ensuring a successful integration of the offender back into the community. Staff finds that re-building the department's community partnership staff will help in building new and expanded community partnerships and will provide more leadership in this area for the department.

Grant Process Unclear. The department has not provided details about how the grants listed above were awarded. It is unclear what criteria were used when awarding the grants and it is unclear what services these grantees will provide to parolees.

Department Proposes Redirecting Funding. The department has awarded grants to local governments and community based organizations that are far in excess of the funding that was allocated to these efforts in the reducing recidivism plan. The department has indicated that it plans to redirect savings from other efforts to fund these programs.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department, by May Revision, provide information on what services the grantees will provide.

- Request that the department, by May Revision, provide information on what other reducing recidivism expenditures it plans to redirect to fully fund the grants awarded.

5. Day Reporting Center—San Diego

Background. Day reporting centers are centers that parolees may be required to report to for the work day to participate in programming. These centers provide wrap-around programming such as anger management and life skills, as well as employment assistance. The department currently has one Day Reporting Center in Fresno County. The department indicates that it is pursuing additional centers in San Diego, Los Angeles, and San Francisco.

Reducing Recidivism Plan—San Diego Day Reporting Center. As part of the reducing recidivism plan, the department proposed to allocate $700,000 in the current year and $1.4 million in the budget year for a parole day reporting center in San Diego County that will provide a myriad of "wrap-around" services for parolees.

Governor's Budget. The Governor's budget does not provide additional funding for additional day reporting centers.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on when the San Diego center will be opened and how many parolees it will serve annually.

Substance Abuse Programs

1. Substance Abuse and Crime Prevention Act—Proposition 36

Background. The voters approved Proposition 36, in 2000, to require adult offenders convicted of non-violent drug possession to be sentenced to probation and drug treatment instead of prison, jail, or probation without treatment. Funding for this program, in the current year, is $120 million. The 2006-07 budget included statutory program reforms including flash incarceration, improved judicial oversight of program participants, and expanded options for offender management. However, these reforms are now being legally challenged in court and have been suspended by judicial injunction. The 2006-07 Budget Act also included $25 million for the Substance Abuse Offender Treatment Program, which is another substance abuse treatment program. Both of these programs are managed by the Department of Alcohol and Drug Programs.

Governor's Budget. The Governor's budget proposes to cut the funding for the Substance Abuse and Crime Prevention Act (Proposition 36) by 50 percent or $60 million in the budget year. The budget proposes to redirect $35 million to the Substance Abuse Offender Treatment Program and the remaining $25 million would be savings to the General Fund.

Budget Reduction Would Increase Prison Population. The LAO finds that the Proposition 36 program has a 2:1 benefit-cost ratio primarily due to the diversion of offenders from prison. Furthermore, the LAO recommends that the department restore the $25 million reduction to the Proposition 36 program in the budget year. The LAO recommends reducing the probation grant proposed by the Governor and using those savings to restore the Proposition 36 program.

Staff finds that given the current overcrowding conditions in prison this budget reduction would further exacerbate the costly alternatives the department must pursue in the short-run to deal with overcrowding, including transferring inmates out of state.

Furthermore, a recent survey of all counties found that the current funding level for the Proposition 36 program is not adequate to serve all of the non-violent drug possession offenders that would qualify for this program. Staff finds that if this program was expanded beyond the $120 million it would likely provide additional significant savings from diverting additional offenders from prison.

Staff Recommendation. Staff recommends that the Subcommittee take the following action:

- Hold this issue open.
- Request that the DOF report, by May Revision, with input from the department, on the projected increased costs to the prison system as a result of reducing funding for drug treatment funded by the Department of Alcohol and Drug Programs.

2. In-Prison Substance Abuse Programs

Background. In February 2007, the Office of the Inspector General released a report that made several findings about the $36 million in-prison substance abuse programs. The findings include the following:

- Numerous studies have shown that in-prison substance abuse treatment programs have little or no impact on recidivism. Moreover, the department has had this information for years, but has failed to correct deficiencies.
- Responsibility for the failure of the substance abuse treatment programs rests with the department because it fails to hold providers accountable for meeting contract terms and places the programs in settings that undermine the treatment model.
- The bidding process used by the Office of Substance Abuse Programs to select in-prison substance abuse program providers neither fosters competition nor ensures that the state receives the highest quality services for the lowest possible price. Elements of the process also violate state contracting law.
- Poor fiscal controls and mismanagement of the Office of Substance Abuse Programs have encouraged inappropriate spending and enabled contractors to abuse the department's budget policies.
- The Office of Substance Abuse Programs has failed to adequately monitor in-prison substance abuse program providers for compliance with contract terms and has not established a quality improvement process to identify improvement opportunities.

Reducing Recidivism Plan—Kern Valley State Prison Substance Abuse Program. As part of the reducing recidivism plan, the department has allocated funding to establish a substance abuse program at Kern Valley State Prison. The figure below summarizes how the funding will be allocated.

Reducing Recidivism Proposal:				
Substance Abuse Program at Kern Valley State Prison	**2006-07**		**2007-08**	
In Thousands	**Dollars**	**Positions**	**Dollars**	**Positions**
Additional Correctional Counselors	$190	1.7	$190	1.7
Additional Parole Agents	163	1.5	163	1.5
Treatment Slots	3,205	0.0	3,205	0.0
Additional Positions	216	3.0	216	3.0
Total	**$3,774**	**6.2**	**$3,774**	**6.2**

Reducing Recidivism Plan—Substance Abuse Expansion. As part of the reducing recidivism plan, the department has allocated additional funding to expand substance abuse programs at Sierra Conservation Center, Chuckawalla Valley State Prison, and Substance Abuse Treatment Facility. The figure below summarizes how the funding will be allocated.

Reducing Recidivism Proposal: **Substance Abuse Program Expansion** ***In Thousands***	**2006-07** **Dollars**	 **Positions**	**2007-08** **Dollars**	 **Positions**
Additional Correctional Counselors	$95	0.8	$115	1.0
Additional Parole Agents	193	1.7	350	2.0
Treatment Slots	1,308	0.0	5,232	0.0
Equipment for Substance Abuse Program	41	0.0	0	0.0
Equipment for Parole Agents	2	0.0	0	0.0
Total	**$1,639**	**2.5**	**$5,697**	**3.0**

Governor's Budget. The Governor's budget proposal does not include additional funding to expand the in-prison substance abuse programs.

Overcrowding Impacts Therapeutic Community. One thing that has contributed to the lack of success of the in-prison substance abuse programs is that there is often not an opportunity to create a therapeutic community because of the need to mix inmates participating in the substance abuse program with inmates that are not in the program. The presence of inmates that are not in the substance abuse program limits the substance abuse provider's ability to create a therapeutic community. The department has indicated that its efforts to expand the substance abuse programs at Sierra Conservation Center, Chuckawalla Valley State Prison, and Substance Abuse Treatment Facility have been to get inmates out of the living unit that were not part of the substance abuse program. They indicate that they have created 484 more substance abuse beds with this expansion funding.

Strategic Thought Needed on Placement of Program. The department has indicated that it is evaluating whether Kern Valley State Prison is the best location for a new substance abuse program. This prison has a Level IV mission and more often is on restrictive programming then other prisons with different missions. Staff finds that there will likely be savings in the current year due to the delays in activating a new substance abuse program.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on the savings estimated in the current year from not activating a new substance abuse program at Kern Valley State Prison.

3. Drug Treatment Furlough

Background. The department was given authority to contract for 1,500 drug treatment furlough beds in the 2003-04 Budget Act. These placements are only available to certain non-serious non-violent offenders for placement 120 days prior to their release from prison. The department reports that it currently has contracts for 426 beds.

The department has been funding these beds using its Substance Abuse Service Contract Agencies (SASCA) provider contracts that provide the department with aftercare services. The department has not been able to utilize all of the funding provided for these services so the contract did not have to be amended to accommodate these additional Drug Treatment Furlough beds.

Governor's Budget. The population estimate included in the Governor's budget provides $10.9 million General Fund to support the 426 Drug Treatment Furlough beds in the budget year. The department indicates that this increase is needed because there will no longer be an excess of SASCA contracts available because of the new legislation (SB 1453, Speier) that requires mandatory aftercare as a condition of parole for certain parolees.

Department Underutilizes Drug Treatment Furlough Beds. Staff finds that the department could place over 1,000 additional inmates in drug treatment furlough. The department indicates that it has a significant number of inmates that would qualify for this placement and it would help to marginally relieve some overcrowding. Unfortunately, the department has indicated that it sometimes has a difficult time identifying the inmates in the population that are eligible so these beds never get filled. Staff finds that the department should figure out how to identify inmates eligible for drug treatment furlough and attempt to fill all 1,500 beds in order to contribute to efforts to reduce overcrowding in the institutions.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Hold open the population estimate proposal pending May Revision.
- Request that the department report, by May Revision, on strategies to improve its ability to fill more drug treatment furlough beds.

4. Mandatory Conditions of Parole

Background. Legislation (SB 1453, Speier) enacted in 2006 required, as a mandatory condition of parole, aftercare for some parolees. The legislation requires that non-serious, non-violent, non-sex offender inmates who have completed in-prison drug treatment programs should, whenever possible, upon release from prison, be placed in a 150-day residential aftercare program. If the inmate successfully completes the 150-day program, the bill requires that he or she may be discharged from parole.

Reducing Recidivism Plan—Mandatory Conditions of Parole. As part of the reducing recidivism plan, the department proposes to allocate some funding for increasing aftercare opportunities for some parolees as mandatory conditions of parole. The figure below summarizes how the funding will be allocated.

Reducing Recidivism Proposal: **Mandatory Conditions of Parole**	**2006-07**		**2007-08**	
In Thousands	**Dollars**	**Positions**	**Dollars**	**Positions**
Additional Board of Parole Staff	$233	2.6	$344	4.0
Additional Parole Agents	98	0.8	131	1.0
Additional Substance Abuse Staff	497	7.7	599	10.0
Additional Correctional Officers	210	2.6	326	4.0
Additional Case Records and Institution Staff	308	5.6	406	8.0
Evaluation Contract	200	0.0	400	0.0
Aftercare Contract	1,275	0.0	5,100	0.0
Total	**$2,821**	**19.3**	**$7,306**	**27.0**

Governor's Budget. The Governor's budget includes $12.2 million General Fund ($10.9 million in the population estimate and $1.3 million in a budget change proposal) in additional funding to implement SB 1453 that requires mandatory residential aftercare programs for some offenders. The majority of these funds will be used to maintain the current level of drug treatment furlough beds (see discussion above).

Further Expanding Aftercare. The department proposed to fund mandatory aftercare for some offenders before SB 1453 was enacted by the Legislature. The department indicates that it is now looking at utilizing these funds to expand aftercare to offenders that do not qualify for SB 1453 because they had a violent commitment offense. This would enable the department to reach additional offenders that would benefit from aftercare. (However, parolees that do not qualify for SB 1453 would not automatically qualify to be discharged from parole.)

It is not clear that all of this funding will be needed in the current year due to delays in implementing this program.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on current year savings related to this proposal.
- Approve the Governor's budget proposal to fund SB 1453.

Health Care Issues

1. *Plata* Lawsuit Compliance

Background. 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.

Previous Funding for *Plata* Lawsuit Compliance. To date, the Legislature has provided approximately $299 million General Fund to implement efforts to improve the medical health care delivery system and comply with the *Plata* lawsuit.

In the 2006-07 Budget Act, the Legislature decided to appropriate $100 million in unallocated funds that would be expended as directed by the Legislature. The Joint Legislative Budget Committee is notified when the Receiver wishes to allocate these monies. To date, the Joint Legislative Budget Committee has received notifications to transfer $60.4 million from the unallocated funds set aside in the 2006-07 Budget Act. The figure below summarizes how the funding has been allocated in the current year.

***Plata* Litigation-Driven Expenditures** **Expenditures Directed by the Receiver** **2006-07** *(Dollars in Millions)*	**2006-07**
Court order to increase medical staff salaries, except for doctors	$24.7
Establish 300 LVN positions	12.3
Software and services to implement the Health Care Contracts Document Management system	5.7
Receiver's operating budget	6.3
Establish 41 positions at San Quentin for the Receiver's project at San Quentin	3.0
Establish 90 leadership and tracking health care positions	2.9
Establish 50 positions at Avenal State Prison	1.5
Establish 35 medical positions at Deuel Vocational Institute	1.2
Establish 16 RN positions at the Correctional Training Facility	1.2
Establish 20.3 positions at Avenal State Prison and 17.2 positions at Sierra Conservation Center	0.9
Funding to the Office of Facilities Management for EIR on San Quentin Project	0.5
Establish various other positions at San Quentin	0.2
Establish two nurse positions at Corcoran	0.1
Total	**$60.352**

Current Year Funding. The Governor's budget includes allocation of an additional $50 million in unallocated funds to be expended upon direction by the Receiver in the current year. This funding is in addition to the $100 million in unallocated funds allocated in the 2006-07 Budget Act.

The budget also includes $1.3 million General Fund to provide commensurate salary increases for medical classifications at Division of Juvenile Justice institutions for the current year.

The funding for the Division of Juvenile Justice salary enhancements will likely be included in a Supplemental Appropriations Bill.

Governor's Budget. The Governor's budget proposal includes an additional $150 million in unallocated funds to be expended upon direction by the Receiver in 2007-08.

In addition, the budget includes the full-year costs of some of the expenditures directed in the current year by the Receiver (see list above). The full-year costs in 2007-08 of expenditures funded in the current year, through January 2007, are $54.6 million General Fund. The budget proposal does not include additional full-year costs for current year expenditures starting in February 2007.

The budget also includes full-year costs associated with the Division of Juvenile Justice salary enhancements, which is $1.5 million in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve $1.5 million for Division of Juvenile Justice salary increases for medical classifications.
- Approve $29.6 million for salary increases for other CDCR medical classifications.

2. *Coleman* Lawsuit Compliance

Background. 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.

Previous Funding for *Coleman* Lawsuit Compliance. To date, the Legislature has provided approximately $158 million General Fund to implement efforts to strengthen the department's mental health services and comply with the *Coleman* lawsuit.

Current Year Funding. The Governor's Budget proposal includes $24.1 million General Fund to implement various court-ordered actions, immediately, in the current year. These actions include the following:

- **Salary Enhancements.** $19.2 million General Fund to support salary enhancements for certain mental health classifications. This includes commensurate pay increases for all mental health classifications in the adult institutions, juvenile institutions, and parole operations. Classifications impacted include the following:
    - Chief Psychiatrist
    - Senior Psychiatrist

- Staff Psychiatrist
- Chief Psychologist
- Senior Psychologist
- Clinical Psychologist
- Supervising Psychiatric Social Worker
- Clinical Social Worker
- Senior Psychiatric Technician
- Psychiatric Technician
- Recreation Therapist

These pay increases impacted 1,535 positions in the adult institutions, 71 positions in the juvenile institutions, and 282 positions in parole operations.

- **Reception Center Enhanced Outpatient Program Services.** $2.8 million General Fund to support partial year funding for 67.7 positions in the current year to deliver treatment to Enhanced Outpatient Program inmates (inmates with serious mental illnesses, such as Schizophrenia) at reception centers.

- **Administrative Segregation Intake Cell Conversions.** $2 million General Fund to support four positions to oversee the retrofit of the vents in 340 administrative segregation cells in the max-security administrative segregation units (also called stand-alone administrative segregation units). The funding will also be used to design the conversion of an additional 340 cells in regular administrative segregation units to administrative segregation unit intake cells that include, new concrete bed slabs, the elimination of all in-cell protrusions, replacement of light fixtures, and modification of cell doors to increase visibility.

  The department indicates that it has redirected $110,000 in special repair funds in the current year to replace the vent screens in 66 cells in max-security administrative segregation units.

The funding allocations listed above will likely be appropriated in a Supplemental Appropriations Bill in the upcoming months.

In addition, after the budget was enacted in 2006, the Legislature enacted supplemental legislation (SB 1134, Budget) to provide $35.5 million to partially fund 551.8 new positions established to fund the Revised Program Guide as ordered by the court in the *Coleman* lawsuit.

Governor's Budget. The Governor's budget proposal includes $112.3 million General Fund to support various court-ordered actions to comply with the *Coleman* lawsuit in the budget year. These proposals include the following:

- **Salary Enhancements.** $50.6 million General Fund for the full-year costs to support salary enhancements for certain mental health classifications (listed above).

- **Reception Center Enhanced Outpatient Program Services.** $5.1 million General Fund to support the full-year costs to support 67.7 positions to deliver treatment to Enhanced Outpatient Program inmates at reception centers.

- **Administrative Segregation Intake Cell Conversions.** $12.8 million General Fund to support the construction associated with converting 340 cells in regular administrative segregation units to administrative segregation intake cells. The required modifications are listed above under current year funding for this project.

- **Revised Program Guide.** $40.2 million General Fund funds the full-year costs associated with the 551.8 positions funded in SB 1134. This is a $4.8 million increase above what was allocated in SB 1134.

Savings From Vacancies Likely. The department has historically had a huge problem recruiting qualified mental health staff. The recent pay raises may help to improve recruitment. However, there is generally a shortage of mental health staff statewide. Staff finds that the department continues to have significant vacancies in mental health staff and will likely have some savings in the current year due to the number of vacant positions.

Available Treatment Space at Reception Centers Unknown. The department is in the process of implementing treatment for Enhanced Outpatient Program inmates at Reception Centers. However, it is unclear to staff that there is available space at reception centers for treatment. This is especially a problem at the older reception center institutions (San Quentin State Prison) where there is not a lot of viable space for programming. Furthermore, there is also generally a lack of office space available for the additional clinical staff the department needs to hire to implement these new programs.

Max-Security Administrative Segregation Units. The court in the *Coleman* case has ordered that no inmates in the Mental Health Delivery System (Enhanced Outpatient Program and Correctional Clinical Case Management System) can be held in the new max-security administrative segregation units (also called stand-alone administrative segregation units). The Subcommittee learned, at its April 12 hearing, that the department's in-fill bed plan includes 2,250 additional beds in new max-security administrative segregation units. Staff finds that the construction of these beds does not provide the department with a lot of flexibility since only some inmates can be placed in these units because of the cell design. This means that at institutions that have the max-security administrative segregation units they will have to maintain an alternative administrative segregation unit for the inmates in the Mental Health Delivery System.

Staff finds that before the department builds additional administrative segregation units it may want to modify its design so that they can use these units for the department's entire population, when appropriate.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on the savings in the current year from staff vacancies.
- Request that the department report, by May Revision, with a strategy to modify the new stand-alone administrative segregation units to be compliant with the Coleman court.
- Approve funding for the salary enhancements.
- Approve funding for the Reception Center Enhanced Outpatient Program.

- Approve funding for the administrative segregation unit intake cell conversions.

3. *Perez* Lawsuit Compliance

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.

Previous Funding for *Perez* Lawsuit Compliance. To date, the Legislature has provided approximately $35.4 million General Fund to implement efforts to strengthen the department's dental services and comply with the *Perez* lawsuit.

Current Year Funding. The Governor's budget proposal includes $18.8 million General Fund to implement salary increases for dental classifications. This includes commensurate pay increases for all dental classifications in the adult institutions and juvenile institutions for the following classifications:

- Dental Assistant
- Dental Hygienist
- Dentist
- Oral Surgeon
- Supervising Dental Assistant
- Supervising Dentist
- Chief Dentist
- Regional Dental Director
- Statewide Dental Director

These pay increases will impact 719 positions at adult institutions and 28 positions in the juvenile institutions in the current year.

Governor's Budget. The Governor's budget proposal includes $78.7 million General Fund to support the following two actions to comply with the *Perez* lawsuit in the budget year. The proposals include the following:

- **Salary Enhancements.** $57.8 million General Fund to provide increased salaries for selected dental classifications (see above).
- **New Dental Staffing Ratios.** $20.9 million General Fund for partial funding to support 231 new positions to meet the new lower inmate to dentist ratios (515:1). This funding will support 77 dental staff and 102 custody staff.

LAO Recommendation. The LAO recommends that the Subcommittee withhold action on the salary enhancements for the dental classifications pending a court order.

Savings From Vacancies Likely. Staff finds that the department currently has a 57 percent vacancy rate at the first 14 institutions where it has implemented the reduced inmate to dentist staffing ratios. The department has a 40 percent vacancy rate for all of the other institutions. Staff finds that a salary increase would help to fill these vacancies. Staff finds that the department will likely have some savings in the current year due to the number of vacant dental positions.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on savings in the current year related to salary savings.
- Hold open the salary enhancement proposal pending a court order or amended collective bargaining agreement.
- Approve funding to reduce the inmate to dentist staffing ratio.

Other Issues

1. Classification Services Unit Training

Background. The classification process within CDCR consists of an analysis and review of individual case factors to determine an inmate's placement score, custody level, and work/privilege group. These case factors determine the housing and rehabilitative program eligibility of each inmate.

Governor's Budget. The Governor's budget proposal includes $800,000 in General Fund to address immediate training needs of correctional counselors and to develop a comprehensive training plan for these classification staff to ensure a greater degree of safety and security.

Staff Comments. Staff finds that classification is a critical step in the process and directly impacts the department's ability to match up inmates with safe living placements and appropriate programming opportunities. Staff finds that as part of the reducing recidivism plan the department is planning on implementing a pilot project to use the COMPAS assessment to identify risk level and program needs at four reception centers. Staff finds that classification staff will need to be trained on how to use this new information within their existing process.

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

2. Redirection of Positions to the Office of Inspector General

Previous Subcommittee Action. At a March 1 hearing, this Subcommittee approved $1.8 million in General Fund money to augment the Inspector General's auditing resources.

Governor's Budget. The Governor's budget proposes to redirect 10 office technician positions and $1.8 million General Fund to support expanded auditing in the Office of the Inspector General. These positions and funding were taken from various program areas throughout the department.

Staff Comments. The administration has not provided information to justify the elimination of these office technician positions. However, the department reports that it currently has a 20 percent vacancy rate in its office technician classification. This equates to approximately 313 vacant positions and $17 million in salary savings. It is unclear to staff whether the department is using this salary savings to fund other budget items in the current year.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Eliminate 10 office technician positions and reduce the department's budget by $1.8 million in the budget year.
- Request that the department report on how it is using the salary savings from vacant office technician positions in the current year.

3. Workers' Compensation Staffing

Background. In the 2005-06 Budget Act, the department was provided with 29 positions to coordinate the "Return to Work" program at the department. These positions were created on a limited-term basis to address one-time workload associated with reducing the backlog of Workers' Compensation claims.

Governor's Budget. The Governor's budget includes a proposal to convert 29 limited-term positions to permanent positions. The department is not requesting additional funding for these positions.

Staff Comments. Staff finds that with the additional positions allocated to the department in the 2005-06 Budget Act it has been able to employ active claims management strategies to contain workers' compensation expenditures. The department has reviewed a large portion of the low-activity claims and is taking actions to close these claims. In 2005-06, the department had over $188 million in workers' compensation claims, which was over 40 percent of the total for all state agencies.

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

4. New Undersecretary for Program Support

Background. The Subcommittee heard a significant amount of testimony at its March 15 hearing regarding the deficiencies in its core business services. The department currently has one undersecretary that oversees all programs and functions in the department.

Finance Letter. A Finance Letter (dated March 29, 2007) requests $316,000 to fund a new undersecretary position of program support and two support positions.

Staff Comments. Staff finds that CDCR is one of the largest departments in state government with 65,000 authorized positions and a budget of over $10 billion General Fund. Staff finds that an additional undersecretary position is justified to help manage a department of this size.

Staff Recommendation. Staff recommends that the Subcommittee approve the Finance Letter proposal to establish a new undersecretary.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Part A

Wednesday, May 9, 2007
9:30 a.m. - Room 113
(Consultant: Keely Martin Bosler)

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.

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.

1. Legal Counsel

Finance Letter. A Finance Letter (dated March 29, 2007) requests one position and $170,200 to support in-house legal counsel. The board proposes to reduce its contract with the Attorney General by a like amount making this proposal cost neutral.

Staff Comments. The board indicates that by retaining in-house counsel it will be able to develop legal expertise specific to the horse racing industry, which will enable the board to achieve more efficient resolutions and settlements of enforcement issues.

Staff Recommendation. Staff recommends that the Subcommittee approve this Finance Letter proposal.

0250 Judicial Branch

Trial Courts

1. Equal Access Fund Program – Legal Aid

Background. The Equal Access Fund Program provides funds for legal services to assist low-income individuals in civil matters. 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.

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 and other self-help programs.

Governor's Budget and Finance Letter. The Governor's budget includes about $16 million in funding from the Equal Access Fund (this is funding in the base budget). A Finance Letter (dated March 29, 2007) requests that the Legislature adopt budget bill language to allow the Department of Finance to augment the funds available for expenditure in the budget year if additional revenues are available after notification to the Joint Legislative Budget Committee.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget bill language for the Equal Access Fund.

2. Access to Justice Pilot Program

Previous Subcommittee Direction. At the March 1 meeting of the Subcommittee, the budget proposal to add $5 million to fund a pilot project in three Trial Courts to identify and provide legal representation to unrepresented litigants on civil matters was held open.

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

Staff Comments. Staff finds that the defense of unrepresented individuals in criminal court is a local funding responsibility. Therefore, it is unclear why the state would fund a similar type program for civil litigants. It is also unclear what type of civil cases will be targeted with this funding. For example, will these monies target family court matters or other matters? Furthermore, staff concurs with the LAO that funding legal services for all unrepresented litigants in civil cases could lead to significant new costs, which would exacerbate the current state budget operating shortfall.

Staff Recommendation. Staff recommends that the Subcommittee reject the pilot project.

Judicial Council/Administrative Office of the Courts

1. Federal Grants—Informational Item

Previous Subcommittee Direction. At the March 1 meeting of the Subcommittee, $1 million in federal funds was approved for three projects; (1) child data collection, (2) judge and attorney training, and (3) study of elder courts. The Subcommittee also requested additional information on the total amount of the grants and the timeline for the products or projects that are being funded by these monies.

Detail on Federal Grants. The Administrative Office of the Courts (AOC) indicates that approximately $885,000 has been awarded for a Child Data Collection project that is expected to last through September 2010. This grant is intended to help the courts improve their data analysis and collection in child abuse and neglect and foster care cases. It is intended to help the courts jointly plan with other relevant agencies for the collection and sharing of data related to child welfare.

The AOC indicates that approximately $904,000 has been awarded for various Judge and Attorney Training and this grant is expected to last through September 2010. This funding is used to support numerous training efforts for judicial officers, attorneys, Court Appointed Special Advocates, court staff, foster parents, foster youth, tribal representatives, and other individuals involved in the dependency court system.

The AOC indicates that approximately $251,000 has been awarded for a Study of Elder Courts projects. This grant is expected to continue until the end of November 2007 and will fund a stakeholder focus group brainstorming better practices and providing recommended models for improvement.

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 an $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**

Previous Subcommittee Direction. This issue was held open at the March 1 meeting of the Subcommittee pending review of an annual report submitted by the AOC on the update of the California Case Management System and the Court Accounting and Reporting System (now referred to as the Phoenix Statewide Financial System).

California Case Management System Update. The AOC has divided the California Case Management System into the following three phases: (1) criminal and traffic module; (2) civil, probate, small claims, and mental health; and (3) a case unification phase to integrate the family law and juvenile case types. The AOC indicates that it has selected vendors to implement the first two phases and has started to implement these modules in some counties. The AOC indicates that it has already implemented the new criminal and traffic module in Fresno County and the court is working with six other counties to implement this module over the next two years. Furthermore, the AOC indicates that it working with five counties to deployed the civil, probate, small claims, and mental health modules. The AOC indicates that it has already deployed the small claims module in San Diego and Sacramento Counties. The AOC is still developing the third phase of the California Case Management System and is working with the Oversight Committee to design the system. The AOC plans to fully implementing the California Case Management System by 2011-12. The AOC indicates that $271 million has been allocated to implement this project, including $81.5 million to support the project in the budget year.

Phoenix Financial System Update. The AOC is in the process of implementing a statewide financial system for the judicial branch referred to as the Phoenix Financial System. Implementation of this system includes five steps: (1) creation of a trial court financial policies and procedures manual; (2) establishment of an internal audit unit; (3) installation of a standardized statewide financial system; (4) establishment of the trial court accounting and financials services center; and (5) establishment of a centralized treasury. Before the AOC implements the new financial system it conducts an audit of the court financial operations to ensure that the data being entered into the system is uniform across jurisdictions. The AOC has implemented the new Phoenix Financial System in 45 counties to date. The AOC plans to implementing this system in the remaining 13 counties by 2008-09. The AOC indicates that $88.4 million has been allocated to implement this project, including $27.7 million to support the project in the budget year.

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

Courts of Appeal

1. Information Technology Upgrades

Previous Subcommittee Direction. At the March 1 hearing of the Subcommittee, a budget proposal to augment by $1.1 million the base budget of the Courts of Appeal for ongoing information technology upgrades was held open. The LAO had requested additional information and justification from the courts regarding the assumption used to build the information technology upgrade schedule.

LAO Review. The LAO finds that the $1.1 million assumes a three-year replacement schedule for key information technology equipment. Furthermore, the LAO finds that a five-year replacement schedule is more inline with information technology equipment replacement schedules by other entities in state government. The LAO finds that $660,000 is all that is needed to ensure key information technology equipment is replaced on a five-year schedule.

Staff Recommendation. Staff recommends that the Subcommittee approve $660,000 to fund this request.

2. Equipment for New Courthouse - Fourth Appellate District

Previous Subcommittee Action. At the March 1 meeting of the Subcommittee, a budget proposal to fund equipment for the new Fourth Appellate District, Division 3 (Orange County) was approved. The AOC has determined that construction of this facility will not be completed in the budget year since the construction start date has been delayed from March 2007 to September 2007. Staff understands that the AOC has withdrawn this proposal because the non-capital equipment will not be needed in the budget year.

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 deny this budget proposal.

3. Court Appointed Counsel Program

Previous Subcommittee Direction. At the March 1 meeting of the Subcommittee, the Governor's budget proposal to provide $1.6 million General Fund to fully fund the Court Appointed Counsel Program was held open.

Staff Comments. Staff finds that last year the AOC was directed to complete a market rate study to determine competitive reimbursement rates for court appointed counsel. The AOC has not completed this study, but staff understands that it has recently entered into a contract with a consultant to complete the study.

Furthermore, despite recent increases in the rate paid private attorneys that are in the pool for the Court Appointed Counsel Program, these attorneys continue to be paid less than what they were paid in 1989 if you adjust these rates for inflation. These low rates make it difficult to recruit qualified legal staff to take these cases. Furthermore, staff finds that over half of the attorneys in the pool are close to retirement age, which makes it critical to take steps 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.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Approve the $1.6 million budget proposal to fully fund the Court Appointed Counsel Program.
- Approve a new $5/hour increase to the rates paid attorneys in the Court Appointed Counsel Program (total costs of this action are estimated at about $1.5 million).

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

1. Appellate Courts Capital Outlay

Finance Letter. A Finance Letter (dated May 1, 2007) requests $3.1 million from lease revenue bonds for the construction of a new courthouse for the Court of Appeal, Fourth Appellate District, Division 3 (Orange County). The additional funding is needed to cover increased costs attributed to general escalations in the construction market. The funding provided in the 2006-07 Budget Act was based on 2005 estimates and was only inflated to June 2005. Construction on this project is expected to commence September 2007. The total cost of the project is now estimated to be $25.5 million.

2007-08 Five-Year Infrastructure Plan. The 2007 Five-Year Infrastructure Plan identifies $26.4 million in appellate court critical deficiencies in the budget year and over $117 million in projects over the next five years. The budget proposal does not include funding for new court facilities in the Fourth (San Diego) and Sixth (San Jose) Appellate Districts to replace leased space.

Staff Recommendation. Staff recommends that the Subcommittee approve the Finance Letter proposal.

2. Trial Courts Facilities Transfers and Capital Outlay

Previous Subcommittee Direction. At the March 1 hearing of this Subcommittee, the Governor's proposals to start the process for constructing new court facilities were held open. The Subcommittee also requested the following:

- 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.
- 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.
- Staff, the LAO, the AOC, and DOF work together to determine a forum for evaluating the best use of vacated court buildings.

Also at this meeting, the Subcommittee learned that the majority of court buildings (in the hundreds) would not be transferred to the state by the statutory deadline of July 1, 2007.

Status of Trial Court Facilities Transfers. The AOC reports that, as of April 26, 2007, 41 county facilities have been transferred to the state. Another 14 leased facilities have been "consolidated" and are no longer needed to support court operations. The majority of these transfers are a "transfer of responsibility" and do not include a transfer of title to the building. There are still hundreds of court facilities that need to be transferred to the state and will likely not make the statutory deadline.

Governor's Budget and Finance Letters. All of the projects listed above are not proposed for funding in the Governor's budget. Of the totals listed above, the administration has proposed $35.9 million in the Governor's budget and two Finance Letters (dated March 29, 2007 and May 1, 2007) from the Trial Court Facilities Construction Fund to support the first phases of construction of new trial court facilities. The Governor's budget contains $19.5 million and the March 29, 2007 Finance Letter requests $16.4 million. No General Fund monies are proposed for new court facilities in the budget year.

The Finance Letter also proposes budget bill language to require each county to transfer court facilities to the state before funds are released to acquire land to build new court facilities.

The Finance Letter (dated May 1, 2007) requests the re-appropriation of funding for ***working drawings and construction*** of the following project:

- **Fresno - Sisk Federal Courthouse Renovation.** The Finance Letter (dated May 1, 2007) requests the re-appropriation of $57.9 million in Trail Court Facilities Construction Fund monies appropriated in 2006. The AOC indicates that the site acquisition has been delayed because several federal agencies have not vacated the building and additional legal work is required to complete the conveyance of the site from the county to the state. The total cost of this project is expected to be $61.3 million.

The Governor's budget proposes funding ***working drawings*** for the following projects and a Finance Letter (date May 1, 2007) also requests re-appropriation of funding for ***acquisition and preliminary plans*** for these projects.

- **Contra Costa - New East 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.

  There have been some disagreements about the site for the new courthouse and as a result the site acquisition is estimated to be delayed until spring of 2008. A Finance Letter (dated May 1, 2007) requests re-appropriation of $1.6 million of the funding provided for acquisition and preliminary plans in the current year due to these delays. Approximately $9.5 million has been appropriated to date for acquisition and preliminary plans related to this project. The total cost of this project is expected to be $60.9 million.

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

- **Plumas and Sierra - 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.

  There have been delays in the site acquisition due to unforeseen site condition requirements and additional time required to complete the necessary CEQA documentation. A Finance Letter (dated May 1, 2007) requests re-appropriation of $594,000 of the funding provided for acquisition and preliminary plans in the current year due to these delays. Approximately $706,000 has been appropriated to date for acquisition and preliminary plans related to this project. The total cost of this project is expected to be $6 million.

  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.

- **Mono - 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 acquisition of the court site has been delayed in order for the current owner, the U.S. Forest Service, to complete environmental studies, appraisals, and surveys. A Finance Letter (dated May 1, 2007) requests re-appropriation of $1.7 million of the funding provided for acquisition and preliminary plans in the current year due to delays.

Approximately $2 million has been appropriated to date for acquisition and preliminary plans related to this project. The total cost of this project is expected to be $15.1 million.

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 Governor's budget and a Finance Letter (dated March 29, 2007) propose funding the ***acquisition*** phase of the following projects. All of these projects are in the AOC's Immediate Need priority group.

- **Madera - 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. The total cost of this project is expected to be $94.7 million.

  This project will replace the existing Madera courthouse and Family Court Services leased facility. Combined, these two facilities have seven courtrooms. These two facilities were transferred to the state on April 30 and May 1.

- **San Bernardino - 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. The total cost to the state of this project is expected to be $303.4 million.

  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 yet been transferred to the state, but are expected to be transferred by June 29, 2007.

- **San Joaquin - 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.

  A Finance Letter (dated March 29, 2007) requests an additional $3.2 million from the State Court Facilities Construction Fund to augment the funding available for acquisition. The increase is due to the need to acquire additional parcels to provide security setbacks and parking. One additional courtroom has also been added to the project making it a 30-court courthouse project. The total cost to the state for this project is expected to be $231.7 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 May 10, 2007.

- **Riverside – New 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. The total cost of this project is expected to be $56 million.

  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.

- **Tulare – New Porterville Court.** A Finance Letter (dated March 29, 2007) requests $4.4 million from the State Court Facilities Construction Fund for acquisition to build a new 9-court courthouse in the City of Porterville. The total cost of this project is expected to be $81 million.

  This project will replace two court facilities with five courtrooms. These facilities have not been transferred to the state, but transfer is expected by May 30, 2007.

- **San Benito – New Hollister Court.** A Finance Letter (dated March 29, 2007) requests $541,000 from the State Court Facilities Construction Fund for acquisition to build a new

3-court courthouse in the City of Hollister. The AOC indicates that both the city and county have passed resolutions expressing the commitment to donate land worth about $5.5 million to assist in the construction of the facility. The total cost to the state of this project is expected to be $5.5 million.

This project will replace the court facilities that are currently within the Civic Center Building in the City of Hollister. This facility has not been transferred to the state, but transfer is expected by June 2007.

- **Calaveras – New San Andreas Court.** A Finance Letter (dated March 29, 2007) requests $845,000 from the State Court Facilities Construction Fund for acquisition to build a new 4-court courthouse in the City of San Andreas. The total cost to the state of this project is expected to be $39.6 million.

  This project will replace two court facilities (one is a leased modular building). The AOC indicates that the County has written a letter expressing their commitment to provide land worth $316,000 for this project to be applied to the buy-out of the court-occupied space in an existing county facility. The two court facilities have not been transferred to the state, but transfer is expected by June 2007.

- **Lassen – New Susanville Court.** A Finance Letter (dated March 29, 2007) requests $1.5 million from the State Court Facilities Construction Fund for acquisition to build a new 3-court courthouse in the City of Susanville. The total cost to the state of this project is expected to be $35 million.

  This project will replace three county court facilities. Transfer of the historic Lassen County Courthouse was completed in July 2006. The transfer of the other two facilities has not been completed, but transfer is expected by June 2007.

Funding Needed to Complete Projects. If all of the projects listed above, go to construction in the next few years, an estimated $900 million will be needed to complete these projects. The State Court Facilities Construction Fund has revenues of about $125 million annually and will not be sufficient to fully fund construction of these projects without significant delays. The 2007 Five-Year Infrastructure plan identifies $151.4 million in trial court critical infrastructure deficiencies in the budget year and over $9.5 billion in projects over the next five years. The AOC has identified $2.5 billion of these projects as Immediate Need.

The Governor has proposed $2 billion in general obligation bonds for new and expanded court facilities. These bonds would help in fully funding the construction costs of the court projects discussed above.

Staff Comments. Staff finds that all court construction projects require approval by the State Public Works Board. The DOF has indicated to staff that it will not allow funds for preliminary plans or working drawings to be released until the site selection is confirmed. This process should safeguard against the premature expenditure of funds on preliminary plans and working drawings.

The Finance Letter (dated March 29, 2007) proposes budget bill language that would restrict the release of funds for acquisition until the county had transferred relevant court facilities to the state. Staff finds that this language (with some minor edits) will help to encourage the transfer of more county facilities to the state, including the negotiations regarding the county facility payments.

There are still considerable questions about what the state will do with the court facilities that transfer to the state from the counties. The AOC estimates that about 200 facilities will be vacated after all of the new facilities are built and existing facilities are transferred. Some of these facilities are leased space or modular buildings that can easily be vacated and some of these facilities will be leased back to the counties. However, in some cases, the courts may need to look at leasing the facility to other tenants and/or selling the facility. The courts currently do not have a formalized plan for dealing with the disposition of properties that transfer to the state. Staff finds that the disposition plans for each facility will vary widely, but more needs to be done to safeguard fiscal resources and ensure that the state can make the best use of these vacated facilities.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the Finance Letter to fund the Fresno Court renovation.
- Approve the Governor's budget proposal for working drawings and Finance Letter to re-appropriate funding for acquisition and preliminary plans for the new court buildings in Contra Costa, Plumas and Sierra, and Mono counties.
- Reject funding for the remainder of the projects listed above funded in the Governor's budget and Finance Letter (dated March 29, 2007).
- Approve amended budget bill language that requires relevant county court facilities be transferred to the state prior to the release of funds for acquisition for the construction of a new court facility.
- Approve placeholder trailer bill language that requires additional certainty about the disposition of the court facilities before they transfer to the state.
- Approve supplemental report language that requires the court to develop and submit disposition plans for all of the facilities transferred to the state. The reports should be submitted to the Legislature with the Governor's budget and should continue until all of the facilities are transferred to the state. The first report should also include recommendations on how the courts will deal with vacated court facilities that the counties do not want to lease. The courts should confer with the Department of General Services when developing these recommendations.

8120 Commission on Peace Officer Standards and Training

1. Tolerance Training

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, staff was directed to develop budget bill language, in conjunction with the LAO and DOF, to develop budget bill language to allow for other state law enforcement, including the staff of the California Department of Corrections and Rehabilitation to participate in the Tools for Tolerance training if funding is available.

Staff Comments. It has been indicated to staff that sometimes the Tools for Tolerance training sessions have empty slots that cannot be funded by POST personnel. If this is the case, staff finds that it would be reasonable to fill these empty slots with other state law enforcement, including staff of the California Department of Corrections and Rehabilitation. Staff finds that the Museum of Tolerance has developed a unique professional development program that could be useful for other professionals in state law enforcement.

Staff Recommendation. Staff recommends that the Subcommittee adopt revised budget bill language to allow for other state law enforcement to participate in the Tools for Tolerance training if funding is available.

0552 Office of the Inspector General

1. New Audit Functions

Previous Subcommittee Action. At the March 22 meeting of the Subcommittee, $1.8 million was approved for expanded audit activities by the OIG. Since then, the department has indicated that the proposal should be reduced by $51,000 to reflect salary savings for peace officer classifications that are a part of the budget proposal.

Staff Recommendation. Staff recommends that the Subcommittee reduce this proposal by $51,000.

2. Review of Candidates for Superintendent of Juvenile Correctional Facilities

Previous Subcommittee Action. At the March 22 meeting of the Subcommittee, $1 million was approved for the OIG to review candidates for appointment as superintendent of a juvenile correctional facility. Since then, the department has indicated that the proposal should be reduced by $30,000 to reflect salary savings for peace officer classifications that are a part of the budget proposal.

Staff Recommendation. Staff recommends that the Subcommittee reduce this proposal by $30,000.

0820 Department of Justice

1. Sexual Habitual Offender Program – DNA Analysis

Governor's Budget. The Governor's budget proposes to transfer $694,000 for support of the DNA analysis component of the Sexual Habitual Offender Program from the Sexual Habitual Offender Program (SHOP) Fund to the General Fund, because revenues to the special fund are insufficient to support all elements of the program.

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, the following information was requested on the Sexual Habitual Offender Program:

- List of all of the programs and activities currently supported by the SHOP Fund.
- Description of all programs at DOJ that gather and track data related to this population of sexual offenders.
- Information about how the DNA program currently supported by the SHOP Fund is coordinated with the DNA program established by Proposition 69.

Department Response. The DOJ indicates that there is $2.9 million estimated to be expended from the SHOP Fund in the current year. The majority of this funding ($2.1 million) supports components of the Criminal Justice Information System. The department indicates that these monies are used to support an assessment of CDCR records to determine if a paroling inmate is a Sexual Habitual Offender. If they are a Sexual Habitual Offender the DOJ profiles the offender using CDCR data and provides it to local law enforcement.

The remaining funding is used to support DNA databank functions related to quality assurance, verifications, and documentation of DNA hits in the DOJ's Cal-DNA database. The department indicates that these functions are distinct from the Proposition 69 functions, which involve receiving and logging new DNA samples. The department indicates that 70 percent of the DNA databank hits have been for sex crimes.

Staff Comments. Staff finds that the Sexual Habitual Offender Program was created well before recent legislation and initiatives that have radically changes the way we supervise convicted sex offenders. First, Megan's law now requires that certain sex offenders, including Sexual Habitual Offenders, register as sex offender. This information is available to local law enforcement and the public through a public Website. Furthermore, Jessica's Law and legislation enacted in 2006 requires that CDCR parole make significant changes to the way they supervise sex offenders, including GPS tracking of certain offenders for life. Furthermore, CDCR has implemented numerous other changes in its operations in recent years to increase the amount of data on parolees that is shared with local law enforcement. For example, the department is currently implementing an information technology system that enables CDCR parole to share information directly with local law enforcement. Furthermore, CDCR has implemented Parole and Corrections Teams (PACT Teams) around the state to further increase the communication between local law enforcement and CDCR. Given this, it seems like the workis not clear what added value is provided by DOJ'sStaff finds that the Sexual Habitual

Offender Program activities related to the Criminal Justice Information System are duplicative of other activities done by CDCR and by DOJ.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Reject the Governor's proposal to add additional General Fund monies to the Sexual Habitual Offender Program.
- Reduce funding for the Criminal Justice Information System to ensure that the Cal-DNA program is fully funded in the budget year.

2. Operations and Maintenance of Forensics Laboratories

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, a proposal to add $793,000 ($572,000 one-time) to the department's maintenance and repair budget for its forensic laboratories was held open pending additional information. The department has provided additional information on how these monies will be used. The majority of the funding will be used to fund fire suppression and alarm upgrades at seven of the regional forensic laboratories. The remainder of the money will be used to make various repairs to the following facilities: Central Valley, Riverside, Fresno, and Redding. The cost of the repairs is increased by over 42 percent to account for Department of General Services' fees, contingency, and general price escalation.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal to fund operations and maintenance of forensics laboratories.

3. California Witness Protection Program

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, the proposal to augment the California Witness Protection Program was held open. The Subcommittee requested that staff, LAO, and DOF look at ways to improve the efficiency and effectiveness of the delivery of witness protection services by looking at witness protection programs managed by the Office of Emergency Services.

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 the witness protection program managed by the Office of Emergency Services provides sufficiently different services than the program managed by DOJ. The Victim/Witness Assistance Program funds local centers that provide comprehensive assistance to victims and witnesses, including crisis intervention, emergency assistance, property return, and court escort. Whereas, the DOJ's program provides funding directly to local district attorney's to finance relocation and/or protection of witnesses and family members that have been threatened by individuals or criminal organizations.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the budget request to augment administration of this program by $223,000.
- Approve the trailer bill language proposed by the Governor that removes the cap on administrative costs for this program.
- Approve the budget request to augment grant funding by $500,000.

4. Two-Party Contracts

Previous Subcommittee Direction. At the March 1 hearing of the Subcommittee, the DOJ's request to implement a limited two-party contract process was held open. Information was also requested on what DOJ was doing to improve the transparency of its contracting process given the stories in the newspapers earlier this year that found that DOJ had incorrectly labeled 1,700 contracts as confidential and, therefore, shielded them from public view.

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.

Staff Comments. The DOJ indicates that it has taken steps to implement a remedial plan to address the mislabeling of contracts as confidential. The department has issued an Administrative Bulletin (dated March 7, 2007) that tightens the process of reviewing contracts for purposes of labeling them as confidential in the new State Contract and Procurement Registration System. The new system requires staff to provide a written explanation of why any information on contracts should be withheld and the recommendation must be approved by a supervisor with advice from lawyers when needed.

The DOJ indicates that there will continue to be some issues with some contracts in the State Contract and Procurement Registration System because many of DOJ's contracts may be confidential when they are entered into the database, but may become non-confidential later.

This is the case for many of DOJ's confidential contracts for expert witnesses that may be confidential during the early stages of litigation, but may become non-confidential when the identity of the expert is revealed in court proceedings.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal to allow DOJ to use a two-party contract process for up to $9.4 million from the Legal Services Revolving Fund.

5. Energy Litigation

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, additional information was requested from DOJ on the status of the *Williams Energy* settlement monies allocated to funding a program to retrofit schools and other public buildings with renewable energy and energy efficiency projects.

Department Response. The department indicates that the Governor's budget proposal would transfer $25 million in *Williams Energy* settlement monies from the Ratepayer Relief Fund to the State Energy Conservation Assistance Account so that the California Energy Commission could fund a solar retrofit program for schools and other public buildings. Another $8 million currently resides in the Litigation Deposit Fund and is also proposed to be transferred to the State Energy Conservation Assistance Account in the budget year. Another $13 million will transfer to the State Energy Conservation Assistance Account in future years after Williams pays the remainder of its settlement.

This transfer of these funds to be used for solar retrofit and energy efficiency projects on school and other public buildings is being considered by Senate Budget Subcommittee 2.

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.

Staff Recommendation. Staff recommends that the Subcommittee approve the Governor's budget proposal to continue to fund DOJ's litigation team related to the California energy crisis and its aftermath.

6. Construction Related Litigation

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, additional workload information was requested from DOJ on a request to add $549,000 from the Legal Services Revolving Fund to support 3.3 positions (two attorneys) to handle additional state construction related litigation.

Department Response. The DOJ indicates that it has not been adequately staffed to support various state agencies with construction litigation work and as a result has had to turn away construction–related litigation. For example, in the past, the DOJ turned away litigation related to the construction of Kern Valley State Prison and the Metropolitan Regional Transportation Center. The department anticipates additional work in this area given the significant amount of construction that is forthcoming funded by the bonds approved by the voters in November 2006. Furthermore, staff finds that legislation was recently passed to approve $7.6 billion for dozens of new prison construction projects.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget request to expand the DOJ's ability to handle construction-related litigation in-house.

7. Natural Resources and Environmental Protection Litigation

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, the following additional information was requested from DOJ:

- Information on how the $1 million General Fund, allocated in the 2006-07 Budget Act, has been allocated.
- Update on the status, timing, and costs of the defense of AB 1493 (Pavley).
- 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).
- Updated list of new natural resource and environmental protection related lawsuits the DOJ is currently pursuing.

Department Response. The DOJ indicates that, in the current year, it has entered into various legal efforts that seek to reduce greenhouse gas emissions, including cases in other states. Presently, the department is involved in nine lawsuits and regulatory proceedings that support the reduction of greenhouse gas emissions. The department indicates that the $1 million allocated in the 2006-07 Budget Act has helped to support these efforts.

The DOJ indicates that the 2002 legislation that seeks to reduce greenhouse gas emissions from vehicles manufactured in model year 2009 and later, AB 1493 (Pavley), is being challenged by the automakers in three federal court lawsuits. The main challenge was filed in U.S. District Court, Eastern District of California, Fresno. However, this court case was stayed in mid-January to await the U.S. Supreme Court decision on the authority of the Environmental Protection Agency under the Clean Air Act to regulate greenhouse gas emissions from vehicles. In early April 2007, the U.S. Supreme Court found that the Environmental Protection Agency did have the authority to regulate greenhouse gas emissions from vehicles under the Clean Air Act. Given this decision, the DOJ indicates that the court case should resume. The DOJ is also assisting the Vermont Attorney General's Office in a similar case filed by the automakers in Vermont. The other two lawsuits brought by the automakers are expected to be briefed and decided sometime later this calendar year. The DOJ expects appeals in these cases regardless of the decisions.

The DOJ indicates that it is involved in three lawsuits related to the Headwaters agreement. The DOJ is representing the Department of Forestry and Fire Protection and the Department of Fish and Game in its struggle to enforce various regulatory agreements entered into by the Pacific Lumber Company as part of the Headwaters agreement. This case is now at the Supreme Court, but because of bankruptcy filings by the Pacific Lumber Company the court has stayed this case. The DOJ is also actively seeking to move the venue of the Pacific Lumber Company's bankruptcy proceeding, which is currently in Texas. The DOJ is also defending the State Water Resources Control Board in a lawsuit by the Pacific Lumber Company challenging the water board's authority to regulate water quality impacts of timber harvesting. This case has just started in a Fresno Superior Court.

The DOJ indicates that it plans to pursue the three new natural resources and environmental protection lawsuits that follow:

- ***Pacific Merchant Shipping Association v. Witherspoon***. This lawsuit, in federal court, challenges the Air Resources Board's actions related to regulating air pollution from cargo, tanker, and large passenger ships that dock at California's ports. The DOJ will represent the Air Resources Board's Executive Officer.
- ***Natural Resources Defense Council v. Reclamation Board***. This lawsuit, in Sacramento Superior Court, is challenging the State Reclamation Board's approval of a fill permit for a large-scale luxury residential development called River Islands on Stewart Tract in the Delta. The DOJ will defend the California Reclamation Board.
- ***United States v. 127.60 Acres (Tijuana Fence)***. The U.S. government has declared a taking of lands in San Diego County to construct a new fence along the California-Mexico border. The purchase of the property was financed by the State Coastal Conservancy and the Department of Parks and Recreation. There have been no objections to the condemnation, but there is a dispute over the price the U.S. government should pay for this property. The DOJ will represent the Department of Parks and Recreation in this lawsuit.

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.

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

8. Division of Gambling Control – Technical Fund Shift

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, additional information was requested regarding the current reimbursement process at DOJ. The department has provided staff with additional information and has indicated that it currently uses its reimbursement item exclusively for reimbursements from the General Fund. Therefore, the DOJ believes that it will be more transparent to directly fund its tribal gaming activities directly from the Indian Gaming Special Distribution Fund.

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 Recommendation. Staff recommends that the Subcommittee approve the budget proposal to make a technical shift from reimbursements to the Indian Gaming Special Distribution Fund.

9. Consolidated Division of Law Enforcement

Finance Letter. A Finance Letter (dated March 29, 2007) requests the consolidation of the following three divisions:

- Division of Law Enforcement - $216.6 million
- Division of Gambling – $20.4 million
- Division of Firearms - $16.6 million

The DOJ indicates that this consolidation would allow the department to apply consistent policies and procedures within the department for law enforcement personnel. The department indicates that this consolidation will not impact the way the programs are scheduled in the budget, which allows for transparency on the funding for gambling and firearms.

Staff Recommendation. Staff recommends that the Subcommittee approve the Finance Letter proposal.

10. State Bond Counsel

Background. The voters approved $42.7 billion in bonds in the November 2006 election. Furthermore, the Legislature recently passed $7.4 billion in revenue bonds for the construction of new prison facilities.

Finance Letter. A Finance Letter (dated March 29, 2007) requests $1.1 million from the Legal Services Revolving Fund to support 6.3 new positions (four attorneys) that will provide state bond counsel and other public finance work for the increased number of upcoming bond transactions.

Staff Comments. Given the large increase in bond transactions anticipated, staff finds that these additional staff resources are warranted.

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

5525 California Department of Corrections and Rehabilitation

Health Care Issues

1. *Plata* Lawsuit Compliance

Background. 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.

Previous Funding for *Plata* Lawsuit Compliance. To date, the Legislature has provided approximately $299 million General Fund to implement efforts to improve the medical health care delivery system and comply with the *Plata* lawsuit.

In the 2006-07 Budget Act, the Legislature decided to appropriate $100 million in unallocated funds that would be expended as directed by the Legislature. The Joint Legislative Budget Committee is notified when the Receiver wishes to allocate these monies. To date, the Joint Legislative Budget Committee has received notifications to transfer $79 million from the unallocated funds set aside in the 2006-07 Budget Act. The figure below summarizes how the funding has been allocated in the current year.

***Plata* Litigation-Driven Expenditures** **Expenditures Directed by the Receiver** **2006-07** *(Dollars in Millions)*	**2006-07**
Court order to increase medical staff salaries, except for doctors.	$24.7
Provide Receiver with enough funding to fund his operating budget for six months.	18.6
Establish 300 LVN positions.	12.3
Software and services to implement the Health Care Contracts Document Management system.	5.7
Receiver's operating budget.	6.3
Establish 41 position at San Quentin for the Receiver's project at San Quentin.	3.0
Establish 90 leadership and tracking health care positions.	2.9
Establish 50 positions at Avenal State Prison	1.5
Establish 35 medical positions at Deuel Vocational Institute	1.2
Establish 16 RN positions at the Correctional Training Facility.	1.2
Establish 20.3 positions at Avenal State Prison and 17.2 positions at Sierra Conservation Center	0.9
Funding to the Office of Facilities Management for EIR on San Quentin Project	0.5
Establish various other positions at San Quentin.	0.2
Establish two nurse positions at Corcoran.	0.1
Total	**$79.0**

Current Year Funding. The Governor's budget includes allocation of an additional $50 million in unallocated funds to be expended upon direction by the Receiver in the current year. This funding is in addition to the $100 million in unallocated funds allocated in the 2006-07 Budget Act.

The budget also includes $1.3 million General Fund to provide commensurate salary increases for medical classifications at Division of Juvenile Justice institutions for the current year.

The funding for the Division of Juvenile Justice salary enhancements will likely be included in a Supplemental Appropriations Bill.

Governor's Budget. The Governor's budget proposal includes an additional $150 million in unallocated funds to be expended upon direction by the Receiver in 2007-08.

In addition, the budget includes the full-year costs of some of the expenditures directed in the current year by the Receiver (see list above). The full-year costs in 2007-08 of expenditures funded in the current year, through January 2007, are $54.6 million General Fund. This includes about $29.6 million to cover the full year costs of the salary increases for various CDCR medical classifications.

The budget proposal does not include additional full-year costs for current year expenditures starting in February 2007.

The budget also includes full-year costs associated with the Division of Juvenile Justice salary enhancements, which is $1.5 million in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee take the following action:

- Approve $1.5 million for Division of Juvenile Justice salary increases for medical classifications.

2. *Coleman* Lawsuit Compliance

Background. 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.

Previous Funding for *Coleman* Lawsuit Compliance. To date, the Legislature has provided approximately $158 million General Fund to implement efforts to strengthen the department's mental health services and comply with the *Coleman* lawsuit.

Current Year Funding. The Governor's Budget proposal includes $24.1 million General Fund to implement various court-ordered actions, immediately, in the current year. These actions include the following:

- **Salary Enhancements.** $19.2 million General Fund to support salary enhancements for certain mental health classifications. This includes commensurate pay increases for all mental health classifications in the adult institutions, juvenile institutions, and parole operations. Classifications impacted include the following:
  - Chief Psychiatrist
  - Senior Psychiatrist
  - Staff Psychiatrist
  - Chief Psychologist
  - Senior Psychologist
  - Clinical Psychologist
  - Supervising Psychiatric Social Worker
  - Clinical Social Worker
  - Senior Psychiatric Technician
  - Psychiatric Technician
  - Recreation Therapist

  These pay increases impacted 1,535 positions in the adult institutions, 71 positions in the juvenile institutions, and 282 positions in parole operations.

- **Reception Center Enhanced Outpatient Program Services.** $2.8 million General Fund to support partial year funding for 67.7 positions in the current year to deliver treatment to Enhanced Outpatient Program inmates (inmates with serious mental illnesses, such as Schizophrenia) at reception centers.

- **Administrative Segregation Intake Cell Conversions.** $2 million General Fund to support four positions to oversee the retrofit of the vents in 340 administrative segregation cells in the max-security administrative segregation units (also called stand-alone administrative segregation units). The funding will also be used to design the conversion of an additional 340 cells in regular administrative segregation units to administrative segregation unit intake cells that include, new concrete bed slabs, the elimination of all in-cell protrusions, replacement of light fixtures, and modification of cell doors to increase visibility.

  The department indicates that it has redirected $110,000 in special repair funds in the current year to replace the vent screens in 66 cells in max-security administrative segregation units.

The funding allocations listed above will likely be appropriated in a Supplemental Appropriations Bill in the upcoming months.

In addition, after the budget was enacted in 2006, the Legislature enacted supplemental legislation (SB 1134, Budget) to provide $35.5 million to partially fund 551.8 new positions established to fund the Revised Program Guide as ordered by the court in the *Coleman* lawsuit.

Governor's Budget. The Governor's budget proposal includes $112.3 million General Fund to support various court-ordered actions to comply with the *Coleman* lawsuit in the budget year. These proposals include the following:

- **Salary Enhancements.** $50.6 million General Fund for the full-year costs to support salary enhancements for certain mental health classifications (listed above).

- **Reception Center Enhanced Outpatient Program Services.** $5.1 million General Fund to support the full-year costs to support 67.7 positions to deliver treatment to Enhanced Outpatient Program inmates at reception centers.

- **Administrative Segregation Intake Cell Conversions.** $12.8 million General Fund to support the construction associated with converting 340 cells in regular administrative segregation units to administrative segregation intake cells. The required modifications are listed above under current year funding for this project.

- **Revised Program Guide.** $40.2 million General Fund funds the full-year costs associated with the 551.8 positions funded in SB 1134. This is a $4.8 million increase above what was allocated in SB 1134.

Savings From Vacancies Likely. The department has historically had a huge problem recruiting qualified mental health staff. The recent pay raises may help to improve recruitment. However, there is generally a shortage of mental health staff statewide. Staff finds that the department continues to have significant vacancies in mental health staff and will likely have some savings in the current year due to the number of vacant positions.

Available Treatment Space at Reception Centers Unknown. The department is in the process of implementing treatment for Enhanced Outpatient Program inmates at Reception Centers. However, it is unclear to staff that there is available space at reception centers for treatment. This is especially a problem at the older reception center institutions (San Quentin State Prison) where there is not a lot of viable space for programming. Furthermore, there is also generally a lack of office space available for the additional clinical staff the department needs to hire to implement these new programs.

Max-Security Administrative Segregation Units. The court in the *Coleman* case has ordered that no inmates in the Mental Health Delivery System (Enhanced Outpatient Program and Correctional Clinical Case Management System) can be held in the new max-security administrative segregation units (also called stand-alone administrative segregation units). The Subcommittee learned, at its April 12 hearing, that the department's in-fill bed plan includes 2,250 additional beds in new max-security administrative segregation units. Staff finds that the construction of these beds does not provide the department with a lot of flexibility since only some inmates can be placed in these units because of the cell design. This means that at institutions that have the max-security administrative segregation units they will have to maintain an alternative administrative segregation unit for the inmates in the Mental Health Delivery System.

Staff finds that before the department builds additional administrative segregation units it may want to modify its design so that they can use these units for the department's entire population, when appropriate.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on the savings in the current year from staff vacancies.

- Request that the department report, by May Revision, with a strategy to modify the new stand-alone administrative segregation units to be compliant with the Coleman court.
- Approve funding for the salary enhancements.
- Approve funding for the Reception Center Enhanced Outpatient Program.
- Approve funding for the administrative segregation unit intake cell conversions.

3. *Perez* Lawsuit Compliance

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.

Previous Funding for *Perez* Lawsuit Compliance. To date, the Legislature has provided approximately $35.4 million General Fund to implement efforts to strengthen the department's dental services and comply with the *Perez* lawsuit.

Current Year Funding. The Governor's budget proposal includes $18.8 million General Fund to implement salary increases for dental classifications. This includes commensurate pay increases for all dental classifications in the adult institutions and juvenile institutions for the following classifications:

- Dental Assistant
- Dental Hygienist
- Dentist
- Oral Surgeon
- Supervising Dental Assistant
- Supervising Dentist
- Chief Dentist
- Regional Dental Director
- Statewide Dental Director

These pay increases will impact 719 positions at adult institutions and 28 positions in the juvenile institutions in the current year.

Governor's Budget. The Governor's budget proposal includes $78.7 million General Fund to support the following two actions to comply with the *Perez* lawsuit in the budget year. The proposals include the following:

- **Salary Enhancements.** $57.8 million General Fund ($2.1 million is for pay parity for dental classifications at the Division of Juvenile Justice) to provide increased salaries for selected dental classifications (see above).
- **New Dental Staffing Ratios.** $20.9 million General Fund for partial funding to support 231 new positions to meet the new lower inmate to dentist ratios (515:1). This funding will support 77 dental staff and 102 custody staff.

LAO Recommendation. The LAO recommends that the Subcommittee withhold action on the salary enhancements for the dental classifications pending a court order or an amended bargaining unit agreement.

Staff received a letter (dated May 4, 2007) from the Department of Personnel Administration indicating that an addendum to a memorandum of understanding was agreed to by DPA and Bargaining Unit 16 that represents the dental classifications. This addendum would implement the raises detailed in the Governor's budget proposal.

Savings From Vacancies Likely. Staff finds that the department currently has a 57 percent vacancy rate at the first 14 institutions where it has implemented the reduced inmate to dentist staffing ratios. The department has a 40 percent vacancy rate for all of the other institutions. Staff finds that a salary increase would help to fill these vacancies. Staff finds that the department will likely have some savings in the current year due to the number of vacant dental positions.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on savings in the current year related to salary savings.
- Hold open the salary enhancement proposal pending review of addendum to a memorandum of understanding submitted to the Legislature by the Department of Personnel Administration.
- Approve funding to reduce the inmate to dentist staffing ratio.

Other Issues

1. Classification Services Unit Training

Background. The classification process within CDCR consists of an analysis and review of individual case factors to determine an inmate's placement score, custody level, and work/privilege group. These case factors determine the housing and rehabilitative program eligibility of each inmate.

Governor's Budget. The Governor's budget proposal includes $800,000 in General Fund to address immediate training needs of correctional counselors and to develop a comprehensive training plan for these classification staff to ensure a greater degree of safety and security.

Staff Comments. Staff finds that classification is a critical step in the process and directly impacts the department's ability to match up inmates with safe living placements and appropriate programming opportunities. Staff finds that, as part of the reducing recidivism plan, the department is planning to implement a pilot project to use the COMPAS assessment to identify risk level and program needs at four reception centers. Staff finds that classification staff will need to be trained on how to use this new information within their existing process.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Hold this issue open.
- Request that the department report at May Revision with a coordinated report on what validations are needed of the COMPAS tool, the timing of those validations, and how they will be utilized by both institutions and parole.

2. Redirection of Positions to the Office of Inspector General

Previous Subcommittee Action. At a March 1 hearing, this Subcommittee approved $1.8 million in General Fund money to augment the Inspector General's auditing resources.

Governor's Budget. The Governor's budget proposes to redirect 10 office technician positions and $1.8 million General Fund to support expanded auditing in the Office of the Inspector General. These positions and funding were taken from various program areas throughout the department.

Staff Comments. The administration has not provided information to justify the elimination of these office technician positions. However, the department reports that it currently has a 20 percent vacancy rate in its office technician classification. This equates to approximately 313 vacant positions and $17 million in salary savings. It is unclear to staff whether the department is using this salary savings to fund other budget items in the current year.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Eliminate 10 office technician positions and reduce the department's budget by $1.8 million in the budget year.
- Request that the department report on how it is using the salary savings from vacant office technician positions in the current year.

3. Workers' Compensation Staffing

Background. In the 2005-06 Budget Act, the department was provided with 29 positions to coordinate the "Return to Work" program at the department. These positions were created on a limited-term basis to address one-time workload associated with reducing the backlog of Workers' Compensation claims.

Governor's Budget. The Governor's budget includes a proposal to convert 29 limited-term positions to permanent positions. The department is not requesting additional funding for these positions.

Staff Comments. Staff finds that, with the additional positions allocated to the department in the 2005-06 Budget Act, it has been able to employ active claims management strategies to contain workers' compensation expenditures. The department has reviewed a large portion of the low-activity claims and is taking actions to close these claims. In 2005-06, the department had over $188 million in workers' compensation claims, which was over 40 percent of the total for all state agencies.

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

4. New Undersecretary for Program Support

Background. The Subcommittee heard a significant amount of testimony at its March 15 hearing regarding the deficiencies in its core business services. The department currently has one undersecretary that oversees all programs and functions in the department.

Finance Letter. A Finance Letter (dated March 29, 2007) requests $316,000 to fund a new undersecretary position of program support and two support positions.

Staff Comments. Staff finds that CDCR is one of the largest departments in state government with 65,000 authorized positions and a budget of over $10 billion General Fund. Staff finds that an additional undersecretary position is justified to help manage a department of this size.

Staff Recommendation. Staff recommends that the Subcommittee approve the Finance Letter proposal to establish a new undersecretary.

5. Solid Cell Fronts

Previous Subcommittee Direction. At the April 12 meeting of the Subcommittee, the following budget proposals were held open:

- **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.

Finance Letter. A Finance Letter (dated May 1, 2007) requests the following changes to the projects listed above:

- **California Institution for Men.** The Finance Letter proposes to increase funding by $675,000 to account for additional costs identified with this project, including replacing the smoke detector system and adding additional observation windows. This will bring the total costs of these modifications to over $37,000 per cell.

- **California Medical Facility.** The Finance Letter proposes to eliminate new funding ($4.6 million) for this project in the budget year because of delays and overcrowding.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the budget and Finance Letters (dated March 29, 2007 and May 1, 2007) for solid cell fronts in the budget year.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Part A

Wednesday, May 9, 2007
9:30 a.m. - Room 113
(Consultant: Keely Martin Bosler)

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.

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.

1. Legal Counsel

Finance Letter. A Finance Letter (dated March 29, 2007) requests one position and $170,200 to support in-house legal counsel. The board proposes to reduce its contract with the Attorney General by a like amount making this proposal cost neutral.

Staff Comments. The board indicates that by retaining in-house counsel it will be able to develop legal expertise specific to the horse racing industry, which will enable the board to achieve more efficient resolutions and settlements of enforcement issues.

Staff Recommendation. Staff recommends that the Subcommittee approve this Finance Letter proposal.

0250 Judicial Branch

Trial Courts

1. Equal Access Fund Program – Legal Aid

Background. The Equal Access Fund Program provides funds for legal services to assist low-income individuals in civil matters. 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.

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 and other self-help programs.

Governor's Budget and Finance Letter. The Governor's budget includes about $16 million in funding from the Equal Access Fund (this is funding in the base budget). A Finance Letter (dated March 29, 2007) requests that the Legislature adopt budget bill language to allow the Department of Finance to augment the funds available for expenditure in the budget year if additional revenues are available after notification to the Joint Legislative Budget Committee.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget bill language for the Equal Access Fund.

2. Access to Justice Pilot Program

Previous Subcommittee Direction. At the March 1 meeting of the Subcommittee, the budget proposal to add $5 million to fund a pilot project in three Trial Courts to identify and provide legal representation to unrepresented litigants on civil matters was held open.

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

Staff Comments. Staff finds that the defense of unrepresented individuals in criminal court is a local funding responsibility. Therefore, it is unclear why the state would fund a similar type program for civil litigants. It is also unclear what type of civil cases will be targeted with this funding. For example, will these monies target family court matters or other matters? Furthermore, staff concurs with the LAO that funding legal services for all unrepresented litigants in civil cases could lead to significant new costs, which would exacerbate the current state budget operating shortfall.

Staff Recommendation. Staff recommends that the Subcommittee reject the pilot project.

Judicial Council/Administrative Office of the Courts

1. Federal Grants—Informational Item

Previous Subcommittee Direction. At the March 1 meeting of the Subcommittee, $1 million in federal funds was approved for three projects; (1) child data collection, (2) judge and attorney training, and (3) study of elder courts. The Subcommittee also requested additional information on the total amount of the grants and the timeline for the products or projects that are being funded by these monies.

Detail on Federal Grants. The Administrative Office of the Courts (AOC) indicates that approximately $885,000 has been awarded for a Child Data Collection project that is expected to last through September 2010. This grant is intended to help the courts improve their data analysis and collection in child abuse and neglect and foster care cases. It is intended to help the courts jointly plan with other relevant agencies for the collection and sharing of data related to child welfare.

The AOC indicates that approximately $904,000 has been awarded for various Judge and Attorney Training and this grant is expected to last through September 2010. This funding is used to support numerous training efforts for judicial officers, attorneys, Court Appointed Special Advocates, court staff, foster parents, foster youth, tribal representatives, and other individuals involved in the dependency court system.

The AOC indicates that approximately $251,000 has been awarded for a Study of Elder Courts projects. This grant is expected to continue until the end of November 2007 and will fund a stakeholder focus group brainstorming better practices and providing recommended models for improvement.

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 an $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**

Previous Subcommittee Direction. This issue was held open at the March 1 meeting of the Subcommittee pending review of an annual report submitted by the AOC on the update of the California Case Management System and the Court Accounting and Reporting System (now referred to as the Phoenix Statewide Financial System).

California Case Management System Update. The AOC has divided the California Case Management System into the following three phases: (1) criminal and traffic module; (2) civil, probate, small claims, and mental health; and (3) a case unification phase to integrate the family law and juvenile case types. The AOC indicates that it has selected vendors to implement the first two phases and has started to implement these modules in some counties. The AOC indicates that it has already implemented the new criminal and traffic module in Fresno County and the court is working with six other counties to implement this module over the next two years. Furthermore, the AOC indicates that it working with five counties to deployed the civil, probate, small claims, and mental health modules. The AOC indicates that it has already deployed the small claims module in San Diego and Sacramento Counties. The AOC is still developing the third phase of the California Case Management System and is working with the Oversight Committee to design the system. The AOC plans to fully implementing the California Case Management System by 2011-12. The AOC indicates that $271 million has been allocated to implement this project, including $81.5 million to support the project in the budget year.

Phoenix Financial System Update. The AOC is in the process of implementing a statewide financial system for the judicial branch referred to as the Phoenix Financial System. Implementation of this system includes five steps: (1) creation of a trial court financial policies and procedures manual; (2) establishment of an internal audit unit; (3) installation of a standardized statewide financial system; (4) establishment of the trial court accounting and financials services center; and (5) establishment of a centralized treasury. Before the AOC implements the new financial system it conducts an audit of the court financial operations to ensure that the data being entered into the system is uniform across jurisdictions. The AOC has implemented the new Phoenix Financial System in 45 counties to date. The AOC plans to implementing this system in the remaining 13 counties by 2008-09. The AOC indicates that $88.4 million has been allocated to implement this project, including $27.7 million to support the project in the budget year.

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

Courts of Appeal

1. Information Technology Upgrades

Previous Subcommittee Direction. At the March 1 hearing of the Subcommittee, a budget proposal to augment by $1.1 million the base budget of the Courts of Appeal for ongoing information technology upgrades was held open. The LAO had requested additional information and justification from the courts regarding the assumption used to build the information technology upgrade schedule.

LAO Review. The LAO finds that the $1.1 million assumes a three-year replacement schedule for key information technology equipment. Furthermore, the LAO finds that a five-year replacement schedule is more inline with information technology equipment replacement schedules by other entities in state government. The LAO finds that $660,000 is all that is needed to ensure key information technology equipment is replaced on a five-year schedule.

Staff Recommendation. Staff recommends that the Subcommittee approve $660,000 to fund this request.

2. Equipment for New Courthouse - Fourth Appellate District

Previous Subcommittee Action. At the March 1 meeting of the Subcommittee, a budget proposal to fund equipment for the new Fourth Appellate District, Division 3 (Orange County) was approved. The AOC has determined that construction of this facility will not be completed in the budget year since the construction start date has been delayed from March 2007 to September 2007. Staff understands that the AOC has withdrawn this proposal because the non-capital equipment will not be needed in the budget year.

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 deny this budget proposal.

3. Court Appointed Counsel Program

Previous Subcommittee Direction. At the March 1 meeting of the Subcommittee, the Governor's budget proposal to provide $1.6 million General Fund to fully fund the Court Appointed Counsel Program was held open.

Staff Comments. Staff finds that last year the AOC was directed to complete a market rate study to determine competitive reimbursement rates for court appointed counsel. The AOC has not completed this study, but staff understands that it has recently entered into a contract with a consultant to complete the study.

Furthermore, despite recent increases in the rate paid private attorneys that are in the pool for the Court Appointed Counsel Program, these attorneys continue to be paid less than what they were paid in 1989 if you adjust these rates for inflation. These low rates make it difficult to recruit qualified legal staff to take these cases. Furthermore, staff finds that over half of the attorneys in the pool are close to retirement age, which makes it critical to take steps 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.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the $1.6 million budget proposal to fully fund the Court Appointed Counsel Program.
- Approve a new $5/hour increase to the rates paid attorneys in the Court Appointed Counsel Program (total costs of this action are estimated at about $1.5 million).

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

1. Appellate Courts Capital Outlay

Finance Letter. A Finance Letter (dated May 1, 2007) requests $3.1 million from lease revenue bonds for the construction of a new courthouse for the Court of Appeal, Fourth Appellate District, Division 3 (Orange County). The additional funding is needed to cover increased costs attributed to general escalations in the construction market. The funding provided in the 2006-07 Budget Act was based on 2005 estimates and was only inflated to June 2005. Construction on this project is expected to commence September 2007. The total cost of the project is now estimated to be $25.5 million.

2007-08 Five-Year Infrastructure Plan. The 2007 Five-Year Infrastructure Plan identifies $26.4 million in appellate court critical deficiencies in the budget year and over $117 million in projects over the next five years. The budget proposal does not include funding for new court facilities in the Fourth (San Diego) and Sixth (San Jose) Appellate Districts to replace leased space.

Staff Recommendation. Staff recommends that the Subcommittee approve the Finance Letter proposal.

2. Trial Courts Facilities Transfers and Capital Outlay

Previous Subcommittee Direction. At the March 1 hearing of this Subcommittee, the Governor's proposals to start the process for constructing new court facilities were held open. The Subcommittee also requested the following:

- 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.
- 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.
- Staff, the LAO, the AOC, and DOF work together to determine a forum for evaluating the best use of vacated court buildings.

Also at this meeting, the Subcommittee learned that the majority of court buildings (in the hundreds) would not be transferred to the state by the statutory deadline of July 1, 2007.

Status of Trial Court Facilities Transfers. The AOC reports that, as of April 26, 2007, 41 county facilities have been transferred to the state. Another 14 leased facilities have been "consolidated" and are no longer needed to support court operations. The majority of these transfers are a "transfer of responsibility" and do not include a transfer of title to the building. There are still hundreds of court facilities that need to be transferred to the state and will likely not make the statutory deadline.

Governor's Budget and Finance Letters. All of the projects listed above are not proposed for funding in the Governor's budget. Of the totals listed above, the administration has proposed $35.9 million in the Governor's budget and two Finance Letters (dated March 29, 2007 and May 1, 2007) from the Trial Court Facilities Construction Fund to support the first phases of construction of new trial court facilities. The Governor's budget contains $19.5 million and the March 29, 2007 Finance Letter requests $16.4 million. No General Fund monies are proposed for new court facilities in the budget year.

The Finance Letter also proposes budget bill language to require each county to transfer court facilities to the state before funds are released to acquire land to build new court facilities.

The Finance Letter (dated May 1, 2007) requests the re-appropriation of funding for ***working drawings and construction*** of the following project:

- **Fresno - Sisk Federal Courthouse Renovation.** The Finance Letter (dated May 1, 2007) requests the re-appropriation of $57.9 million in Trail Court Facilities Construction Fund monies appropriated in 2006. The AOC indicates that the site acquisition has been delayed because several federal agencies have not vacated the building and additional legal work is required to complete the conveyance of the site from the county to the state. The total cost of this project is expected to be $61.3 million.

The Governor's budget proposes funding ***working drawings*** for the following projects and a Finance Letter (date May 1, 2007) also requests re-appropriation of funding for ***acquisition and preliminary plans*** for these projects.

- **Contra Costa - New East 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.

  There have been some disagreements about the site for the new courthouse and as a result the site acquisition is estimated to be delayed until spring of 2008. A Finance Letter (dated May 1, 2007) requests re-appropriation of $1.6 million of the funding provided for acquisition and preliminary plans in the current year due to these delays. Approximately $9.5 million has been appropriated to date for acquisition and preliminary plans related to this project. The total cost of this project is expected to be $60.9 million.

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

- **Plumas and Sierra - 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.

  There have been delays in the site acquisition due to unforeseen site condition requirements and additional time required to complete the necessary CEQA documentation. A Finance Letter (dated May 1, 2007) requests re-appropriation of $594,000 of the funding provided for acquisition and preliminary plans in the current year due to these delays. Approximately $706,000 has been appropriated to date for acquisition and preliminary plans related to this project. The total cost of this project is expected to be $6 million.

  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.

- **Mono - 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 acquisition of the court site has been delayed in order for the current owner, the U.S. Forest Service, to complete environmental studies, appraisals, and surveys. A Finance Letter (dated May 1, 2007) requests re-appropriation of $1.7 million of the funding provided for acquisition and preliminary plans in the current year due to delays.

Approximately $2 million has been appropriated to date for acquisition and preliminary plans related to this project. The total cost of this project is expected to be $15.1 million.

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 Governor's budget and a Finance Letter (dated March 29, 2007) propose funding the ***acquisition*** phase of the following projects. All of these projects are in the AOC's Immediate Need priority group.

- **Madera - 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. The total cost of this project is expected to be $94.7 million.

  This project will replace the existing Madera courthouse and Family Court Services leased facility. Combined, these two facilities have seven courtrooms. These two facilities were transferred to the state on April 30 and May 1.

- **San Bernardino - 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. The total cost to the state of this project is expected to be $303.4 million.

  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 yet been transferred to the state, but are expected to be transferred by June 29, 2007.

- **San Joaquin - 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.

  A Finance Letter (dated March 29, 2007) requests an additional $3.2 million from the State Court Facilities Construction Fund to augment the funding available for acquisition. The increase is due to the need to acquire additional parcels to provide security setbacks and parking. One additional courtroom has also been added to the project making it a 30-court courthouse project. The total cost to the state for this project is expected to be $231.7 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 May 10, 2007.

- **Riverside – New 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. The total cost of this project is expected to be $56 million.

  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.

- **Tulare – New Porterville Court.** A Finance Letter (dated March 29, 2007) requests $4.4 million from the State Court Facilities Construction Fund for acquisition to build a new 9-court courthouse in the City of Porterville. The total cost of this project is expected to be $81 million.

  This project will replace two court facilities with five courtrooms. These facilities have not been transferred to the state, but transfer is expected by May 30, 2007.

- **San Benito – New Hollister Court.** A Finance Letter (dated March 29, 2007) requests $541,000 from the State Court Facilities Construction Fund for acquisition to build a new

3-court courthouse in the City of Hollister. The AOC indicates that both the city and county have passed resolutions expressing the commitment to donate land worth about $5.5 million to assist in the construction of the facility. The total cost to the state of this project is expected to be $5.5 million.

This project will replace the court facilities that are currently within the Civic Center Building in the City of Hollister. This facility has not been transferred to the state, but transfer is expected by June 2007.

- **Calaveras – New San Andreas Court.** A Finance Letter (dated March 29, 2007) requests $845,000 from the State Court Facilities Construction Fund for acquisition to build a new 4-court courthouse in the City of San Andreas. The total cost to the state of this project is expected to be $39.6 million.

  This project will replace two court facilities (one is a leased modular building). The AOC indicates that the County has written a letter expressing their commitment to provide land worth $316,000 for this project to be applied to the buy-out of the court-occupied space in an existing county facility. The two court facilities have not been transferred to the state, but transfer is expected by June 2007.

- **Lassen – New Susanville Court.** A Finance Letter (dated March 29, 2007) requests $1.5 million from the State Court Facilities Construction Fund for acquisition to build a new 3-court courthouse in the City of Susanville. The total cost to the state of this project is expected to be $35 million.

  This project will replace three county court facilities. Transfer of the historic Lassen County Courthouse was completed in July 2006. The transfer of the other two facilities has not been completed, but transfer is expected by June 2007.

Funding Needed to Complete Projects. If all of the projects listed above, go to construction in the next few years, an estimated $900 million will be needed to complete these projects. The State Court Facilities Construction Fund has revenues of about $125 million annually and will not be sufficient to fully fund construction of these projects without significant delays. The 2007 Five-Year Infrastructure plan identifies $151.4 million in trial court critical infrastructure deficiencies in the budget year and over $9.5 billion in projects over the next five years. The AOC has identified $2.5 billion of these projects as Immediate Need.

The Governor has proposed $2 billion in general obligation bonds for new and expanded court facilities. These bonds would help in fully funding the construction costs of the court projects discussed above.

Staff Comments. Staff finds that all court construction projects require approval by the State Public Works Board. The DOF has indicated to staff that it will not allow funds for preliminary plans or working drawings to be released until the site selection is confirmed. This process should safeguard against the premature expenditure of funds on preliminary plans and working drawings.

The Finance Letter (dated March 29, 2007) proposes budget bill language that would restrict the release of funds for acquisition until the county had transferred relevant court facilities to the state. Staff finds that this language (with some minor edits) will help to encourage the transfer of more county facilities to the state, including the negotiations regarding the county facility payments.

There are still considerable questions about what the state will do with the court facilities that transfer to the state from the counties. The AOC estimates that about 200 facilities will be vacated after all of the new facilities are built and existing facilities are transferred. Some of these facilities are leased space or modular buildings that can easily be vacated and some of these facilities will be leased back to the counties. However, in some cases, the courts may need to look at leasing the facility to other tenants and/or selling the facility. The courts currently do not have a formalized plan for dealing with the disposition of properties that transfer to the state. Staff finds that the disposition plans for each facility will vary widely, but more needs to be done to safeguard fiscal resources and ensure that the state can make the best use of these vacated facilities.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the Finance Letter to fund the Fresno Court renovation.
- Approve the Governor's budget proposal for working drawings and Finance Letter to re-appropriate funding for acquisition and preliminary plans for the new court buildings in Contra Costa, Plumas and Sierra, and Mono counties.
- Reject funding for the remainder of the projects listed above funded in the Governor's budget and Finance Letter (dated March 29, 2007).
- Approve amended budget bill language that requires relevant county court facilities be transferred to the state prior to the release of funds for acquisition for the construction of a new court facility.
- Approve placeholder trailer bill language that requires additional certainty about the disposition of the court facilities before they transfer to the state.
- Approve supplemental report language that requires the court to develop and submit disposition plans for all of the facilities transferred to the state. The reports should be submitted to the Legislature with the Governor's budget and should continue until all of the facilities are transferred to the state. The first report should also include recommendations on how the courts will deal with vacated court facilities that the counties do not want to lease. The courts should confer with the Department of General Services when developing these recommendations.

8120 Commission on Peace Officer Standards and Training

1. Tolerance Training

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, staff was directed to develop budget bill language, in conjunction with the LAO and DOF, to develop budget bill language to allow for other state law enforcement, including the staff of the California Department of Corrections and Rehabilitation to participate in the Tools for Tolerance training if funding is available.

Staff Comments. It has been indicated to staff that sometimes the Tools for Tolerance training sessions have empty slots that cannot be funded by POST personnel. If this is the case, staff finds that it would be reasonable to fill these empty slots with other state law enforcement, including staff of the California Department of Corrections and Rehabilitation. Staff finds that the Museum of Tolerance has developed a unique professional development program that could be useful for other professionals in state law enforcement.

Staff Recommendation. Staff recommends that the Subcommittee adopt revised budget bill language to allow for other state law enforcement to participate in the Tools for Tolerance training if funding is available.

0552 Office of the Inspector General

1. New Audit Functions

Previous Subcommittee Action. At the March 22 meeting of the Subcommittee, $1.8 million was approved for expanded audit activities by the OIG. Since then, the department has indicated that the proposal should be reduced by $51,000 to reflect salary savings for peace officer classifications that are a part of the budget proposal.

Staff Recommendation. Staff recommends that the Subcommittee reduce this proposal by $51,000.

2. Review of Candidates for Superintendent of Juvenile Correctional Facilities

Previous Subcommittee Action. At the March 22 meeting of the Subcommittee, $1 million was approved for the OIG to review candidates for appointment as superintendent of a juvenile correctional facility. Since then, the department has indicated that the proposal should be reduced by $30,000 to reflect salary savings for peace officer classifications that are a part of the budget proposal.

Staff Recommendation. Staff recommends that the Subcommittee reduce this proposal by $30,000.

0820 Department of Justice

1. Sexual Habitual Offender Program – DNA Analysis

Governor's Budget. The Governor's budget proposes to transfer $694,000 for support of the DNA analysis component of the Sexual Habitual Offender Program from the Sexual Habitual Offender Program (SHOP) Fund to the General Fund, because revenues to the special fund are insufficient to support all elements of the program.

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, the following information was requested on the Sexual Habitual Offender Program:

- List of all of the programs and activities currently supported by the SHOP Fund.
- Description of all programs at DOJ that gather and track data related to this population of sexual offenders.
- Information about how the DNA program currently supported by the SHOP Fund is coordinated with the DNA program established by Proposition 69.

Department Response. The DOJ indicates that there is $2.9 million estimated to be expended from the SHOP Fund in the current year. The majority of this funding ($2.1 million) supports components of the Criminal Justice Information System. The department indicates that these monies are used to support an assessment of CDCR records to determine if a paroling inmate is a Sexual Habitual Offender. If they are a Sexual Habitual Offender the DOJ profiles the offender using CDCR data and provides it to local law enforcement.

The remaining funding is used to support DNA databank functions related to quality assurance, verifications, and documentation of DNA hits in the DOJ's Cal-DNA database. The department indicates that these functions are distinct from the Proposition 69 functions, which involve receiving and logging new DNA samples. The department indicates that 70 percent of the DNA databank hits have been for sex crimes.

Staff Comments. Staff finds that the Sexual Habitual Offender Program was created well before recent legislation and initiatives that have radically changes the way we supervise convicted sex offenders. First, Megan's law now requires that certain sex offenders, including Sexual Habitual Offenders, register as sex offender. This information is available to local law enforcement and the public through a public Website. Furthermore, Jessica's Law and legislation enacted in 2006 requires that CDCR parole make significant changes to the way they supervise sex offenders, including GPS tracking of certain offenders for life. Furthermore, CDCR has implemented numerous other changes in its operations in recent years to increase the amount of data on parolees that is shared with local law enforcement. For example, the department is currently implementing an information technology system that enables CDCR parole to share information directly with local law enforcement. Furthermore, CDCR has implemented Parole and Corrections Teams (PACT Teams) around the state to further increase the communication between local law enforcement and CDCR. Given this, it seems like the workis not clear what added value is provided by DOJ'sStaff finds that the Sexual Habitual

Offender Program activities related to the Criminal Justice Information System are duplicative of other activities done by CDCR and by DOJ.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Reject the Governor's proposal to add additional General Fund monies to the Sexual Habitual Offender Program.
- Reduce funding for the Criminal Justice Information System to ensure that the Cal-DNA program is fully funded in the budget year.

2. Operations and Maintenance of Forensics Laboratories

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, a proposal to add $793,000 ($572,000 one-time) to the department's maintenance and repair budget for its forensic laboratories was held open pending additional information. The department has provided additional information on how these monies will be used. The majority of the funding will be used to fund fire suppression and alarm upgrades at seven of the regional forensic laboratories. The remainder of the money will be used to make various repairs to the following facilities: Central Valley, Riverside, Fresno, and Redding. The cost of the repairs is increased by over 42 percent to account for Department of General Services' fees, contingency, and general price escalation.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal to fund operations and maintenance of forensics laboratories.

3. California Witness Protection Program

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, the proposal to augment the California Witness Protection Program was held open. The Subcommittee requested that staff, LAO, and DOF look at ways to improve the efficiency and effectiveness of the delivery of witness protection services by looking at witness protection programs managed by the Office of Emergency Services.

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 the witness protection program managed by the Office of Emergency Services provides sufficiently different services than the program managed by DOJ. The Victim/Witness Assistance Program funds local centers that provide comprehensive assistance to victims and witnesses, including crisis intervention, emergency assistance, property return, and court escort. Whereas, the DOJ's program provides funding directly to local district attorney's to finance relocation and/or protection of witnesses and family members that have been threatened by individuals or criminal organizations.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Approve the budget request to augment administration of this program by $223,000.
- Approve the trailer bill language proposed by the Governor that removes the cap on administrative costs for this program.
- Approve the budget request to augment grant funding by $500,000.

4. Two-Party Contracts

Previous Subcommittee Direction. At the March 1 hearing of the Subcommittee, the DOJ's request to implement a limited two-party contract process was held open. Information was also requested on what DOJ was doing to improve the transparency of its contracting process given the stories in the newspapers earlier this year that found that DOJ had incorrectly labeled 1,700 contracts as confidential and, therefore, shielded them from public view.

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.

Staff Comments. The DOJ indicates that it has taken steps to implement a remedial plan to address the mislabeling of contracts as confidential. The department has issued an Administrative Bulletin (dated March 7, 2007) that tightens the process of reviewing contracts for purposes of labeling them as confidential in the new State Contract and Procurement Registration System. The new system requires staff to provide a written explanation of why any information on contracts should be withheld and the recommendation must be approved by a supervisor with advice from lawyers when needed.

The DOJ indicates that there will continue to be some issues with some contracts in the State Contract and Procurement Registration System because many of DOJ's contracts may be confidential when they are entered into the database, but may become non-confidential later.

This is the case for many of DOJ's confidential contracts for expert witnesses that may be confidential during the early stages of litigation, but may become non-confidential when the identity of the expert is revealed in court proceedings.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget proposal to allow DOJ to use a two-party contract process for up to $9.4 million from the Legal Services Revolving Fund.

5. Energy Litigation

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, additional information was requested from DOJ on the status of the *Williams Energy* settlement monies allocated to funding a program to retrofit schools and other public buildings with renewable energy and energy efficiency projects.

Department Response. The department indicates that the Governor's budget proposal would transfer $25 million in *Williams Energy* settlement monies from the Ratepayer Relief Fund to the State Energy Conservation Assistance Account so that the California Energy Commission could fund a solar retrofit program for schools and other public buildings. Another $8 million currently resides in the Litigation Deposit Fund and is also proposed to be transferred to the State Energy Conservation Assistance Account in the budget year. Another $13 million will transfer to the State Energy Conservation Assistance Account in future years after Williams pays the remainder of its settlement.

This transfer of these funds to be used for solar retrofit and energy efficiency projects on school and other public buildings is being considered by Senate Budget Subcommittee 2.

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.

Staff Recommendation. Staff recommends that the Subcommittee approve the Governor's budget proposal to continue to fund DOJ's litigation team related to the California energy crisis and its aftermath.

6. Construction Related Litigation

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, additional workload information was requested from DOJ on a request to add $549,000 from the Legal Services Revolving Fund to support 3.3 positions (two attorneys) to handle additional state construction related litigation.

Department Response. The DOJ indicates that it has not been adequately staffed to support various state agencies with construction litigation work and as a result has had to turn away construction–related litigation. For example, in the past, the DOJ turned away litigation related to the construction of Kern Valley State Prison and the Metropolitan Regional Transportation Center. The department anticipates additional work in this area given the significant amount of construction that is forthcoming funded by the bonds approved by the voters in November 2006. Furthermore, staff finds that legislation was recently passed to approve $7.6 billion for dozens of new prison construction projects.

Staff Recommendation. Staff recommends that the Subcommittee approve the budget request to expand the DOJ's ability to handle construction-related litigation in-house.

7. Natural Resources and Environmental Protection Litigation

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, the following additional information was requested from DOJ:

- Information on how the $1 million General Fund, allocated in the 2006-07 Budget Act, has been allocated.
- Update on the status, timing, and costs of the defense of AB 1493 (Pavley).
- 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).
- Updated list of new natural resource and environmental protection related lawsuits the DOJ is currently pursuing.

Department Response. The DOJ indicates that, in the current year, it has entered into various legal efforts that seek to reduce greenhouse gas emissions, including cases in other states. Presently, the department is involved in nine lawsuits and regulatory proceedings that support the reduction of greenhouse gas emissions. The department indicates that the $1 million allocated in the 2006-07 Budget Act has helped to support these efforts.

The DOJ indicates that the 2002 legislation that seeks to reduce greenhouse gas emissions from vehicles manufactured in model year 2009 and later, AB 1493 (Pavley), is being challenged by the automakers in three federal court lawsuits. The main challenge was filed in U.S. District Court, Eastern District of California, Fresno. However, this court case was stayed in mid-January to await the U.S. Supreme Court decision on the authority of the Environmental Protection Agency under the Clean Air Act to regulate greenhouse gas emissions from vehicles. In early April 2007, the U.S. Supreme Court found that the Environmental Protection Agency did have the authority to regulate greenhouse gas emissions from vehicles under the Clean Air Act. Given this decision, the DOJ indicates that the court case should resume. The DOJ is also assisting the Vermont Attorney General's Office in a similar case filed by the automakers in Vermont. The other two lawsuits brought by the automakers are expected to be briefed and decided sometime later this calendar year. The DOJ expects appeals in these cases regardless of the decisions.

The DOJ indicates that it is involved in three lawsuits related to the Headwaters agreement. The DOJ is representing the Department of Forestry and Fire Protection and the Department of Fish and Game in its struggle to enforce various regulatory agreements entered into by the Pacific Lumber Company as part of the Headwaters agreement. This case is now at the Supreme Court, but because of bankruptcy filings by the Pacific Lumber Company the court has stayed this case. The DOJ is also actively seeking to move the venue of the Pacific Lumber Company's bankruptcy proceeding, which is currently in Texas. The DOJ is also defending the State Water Resources Control Board in a lawsuit by the Pacific Lumber Company challenging the water board's authority to regulate water quality impacts of timber harvesting. This case has just started in a Fresno Superior Court.

The DOJ indicates that it plans to pursue the three new natural resources and environmental protection lawsuits that follow:

- ***Pacific Merchant Shipping Association v. Witherspoon***. This lawsuit, in federal court, challenges the Air Resources Board's actions related to regulating air pollution from cargo, tanker, and large passenger ships that dock at California's ports. The DOJ will represent the Air Resources Board's Executive Officer.
- ***Natural Resources Defense Council v. Reclamation Board***. This lawsuit, in Sacramento Superior Court, is challenging the State Reclamation Board's approval of a fill permit for a large-scale luxury residential development called River Islands on Stewart Tract in the Delta. The DOJ will defend the California Reclamation Board.
- ***United States v. 127.60 Acres (Tijuana Fence)***. The U.S. government has declared a taking of lands in San Diego County to construct a new fence along the California-Mexico border. The purchase of the property was financed by the State Coastal Conservancy and the Department of Parks and Recreation. There have been no objections to the condemnation, but there is a dispute over the price the U.S. government should pay for this property. The DOJ will represent the Department of Parks and Recreation in this lawsuit.

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.

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

8. Division of Gambling Control – Technical Fund Shift

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, additional information was requested regarding the current reimbursement process at DOJ. The department has provided staff with additional information and has indicated that it currently uses its reimbursement item exclusively for reimbursements from the General Fund. Therefore, the DOJ believes that it will be more transparent to directly fund its tribal gaming activities directly from the Indian Gaming Special Distribution Fund.

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 Recommendation. Staff recommends that the Subcommittee approve the budget proposal to make a technical shift from reimbursements to the Indian Gaming Special Distribution Fund.

9. Consolidated Division of Law Enforcement

Finance Letter. A Finance Letter (dated March 29, 2007) requests the consolidation of the following three divisions:

- Division of Law Enforcement - $216.6 million
- Division of Gambling – $20.4 million
- Division of Firearms - $16.6 million

The DOJ indicates that this consolidation would allow the department to apply consistent policies and procedures within the department for law enforcement personnel. The department indicates that this consolidation will not impact the way the programs are scheduled in the budget, which allows for transparency on the funding for gambling and firearms.

Staff Recommendation. Staff recommends that the Subcommittee approve the Finance Letter proposal.

10. State Bond Counsel

Background. The voters approved $42.7 billion in bonds in the November 2006 election. Furthermore, the Legislature recently passed $7.4 billion in revenue bonds for the construction of new prison facilities.

Finance Letter. A Finance Letter (dated March 29, 2007) requests $1.1 million from the Legal Services Revolving Fund to support 6.3 new positions (four attorneys) that will provide state bond counsel and other public finance work for the increased number of upcoming bond transactions.

Staff Comments. Given the large increase in bond transactions anticipated, staff finds that these additional staff resources are warranted.

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

5525 California Department of Corrections and Rehabilitation

Health Care Issues

1. *Plata* Lawsuit Compliance

Background. 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.

Previous Funding for *Plata* Lawsuit Compliance. To date, the Legislature has provided approximately $299 million General Fund to implement efforts to improve the medical health care delivery system and comply with the *Plata* lawsuit.

In the 2006-07 Budget Act, the Legislature decided to appropriate $100 million in unallocated funds that would be expended as directed by the Legislature. The Joint Legislative Budget Committee is notified when the Receiver wishes to allocate these monies. To date, the Joint Legislative Budget Committee has received notifications to transfer $79 million from the unallocated funds set aside in the 2006-07 Budget Act. The figure below summarizes how the funding has been allocated in the current year.

***Plata* Litigation-Driven Expenditures** **Expenditures Directed by the Receiver** **2006-07** *(Dollars in Millions)*	**2006-07**
Court order to increase medical staff salaries, except for doctors.	$24.7
Provide Receiver with enough funding to fund his operating budget for six months.	18.6
Establish 300 LVN positions.	12.3
Software and services to implement the Health Care Contracts Document Management system.	5.7
Receiver's operating budget.	6.3
Establish 41 position at San Quentin for the Receiver's project at San Quentin.	3.0
Establish 90 leadership and tracking health care positions.	2.9
Establish 50 positions at Avenal State Prison	1.5
Establish 35 medical positions at Deuel Vocational Institute	1.2
Establish 16 RN positions at the Correctional Training Facility.	1.2
Establish 20.3 positions at Avenal State Prison and 17.2 positions at Sierra Conservation Center	0.9
Funding to the Office of Facilities Management for EIR on San Quentin Project	0.5
Establish various other positions at San Quentin.	0.2
Establish two nurse positions at Corcoran.	0.1
Total	**$79.0**

Current Year Funding. The Governor's budget includes allocation of an additional $50 million in unallocated funds to be expended upon direction by the Receiver in the current year. This funding is in addition to the $100 million in unallocated funds allocated in the 2006-07 Budget Act.

The budget also includes $1.3 million General Fund to provide commensurate salary increases for medical classifications at Division of Juvenile Justice institutions for the current year.

The funding for the Division of Juvenile Justice salary enhancements will likely be included in a Supplemental Appropriations Bill.

Governor's Budget. The Governor's budget proposal includes an additional $150 million in unallocated funds to be expended upon direction by the Receiver in 2007-08.

In addition, the budget includes the full-year costs of some of the expenditures directed in the current year by the Receiver (see list above). The full-year costs in 2007-08 of expenditures funded in the current year, through January 2007, are $54.6 million General Fund. This includes about $29.6 million to cover the full year costs of the salary increases for various CDCR medical classifications.

The budget proposal does not include additional full-year costs for current year expenditures starting in February 2007.

The budget also includes full-year costs associated with the Division of Juvenile Justice salary enhancements, which is $1.5 million in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee take the following action:

- Approve $1.5 million for Division of Juvenile Justice salary increases for medical classifications.

2. *Coleman* Lawsuit Compliance

Background. 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.

Previous Funding for *Coleman* Lawsuit Compliance. To date, the Legislature has provided approximately $158 million General Fund to implement efforts to strengthen the department's mental health services and comply with the *Coleman* lawsuit.

Current Year Funding. The Governor's Budget proposal includes $24.1 million General Fund to implement various court-ordered actions, immediately, in the current year. These actions include the following:

- **Salary Enhancements.** $19.2 million General Fund to support salary enhancements for certain mental health classifications. This includes commensurate pay increases for all mental health classifications in the adult institutions, juvenile institutions, and parole operations. Classifications impacted include the following:
  - Chief Psychiatrist
  - Senior Psychiatrist
  - Staff Psychiatrist
  - Chief Psychologist
  - Senior Psychologist
  - Clinical Psychologist
  - Supervising Psychiatric Social Worker
  - Clinical Social Worker
  - Senior Psychiatric Technician
  - Psychiatric Technician
  - Recreation Therapist

  These pay increases impacted 1,535 positions in the adult institutions, 71 positions in the juvenile institutions, and 282 positions in parole operations.

- **Reception Center Enhanced Outpatient Program Services.** $2.8 million General Fund to support partial year funding for 67.7 positions in the current year to deliver treatment to Enhanced Outpatient Program inmates (inmates with serious mental illnesses, such as Schizophrenia) at reception centers.

- **Administrative Segregation Intake Cell Conversions.** $2 million General Fund to support four positions to oversee the retrofit of the vents in 340 administrative segregation cells in the max-security administrative segregation units (also called stand-alone administrative segregation units). The funding will also be used to design the conversion of an additional 340 cells in regular administrative segregation units to administrative segregation unit intake cells that include, new concrete bed slabs, the elimination of all in-cell protrusions, replacement of light fixtures, and modification of cell doors to increase visibility.

  The department indicates that it has redirected $110,000 in special repair funds in the current year to replace the vent screens in 66 cells in max-security administrative segregation units.

The funding allocations listed above will likely be appropriated in a Supplemental Appropriations Bill in the upcoming months.

In addition, after the budget was enacted in 2006, the Legislature enacted supplemental legislation (SB 1134, Budget) to provide $35.5 million to partially fund 551.8 new positions established to fund the Revised Program Guide as ordered by the court in the *Coleman* lawsuit.

Governor's Budget. The Governor's budget proposal includes $112.3 million General Fund to support various court-ordered actions to comply with the *Coleman* lawsuit in the budget year. These proposals include the following:

- **Salary Enhancements.** $50.6 million General Fund for the full-year costs to support salary enhancements for certain mental health classifications (listed above).

- **Reception Center Enhanced Outpatient Program Services.** $5.1 million General Fund to support the full-year costs to support 67.7 positions to deliver treatment to Enhanced Outpatient Program inmates at reception centers.

- **Administrative Segregation Intake Cell Conversions.** $12.8 million General Fund to support the construction associated with converting 340 cells in regular administrative segregation units to administrative segregation intake cells. The required modifications are listed above under current year funding for this project.

- **Revised Program Guide.** $40.2 million General Fund funds the full-year costs associated with the 551.8 positions funded in SB 1134. This is a $4.8 million increase above what was allocated in SB 1134.

Savings From Vacancies Likely. The department has historically had a huge problem recruiting qualified mental health staff. The recent pay raises may help to improve recruitment. However, there is generally a shortage of mental health staff statewide. Staff finds that the department continues to have significant vacancies in mental health staff and will likely have some savings in the current year due to the number of vacant positions.

Available Treatment Space at Reception Centers Unknown. The department is in the process of implementing treatment for Enhanced Outpatient Program inmates at Reception Centers. However, it is unclear to staff that there is available space at reception centers for treatment. This is especially a problem at the older reception center institutions (San Quentin State Prison) where there is not a lot of viable space for programming. Furthermore, there is also generally a lack of office space available for the additional clinical staff the department needs to hire to implement these new programs.

Max-Security Administrative Segregation Units. The court in the *Coleman* case has ordered that no inmates in the Mental Health Delivery System (Enhanced Outpatient Program and Correctional Clinical Case Management System) can be held in the new max-security administrative segregation units (also called stand-alone administrative segregation units). The Subcommittee learned, at its April 12 hearing, that the department's in-fill bed plan includes 2,250 additional beds in new max-security administrative segregation units. Staff finds that the construction of these beds does not provide the department with a lot of flexibility since only some inmates can be placed in these units because of the cell design. This means that at institutions that have the max-security administrative segregation units they will have to maintain an alternative administrative segregation unit for the inmates in the Mental Health Delivery System.

Staff finds that before the department builds additional administrative segregation units it may want to modify its design so that they can use these units for the department's entire population, when appropriate.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on the savings in the current year from staff vacancies.

- Request that the department report, by May Revision, with a strategy to modify the new stand-alone administrative segregation units to be compliant with the Coleman court.
- Approve funding for the salary enhancements.
- Approve funding for the Reception Center Enhanced Outpatient Program.
- Approve funding for the administrative segregation unit intake cell conversions.

3. *Perez* Lawsuit Compliance

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.

Previous Funding for *Perez* Lawsuit Compliance. To date, the Legislature has provided approximately $35.4 million General Fund to implement efforts to strengthen the department's dental services and comply with the *Perez* lawsuit.

Current Year Funding. The Governor's budget proposal includes $18.8 million General Fund to implement salary increases for dental classifications. This includes commensurate pay increases for all dental classifications in the adult institutions and juvenile institutions for the following classifications:

- Dental Assistant
- Dental Hygienist
- Dentist
- Oral Surgeon
- Supervising Dental Assistant
- Supervising Dentist
- Chief Dentist
- Regional Dental Director
- Statewide Dental Director

These pay increases will impact 719 positions at adult institutions and 28 positions in the juvenile institutions in the current year.

Governor's Budget. The Governor's budget proposal includes $78.7 million General Fund to support the following two actions to comply with the *Perez* lawsuit in the budget year. The proposals include the following:

- **Salary Enhancements.** $57.8 million General Fund ($2.1 million is for pay parity for dental classifications at the Division of Juvenile Justice) to provide increased salaries for selected dental classifications (see above).
- **New Dental Staffing Ratios.** $20.9 million General Fund for partial funding to support 231 new positions to meet the new lower inmate to dentist ratios (515:1). This funding will support 77 dental staff and 102 custody staff.

LAO Recommendation. The LAO recommends that the Subcommittee withhold action on the salary enhancements for the dental classifications pending a court order or an amended bargaining unit agreement.

Staff received a letter (dated May 4, 2007) from the Department of Personnel Administration indicating that an addendum to a memorandum of understanding was agreed to by DPA and Bargaining Unit 16 that represents the dental classifications. This addendum would implement the raises detailed in the Governor's budget proposal.

Savings From Vacancies Likely. Staff finds that the department currently has a 57 percent vacancy rate at the first 14 institutions where it has implemented the reduced inmate to dentist staffing ratios. The department has a 40 percent vacancy rate for all of the other institutions. Staff finds that a salary increase would help to fill these vacancies. Staff finds that the department will likely have some savings in the current year due to the number of vacant dental positions.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Request that the department report, by May Revision, on savings in the current year related to salary savings.
- Hold open the salary enhancement proposal pending review of addendum to a memorandum of understanding submitted to the Legislature by the Department of Personnel Administration.
- Approve funding to reduce the inmate to dentist staffing ratio.

Other Issues

1. Classification Services Unit Training

Background. The classification process within CDCR consists of an analysis and review of individual case factors to determine an inmate's placement score, custody level, and work/privilege group. These case factors determine the housing and rehabilitative program eligibility of each inmate.

Governor's Budget. The Governor's budget proposal includes $800,000 in General Fund to address immediate training needs of correctional counselors and to develop a comprehensive training plan for these classification staff to ensure a greater degree of safety and security.

Staff Comments. Staff finds that classification is a critical step in the process and directly impacts the department's ability to match up inmates with safe living placements and appropriate programming opportunities. Staff finds that, as part of the reducing recidivism plan, the department is planning to implement a pilot project to use the COMPAS assessment to identify risk level and program needs at four reception centers. Staff finds that classification staff will need to be trained on how to use this new information within their existing process.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Hold this issue open.
- Request that the department report at May Revision with a coordinated report on what validations are needed of the COMPAS tool, the timing of those validations, and how they will be utilized by both institutions and parole.

2. Redirection of Positions to the Office of Inspector General

Previous Subcommittee Action. At a March 1 hearing, this Subcommittee approved $1.8 million in General Fund money to augment the Inspector General's auditing resources.

Governor's Budget. The Governor's budget proposes to redirect 10 office technician positions and $1.8 million General Fund to support expanded auditing in the Office of the Inspector General. These positions and funding were taken from various program areas throughout the department.

Staff Comments. The administration has not provided information to justify the elimination of these office technician positions. However, the department reports that it currently has a 20 percent vacancy rate in its office technician classification. This equates to approximately 313 vacant positions and $17 million in salary savings. It is unclear to staff whether the department is using this salary savings to fund other budget items in the current year.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Eliminate 10 office technician positions and reduce the department's budget by $1.8 million in the budget year.
- Request that the department report on how it is using the salary savings from vacant office technician positions in the current year.

3. Workers' Compensation Staffing

Background. In the 2005-06 Budget Act, the department was provided with 29 positions to coordinate the "Return to Work" program at the department. These positions were created on a limited-term basis to address one-time workload associated with reducing the backlog of Workers' Compensation claims.

Governor's Budget. The Governor's budget includes a proposal to convert 29 limited-term positions to permanent positions. The department is not requesting additional funding for these positions.

Staff Comments. Staff finds that, with the additional positions allocated to the department in the 2005-06 Budget Act, it has been able to employ active claims management strategies to contain workers' compensation expenditures. The department has reviewed a large portion of the low-activity claims and is taking actions to close these claims. In 2005-06, the department had over $188 million in workers' compensation claims, which was over 40 percent of the total for all state agencies.

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

4. New Undersecretary for Program Support

Background. The Subcommittee heard a significant amount of testimony at its March 15 hearing regarding the deficiencies in its core business services. The department currently has one undersecretary that oversees all programs and functions in the department.

Finance Letter. A Finance Letter (dated March 29, 2007) requests $316,000 to fund a new undersecretary position of program support and two support positions.

Staff Comments. Staff finds that CDCR is one of the largest departments in state government with 65,000 authorized positions and a budget of over $10 billion General Fund. Staff finds that an additional undersecretary position is justified to help manage a department of this size.

Staff Recommendation. Staff recommends that the Subcommittee approve the Finance Letter proposal to establish a new undersecretary.

5. Solid Cell Fronts

Previous Subcommittee Direction. At the April 12 meeting of the Subcommittee, the following budget proposals were held open:

- **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.

Finance Letter. A Finance Letter (dated May 1, 2007) requests the following changes to the projects listed above:

- **California Institution for Men.** The Finance Letter proposes to increase funding by $675,000 to account for additional costs identified with this project, including replacing the smoke detector system and adding additional observation windows. This will bring the total costs of these modifications to over $37,000 per cell.

- **California Medical Facility.** The Finance Letter proposes to eliminate new funding ($4.6 million) for this project in the budget year because of delays and overcrowding.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the budget and Finance Letters (dated March 29, 2007 and May 1, 2007) for solid cell fronts in the budget year.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Mike Machado, Chair
Senator Robert Dutton
Senator Christine Kehoe

Wednesday, May 9, 2007
9:30 a.m.
Room 113

Consultant: Bryan Ehlers

"B" AGENDA

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.

Departments with Issues Proposed for Vote-only

0860 Board of Equalization

1. Board of Equalization (BOE) – Individual Rate Building. The BOE proposes to set up and fund the BOE building located at 450 N Street, Sacramento as an Individual Rate Building, under Department of General Services (DGS) management, and requests an augmentation of $524,000 (including $300,000 General Fund) to fund recurring maintenance and utilities not currently included in the budget. The BOE will reimburse the DGS for all costs associated with the operation and maintenance of the building.

Staff Comments: In addition to annual building maintenance, this request would fund increased costs for a new elevator contract. Under the existing contract, the BOE building experienced frequent and prolonged elevator service outages.

Staff Recommendation: APPROVE the request.

0954 Scholarshare Investment Board

1. April Finance Letter: Scholarshare Workload. The Scholarshare Insurance Board (SIB) requests $221,000, with $216,000 ongoing (Scholarshare Administrative Fund), and 1.0 permanent position and transfer of 1.0 General-funded position (from the Governor's Scholarship Programs) to address increased complexity and greater volume of workload in Scholarshare regulation. The SIB indicates Scholarshare is one of the largest 529 college savings programs in the country, with over $2 billion in assets, and faces increasing requirements under the Securities Exchange Act and Municipal Securities Rulemaking Board regulation.

Staff Comments: This proposal represents an ongoing General Fund savings of $108,000.

Staff Recommendation: APPROVE the request.

2. April Finance Letter: Reduce General Fund Available for the Governor's Scholarship Programs. The Administration requests the $2.0 million General Fund funding scored in 2006-07 and 2007-08 per Education Code 69999.7 be eliminated to reflect savings in current year and budget year (for a total of $4.0 million). This funding was originally scored as an estimate of possible General Fund transfers to the Governor's Scholarship Programs pursuant to the code section above, but the programs were eliminated in 2002-03 and the transfers are not anticipated to be necessary.

Staff Recommendation: APPROVE the request to reflect a one-time General Fund savings of $2.0 million.

0968 California Tax Credit Allocation Committee

1. April Finance Letter: Compliance Monitoring Increase. The California Tax Credit Allocation Committee (CTCAC) requests 3.0 permanent positions and $620,000 (Occupancy Compliance Monitoring Account) to meet federal compliance and monitoring requirements mandated by the Federal Internal Revenue Code. Of the requested amount, $325,000 is ongoing, while the remainder is one-time, including funding for a Professional Compliance contractor.

Staff Comments: The workload analysis provided by the CTCAC indicates 11.0 positions are justified to meet federal compliance and monitoring requirements; however, a consultant is being hired to perform a full workload study. In the interim, the Administration proposes to use a compliance monitoring contractor to address the federal mandates, while a more thorough-going workload analysis is completed.

Staff Recommendation: APPROVE the request.

Control Section 11.00 EDP/Information Technology Reporting Requirements

1. Revise Language to Require Director of Finance Approval for Information Technology (IT) Projects. The Administration altered this control section to reflect its proposal to move the Office of Technology Review, Oversight, and Security (OTROS) to the Office of the Chief Information Officer. The control section needs to be revised to reflect the Subcommittee's intent that OTROS remain under the Department of Finance (DOF) and that IT projects therefore require DOF approval.

Staff Comments: The revised control section language will conform to the Budget Act of 2006. Staff will request the DOF to mark-up the language and circulate it to legislative staff for approval.

Staff Recommendation: APPROVE revision of the control section.

Control Section 11.10 Reporting of Statewide Software License Agreements

1. Revise Language to Require Director of Finance Approval for Statewide Software License Agreements. As with Control Section 11.00 (above), the Administration altered this control section to reflect its proposal to move the Office of Technology Review, Oversight, and Security (OTROS) to the Office of the Chief Information Officer. The control section needs to be revised to reflect the Subcommittee's intent that OTROS remain under the Department of Finance (DOF) and that statewide software license agreements therefore require DOF approval.

Staff Comments: The revised control section language will conform to the Budget Act of 2006. Staff will request the DOF to mark-up the language and circulate it to legislative staff for approval.

Staff Recommendation: APPROVE revision of the control section.

Control Section 12.00 State Appropriations Limit

This annual Budget Control Section establishes the amount of the State Appropriations Limit for the fiscal year of the budget. Because the final calculation of the limit for 2007-08 must be consistent with the final budget adopted in Conference Committee, action must be taken to place this section in Conference.

Staff Comments: The Assembly reduced this item by $1 million. Therefore, the Senate should approve the item as budgeted to place the control section in Conference.

Staff Recommendation: APPROVE as budgeted.

Control Section 35.50 Estimated General Fund Revenue pursuant to ACA 5 of the 2003-04 Fifth Extraordinary Session

This annual Budget Control Section establishes the General Fund revenue estimate on which the budget is based for the purposes of the balanced-budget requirement of Proposition 58. Because the final revenue estimate for 2007-08 must be consistent with the final budget adopted in Conference Committee, action must be taken to place this section in Conference.

Staff Comments: The Assembly reduced this item by $1 million. Therefore, the Senate should approve the item as budgeted to place the control section in Conference.

Staff Recommendation: APPROVE as budgeted.

STAFF RECOMMENDATION ON VOTE-ONLY ISSUES: APPROVE all vote-only issues.

VOTE:

Departments with Issues Proposed for Discussion

0502 Office of the Chief Information Officer

The Administration requests 49.0 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.

Staff Comments: At a previous hearing, the Subcommittee held a wide-ranging discussion on the OCIO proposal, where the LAO and members raised concerns with the Administration's plan, but all parties aimed their attention at identifying the proper structure for statewide IT planning, approval, oversight, and security. Ultimately, the issue was held open, and in the intervening weeks, actions taken on related budget items have changed the context of the discussion somewhat.

As originally envisioned in the Governor's Budget, the OCIO was to incorporate the project oversight and review function of the Department of Finance's (DOF) Office of Technology Review, Oversight, and Security (OTROS), with 26.0 positions in OTROS shifting to the OCIO to continue their project oversight and review activities. However, subsequent to the previous hearing on the OCIO, this Subcommittee approved (as part of an action on the DOF budget) an LAO recommendation to deny the OTROS transfer and to shift security responsibility from the Secretary of State and Consumer Affairs to the OCIO.

The LAO now has a conforming recommendation on this proposal. Specifically, the LAO recommends: (1) reducing the number of new positions to 19.0 and eliminating a management layer (see Appendix A for an organization chart); (2) leaving IT oversight at DOF so that it remains independent of IT policy and planning; and (3) placing Information Security at the OCIO so that it is independent of the large IT organizations within the State & Consumer Agency similar to Department of Technology Services and Franchise Tax Board.

The LAO also recommends that the Legislature establish budget bill language requiring the OCIO to deliver by March 1, 2008, a five-year project plan for achieving the Administration's stated direction of improving the state's IT effectiveness. The project plan should include a timeline, milestones, and well-defined deliverables which should include but not be limited to the following:

- A minimum set of qualifications for state IT project managers and a process to "certify" managers to this skill level before they assume a project leadership assignment. In addition to IT project management skills, these must include the state’s budgeting and contracting processes.

- A process for identifying and applying current technologies to enable data sharing across state systems as a means to reduce state business and IT process redundancy and inefficiencies. The current effort underway to automate data sharing across the tax agencies (FTB, BOE, EDD) may be used by the OCIO as a pilot to identify lessons learned for this deliverable.

Staff notes that the LAO recommendation would provide adequate staffing for the OCIO to begin assumption of statewide IT planning duties, but at a net savings to the state of roughly $1.4 million relative to the Governor’s Budget. (The $3.3 million to fund OTROS would simply be moved back to the DOF budget.)

Staff Recommendation: APPROVE the LAO recommendation and provide 19.0 positions and $3.5 million for the OCIO.

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. April Finance Letter: Postage Rate Increase. The SCO requests a baseline augmentation of $422,000 ($110,000 General Fund and $312,000 in reimbursement authority) to cover the increase in postage rates effective May 14, 2007.

Staff Comments: During the 2007-08 budget development process, all state departments received a "price increase," which included partial funding for the impending federal postage rate increase. The SCO received an additional $327,000 for postage as part of this adjustment; however, the SCO now indicates that the actual increase will be $749,000 (the full magnitude of the increase was not known in the fall). The SCO now requests a budget augmentation to reflect the difference—$422,000—because the increased costs cannot be absorbed within existing resources without interruption or degradation of other SCO mission-critical programs.

2. April Finance Letter: Cannery Business Park Final Lease Costs. The SCO requests a baseline increase of $913,000 ($558,000 General Fund; $64,000 various Special Funds; and $291,000 reimbursement authority) to pay for annual increased lease costs for the SCO's Cannery Business Park (CBP) Office in Sacramento.

3. Proposed Budget Bill Language for the Cannery Business Park Final Lease Costs. Because the final lease Cannery Business Park lease price is still under negotiation, the Administration proposes the following language provide the flexibility to fund the final cost:

> *Notwithstanding any other provision of law, the Director of Finance may authorize increases or decreases in expenditures for this item to reflect the final lease costs for the Cannery Business Park location of the State Controller's Office. The Director of Finance may authorize expenditure adjustments per this provision not sooner than 30 days after notification in writing of the necessity therefore is provided to the chairpersons of the fiscal committee and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.*

4. April Finance Letter: Unclaimed Property System Replacement Project. The SCO requests: (1) restoration of 3.2 positions for a one-year limited-term; (2) $402,000 one-time General Fund to support the requested staff ($261,000) and fund previously unidentified costs ($141,000); and (3) reappropriation in 2007-08 of approximately $831,000 that is expected to go unexpended in 2006-07 because of project delays.

Staff Comments: This proposal stems from an approved Special Project Report for the Unclaimed Property System Replacement Project that reflects adjustments necessary due to a delay in procuring the primary vendor contract and several new costs (totaling $111,000 and including bar code equipment, additional switches, and increased bandwidth to support the system). This request also includes proposed reappropriation language.

STAFF RECOMMENDATION ON VOTE-ONLY ISSUES 1 through 4: APPROVE the requests (including proposed reappropriation language).

VOTE:

DISCUSSION ISSUES:

1. BCP: Mandate Auditors: Conversion of Limited-Term to Permanent. The SCO requests $999,000 General Fund to make 11.0 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: At a previous hearing, the Chair requested the SCO to provide an analysis of the estimated benefits and costs of adding additional mandate auditors to this request. In response, the SCO provided the following table.

Positions	Audited Costs	Unallowable Costs	Error Rate	Salary Costs	Recovery Ratio
5	$25 Million	$6,357,260	25%	$454,090	$14 to $1
10	$45 Million	$10,898,160	24%	$908,180	$12 to $1
15	$60 Million	$13,622,700	23%	$1,362,270	$10 to $1

As noted previously, 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 in the first place. However, should the Subcommittee wish to approach the current level of over-claims more aggressively, the table above shows that additional General Fund could be invested in more mandate auditors to identify additional unallowable costs, although staff notes that the recovery-to-cost ratio would decline as the number of staff added increases (a diminishing rate of return on investment). The Subcommittee may wish to weigh this information in determining what level of mandate audits constitutes sound state policy.

Staff Recommendation: APPROVE as budgeted.

VOTE:

2. BCP: Resources for the California Automated Travel Reimbursement System's (CalATERS) Statewide Rollout. The SCO requests $517,000 (reimbursements) and 5.0 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: As was discussed at a previous hearing, under existing statute, departments retain the authority not to institute CalATERS if they convince DOF that they need an exemption. The Chair noted concern that estimated project savings could be impacted significantly depending on the number and size of the departments seeking exemptions, and requested the SCO to report back on the potential effects of exemptions. The SCO submitted the following response:

> *At this time, Caltrans is the only department that has requested an exemption. Two other very small departments have submitted exemption requests and their impact has not been estimated due to the limited number of claims the organizations are processing. The impact on the statewide CalATERS savings without Caltrans' participation is calculated using the data collected from the original CalATERS study. This study was performed in 1995 documenting the manual processes used by departments to issue travel advances and reimburse employees for business travel expenses. The study also projected annual statewide savings under an automated process of $7.8 million of which $3.1 is hard savings and $4.7 soft savings.*
>
> *Caltrans was one of eight departments that participated in the 1995 study. Based on Caltrans' estimated annual number of travel advances and travel expenses processed, the study projected their savings at approximately $800,000 per year ($300,000 hard savings and $500,000 soft savings). This represents approximately 10.5% of the estimated statewide savings figure. Also, the savings were projected using 1995 salaries and would need to be adjusted to reflect current salaries.*

As previously noted, there will be a process for revisiting exemptions and re-evaluating their benefit-cost to the state at a later date. The SCO indicates that the long-term plan is to bring all state agencies under the CalATERS system. Departments have until July 1, 2007, to request an exemption. As of May 7, no additional departments besides the three already mentioned have requested an exemption; however, the Subcommittee may wish to adopt provisional language to make the requested authority contingent upon a limited loss of projected savings stemming from exemptions (for example, 20 percent). Should the total projected loss in savings resulting from exemptions exceed this threshold, the approval of this requested authority would be voided.

Staff Recommendation: APPROVE as budgeted with Budget Bill Language as described above (with details to be worked out by staff, LAO, and the department).

VOTE:

3. 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 was heard previously and the Chair requested the SCO to continue to update staff on the progress of conversations between the SCO and the Department of Personnel Administration (DPA). As of April 27, 2007, the SCO reported the following:

> *As of this writing, DPA has indicated their approval for this pay increase is predicated on two things: (1) Funding confirmation from other departments. SCO has granted permission for a handful of departments to use its unique Staff Management Auditor (Specialist) classification. If a pay increase is granted for this classification, DPA needed assurance that those affected departments could afford to pay the increase in salary. On April 24, 2007, SCO confirmed that all departments using SCO's Staff Management Auditor (Specialist) classification had formally responded to DPA that they can fund the increase within their existing budgets. (2) Union approval. Once the funding confirmations from other departments were received, then DPA could notice the union of the proposed increase in salary for the Staff Management Auditor (Specialist). SCO does not anticipate the union will deny the pay increase.*

Based on the information provided above, it appears likely the DPA will fully approve the SCO's request.

Staff Recommendation: APPROVE as budgeted.

VOTE:

4. April Finance Letter: Cancellation of Bank Reconciliation (BankRec) System Replacement Project. The SCO proposes to defer the BankRec System Replacement Project, revert $710,000 in 2006-07 ($308,000 General Fund and $402,000 reimbursement authority), and reduce its 2007-08 budget by $248,000 ($107,000 General Fund and $141,000 reimbursement authority).

Staff Comments: The SCO's Bank Reconciliation is a critical business function that reconciles the status of warrants issued by the SCO and cashed by the State Treasurer's Office, and is an important tool in determining the State's cash flow needs. The Budget Act of 2006 provided funding to replace the existing legacy BankRec IDMS System with newer technology. However, the current request to defer the replacement project arose out of the loss of key staff and the emergence of the FI$Cal project, which, as proposed, contains a bank reconciliation function. Although, the FI$Cal project was denied by this Subcommittee subsequent to the submission of this request, the SCO now indicates that the BankRec System Replacement Project cost estimates also exceed the amount appropriated.

According to the SCO, the only work completed on the BankRec replacement was planning and market research and no project dollars were spent. To date, all work has ceased and staff have returned to supporting delayed maintenance and operation tasks for the existing legacy systems. The SCO additionally indicates that the department would likely come back with a future Budget Change Proposal (BCP) to fund BankRec replacement should the FI$Cal project ultimately fail to receive funding in the Budget Act of 2007.

Staff notes that this Finance Letter includes proposed reversion language.

Staff Recommendation: APPROVE the request (including the proposed reversion language).

VOTE:

0950 State Treasurer's Office

The State Treasurer, a constitutionally established office, provides banking services for State government with the goals of minimizing interest and service costs, and maximizing yield on investments. The Treasurer is responsible for the custody of all monies and securities belonging to or held in trust by the State; investment of temporarily idle State monies; administration of the sale of State bonds, their redemption and interest payments; and payment of warrants drawn by the State Controller and other State agencies.

The Governor's budget funds 226.6 positions (with 4.0 new positions) and expenditures of $24.4 million ($6.6 General Fund).

1. April Finance Letter: Expanded General Obligation Bond Program Workload. The STO requests 4.0 permanent positions and $421,000 in reimbursement authority to address increased workload and complexity associated with issuance and refunding of general obligation (GO) bonds. Voters recently approved five new GO Bond measures totaling $42.7 billion.

Staff Comments: The STO anticipates average annual GO Bond sales will increase significantly beginning in 2007-08 from an average of approximately $4.5 billion per year over the last 4-5 years, to an average of approximately $10 billion per year over the next 4-5 years. The STO's request for additional positions is based on the increased number and size of sales, as well as an expected increase in related interim financing and tax compliance activity.

While the STO makes a compelling case that doubling the amount of GO Bond indebtedness sold each year will require additional personnel, the STO does not provide a compelling workload analysis to support the request for 4.0 staff (as opposed to more or fewer). The Subcommittee may wish to consider approving the positions on a limited-term basis with the expectation that the STO return in the future with a more thorough-going workload analysis.

Staff Recommendation: APPROVE the 4.0 requested positions, but on a two-year limited-term basis.

VOTE:

SUBCOMMITTEE NO. 4 Agenda

Senator Mike Machado, Chair
Senator Robert Dutton
Senator Christine Kehoe

Thursday, May 10, 2007
10:00 a.m. or Upon Adjournment of Session
Room 112

Consultant: Bryan Ehlers

"A" AGENDA

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.

Departments with Issues Proposed for Vote-only

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.

1. BCP: Augmentation to Support Implementation of the Financial Information System for California (FI$Cal). The DTS budget includes a request for $352,000 (special funds) and 3.0 positions to support the implementation of the Department of Finance's Financial Information System for California (FI$Cal), 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 Subcommittee previously denied the FI$Cal project at the Department of Finance budget hearing.

Staff Recommendation: DENY the request.

2. April Finance Letter: Governor's Office IT Support. The DTS requests 3.0 permanent positions and $284,000 (Department of Technology Services Revolving Fund) to provide information technology (IT) support to the Governor's Office.

Staff Comments: The Governor's Office (GO) and the Governor's Office of Planning and Research (OPR) represent 257 IT users, but are supported by only 6.5 IT staff (5.5 budgeted within the GO and 1.0 in the OPR). The DTS maintains that this ratio of IT support staff-to-users is low relative to other constitutional offices and the GO's IT support workload justifies the positions requested.

The DTS indicates that much of the work justifying these positions has to do with "centralized" IT support similar to work that the DTS provides for those systems that reside at the data center. As DTS employees and civil servants, the department believes the requested positions would provide core technical expertise that would provide continuity to the next administration. The DTS notes that this arrangement would be similar to contracted fiscal services which are provided by the Department of General Services.

Staff Recommendation: APPROVE the request.

STAFF RECOMMENDATION ON VOTE-ONLY ISSUES 1 and 2: DENY Issue #1 and APPROVE Issue #2.

VOTE:

Departments with Issues Proposed for Discussion

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. April Finance Letter: Department of Technology Services Rate Increase. The CDI requests $195,000 (Insurance Fund) ongoing to fund the rate increases for database application services provided by the Department of Technology Services.

2. April Finance Letter: Disability and Healthcare Insurance Fraud Program. The CDI requests 4.0 positions (2.0 permanent and 2.0 one-year limited-term) and $1.2 million (Insurance Fund), including $822,000 in Local Assistance ($411,000 ongoing) and $403,000 in State Operations ($187,000 ongoing). Local Assistance funding would support local District Attorneys to prosecute Disability and Healthcare Insurance Fraud Program cases, while the additional investigator positions would enable the CDI to address disability and healthcare suspected fraudulent claims (SFCs) that are currently dropped due to lack of resources.

Staff Comments: California Insurance Code Section 1872.85 requires every admitted disability insurer to pay an annual fee of up to ten cents ($0.10) for each insured under an individual or group insurance policy it issues. The code section further specifies that the assessment is to fund increased investigation and prosecution of fraudulent disability insurance claims, with 50 percent of the funds received to be distributed by the Insurance Commissioner to the CDI Fraud Division and 50 percent to be distributed to local district attorneys (DAs) for investigation and prosecution of disability insurance fraud cases. Staff notes that the CDI requires expenditure authority to use these assessed funds.

The CDI indicates cases will be closed due to lack of resources if the request is not approved (306 were closed in fiscal year (FY) 2005-06 for this reasons), and this program boasts a high historical return on investment—DAs reported $40 in chargeable fraud for each $1 invested in FY 2005-06.

STAFF RECOMMENDATION ON VOTE-ONLY ISSUES 1 and 2: APPROVE the requests.

VOTE:

DISCUSSION ISSUES:

1. BCP: Increase to Local Assistance Workers' Compensation Spending Authority. The California Department of Insurance (CDI) requests $1.3 million (Insurance Fund) ongoing to fund increased investigations and prosecution of workers' compensation fraud. This augmentation would raise the size of this annual subvention to local district attorneys to $22.7 million (Insurance Fund). The need for an additional assessment on insurers for this activity was decided by the Governor-appointed Fraud Assessment Commission in December 2005.

Staff Comment. This issue was considered last year and approved for one year only, based on the understanding that a broad-based workers compensation study, also approved as part of the 2006-07 Budget, would be completed in 2007. The study was recommended by an April 2004 Bureau of State Audits report and was intended to measure the extent of workers' compensation fraud and the emerging trends. Staff notes that existing fraud-program efforts address Suspected Fraudulent Claim (SFCs) referrals made by various sources, including insurance carriers, informants, witnesses, law enforcement agencies, fraud investigators, and the public. However, in the CDI's own words:

> *The number of SFCs received by the [CDI] Fraud Division represents only a small portion of suspected insurance fraud, and does not necessarily reflect the whole picture of fraud/abuse. Many fraudulent activities may not have been identified or investigated.*

By determining the extent of workers' compensation medical overpayments and underpayments (of all types, including waste, abuse, billing and processing errors, and suspected fraud), the aforementioned study will provide justification for this particular expenditure and recommendations on where workers' compensation fraud investigations and prosecution funding should be allocated.

Through inadvertent error, the completion date of the study was specified in a prior agenda as 2007, when in actuality the study will not be completed until April 2008. Consequently, the same action taken last year, augmenting the local assistance subvention for this anti-fraud activity for a limited-term (rather than an ongoing appropriation), is again appropriate. Because the study will not be available in time to inform the 2008-09 budget process, the Subcommittee may wish to consider approving the requested funding for two years only.

Staff Recommendation: APPROVE the $1.3 million augmentation for two years only.

VOTE:

2. April Finance Letter: Worker's Compensation Insurance Fraud Program. The CDI requests 6.0 permanent positions and $3.7 million (Insurance Fund) for the following purposes: (1) a $2.4 million permanent increase in Local Assistance to support local District Attorney fraud prevention workload; (2) $750,000 one-time to expand a research study on measuring and addressing insurance fraud; and (3) $625,000 to fund additional investigators and an auditor to process workload in the Workers' Compensation Insurance Fraud Program (Program).

Staff Comments: The lion's share of the dollars requested in this Finance Letter would go for the same purpose as the funds requested in the BCP above (Issue #1)—to provide Local Assistance grants to District Attorneys investigating and prosecuting alleged fraudulent claims. Staff notes that the Fraud Assessment Commission (FAC) has already approved assessments sufficient to generate revenues to support the requested increase in expenditure authority, and the FAC believes the workers' compensation anti-fraud program would lose momentum if this request is not approved, as hundreds of cases are closed annually due to a lack of resources (for example, 2,086 in 2005-06).

The remaining $1.3 million requested would fund: (1) a $750,000 expansion of the study mentioned above (in Issue #1); and (2) 6.0 additional personnel (Fraud Investigators and an Auditor). The expansion of the study would include additional research in two areas not covered under the current medical overpayment and underpayment study—excessive medical treatment by medical providers and the failure to provide sufficient medical treatment to injured workers. As for the additional personnel, the CDI estimates that 57.0 additional positions are needed based on the 2,086 SFCs reported but dropped for lack of resources in 2005-06; however, the request for 6.0 positions reflects the number supportable with available funding.

As noted in the staff comments above (Issue #1), existing anti-fraud efforts are targeted using SFCs reported by various entities. However, these reports almost certainly do not represent the entire universe of insurance fraud, and the CDI cannot be certain that the SFCs even identify the most egregious instances of fraud. In order to ensure that limited anti-fraud resources are put to the highest and best use (namely, targeting the most egregious/highest profile instances of fraud), staff believes the state would be well-advised to postpone the commitment of additional permanent funds to anti-fraud efforts until the aforementioned study has been released.

According to the CDI, the impending study will be used as only one component to assist the FAC in determining how best to address workers' compensation insurance fraud. The CDI maintains that the limited scope of the study will limit the applicability of its results in terms of targeting the requested anti-fraud funding. On this basis, the CDI strongly believes the requested funding should be approved on a permanent basis. However, staff notes that this Subcommittee's original approval of the study funding was based upon the belief, reflected in the April 6, 2006 agenda, that the study would focus on "measuring the extent of workers' compensation insurance fraud and identifying the emerging fraud trends in that area." Thus, the Subcommittee clearly intended that the study play a significant role in targeting anti-fraud efforts. Staff notes that the CDI's current request for additional funds to expand the study provides all the more reason that permanent funding should be tied to the study's results.

Staff Recommendation: APPROVE the request for two years only.

VOTE:

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: 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: This item was heard previously but was held open pending a decision on the conforming issue in the DGS budget, which was subsequently approved.

STAFF RECOMMENDATION ON VOTE-ONLY ISSUE 1: APPROVE the request.

VOTE:

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: Previously, the Subcommittee heard discussion on this issue, including the LAO's recommendation to reduce the SOS budget by 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, and would increase the HAVA reserve for any database cost increases or future operating costs.

In previous testimony, the SOS opposed the LAO plan and the Chair requested that the department provide a revised position and funding reduction proposal as an alternative to the LAO recommendation. In response, the SOS submitted the following:

HAVA Activity	**Budgeted PY**	**Timesheet hours through Feb 2007**	**Projected Mar – June 2007**	**Total actual & projected**	**Savings**
HAVA Coordinator	1	0.67	0.33	1.00	0.00
Administration (Contracts, Budgets, Accounting, Personnel, Training, etc.)	3	1.49	1.1	2.59	0.41
Legal	1	0.23	0.3	0.53	0.47
Communications and Media	0.5	0.27	0.10	0.37	0.13
HAVA Elections and General	4.5	2.35	1.70	4.05	0.45
Totals	10.00	5.00	3.53	8.53	1.47

The SOS acknowledges that 2007-08 may see a reduction in the overall hours charged to HAVA activities and agrees to a $152,000 reduction (based on the estimated 1.5 PY savings shown above); however, the SOS maintains its contracts and accounting will increase due to VoteCal procurement and county contracts and invoices. The SOS also cites an additional reporting requirement stemming from the EAC's final audit and increasing HAVA Elections and General workload due to the Top-to-Bottom and Source Code Review. Additionally, the SOS anticipates an ongoing need for media staff to continue its voter education program and respond to inquiries for both the ongoing testing and the Top-to-Bottom Review of voting systems. The SOS also expects legal workload related to reviews and changes to regulations will continue into the future as federal guidelines are modified.

Staff notes that the LAO recommendation is based on the most recent HAVA Spending Plan, submitted in April 2006, which shows no administrative expenditures in 2008-09. The LAO's assumption is that the SOS would naturally experience a "ramping down" of HAVA administrative activities during 2007-08 in order to arrive at zero in 2008-09. However, the SOS now indicates the assumption of zero administrative expenditures reflected in the April 2006 HAVA Spending Plan was based on inadequate timesheet data and was therefore inaccurate.

Although the SOS is in a better position than the Legislature to identify its personnel needs, staff notes that the HAVA Spending Plan provides the only firm basis for the Legislature to evaluate HAVA staffing and funding. Therefore, using the most recent HAVA Spending Plan as an analytical anchor (without prejudice to the SOS's contentions above), staff is inclined to accept the LAO analysis and recommendation. Staff notes that the Legislature may revisit this issue if and when a new HAVA Spending Plan becomes available.

Staff Recommendation: APPROVE the LAO recommendation to reduce the SOS HAVA budget by $308,000.

VOTE:

1760 Department of General Services

The Department of General Services (DGS) provides management review and support services to state departments. The DGS is responsible for the planning, acquisition, design, construction, maintenance, and operation of the state's office space and properties. It is also responsible for the procurement of materials, data processing services, communication, transportation, printing, and security. 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. April Finance Letter: Board of Equalization – Individual Rate Building. The DGS requests $1.4 million to set up and fund the Board of Equalization building located at 450 N Street, Sacramento as an Individual Rate Building based on the sale of the building to the DGS.

Staff Comments: This request conforms to a companion request by the BOE that is recommended for vote-only approval.

2. April Finance Letter: Printing and Mailing Workload. The DGS requests 19.0 positions to meet new publishing workload resulting from a recent court decision and closure of the Department of Health Services (DHS) reproduction operation, and to support the mailing requirements of the Department of Child Support Services (DCSS) Statewide Child Support System project.

Staff Comments: The recent Superior Court ruling that Government Code Section 14612.5 is unconstitutional is anticipated to significantly restrict the previous practice of the state contracting with the private sector for printing, resulting in agencies seeking increased printing services from the Office of State Publishing (OSP) at DGS, the state's primary printing provider.

STAFF RECOMMENDATION ON VOTE-ONLY ISSUES 1 and 2: APPROVE the requests.

VOTE:

DISCUSSION ISSUES:

1. 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 issue was heard previously, and the discussion focused on whether or not (and how) this proposal fits within a comprehensive plan on the part of the Administration to implement Chapter 488, Statutes of 2006 (AB 32, Nunez)—the

Global Warming Solutions Act of 2006. In its testimony, the DGS indicated that the request fit within the Governor's Green Building Initiative Plan to meet the energy conservation and efficiency goals articulated in Executive Orders S-12-04 and S-20-04, but the Chair requested the department to provide a comprehensive plan for the way in which the request fits within the broader implementation of AB 32. The materials the DGS provided in response to the Chair's request can be found in Appendix A and B.

Although the DGS continues to emphasize the role the Governor's Green Building Initiative plays as a strategy toward meeting AB 32 greenhouse gas emission goals, staff notes that the additional information submitted by the DGS does not significantly clarify how this strategy fits with other AB 32 implementation strategies funded in the Governor's Budget. While in isolation, this request may generally support AB 32 in a fashion that produces more benefit than cost, the Administration has still not demonstrated that the policy promulgated under this request is consistent with other AB 32 implementation strategies or that the benefit-cost ratio of this effort is higher than other strategies to which the state might apply its limited resources.

Given the potential benefits of reducing energy consumption at state buildings, including reduced greenhouse gas emissions and the savings/cost avoidances estimated by the DGS, staff notes that the Subcommittee may wish to send this issue to Conference for additional consideration of the role this proposal would play in the successful implementation of AB 32.

Staff Recommendation: APPROVE the request less $1,000.

VOTE:

2. 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 #1 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.

When this issue was heard previously, the discussion focused on how the DGS planned to make the transition from $150/hour consultants to permanent state staff, and the Chair requested the DGS to provide the Subcommittee with a plan for this transition.

The DGS responded as follows:

> *In order to achieve the aggressive schedule we are proposing, DGS anticipates utilizing consultants for LEED-EB certification of 11 buildings in FY 2007-2008, 9 buildings in FY 2008-2009 and 11 buildings in FY2009-2010. By 2010, RESD [the DGS Real Estate*

Division] believes it will have sufficient knowledge to oversee LEED-EB certification for the remaining 20 buildings in its portfolio scheduled over the three succeeding fiscal years (FY2010-11 through FY 2012-13); although we do anticipate an ongoing need for a blend of consultants and internal staff depending on the complexity of the projects. Resources for additional staffing may be requested in a future BCP.

In order to bring the LEED-EB certification processes in-house, DGS will prepare as follows:

- *Train its architectural, engineering, project management and building management staff in LEED-EB;*

- *Work side-by-side with its consultants to learn LEED-EB processes (experience and knowledge-transfer);*

- *Secure certification in LEED-EB for its design, project management and building management staff*

- *Transition LEED-EB certification to in-house staff by 2010-2011*

At the point the consultants drop-off, DGS anticipates additional staff will be required to maintain the LEED certification and training program. In working with the consultants we hope to refine workload estimates for the ongoing program. Initially, we estimate the ongoing program will require:

<u>2010-11 In-House Work Plan</u>

DGS is proposing to assemble 2 LEED-EB Teams. Each team will be comprised of:

1 Architect, 1 Mechanical Engineer, 1 Electrical Engineer. It is estimated that each team can complete 3 buildings per year.

- *1 building = 1800 hrs*

- *2 LEED-EB Teams x 3 buildings per year = 6 buildings per year*

- *6 buildings x 1,800 hrs per building = 10,800 hours per year*

- *10,800 hours per year /1,700 hrs/py = 6.35 pys*

- *10,800 hours x $150.00 hour = $1,620,000/year*

As noted above (in Issue #1), there appear to be potential benefits to the Governor's Green Building Initiative; however, the Subcommittee may wish to send this issue to Conference for additional consideration of the role this proposal would play in the successful implementation of AB 32.

Staff Recommendation: APPROVE the request for three years only, less $1,000 (each year).

VOTE:

8940 Department of the Military

The California Military Department (CMD) 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 CMD 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 CMD 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 ISSUE:

1. April Finance Letter: State Active Duty Employee Compensation Increase. The CMD requests $1.3 million ongoing ($596,000 General Fund and $739,000 Federal Trust Fund), to fund State Active Duty (SAD) employee compensation increases granted January 1, 2007 and proposed in the President's budget (estimated to be granted January 1, 2008). State law requires pay for SAD employees be based upon military pay increases granted by Congress.

Staff Comments: Because this request is speculative of a federal pay increase that has not yet been passed, the Subcommittee may wish to adopt the following Budget Bill Language to ensure that the requested funds are provided only upon approval of the pay increase by the federal government.

Item: 8940-001-0001
Provisions:
XX. Of the funds appropriated in this item, $596,000 shall be used to provide

mandatory employee compensation increases for State Active Duty employees. Of the total amount so appropriated, $294,000 shall provide the remaining half-year funding needed for the compensation increase effective January 1, 2007. An additional $302,000 shall provide half-year funding needed for a compensation increase effective January 1, 2008, and shall only be available for expenditure upon passage of a federal active duty compensation increase in the federal budget. The funds provided in this paragraph shall be expended pursuant to Section 320 and Section 321 of the Military and Veterans Code which requires State Active Duty employees to receive the same compensation increases as their counterparts on federal active duty. Any unspent funds pursuant to this paragraph shall revert to the General Fund.

Item: 8940-001-0890
Provisions:
XX. Of the funds appropriated in this item, $739,000 shall be used to provide mandatory employee compensation increases for State Active Duty employees. Of the total amount so appropriated, $378,000 shall provide the remaining half-year funding needed for the compensation increase effective January 1, 2007. An additional $361,000 shall provide half-year funding needed for a compensation increase effective January 1, 2008, and shall only be available for expenditure upon passage of a federal active duty compensation increase in the federal budget. The funds provided in this paragraph shall be expended pursuant to Section 320 and Section 321 of the Military and Veterans Code which requires State Active Duty employees to receive the same compensation increases as their counterparts on federal active duty.

STAFF RECOMMENDATION ON VOTE-ONLY ISSUE 1: APPROVE the request with Budget Bill Language (above).

VOTE:

DISCUSSION ISSUES:

1. 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-off 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 Comments: At a previous hearing, the Subcommittee approved the staff recommendation to adopt Budget Bill Language on quarterly notices and Trailer Bill Language to shift Military Family Relief Fund funds to the CMD’s Chaplains’ Fund. However, it has since come to staff’s attention that the Subcommittee’s action would not have the effect intended, and may have been premature since the tax check-off still has one year remaining before it sunsets. Although future legislative action may still be required to overcome obstacles to Military Family Relief Fund implementation (noted in a previous agenda), the Subcommittee may wish to use the final year of the check-off to weigh additional options.

Staff Recommendation: RESCIND the previous Subcommittee action on this issue.

VOTE:

2. BCP: 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 Tuition Assistance Program (TAP) to provide tuition assistance for Guard members and support recruitment and retention efforts.

Staff Comments: At a previous hearing, the Subcommittee heard discussion on this issue, which focused on recruitment and retention within the National Guard. The CMD stated its belief that a tuition program of some type is essential to California National Guard recruitment and retention efforts, while the LAO testified that this proposal would duplicate the existing National Guard Assumption Program for Loans for Education (NG-APLE). The Chair asked the Military Department to work with staff and the LAO to resolve recruitment and retention data discrepancies, but also requested additional clarification on the structure of the proposed program and an explanation as to why the budget process was the proper forum to address this initiative as opposed to the normal policy process.

Subsequent to the hearing, the CMD provided staff with additional information, including a set of "draft" regulations outlining the intended program. The department also clarified that a "spot" bill on the TAP, SB 983 (Correa), was winding its way through the policy process. Although SB 983 was assigned to the Senate Veterans Affairs Committee and approved, it was placed on suspense in Senate Appropriations. Staff notes that the bill did not contain any detail on the structure of the proposed program (for example, language from the "draft" regulations submitted to Budget staff), and never came before staff on the Senate Education Committee. However, in consultations with Budget staff, Education Committee staff indicate the CMD's "draft" regulations are unworkable as written, primarily because they appear to mimic a tuition assistance program from another state that is not suited to California law or practices. For example, the regulations refer to tuition despite the fact that California is a "tuition free" state, and California institutions of higher learning charge fees. Although readily fixed in isolation, according to committee staff, the tuition "issue" was emblematic of a more diverse and widespread set of problems with the regulations as proposed.

Based on the information available at this time, staff has significant concerns that this proposal has not undergone a thorough review in the appropriate policy venue. Rather, the Subcommittee is being asked to decide on a new education policy initiative that is more properly the purview of the Senate Education Committee. Therefore, without prejudice to the need for, or potential benefits of, a tuition assistance program for the California National Guard, staff recommends the Subcommittee deny this request and encourage the Military Department to return in the future with a more fully-vetted policy proposal for the Subcommittee's consideration.

Staff Recommendation: DENY the request.

VOTE:

3. BCP: Military Funeral Honors Program. The Governor's Budget includes $1.8 million (General Fund) and 23.0 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 (DOD), and perform other support tasks.

Staff Comment: The Subcommittee previously heard this request and the Chair requested the CMD to respond to staff comments which reflected the following understanding: (1) military funeral honors do not have to be performed by uniformed personnel, but can be performed by a broad cross section of uniformed military personnel; and (2) the department has 13 Active-Guard Reserve personnel with the capacity to perform at least 100 funerals more per month than are currently provided. The department subsequently provided clarification on both of these points.

The previous staff agenda quoted DOD Directive 1300.15, stating:

> *"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."*

However, the CMD has since clarified that the above citation applies to "authorized providers" only. Authorized providers are defined as individuals or groups recognized by a Secretary of a Military Department who may "augment the uniformed members of a Military Funeral Honors detail." Thus, staff now agrees with the CMD's contention that the funeral honors ceremony must be performed by at least two "uniformed military persons" who may be any of the following: (1) Active Duty personnel; (2) Reserve/National Guard component members; or (3) military retirees qualified by active or Reserve component honor guard personnel. Contrary to staff's previous understanding, State Military Reserves do not meet the above criteria and would not therefore fulfill the requirement for two uniformed military persons.

Regarding the 13 Active-Guard Reserve referenced in the March 8 agenda, the department indicates that only 9 are currently assigned to funeral honors. The reason for the discrepancy has to do with the fact that the number of federally funded Active-Guard Reserve has shifted downward since the data referenced in the March 8 agenda was originally reported by the State Auditor in 2004. According to the CMD, the primary responsibility of these Active-Guard Reserve is the training of units at state armories; however, their redirection to funeral honors duty threatens to adversely impact Guard readiness. Therefore, 9.0 of the positions requested would supplant these positions and allow them to return to their training duties.

According to the CMD, requests for military funeral honors have grown steadily since 2001 when the DOD required all organizational entities within the DOD to conduct funeral services. That year there were 2,345 requests (or approximately 195 per month), whereas the CMD now reports receiving between 900 and 1,000 requests per month. The department indicates this increase reflects a number of factors, including rising mortality rates among World War II and Korean War-era veterans, as well as the effects of the current war in Iraq.

Given that the existing 49 staff engaged full-time in the funeral honors program are able to conduct between 600 and 650 honors per month, the Military needs to perform between 55 and 66 percent more funeral honors per month. Assuming the Military is to return 9 staff (as mentioned above) to armory training duties, the request for 23.0 additional positions represents a 58 percent increase and appears to be consistent with the workload data provided.

As the current increase in requests for funeral honors is at least partially demographically driven, the Subcommittee may wish to approve these positions on a limited-term basis and/or approve Budget Bill Language to require the department to report on these trends so that staffing levels can be reduced in the future as appropriate.

Staff Recommendation: APPROVE the request on a two-year limited-term basis.

VOTE:

4. BCP: 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 CMD 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: When this issue was heard previously, the Subcommittee noted that 1.0 position appeared insufficient to address the needs of the more than 20,000 members of the California National Guard, and the Chair requested the CMD to provide a proposal to cover all California National Guard personnel. In its response, the CMD stated its intent to use the requested mental health provider position to coordinate and oversee the activities of the 38 mental health professionals provided by to the California National Guard by the U.S. Department of Defense under the Tri-West pilot medical program. However, the CMD additionally estimates that when the Tri-West pilot program ends, four Combat Stress Teams comprised of four personnel (a Psychologist, a Chaplain, and their assistants) would be necessary to provide geographic coverage to the entire state—two teams in Southern California and two in Northern California. According to the CMD, a Combat Stress Team services a Brigade-sized unit in the active duty military (5,000 troops).

While the CMD has provided an estimate of the state-funded resources that would be necessary to provide mental health care to California National Guard (CNG) members, staff notes that the proposal before the Subcommittee represents an opportunity for the state to leverage available federal resources at a fraction of the cost of a fully state-funded alternative. In the meantime, the CMD indicates that the proposed position can help the state to better identify CNG mental health requirements in anticipation of the need to provide a fully state-supported system in the future.

Staff Recommendation: APPROVE as budgeted with Budget Bill Language requiring the Military Department to report on the mental health service needs of the California National Guard and the staffing requirements to meet those needs.

VOTE:

Control Section 4.26: Elimination of Boards or Commissions

Staff Comments: This item was approved on a vote-only calendar in a previous hearing; however, staff has since learned that several of the boards and/or commissions proposed for elimination under this control section are still necessary. Therefore, the Subcommittee should rescind its previous action and delete Control Section 4.26. Elimination of unnecessary boards or commissions can take place through trailer bill language.

Staff Recommendation: Rescind the previous Subcommittee action and delete Control Section 4.26.

VOTE:

Control Section 35.60: Transfer of Budget Stabilization Account to the General Fund

Proposition 58, approved by the voters in the March 2004 primary election, enacted a balanced budget requirement, established a process for the Governor to declare a fiscal emergency and call the Legislature into special session to take mid-year corrective action to keep the budget in balance, and also created the Budget Stabilization Account (BSA).

Staff Comments: The primary purpose of the BSA is to act as a multi-year budget stabilization tool. The California Constitution requires 1 percent of estimated General Fund revenues must be transferred to the BSA in 2006-07, 2 percent in 2007-08, and 3 percent in 2008-09 and annually thereafter, until the BSA reaches the greater of $8 billion or 5 percent of General Fund revenues. The constitution allows the Governor to suspend transfers to the BSA, but the Governor must act to do so by June 1 of the prior fiscal year. Also, while the Economic Recovery Bonds (ERBs) are outstanding, half of the annual transfers to the BSA (up to a cumulative total of $5 billion) are appropriated to accelerate their repayment.

The constitution provides that once funds are in the BSA they may, by statute, be transferred into the General Fund. The intent was to require a specific action by the Legislature in order to reach into the BSA, so that it would be separate from the regular General Fund reserve.

The Governor's budget estimates that about $2 billion will be transferred to the BSA in 2007-08, of which half would go towards repayment of the ERBs and the remainder ($1 billion) would remain in the BSA. The total balance in the BSA would be about $1.5 billion (after the debt service payment), including a carryover balance from the current year of $472 million. In addition, the Governor's budget projects a General Fund reserve of $590 million.

Control Section 35.60 would allow the administration to transfer any amount from the BSA to the General Fund in order to maintain a "prudent" General Fund reserve, as determined by the Director of Finance.

Staff notes that if the Governor feels it necessary to have a larger reserve in the General Fund itself, then he can suspend the BSA transfer. Instead, the administration is asking for this language, which would effectively make the BSA part of the regular General Fund reserve from the administration's point of view. If General Fund revenues fall short during the year, Control Section 35.60 would enable the administration to use BSA funds to maintain its spending priorities without Legislative approval, so that the Governor could direct the funds to protect his spending priorities, but not necessarily those of the Legislature. This would be inconsistent with the intent of Proposition 58. Eliminating Control Section 35.60, as the Legislature did in the 2006-07 Budget, would require enactment of legislation to use the BSA, and would maintain the intent of Proposition 58.

Staff Recommendation: Delete Control Section 35.60.

VOTE:

APPENDIX A – DGS Response to Chair's Request for a Comprehensive Plan on the Way in Which the Green Building Initiative Fits Within the AB 32 Implementation (Discussion Issue #1)

Subject: Senate and Assembly Budget Hearing Questions; Green Building Initiative

The Green Building Initiative (EO S-20-04) is a strategy for attaining AB 32 Greenhouse Gas (GHG) emission reduction targets. The Climate Action Team Report (Cal EPA, March 2006) identifies the California Green Building Initiative as a critical strategy for reducing GHG emissions, primarily through the reduction of electricity usage in commercial and institutional buildings. The CAT Report estimates 0.5 million metric tons (MMT) CO2E emissions can be reduced by 2010 and 1.8 MMT by 2020 through measures implemented in state-owned buildings. These GHG reductions correspond to the GBI goal of reducing grid-based electricity purchases 20 percent by 2015.

Commercial buildings use 36 percent of the state's electricity and the production of this electricity accounts for over 22 percent of the GHG gas emissions in the state. The USEPA Energy Star Program states that optimizing energy performance in buildings is the primary means of lessening environmental impacts.

Other goals of the GBI also offset the emission of GHG's, and are being addressed through the Leadership in Energy and Environmental Design (LEED) program by the implementation of measures to include water efficiency, waste stream diversion; use of environmentally preferable products, reducing automobile use, encouraging renewable and alternative energy sources, etc.

The Green Building Initiative outlines a plan for the implementation of Energy Efficiency and GHG Reduction Measures. The Green Building Order (S-20-04) and accompanying Green Building Action Plan outline goals and objectives to reduce grid-based energy usage and GHG emissions in commercial and institutional buildings. The goals, objectives, and the actions that are underway, comprise a comprehensive plan to improve the overall performance of the state's new, existing and leased buildings. The overall standard used to measure performance is LEED certification.

For new buildings, this ensures the state considers Life Cycle Cost in overall building design and that all new buildings meet strict standards for energy efficiency and environmental performance. The assessment for efficiencies in the Life Cycle Cost of a building is based on a savings goal over the life of a building of not less than 10 percent more than the total cost of the project.

For existing buildings, this includes the optimization of existing building systems for energy efficiency, the upgrading of equipment to more efficient models, providing alternative transportation, encouraging on-site renewable and alternative energy, reducing and managing waste, the use of environmentally friendly and energy efficient products, etc.

For leased buildings, this includes leasing Energy Star compliant buildings, and actions underway to attain LEED certification.

The action plan being undertaken by DGS for its new, existing and leased buildings is intended to meet the objectives for the GBI and AB 32 and includes:

- Benchmarking state-owned and leased buildings to measure energy usage calculate CO_2 emissions and track progress.
- Retro-commissioning to optimize existing building systems, provide immediate energy savings of at least 8 percent, and reduce GHG emissions.
- Retro-fits of more efficient equipment to achieve at least 12 percent energy savings and accompanying GHG reductions.
- Implementation of LEED measures to reduce waste, improve the use of environmentally friendly products, reduce transportation, and reduce the environmental footprint of buildings.

Several funding alternatives are being considered for life-cycle refresh efforts including:

The DGS is working to identify funding alternatives. The below includes examples already approved, or under investigation by the department.

- The use of the Golden State Marketplace (GS $Mart) financing for energy efficiency upgrades. This use has been approved by the DOF along with a Life Cycle Cost Assessment Model for evaluating potential projects.
- The use of utility incentives to offset the cost of Retro-commissioning and Retrofit projects. Currently, the state has a partnership with the California Investor-owned utilities for up to $17 Million in incentives for energy efficiency projects for the years 2006-2008. In addition, PG&E and SMUD have agreed to fund several Retro-commissioning projects pending the state agreeing to implement energy efficiency measures identified by those projects. Coordination is underway with the CPUC to expand this support for the next CPUC-funded Energy Efficiency Program funding cycle for the years 2009-2011.
- The redirection of Public Goods moneys paid by state agencies into a CPUC-funded account that can be used to directly fund state building energy efficiency and clean on-site generation projects.
- Departments could fund the up-front costs of Retro-commissioning and Retrofits. Then as savings materialize the department would be able to retain those savings providing reimbursement for the initial investment and an incentive to participate in the program.

I. The Green Building Initiative Implementation Plan

The Executive Order S-20-04 and the Green Building Action Plan identified five primary initiatives to promote green buildings and energy efficiency:

1. **Leadership in Energy and Environmental Design for New Construction and Major Renovations (LEED-NC)**

   The LEED-NC rating system defines a leadership position for designing and building commercial, institutional, and government buildings in a way that produces quantifiable benefits for occupants, the environment and their owners. Targeting the design phases of a building, LEED-NC addresses the environmental impacts of site and materials selection, demolition and construction.

LEED–NC promotes improved practices in the integrated design approach from start to finish (commissioning), site selection and development, water and energy use, environmentally preferred construction products/finishes/furnishings, waste stream management, indoor environmental quality, and innovation in sustainable design and construction.

Green building practices substantially reduce or eliminate negative environmental impacts. These design and construction measures have proven to significantly reduce operating costs, increase worker productivity, require local purchasing, require use of recycle content materials, and require the diverting of waste product to landfills.

Pursuant with the Green Building Action Plan, "a*ll new State buildings and major renovations of 10,000 sq. ft. and over and subject to Title 24 will be designed, constructed and certified at LEED-NC Silver or higher, (or LEED-EB as applicable.) … Building projects less than 10,000 sq. ft. shall use the same design standard, but certification is not required."*

2. **LEED Rating System for Existing Buildings** (**LEED-EB**).

LEED for Existing Buildings maximizes operational efficiency while minimizing environmental impacts. It provides a recognized, performance-based benchmark for building owners and operators to measure operations, improvements and maintenance on a consistent scale. LEED for Existing Buildings is a road map for delivering economically profitable, environmentally responsible, healthy, productive places to live and work.

Pursuant with the Green Building Action Plan "a*ll existing State buildings over 50,000 square feet shall meet LEED-EB standards (including meeting an Energy Star rating of at least 75, or equivalent established by the CEC) by no later than 2015 to the maximum extent cost-effective…."*

3. **Benchmarking.**

The goal of this initiative is to implement a Web based benchmarking tool that will also contain energy usage and cost information for State facilities back to January 2003. This tool can then support other programs that will be relying on this information, such as LEED-EB, the Climate Change Initiative, and tracking energy use reductions based on retro-commissioning and energy retrofit activities. The current Web based tool being employed by the program is the ENERGY STAR™ Portfolio Manager which is managed by the US EPA.

Pursuant with the Green Building Action Plan "a*ll occupied State-owned buildings, beginning no later than July 2005 and completed by 2007, shall be* *benchmarked for energy efficiency, using guidelines established by the CEC…. Building managers of low-rated buildings shall prepare a plan to undertake cost-effective efficiency retrofit projects."*

4. **Retro-commissioning.**

   Existing-building commissioning, also known as retro-commissioning (RCx), is an event in the life of a building that applies a systematic investigation process for improving or optimizing a building's overall performance and the way it's maintained and operated. The RCx process most often focuses on dynamic energy-using systems with the goal of reducing energy waste, obtaining energy cost savings, and identifying and fixing existing problems. Although RCx may include recommendations for capital improvements, the primary focus is on using O&M tune-up activities and diagnostic testing to optimize the building systems.

   Pursuant with the Green Building Action Plan, *"all State buildings over 50,000 square feet shall be retro-commissioned, and then re-commissioned on a recurring 5-year cycle, or whenever major energy consuming systems or controls are replaced. This will assure that energy and resource consuming equipment is installed and operated at optimal efficiency.*

5. **Energy Star Leasing.**

   Pursuant with the Green Building Action Plan, *"DGS and other State agencies will seek out and select whenever cost-effective State facility leases for spaces of 5,000 square feet or more in buildings that meet a minimum U. S. EPA Energy Star rating whenever such spaces are cost-effective and meet the State's programmatic needs, beginning in 2006 for new leases, and beginning in 2008 for renewal leases.*

II. Estimated Costs

- **LEED-NC**
  - The estimated cost of LEED-NC Silver ranges from 1% - 3% of the construction cost. (According to the United State Green Building Council (USGBC), the estimated cost is 1.9%.)

- **LEED-EB**
  - The estimating methodology employed in DGS' BCP is cost per credit. It takes 45 credits to attain LEED-EB Silver certification. At an assumed 40 hours per credit x $150/hour this equates to an average cost of $270,000 per building. The cost for the eleven buildings in the BCP is $2,970,000.
  - The USGBC methodology is cost per square foot. Based upon a USGBC analysis of three buildings, conducted in 2003-2004, the estimated cost was $1.00/square foot. The cost for the eleven buildings based upon this methodology would be $2,945,896.

- **Benchmarking**

- No cost data is available since DGS used internal resources and available utility data.

- **Retro-commissioning**
  - The average estimated cost for retro-commissioning is $0.85/square foot. The additional cost for energy retrofit will be based upon measures identified to achieve a 12% reduction in energy consumption ($1.15 - $2.15/square foot). Please see the Attachment E, the draft 5-year Retro-commissioning schedule for state-owned buildings.

- **Energy Star Leasing**
  - No cost data

III. Return on Investment

- **LEED-NC:** Per the USGBC, the estimated annual ROI on LEED-NC Silver is estimated to be 25% - 40% over the life of the asset.

- **LEED-EB:** Per back-up information for the GBI, the estimated annual ROI on LEED-EB certification is $0.58 per square foot. This includes savings realized from Retro-commissioning, energy retrofit projects and improved building operations and maintenance.

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- **Benchmarking**
  - N/A. Data will be used to measure reductions in energy consumption and green-house gas reduction.

- **Retro-commissioning**
  - Conservative estimates of energy savings derived from RCx are 8%. The estimated energy savings needed from subsequent energy retrofit projects is 12%, thus achieving the 20% reduction goal in grid-based purchases. The estimated annual ROI derived from RCx is $0.28/square foot.

- **Energy Star Leasing**
  - Leased structures that implement LEED-NC, LEED-EB and RCx, should experience comparable ROI's where applicable.

APPENDIX B – Additional Green Building Information from DGS (Discussion Issue #1)

LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN Existing Buildings – (LEED-EB)

Goal and Objectives: Realize the goal of 20% efficiency improvement comprised of 8% savings from retro-commissioning and 12% savings from hardware investments (energy retrofits) of current energy usage. Implementing LEED-EB into building's operation and maintenance results in energy, water, and waste cost savings in the management of the state owned building portfolio.

Estimates of Return on LEED-EB Investment – Three Sources

The DGS has investigated several industry estimated energy efficiency saving models to identify potential return on investment.

Three examples follow:

1. **(USGBC) The Unites States Green Building Council** provides estimates based on the data compilation of three buildings in a pilot LEED-EB program with realized efficiency savings of about $0.58 per square foot (SF). Of that $0.58, 75% or $0.435 is attributed to energy related savings per fiscal year (FY). They included 75% energy related savings, 15% to solid wastes and the remainder to indoor environmental, water, and site. The average costs of LEED-EB were cited at a $1.00/sf. Specifics of the measures implemented were not offered and our actual costs may vary from the USGBC cited examples.

Fiscal Year	Square Footage	LEED-EB Efficiency Savings at $0.58 SF/YR	Energy Related Savings at $0.435 of Current Energy Usage[1]
2007/08 (11 buildings)	2,946,000	$1,708,400	$1,285,510
Six FYs (07/08-12/13) (51 buildings)	14,940,000	$8,665,200	$6,498,900

LEED-EB savings are estimated to be 75% energy related,15% related to reduced solid waste, and the remaining savings to indoor environmental quality, site vegetation, and water.

2. **KEMA-XEnergy,** an energy consulting firm, estimates energy related savings of about $0.34/SF/FY as follows:

3.

Fiscal Year	Square Footage	$0.34 SF/YR Current Energy Usage
2007/08 (11 buildings)	2,946,000	$1,001,640
Six FYs (07/08-12/13) (51 buildings)	14,940,000	$5,079,600

[1] The USGBC estimate is based on the total LEED generate savings, including energy.

4. **<u>The California Energy Commission (CEC)</u>** estimates energy related savings of about $0.42/SF/FY as follows:

Fiscal Year	Square Footage	$0.42 SF/YR Current Energy Usage
2007/08 (11 buildings)	2,946,000	$1,237,320
Six FYs (07/08-12/13) (51 buildings)	14,940,000	$6,274,800

- **<u>LEED – EB Non-Energy Benefits</u>**

  Non-energy resource benefits are estimated by the California Environmental Protection Agency (CAL-EPA) LEED-EB building compliance as reflected in the following:

Benefit	Cost Savings Per Square Foot	<u>FY 07/08</u> 11 Buildings Over 20 years	<u>Six (6) FYs</u> 51 Buildings (07/08-12/13) Over 20 years
• **<u>Emissions</u>**	$1.18	$3,476,280*	$17,629,20
• **<u>Water</u>**	$0.51	$1,502,460**	$7,619,400
• **<u>Waste</u>**	$0.03	$88,380***	$448,200

(*) CO^2 Emissions 49,624,000 pm – Per EPA Energy STAR
(**) The USBC-LEED report indicated water reduction usage by 30%
(***) One time construction

- **<u>Indoor Air Quality</u>**

  USGBC- LEED reports productivity gains of up to 16% due to reductions in absenteeism, a 60% reduction in employee turnover, and overall improved work quality. In a thirty (30) year building cost life cycle that includes construction, operations and maintenance, employee salaries constitutes 92% of overall commercial building costs.

- **<u>Climate Registry System– AB-32</u>**
  LEED-EB process assembles climate registry data including;
  1. Identifying emission sources.
  2. Review management systems.
  3. Verify emissions- Mobile combustion (boilers, turbines, combustion engines).
  4. Employee travel, commuting.
  5. Waste stream, product disposal.
  6. Reporting Kyoto gasses

- **LEED –EB Designated Buildings Total BTU Utility Usage 07/08 (11 Buildings) – EPA Energy Star**

Fiscal Year	Eleven Buildings Square Footage	Energy Cost $ Per Year	12% Savings of Current Energy Usage
2007/08	2,946,000	$3,897,345	$467,681

- **Total Utility Usage For 51 Buildings in Each of the Following Years:**

Year	KWH Annual Usage
2003	182,532,173
2004	191,280,855
2005	186,680,818
2006	189,986,970
TOTAL	**750,480,796**
12% Savings of Current Energy Usage	90,057,695

Nine buildings of the fifty-one buildings are non-DGS owned and are not currently benchmarked within the DGS managed portfolio.

Senate Budget and Fiscal Review—Denise Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Robert Dutton
Christine Kehoe

Agenda – Part B

Thursday, May 10, 2007
10:00 am or upon adjournment of session
Room 112

Consultants: Daniel Alvarez & 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.

Departments Proposed for Consent / Vote-Only

Staff recommends approval of all the budgets and/or budget issues on pages 1 - 4, including any technical changes or minor budget adjustments as noted.

0750 Office of the Lieutenant Governor

Proposed budget: Under California's Constitution, the Lieutenant Governor serves as Acting Governor whenever the Governor is absent from the state, and automatically becomes Governor if a vacancy occurs in the Office of Governor. The Lieutenant Governor also (1) is President of the Senate and votes in case of a tie; (2) serves as a voting member of the Regents of the University of California and the Trustees of the California State University system; and (3) under state statutes, the Lieutenant Governor chairs the California Commission for Economic Development, which provides support and guidance for the development of California's economy. The proposed 2007-08 Governor's budget includes total General Fund expenditures of $2.9 million, and approximately 30 positions, for support of the Office of the Lieutenant Governor. This is an increase of approximately $57,000, or less than two percent, above estimated current year expenditures.

1. **Information Technology Upgrade (April DOF letter).** The Office of Lt. Governor requests a one-time $100,000 General Fund increase in order to replace obsolete personal computers and to upgrade hardware, software, wiring, and the local area network. These upgrades are necessary to improve the operational efficiencies of the office. <u>Staff recommends approval of this DOF letter.</u>

2. **Commission for Economic Development augmentation (April DOF letter).** The Office of Lt. Governor requests an augmentation of $190,000 from the General Fund to fund travel and per diem expenses of members of the Commission for Economic Development (CED), external consultant costs, and leasing costs for a new CED office in San Francisco. This augmentation will enable the Lt. Governor to fulfill his statutory obligations and assist in California's economic development. <u>Staff recommends approval of this DOF letter.</u>

1110 California Board of Accountancy

Security Guard Services (BCP #1110-01) & Budget Adjustment. At the April 11, 2007, hearing, the Subcommittee discussed the California Board of Accountancy (CBA) budget request for an augmentation of $149,000 to fund 24-hour security guard services at the facility they share with the Department of Boating and Waterways. The Governor's Budget assumed that the CBA would pick up all of the new security cost; however, at the prior hearing, the CBA indicated that the Department of Boating and Waterways had agreed to share the security costs, which would reduce the CBA's budget need. This issue was left open at the prior hearing while the appropriate budget adjustment was determined. The Administration has since indicated that the CBA's special-fund appropriation should be reduced by $92,000 and that their reimbursement authority should be increased by $92,000 (to receive the security reimbursement from the Department of Boating and Waterways). <u>Consistent with the revised Administration proposal, staff recommends a decrease of $92,000 in the CBA's special fund appropriation and an increase of $92,000 in the CBA's reimbursement authority.</u>

1700 Department of Fair Employment and Housing

Legal and Administration Workload - Staffing (BCP #2). At the April 11, 2007, hearing, the Subcommittee discussed the Department of Fair Employment and Housing (DFEH). Two issues were held open: BCP #2 that requested an augmentation of $1.5 million (General Fund) to add 6.0 attorney positions and 4.0 administrative positions to address workload for civil and administrative cases and for accounting and other operations functions; and a Committee staff issue on the restoration of a mediation program. Since the hearing, the DFEH provided additional detail quantifying the average number of attorney hours it takes to close a civil or administrative case and tied that data to the budget request. The department also provided additional data on their volunteer-mediator program, and explained the costs of expanding the program with new state employees. While the volunteer mediation program can accommodate only a limited number of cases (45 cases in 2006), it does provide an avenue for parties who wish to pursue that route and any significant expansion of mediation would likely require new General Fund support – therefore, staff does not recommend expansion of mediation at this time. <u>Staff recommends approval of BCP #2 to address legal and administrative workload</u>.

2100 Department of Alcoholic Beverage Control

Licensing and Compliance System Information Technology (IT) Project (Finance Letter #1). The Department of Alcoholic Beverage Control (ABC) budget was approved at the March 14, 2007, hearing; however, a Finance Letter has since been submitted. The Finance Letter would revert $1.5 million in the current year and augment the budget year by $1.5 million (for zero net change in expenditure over the two years). The Licensing and Compliance System IT project was originally approved by the Legislature in 2004-05, and will update the ABC's existing automated process for accepting and processing liquor license applications. The project was delayed as a result of civil litigation filed by a vendor after the initial bid process. <u>Staff recommends approval of this Finance Letter</u>.

2400 Department of Managed Health Care

Mental Health Parity Report (Staff Issue): The Department of Managed Health Care (DMHC) budget was heard at the March 14, 2007, hearing. The DMHC did not submit any budget change proposals and the only issue for discussion was the Department's report on mental health parity. The report was first made public at the March hearing, and the Subcommittee held their budget open pending review of the report. The report has since been reviewed by Budget Staff, Policy Staff, and the LAO – no concerns have been raised for further discussion in the Subcommittee. <u>Staff recommends approval of the DMHC budget</u>.

2700 Office of Traffic Safety

Governor's Budget: The Office of Traffic Safety (OTS) is responsible for allocating federal grant funds to State and local entities to promote traffic safety. The Governor proposes total expenditures of $96.3 million (no General Fund) and 33.9 positions – an increase of $11.0 million and 2.9 positions from the current year. The Administration submitted one Budget Change Proposal (BCP) for the Office of Traffic Safety. BCP #1 increases operations funding by $266,000 (federal funds) and establishes 3.0 new positions (one Associate Information Systems Analyst and two Associate Governmental Program Analysts) to increase grantee monitoring and to improve web-based services. Both of these efforts are consistent with the recommendations of the National Highway Traffic Safety Administration (NHTSA). The NHTSA conducted a management review of OTS in June 2006 and found staffing is inadequate to meet new grantee monitoring requirements. Additionally, NHTSA is recommending the use of improved electronic systems to receive applications and track and monitor expenditures.

Technical Change: Several OTS budget bill items have language stating that the appropriation is not subject to the provision of Budget Control Section 28. Section 28 describes how departments may receive unanticipated federal funds and requires reporting to the Legislature as specified. Staff asked the Administration to explain the intent behind this long-standing language. The Administration indicated the intent was not to avoid legislative reporting, but rather to allow the expenditure of federal funds over two State fiscal years. The Administration developed the following alternative budget bill language which better implements their intent and does not exclude OTS from any statewide legislative reporting requirements.

> *"Notwithstanding any other provision of law, federal funds appropriated by this item but not encumbered or expended by June 30, 2008, may be expended in the subsequent fiscal year"*

Staff recommends the substitution of the above alternative budget bill language.

Staff Recommendation: Approve the budgets and/or budget issues for the consent / vote only departments with the technical corrections or minor budget adjustments described above.

Vote:

Departments Proposed for Discussion / Vote

1110 Dental Board of California

The Dental Board's Budget was heard at the April 11, 2007, hearing and the following issue was kept open for further review.

1. **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.

   As part of the Board's prior sunset review, an Enforcement Coordinator was hired to review the Dental Board's Enforcement Program. In an April 2003 report, the Enforcement Coordinator recommended that the Board increase the number of Investigators to reduce investigative caseload to 30-35 cases per investigator and reduce average investigative processing time to six months.

   Staff Comment: Since the hearing, the Board has provided additional information relative to the recommendations of the Enforcement Coordinator. The Board indicates that in 2006-07, the average caseload per Investigator is expected to be 73 cases and the average time per investigation is 11 months – these figures are far from the goals of the Enforcement Coordinator. With the 4.0 new Investigators requested by the BCP, the Board hopes to reduce caseload per Investigator to 60 cases and reduce average time per investigation to 9 months – improvements but still far from the goals of the Enforcement Coordinator. To achieve the recommendations of the Enforcement Coordinator, and achieve the resulting improvements in consumer protection, the Board indicates it would need another 4 Investigators. It should be noted that the board is requesting a 44 percent increase in the number of Investigators (from 9 to 13 positions) to begin to improve consumer protection, but their information suggest further augmentations will be required in future budgets.

   Staff Recommendation: Approve the BCP and adopt Supplemental Report Language to require the Board to report by March 1, 2008, on their progress on hiring and training the 4.0 new positions, their most recent data on caseload per investigator and average time to close investigations, and their staffing plan for 2008-09 to fully achieve the Enforcement Coordinator's recommendations.

   Vote:

1110 Board of Pharmacy

The Board of Pharmacy (Board) was heard at the April 11, 2007, hearing and the following issue was kept open for further review.

Discussion / Vote Issues

1. **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 (this is a 20 percent vacancy rate compared to the statewide average of 14 percent). This request was submitted outside the collective bargaining process and neither the Department of Personnel Administration (DPA) nor bargaining unit 19 has approved the request at the time of the Governor's Budget.

   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.

   Staff Comment: This issue was additionally discussed with the Director of the DPA at the April 25 hearing. DPA indicated that between collective bargaining contracts, DPA usually denies new pay differentials unless both: (1) a great need is established and (2) the requesting department has existing budget capacity to fund the change.

   The practice of granting compensation increases outside the collective bargaining process should be avoided. The Board of Pharmacy, in prior testimony, made a compelling case for the differential, but there are many recruitment and retention problems across state government, and other departments (without BCP funding requests) that can make similarly compelling cases. If the Department of Finance and the Legislature start funding compensation increases independent of DPA and the collective bargaining process, there is risk that inequities across classifications and departments may increase instead of decrease.

   <u>The DPA indicates that on May 8, 2007, Unit 19 waived their right to negotiate this differential and DPA approved the differential (pending legislative approval with this BCP or another vehicle).</u>

   Staff Recommendation: Approve the BCP. With the May 8, agreement, this request is no longer independent of DPA and the union – both approved the differential.

   Vote:

1110 Medical Board

The Medical Board (Board) was heard at the April 11, 2007, hearing and the following issue was kept open for further review.

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 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 the Department of Justice.

   April 11 Hearing Discussion: At the April 11 hearing, the Subcommittee heard from the Board on the issue of appropriate staffing, and the issue of pay differentials for Investigator positions and related supervisors and managers. The Board testified that their first priority was getting a pay differential for their Investigators (approximately $11,000 per year, depending on the classification). 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. Additionally, the Board testified that new positions would be difficult to fill without the new differential.

   Staff Comment: Analogous to the staff comment for the Board of Pharmacy, the practice of granting compensation increases outside the collective bargaining process should be avoided. The Medical Board could alternatively work with the Department of Personnel Administration and the applicable collective bargaining unit to either sign a side-letter agreement to contract and implement the pay differential as early as January 1, 2008 (depending on available salary savings from vacancies), or negotiate the pay differential into the next bargaining contract.

   Staff Recommendation. Take no action. Since no BCP was submitted for the pay differential, there is nothing to reject. The Board's BCP was approved at the April 11 hearing, so no further budget action is required to close the Board's Budget.

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. In addition, the Secretary's Office oversees programs, such as the Small Business Loan Guarantee Program, which are budgeted directly in the Secretary's Office.

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 Comment: The above consent / vote only issues were held open at the March 14, 2007, hearing pending receipt of the Agency's long-term Motor Vehicle Account (MVA) forecast. That information has since been submitted and is outlined in issue #5 on the following page.

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

Vote:

Discussion / Vote Issues:

5. **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. The primary funding source for the CHP and DMV is the Motor Vehicle Account (MVA), which receives revenues from motor vehicle registration fees and driver's license fees, among other fees. Staff asked the Agency to demonstrate, with a long-term MVA fund condition statement, whether the requested augmentations can be sustained without a fee increase. On March 16, the Agency provided their long-term MVA fund condition estimate which is outlined in the following table.

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.

The Long-Term MVA Fund Condition (Estimated by the BT&H Agency):

	2006/07	2007/08	2008/09	2009/10	2010/11
Beginning Reserve	$542,132	$423,838	$210,043	$12,571	-$146,923
Total Revenues	2,065,364	2,208,716	2,300,000	2,406,000	2,499,000
Transfers to/from other funds	-606	-1,018	-1,007	-1,007	-1,007
Total Resources	$2,606,890	$2,631,536	$2,509,036	$2,417,564	$2,351,070
Total Expenditures	$2,183,052	$2,418,004	$2,489,860	$2,562,108	$2,706,368
Reserves Estimate	$423,838	$213,532	$19,176	-$144,544	-$355,298
Potential Finance Letters		3,489	6,605	2,379	6,181
Reserve Est. after BCPs	**$423,838**	**$210,043**	**$12,571**	**-$146,923**	**-$361,479**

Consistent with the LAO's findings, the Agency indicates that the MVA will face significant shortfalls beginning in 2009-10. Expenditures include only the out-year costs of baseline activities and 2007-08 budget proposals – excluded are new spending pressures, such as REAL ID. At a recent Assembly hearing, the Administration indicated they are looking at fee increases to address MVA shortfalls and will likely have a related May Revision Finance Letter.

Staff Comment: The Subcommittee may want to ask the BT&H Agency and the Department of Finance to explain their forecast and preview their proposal to deal with the upcoming fund deficit.

Staff Recommendation: Hold open for May Revision. While the MVA should have sufficient funds for proposed 2007-08 expenditures, the Subcommittee may want to consider fee changes should the Administration have a proposal with the May Revision. Staff Recommends taking action on DMV and CHP budget requests based on their merits and criticality with the understanding that fee increases of some type will likely be necessary to cover related expenses in the out-years.

6. **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 assumes 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:

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. 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 State 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 existing 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 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 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 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: Approve the new program and the $3.6 million in federal funding, but switch the state match from new General Fund to the Small Business Expansion Fund. This would result in General Fund savings of $832,000, and still allow the trust fund assets to grow by $3.6 million. This would result in administrative funding for FDCs at the 2005-06 level (about $4.6 million), instead of the higher 2006-07 level (about $5.4 million), which was made possible by higher interest earnings.

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 Corporations (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. The costs of the audit could be funded by the Small Business Expansion Fund instead of the General Fund, without curtailing planned program expenditures or reducing the special fund balance below that needed for short-term disaster assistance.

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:

2150 Department of Financial Institutions

The Department of Financial Institutions (DFI) was heard at the March 14, 2007, hearing and the following issue was left open for further review.

Issues proposed for Discussion / Vote:

1. **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.

   This issues was kept open at the March 14 hearing for further discussion on statewide IT policy; however, after further discussions, it does not appear there is objective guidance on how big a department needs to be to merit a stand-alone CIO and ISO position. The Department testified that the primary motivator for this request was a stolen laptop that highlighted the need to improve encryption and other security. One new position should be able to make improvements in this regard.

   Staff Recommendation. Approve only 1 of the 3 requested positions (approve the CEA position).

   Vote:

2660 Department of Transportation

The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak.

Issues Proposed for Consent / Vote-Only

1. **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.

   Staff Comment: These budget requests were left open at the March 29, 2007, hearing so Caltrans could provide additional information on the current use of alternative fuels. In a letter dated April 26, 2007, Caltrans Director Will Kempton indicated that Caltrans has used over 71,000 gallons of alternative fuels to date this fiscal year, about 1 percent of total fuel consumed. Over 2,000 of the department's 13,000 units of equipment fleet are capable of using alternative fuels. The availability of alternative fuels is a constraint that results in some of these vehicles using traditional fuels, but Caltrans is working with the California Air Resources Board to construct two "E85" fuel stations which will help Caltrans increase its usage.

2. **PRSM IT Project - Reappropriation (April FL #3).** The Administration requests a reappropriation of up to $11.6 million of funds previously appropriated for the Project Resourcing and Schedule Management System (PRSM). PRSM will allow improved reporting and scheduling of transportation projects, and enable Caltrans to meet statutory project reporting requirements. The project is being re-bid because the Department of General Services disqualified all bidders in the original procurement.

3. **Workers' Compensation Administration Audit (Conforming Issue).** At the April 25, 2007, hearing, the Subcommittee took action to adopt new Supplemental Reporting Language that requires the Department of Personnel Administration (DPA) to report annually on state workers' compensation administration. The Subcommittee also voted to adopt budget bill language for either Caltrans or the California Highway Patrol to require an audit of their workers' compensation administration as a first-year step in restoring an audit function that has not been performed by DPA in over seven years. According to DPA, Caltrans is the third-largest user of workers' compensation with over $33 million in 2005-06 costs. Staff recommends adoption of the following conforming budget bill language to require Caltrans to fund the audit.

   Provision X. *Of the funds appropriated in this item, $125,000 shall be used for the reimbursement of the Office of State Audits and Evaluations within the Department of Finance for audit and consulting services related to the Department of Transportation's administration of the workers' compensation system. Upon completion of the audit report, the Office of State Audits and Evaluations shall provide a copy to the appropriate fiscal committees of the Legislature and the Legislative Analyst.*

Staff Recommendation: Approve the budget requests and new budget bill language as outlined in the above issues.

Vote:

Issues for Discussion and Vote:

4. Maintenance Funding (BCP #23 & April Finance Letter #2). The Administration requests a permanent increase of $85.0 million for highway *pavement* preservation. The April Finance Letter indicates that timing of the BCP submittal did not allow sufficient time to identify the support needs to deliver the contracts – therefore Finance Letter #2 requests that $5.3 million of the $85 million be made available to support 55 new contract-support positions (Caltrans proposes to increase this support by an additional $2.3 million and 26 positions in 2008-09). 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 funding is constrained and pavement is the highest priority. 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 (Section 183.1 specifies that "non-Article XIX revenue [primarily from the sale and rental of Caltrans property] be transferred from the State Highway Account to the Public Transportation Account – staff recommends that that issue be acted upon separately after the May Revision).

March 29, 2007 Hearing: This issue was discussed and left open at the prior hearing because Caltrans had indicated that some of the $85 million might be better spent on pavement in the SHOPP program. The Subcommittee asked Caltrans to review whether the pavement funding would better be placed in the Maintenance item or in the SHOPP item. Caltrans has indicated that that the $85 million should remain in the Maintenance Budget.

Staff Comment: The Administration ties this augmentation to a shift of $64.5 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. Staff recommends that the use of non-Article XIX funds be dealt with separately at the May Revision hearing.

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 (or contracts that include significant pavement work in addition to other activities) 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. The staff recommendation provides the Department all the funding requested and for the activities for which it was requested, the only change is to restrict redirection across maintenance categories and to the SHOPP.

Vote:

5. **Budget Bill Authority to Shift Appropriations (Staff Issue).** The Caltrans budget includes budget bill language in multiple items to shift appropriation authority among expenditure categories. Some of this budget flexibility is useful because it allows the California Transportation Commission (CTC) to shift money across project categories as some projects get delayed and others are delivered ahead of schedule, but in other cases the flexibility appears to be unused and unnecessary.

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: (1) from state operations to SHOPP and STIP appropriation items if unanticipated federal funds or local reimbursements are received to substitute for the state funds; and (2) from the specialty facility capital outlay item to the SHOPP and STIP items. New this year is requested authority to shift funding from the "stormwater" state operations item to the SHOPP 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, as is the need to shift from specialty facilities to SHOPP and STIP. 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.

Caltrans indicates that it has not used the authority to shift state operations authority or the specialty facilities appropriation in recent times and that it appears unnecessary. Caltrans has also agreed to meet with the LAO and Committee staff in the fall to review other obsolete budget bill language for deletion or modification.

Staff Recommendation: Delete the following budget bill provisions which allow appropriation shifts that are unnecessary:

- 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
- Provision 2 of Item 2660-303-0042

Vote:

6. **Specialty Building Facilities Appropriation (Staff Issue).** The Governor's Budget requested 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.

Project	**Governor's Budget**	**Revised Amount**	**Explanation**
Equipment Shop in San Leandro	$3,384,000	$3,384,000	
Relocate maintenance station in Red Bluff	$9,127,000	$0	Authorized in FY 2006-07
Rehabilitate maintenance station in Hayfork	$3,607,000	$3,607,000	
Reconstruct maintenance station at SFOBB	$28,475,000	$0	Reprogrammed to FY 2008-09
Upgrade facility at Camp Angeles maint st	$1,273,000	$1,273,000	
Upgrade Mountain Pass maint station	$1,061,000	$1,061,000	
Peddler Hill and Caples Lake maint station	$7,494,000	$7,494,000	
Translab Phase III	$9,336,000	$9,336,000	
Southern Regional lab	$28,000,000	$28,000,000	
Inland Empire TMC	$22,782,000	$0	Authorized in FY 2006-07
Minor projects	$5,370,000	$5,370,000	
Contingency	$0	$24,000,000	
Total	$119,909,000	$83,525,000	Revised FY 2007-08 request

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.

Staff Comment: At the March 29, 2007, hearing, the Subcommittee heard from Caltrans that some of the projects had been delayed and that carryover appropriation authority from 2006-07 would also reduce the 2007-08 funding need. Caltrans has since provided a revised funding estimate which is included on the above table. The revised amount deletes new funding for two projects that were already funded in the 2006 Budget Act and deletes funding for the San Francisco Oakland Bay Bridge Maintenance Station because that project will be delayed until 2008-09. Additionally, Caltrans requests $24.0 million to cover cost overruns and legal contingencies.

Staff Recommendation: Reduce the Specialty Facilities appropriation item by $36.4 million. This action would reduce the budget funding to $83.5 million which is the revised request from Caltrans.

Vote:

7. **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 8 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 8 Caltrans positions and 4 new positions to DGS). At the time, Caltrans had indicated that shifting 12 positions of workload to DGS would result in a net cost of $300,000 because DGS had higher charges than the Caltrans cost for those positions. 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 the positions.

   Staff Comment: This issue was discussed at the March 29 hearing, and staff had recommended rejection of the BCP. Director Kempton indicated that if this BCP were rejected, Caltrans would have to continue redirection to fund the activity. The Subcommittee left the issue open for further analysis. Caltrans indicates it did not recognize any compensating overhead savings as a result of shifting the positions to DGS. Based on typical overhead ratios, a small amount of overhead savings, maybe in the $30,000 - $60,000 range would be expected. It should also be mentioned that Caltrans did institute a $50 million ongoing reduction plan two years ago.

   While Caltrans is probably correct that they have not recognized a savings (or a significant savings) to compensate for the higher DGS charge, the question still remains why 12 positions at DGS would cost $300,000 (or $485,000) more than the same positions at Caltrans.

   Staff Recommendation: Reject this proposal. While Caltrans may have to permanently redirect for this higher DGS cost, DGS is statutorily designated as the central service provider to create efficiencies. If DGS maintenance services result new costs instead of efficiencies, there would appear to be a need to make improvements at DGS.

   Vote:

2665 High-Speed Rail Authority

The California High-Speed Rail Authority (HSRA) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The total cost to build the entire system was most-recently estimated at $37 billion.

The Governor proposes $1.2 million and 6.5 positions for the HSRA, a decrease of $13.2 million and no change in positions. Last year the Legislature augmented the HSRA budget by $13 million and 3 positions to: (1) complete the draft environmental impact report for the Central Valley to San Francisco Bay Area route; (2) complete a financing plan to be submitted to the Legislature no later than May 1, 2007; and (3) commence site-specific environmental work, right-of-way acquisition, and identification of necessary grade separations to improve and preserve rail corridors. Current law provides for a proposition on the November 2008 ballot to provide $9.95 billion in general obligation bonds for the high-speed rail and related rail projects; however, the Governor proposes to delay this bond vote indefinitely.

Issues Proposed for Consent / Vote Only

1. **Los Angeles to Anaheim Segment: Preliminary Engineering / Project-Specific EIR/EIS (April Finance Letter).** The HSRA requests $3.5 million (reimbursements from the Orange County Transportation Authority) to fund preliminary engineering and the "project-specific" environmental impact report/environmental impact statement (EIR/EIS) for the Orange County portion of the Los Angeles-to-Anaheim segment of the high-speed rail system. The "Tier-1" EIR/EIS was approved in November 2005. The Orange County Transportation Authority has signed a Memorandum of Understanding (MOU) with HSRA to fund the preliminary engineering and more-detailed "project-specific" EIR/EIS for this segment of the proposed high-speed rail corridor. The Orange County Transportation Authority would contribute $3.5 million per year for two years. The HSRA reports that the Los Angeles County portion of this rail segment would cost $14.0 million for preliminary engineering and project-specific EIR/EIS, and that this funding is to be provided by State funds.

2. **Bay Area to Central Valley Segment: Next-Tier EIR/EIS Reappropriation (April Finance Letter).** The HSRA requests a reappropriation of $280,000 (Public Transportation Account) from funding originally appropriated in 2005-06, for the "next-tier" program EIR/EIS for the Bay Area-Central Valley Segment of the high-speed train system. The "Tier-1" EIR/EIS was approved in November 2005, however the Bay Area to Central Valley route alignment was left unresolved pending further study. The "next-tier" program EIR/EIS will determine the preferred route alignment. This EIR/EIS had been delayed pending completion of the updated ridership/revenue study, which was funded by the Metropolitan Transportation Commission. The $280,000 is the remaining funding of the $1.7 million originally appropriated.

3. **Financing Plan: Reappropriation (April Finance Letter).** The HSRA requests a reappropriation of $255,000 (Public Transportation Account) from funding originally appropriated in 2006-07, for the preparation of a Financing Plan. This Financing Plan was delayed pending completion of the updated ridership/revenue study, which was funded by the Metropolitan Transportation Commission. The $255,000 is the remaining funding of the $750,000 originally appropriated.

Staff Recommendation: Approve the consent / vote only budget requests.

Vote:

Issues for Discussion / Vote:

4. High Speed Rail Project Implementation (Report from HSRA). The HSRA was provided $13.0 million in the 2006 Budget Act to begin project implementation, including project-specific environmental work, right-of-way acquisition, and identification of necessary grade separations to improve and preserve rail corridors. In a report to the Legislature dated March 8, 2007, the HSRA indicated that an additional $103.3 million would be needed in 2007-08 (above the $1.2 million in the Governor's Budget) to continue implementation of the project. Funding at the $103.3 million level assumes the state is proceeding to construction of the project, with additional funding to come from the 2008 $10.0 billion ballot measure or other funding mechanisms. The total cost of the project was most-recently estimated at $37 billion. The expenditure plan from the HSRA report is outlined in the table below ($ in thousands):

Description	2006-07 Budget Allocation	2007-08 Budget Request*
Financing Plan	$750	$500
Visual Simulation	1,000	750
Program Management	3,094	12,000
Los Angeles - Orange County (Prelim Engr & EIR/EIS)	2,500	4,500
Los Angeles - Palmdale (Prelim Engr & EIR/EIS)	2,600	15,000
Los Angeles - San Diego (Prelim Engr & EIR/EIS)	900	7,000
Palmdale - Fresno (Prelim Engr & EIR/EIS)	1,100	11,000
Fresno - Sacramento (Prelim Engr & EIR/EIS)	500	5,000
San Francisco - Merced (Prelim Engr & EIR/EIS)		10,000
Right-of-Way Purchase		37,000
Land Use Planning	200	100
Program Management Oversight		150
3.0 New HSRA Staff		250
Bay Area - Central Valley "Next-Tier" EIR/EIS	350	
Total	**$12,994**	**$103,250**

* Amounts are HSRA Board requests beyond funding included in the Governor's Budget.

Staff Comment: As was indicated on the prior page and above, the Financing Plan due May 1, 2007, has been delayed to 2007-08. Therefore, the Subcommittee does not have information on expenditures and funding options beyond 2007-08. However, the table above indicates how the HRSA would continue implementation of the project in 2007-08 if $103 million in new funding is provided.

Staff Recommendation: Take no action. The historic funding source for the HSRA is the Public Transportation Account (PTA). The Governor is proposing to use $1.1 billion in PTA funds in 2007-08 to offset General Fund expenditures. That proposal is still open, but if approved it would not leave sufficient PTA revenue to fund the HSRA plan. The PTA revenue forecast will be revised with the May Revision, and if revenue is higher and/or the Subcommittee revises the Governor's PTA proposal, funding could be available for HSRA, should the Subcommittee desire to appropriate it to HSRA instead of to local mass transportation projects.

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's Budget proposed $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. **State-Owned Facilities: New Construction – Various Locations (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. This issue was held open at the March 14, 2007, pending receipt of information from the BT&H Agency on the Motor Vehicle Account long-term fund condition. This information has since been provided.

2. **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. This issue was held open at the March 14, 2007, hearing pending receipt of information from the BT&H Agency on the Motor Vehicle Account long-term fund condition. This information has since been provided.

3. **Leased Facilities: DGS Services (April Finance Letter #1).** The Administration requests $2.4 million (Motor Vehicle Account) to allow the CHP to contract with the Department of General Services (DGS) for costs associated with searching for new sites to replace the Mojave, Fresno, and Grass Valley Area offices. Once appropriate sites are located, the CHP would seek to enter into build-to-suit lease/purchase or lease with option to purchase agreements, and return to the Legislature with an additional funding request.

4. **State-Owned Facilities: New Construction – Santa Fe Springs (May 1st Finance Letter).** The Administration requests $6.3 million (Motor Vehicle Account) for acquisition and preliminary plans for a new Santa Fe Springs Area Office. This request includes a reversion of $2.6 million appropriated in the 2005 Budget Act and $709,000 appropriated in the 2006 Budget Act also for the Santa Fe Springs Office. The Finance Letter indicates that real estate prices have nearly doubled since 2005 resulting in the estimated cost for this project phase in increase from $2.6 million to $6.3 million. The working drawings and construction costs would be requested in future budget requests. The construction cost was most recently estimated at $17.3 million.

Staff Recommendation: Approve the consent / vote only budget requests

Vote:

Issues Proposed for Discussion / Vote:

5. **Public Safety Radio: CHP's Enhanced Radio System (Annual 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 had total costs originally estimated at $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. The report was submitted in April and indicates some major costs escalations. The report indicates that the CHP intends to down-scope the project instead of requesting additional funds. A May Finance Letter is anticipated.

   Statewide Integrated Public Safety Radio – Broad Context: The Subcommittee has discussed public safety radio with CHP, Caltrans, and the Office of Emergency Services (OES) at prior hearings, but that was prior to all of the statutorily-required reports being submitted. Now that all the reports have been submitted, it is possible to look at the overall OES strategy (i.e. the Public Safety Radio Strategic Planning Committee [PSRSPC] *2007 Statewide Integrated Public Safety Communications Strategic Plan*) with some specific examples of implementation proposals with the CHP and Caltrans.

   The PSRSPC report cites two phases of implementation:
   <u>Phase I:</u> The first phase is maintaining and upgrading departments' current independent systems "with standards-based, interoperable, forward-migratable technologies" and linking the independent agency systems via networking technologies to form a "systems of systems" to improve interoperability. This phase will roll out over 10 years or by 2017.
   <u>Phase II:</u> The second phase is transitioning to common systems via sharing agreements over time (after 2017).

   Administration's Rational for a Two Phased Approach: The PSRSPC plan acknowledges that more opportunities exist over time to create efficiencies by sharing equipment and frequencies across State agencies and between the State and local agencies. However, the PSRSPC generally proposes that those efficiencies be implemented in Phase II (during the cycle of equipment replacement that follows the current requests, post 2017). In Phase I, individual department projects will move forward independent of other projects. If the Department of General Services (DGS) notices some overlapping efficiencies, they will try to incorporate them in the Phase I rollout; however, the PSRSPC does not have a process by which all radio departments share their long-term plans and cost estimates and look for opportunities to realize efficiencies as part of the initial planning stage. OES feels a single common radio system is not feasible in either the short term or long term because "California is neither operationally nor fiscally able to accommodate the significant investment of time and annual outlay necessary to evolve direction to a standards-based common infrastructure, as evidenced in recent years by critical staffing and cash-flow shortages."

Deficiencies in OES/PSRSPC Annual Report: One of the challenges the Legislature faces in evaluating public safety radio budget requests is that the annual OES report does not include member departments' 5-year plans or 10-year plans for radio improvements and cost estimates. This report would be more helpful, if it included information like the annual *California Five-Year Infrastructure Plan* that lists specific building-facility project needs and yearly cost estimates. If the report did include specific plans, timelines, and cost estimates, it could also indicate opportunities for efficiencies where two or more departments may be proceeding on new systems with similar requirements.

CHP and Caltrans Interoperability in the Context of the PSRSPC Plan: To understand interoperability today and in the future with the PSRSPC Plan, using CHP and Caltrans interoperability as an illustration, the following table was developed with assistance from the Administration:

	Today	With Proposed Projects
CHP vehicle to Caltrans vehicle	Some supervisor vehicles have borrowed radios from the other agency, otherwise communications must be relayed through dispatch.	Direct communication possible in 700/800 MHz band.
CHP dispatcher to Caltrans (& vice versa)	CHP dispatcher verbally relays information to Caltrans dispatcher, who relays information to Caltrans worker.	CHP dispatcher could directly communicate with Caltrans workers via gateway devise.
Major incident scene, CHP & Caltrans Communications	Principals meet at site and separately communicate to their agency.	Communication using gateways or vehicle radios.
Other Communication	Possible cellular, microwave, or satellite usage	Possible cellular, microwave, or satellite usage

Changes Summarized in the CHP Annual Report: During this fiscal year, the CHP and Department of General Services (DGS) jointly conducted 85 radio vault sites surveys within the Central and Valley divisions. As a result of these surveys, the cost estimates for remote site equipment at these two divisions increased from $42 million to $272 million. <u>If this cost escalation for the two divisions, is representative of all divisions, the total project cost would be expected to increase from $494 million to about $1.6 billion</u>. The report indicates that the Administration wants to down-scope the project to stay within the identified funding of $494 million, instead of identifying $1.1 billion in new funding to proceed with the original project. The report indicates that part of the down-scoping will involve dropping the statewide simulcast equipment and capabilities, and reducing the number of new channels. Other changes are indicated below.

Improvements with the Proposed System: The improvements listed below in regular font are those attributed to the original proposal. The improvements in italics are changes related to the down-scoping proposal.

- Allow Communications Centers to separate the emergency and non-emergency operations during peak and critical times. *The down-scoped project would provide one new communications channel, but not the 2-3 new channels originally proposed.*
- Enable radio interoperability with other public safety agencies without impacting normal patrol operations. *The down-scoped project would provide one new communications channel, but not the 2-3 new channels originally proposed. However, the new portable and mobile equipment would also increase the ability of the CHP to communicate on frequencies operated by other public safety agencies.*
- Provide the Communications Centers the ability to communicate with any CHP mobile unit anywhere in the state. *This new capability is lost with the down-scoped project.*
- Allow for additional operational channels for radio interoperability with allied agencies. *As indicated above, the down-scoped project would provide one new communications channel, but not the 2-3 new channels originally proposed*
- Provide Officers the ability to communicate at a greater distance away from their enforcement vehicles (from 400 to 500 feet to one to two miles with the new system). *This new functionality is unchanged with the down-scoped project.*

Staff Comment: While the CHP indicates they will submit a May Revision Finance Letter to adjust expenditure, there is limited time for discussion during the final hearings. The CHP should be able to answer questions at this hearing about changes to the project scope and indicate how those changes will affect 2007-08 expenditures. Final action should; however, await the May Revision letter.

Staff Recommendation: Hold open for anticipated May Revision budget letter.

6. **Officer Staffing Augmentation (BCP #1 and April Finance Letter 2).** The Governor requests $16.4 million in 2007-08 (down from $17.5 million after the April Finance Letter Adjustment for corrected overtime, vehicle operations and general expenses costs) and $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 is reduced by a total of $1.1 million to correct technical errors and reduce some cost assumptions. The April Finance Letter makes the changes recommended by the LAO.

   Staff Recommendation: Approve the BCP and related April Finance Letter.

   Vote:

7. Budget Funding for Tactical Alerts (LAO Issue). The Governor's Budget includes $24.8 million to pay overtime in the event of tactical alerts. Tactical alerts involve placing Officers on 12-hour shifts to enhance CHP presence in times of emergency or high security risk.

Background / Detail: Immediately 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. 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 recommended that the Legislature reduce the budgeted funding for tactical alerts by $19.8 million – to $5.0 million. Further, the LAO recommended budget bill language to revert any unused portion of the $5.0 million.

Compromise Funding and Language: The Administration and the LAO developed a compromise funding level and new budget bill language. The appropriation would be reduced by $14.8 million (from $24.8 million to $10 million) and the following budget bill language would be adopted:

Provision x. Of the amount appropriated in this item, $10,000,000 is appropriated to the Department of the California Highway Patrol to conduct tactical alerts in response to declared emergencies, and immediate threats to public safety. For purposes of this provision, a tactical alert occurs when officers are placed on 12-hour shifts to enhance emergency preparedness and provide an immediate increase in the levels of security provided to Californians. If the amount used for tactical alerts is less than $10,000,000, the remainder of the sum shall revert to the Motor Vehicle Account.

(a) Of the funds appropriated in this provision, $5,000,000 shall be immediately available and used only for overtime expenses associated with conducting tactical alerts.

(b) Of the funds appropriated in this provision, $5,000,000 shall become available and used only for the purposes described in subdivision (a) of this provision, after submittal of a report to the Joint Legislative Budget Committee on the expenditure of funds made available to the department under subdivision (a) of this provision. The report shall provide a detailed description of the expenditures made, and the planned expenditures from the funds made available to the department pursuant to this subdivision.

(c) No later than December 31 each year, the Department of the California Highway Patrol shall report to the Joint Legislative Budget Committee, and the appropriate fiscal and policy committees of each house on the activities and expenditures for the previous fiscal year for tactical alerts.

Staff Recommendation: Reduce funding for tactical alerts by $14.8 million (from $24.8 million to $10 million) and adopt the above budget bill language. This is consistent with the compromise developed by the Administration and the LAO. It would provide the CHP significant funding for tactical alerts and provide appropriate legislative reporting. If significant and long-standing security situations arose requiring CHP expenditure in excess of the funding amount, the Legislature could respond with an emergency appropriation or other budget mechanisms could be employed to provide additional spending authority.

Vote:

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 January Governor's Budget 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. **New Leased Facilities: Non-Public Programs (BCP #4).** The Administration requests 2007-08 funding of $9.6 million ($4.7 million ongoing) to remove non-public programs from 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 DMV indicates that the changes that increase capacity at field offices are needed whether or not California implements the Real ID Act.

2. **New Leased Facilities: Field Offices (April Finance Letter #4).** The Administration requests 2007-08 funding of $2.8 million (various special funds), 2008-09 funding of 8.6 million, and ongoing funding of $786,000 to establish two new field offices (Thousand Palms and Lincoln Park) and relocate two existing field offices (Stockton-South and Lodi).

   Staff Comment: The DMV indicates that these new field offices are needed whether or not California implements the Real ID Act.

3. **State-Owned Facilities: 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: The DMV indicates that these office reconfigurations are needed whether or not California implements the Real ID Act. Some of the activities in these BCPs assume new leased facilities will be approved in BCP #4 (see issue #1 above).

4. **State-Owned Facilities: Office Reconfigurations (CO April Finance Letter #1).** The Administration requests an augmentation of $309,000 (various special funds) for preliminary plans to reconfigure the Stockton Field Office into a Driver Safety Office. The Administration anticipates a BCP in 2008-09 requesting $295,000 for working drawings and a BCP in 2009-10 requesting $2.7 million for construction.

   Staff Comment: The DMV indicates that this office reconfiguration is needed whether or not California implements the Real ID Act. This request is dependent on the Legislature's approval of the April Finance Letter that includes a new leased facility in South Stockton (see issue #2 above).

5. **Commercial Driver's License Program: Data Project (April Finance Letter #2).** The Administration requests $774,000 in new federal funds and $376,000 in redirected State funds to implement data-management improvements to meet the requirements of the Federal Motor Carrier Safety Improvement Act. A Section 28 request is part of this request to begin this project in 2006-07 and to receive an additional $519,000 in federal funds and redirect $164,000 in State funds. In 2006, the federal government issued a preliminary noncompliance finding to California for not achieving all the data-sharing requirements for commercial driver's license holders. The DMV indicates that California could be penalized $150 million in highway funds if compliance is not achieved. The DMV indicates this is not a "new" project, but rather an improvement to an existing system – therefore no Feasibility Study Report is required. <u>On May 8, 2007, the DMV contacted Committee staff and indicated that the $519,000 in federal funds cannot be encumbered in 2006-07, and therefore that this federal funding should be shifted to 2007-08. Staff recommends approval of the Finance Letter with a legislative change to shift $519,000 in federal funds from 2006-07 to 2007-08, consistent with the revised Administration request</u>.

6. **Remittance System Replacement: Reappropriation (April Finance Letter #1)** The Administration requests a reappropriation of $5.4 million for the Remittance System Replacement information technology (IT) project, which was approved as part of the 2006 Budget Act. The remittance system processes the payment of approximately $2.1 billion annually. The DMV indicates that the project was delayed because key staff were redirected to higher-priority IT projects.

7. **Senior Driver Ombudsperson Program: Grant Award (April Finance Letter #6).** The Administration requests $837,000 (funding via a grant from the Office of Traffic Safety) and 9.0 positions to place a Senior Driver Ombudsperson in each of the State's larger metropolitan areas. The positions will investigate and attempt to resolve complaints concerning senior driving cases, in coordination with Driver Safety Hearing Offices. If it is determined an individual can no longer drive safely, the Ombudsperson will offer options on alternative methods of transportation and referral services.

8. **Performance and Registration Information System Management (PRISM) (April Finance Letter #11).** The Administration requests $111,000 (federal funds) to continue implementation of IT improvements for the International Registration Plan (IRP) system, which allows interstate carriers to pay apportioned registration fees based on mileage driven within California. This request actually shifts $111,000 in federal funds from 2006-07 to 2007-08. Legislation chaptered last year, AB 2736 and AB 3011, required additional taxpayer reporting, and changed the criteria for suspending licenses. The new requirements changed the project scope and delayed the expenditure of the federal funds. The base IRP IT project was approved by the Legislature last year with a total cost of $8.4 million. The Special Project Report indicates that scope change will increase DMV costs by $2.7 million, but the department will cover those costs through redirection and a federal grant totaling $500,000.

9. **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 Recommendation: Approve all the consent / vote only issues, including the legislative change recommended for issue #5 (Commercial Drivers License Program: Data Project).

Vote:

Issues for Discussion / Vote

10. Federal REAL ID Act (Informational Issue). The Subcommittee discussed the federal draft regulations for Real ID at the March 14, 2007 hearing. Since that hearing, the federal Department of Homeland Security had a public meeting on Real ID on the University of California at Davis campus on May 1, 2007. DMV Director George Valverde took part in the public hearing. Director Valverde was quoted in the April 29, 2007, Sacramento Bee indicating that "we are postponing any consideration for state funding, pending federal funding." This quote implies the Administration will not come forward with any May Finance Letters related to the Real ID Act.

Background / Detail: 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

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.

Staff Comment: The Subcommittee may want DMV to summarize recent events related to Real ID, including the public hearing at UC Davis. Additionally, the Administration should clarify their policy related to State spending on Real ID if no new federal money is provided.

The 2006 Budget Act also required DMV to submit a report by December 15, 2006, on the final federal Real ID Act regulations. The final federal regulations were delayed beyond December 15, and have not been finalized to date. To comply with the reporting due date, DMV submitted a report in December updating the Legislature on the DMV's planning and preparation efforts related to Real ID. In the cover letter, Director Valverde indicates that DMV will submit an additional report to the Legislature when the final regulations are adopted.

Staff Recommendation: Informational issue – no action needed. At this point, there are no Administration budget requests directly related to the implementation of the Real ID Act.

11. 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. <u>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</u>.

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: Approve this request. However, due to the high costs and risks of this project it is important that the DMV submits a detailed report by the December 31, 2007 due date. Any delay reduces the time available for staff and the Subcommittee to review the status of the project and 2008-09 funding. If the report is submitted late, or with insufficient detail, Staff would recommend that the Subcommittee remove 2008-09 project funding at the first Subcommittee hearing next year.

Senate Budget and Fiscal Review—Senator Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Mike Machado, Chair
Senator Bob Dutton
Senator Christine Kehoe

Monday, May 21, 2007
11:00 a.m.
Room 2040

Consultants: Daniel Alvarez

"A" AGENDA

Vote-Only Budget Items - Approve

ITEM	ISSUE	DESCRIPTION
0110 -- Senate	The budget for the Legislature needs to be updated to reflect the latest State Appropriations Limit information.	Adopt technical budget adjustments to reduce, in this item, schedule (1) by $74,000, schedule (3) by $19,000, schedule (4) by $1,195,000. These changes should be consistent with actions taken by the Assembly.
0120 -- Assembly	The budget for the Legislature needs to be updated to reflect the latest State Appropriations Limit information.	Adopt technical budget adjustment to reduce schedule (4) of this item by $1,748,000. These changes should be consistent with actions taken by the Assembly.
0130 -- Office of the Legislative Analyst	Technical adjustments to reflect changes in Items 0110 and 0120	Adopt technical budget adjustments to decrease schedule (1) by $84,000, and change schedules (2) and (3) from -3,642,000 to -3,600,000. These changes should be consistent with actions taken by the Assembly.
0160 – For Support of Legislative Counsel	Approve Governor’s budget.	The Governor’s Budget includes $87,148,000 for support of Legislative Counsel.
0690 – Office of Emergency Services	May Revise -- Federal funds for Anti-Gang Programs	The Office of Emergency Services requests an increase in Federal Trust Fund Authority of $4,849,000 ($242,000 State Operations and $4,607,000 Local Assistance). These grant funds are part of a federal anti-gang initiative established by the U.S.

		Attorney General and have identified specific areas of the state that will receive these funds.
8860-001-001 – Department of Finance	Public Employee Post-Employment Benefits Commission	The DOF requests an increase of $654,000 to provide funding for support of the Public Employee Post-Employment Benefits Commission (Commission). Pursuant to Executive Order S-25-06, the Commission was established to propose options for addressing growing pension and retiree health care obligations. The Commission will identify the extent of unfunded liabilities, review and analyze options for addressing them, and recommend a plan to the Legislature and Governor by January 1, 2008. The Department of Finance is designated as the Commission's coordinating agency. It is also requested that provisional language be added to revert the unencumbered balance to the General Fund

8860 – Department of Finance	Technical adjustments to salaries and wages.	The administration submitted a Spring Finance letter requesting an increase of $613,000 for technical adjustments to salaries and wages, and to adjust programmatic scheduling. [Note: approval is for all non-FI$Cal adjustments; this will insure conformity of subcommittee action of April 11 on the FI$Cal Project.]
Control Section 13.00 – Legislative Counsel Bureau	Approve Governor's Budget.	Allows for the operation of LCB.
Trailer bill language related to state penalty assessment surcharge which is set at 20%.	At present, the surcharge is scheduled to expire July 1, 2007.	The January Budget proposed to permanently establish the surcharge by eliminating the sunset date. Staff recommends adoption of this proposal. [Note: This is not the May Revision proposal by the administration to (1) increase the surcharge to 40% and (2) transfer, from the counties, to the courts, the responsibility of collecting fines, fees, and penalties.]

0690 Office of Emergency Services

Discussion Issues

1. **California Port Security Grant Program (May Revise letter).** The administration requests $76,105,000 ($1.1 million state operations and $75 million local assistance) from the California Ports Infrastructure, Security, and Air Quality Improvement Account (Proposition 1B) to establish the California Port Security Grant Program (CPSGP). The GPSGP would provide grants to assist ports in preparing for, responding to, and protecting against acts of terrorism.

   According to the Office of Homeland Security, the grant program would aid the implementation of security strategies developed by the three Area Maritime Security Committees and the California Maritime Security Council. In addition to capital projects to enhance security, there is an array of eligible activities (consistent with Proposition 1B), including:

   A. Video surveillance equipment.
   B. Explosives detection technology, including, but not limited to, X-ray devices.
   C. Cargo scanners.
   D. Radiation monitors.
   E. Thermal protective equipment.
   F. Site identification instruments capable of providing a fingerprint for a broad inventory of chemical agents.
   G. Other devices capable of detecting weapons of mass destruction using chemical, biological, or other similar substances.
   H. Other security equipment to assist in any of the following:
      - Screening of incoming vessels, trucks, and incoming or outbound cargo.
      - Monitoring the physical perimeters of harbors, ports, and ferry terminals.
      - Providing or augmenting onsite emergency response capability.
   I. Overweight cargo detection equipment, including, but not limited to, intermodal crane scales and truck weight scales.
   J. Developing disaster preparedness or emergency response plans.

   The administration proposes that only the following applicants would be eligible to apply for the CPSGP funding:
   - Port of Hueneme
   - Humboldt Bay Harbor District
   - Port of Long Beach
   - Port of Los Angeles
   - Port of Oakland
   - Port of Redwood City
   - Port of Richmond
   - Port of San Diego
   - Port of San Francisco
   - Port of Sacramento
   - Port of Stockton

The OHS will issue grant guidelines establishing criteria based on the National Strategy for Maritime Security, the California State Homeland Security Strategy, and the Investment Justification for Port Security submitted to the US-DHS.

The grant process will have a peer review process to determine eligible applications with the most impact on port security across the State. The Peer Review Panel (PRP) will be comprised of security directors from the 11 eligible ports, or their designees, (provided all ports elect to participate in the CPSGP). The PRP will have multiple functions including: project nomination, project review, and recommendation on allocations to OHS. OHS will retain the final approval for all projects related to the CPSGP.

The funding for this program shall require a 25% match from eligible recipients. Federal preparedness grants, operations, and maintenance costs resulting from capital improvements or equipment, private contributions, among other funding sources, may be utilized to satisfy this requirement.

OHS will be accountable for these funds by reporting to the Governor and Legislature on March 1 of each year on the nature and status of actual grant fund awards and expenditures by the port authorities. After all of the grant funds have been expended, OHS shall issue a final report to the Governor and Legislature that assesses the impact of the grant program on improvement of overall port security in the state.

LAO Recommendation. The LAO recommends, in general, approval of this proposal; however, they point out a few concerns related to the proposed trailer bill language: (1) the local match requirement is open-ended by allowing the counting of operating costs – LAO recommends the match be tied to project costs; and (2) rather than guaranteeing grant amounts through a formula, applications should be reviewed on a competitive basis.

Staff Comments. Broadly speaking the goals and eligible activities that would be funded under this proposal are consistent with Proposition 1B. However, a few concerns still need to be addressed:

- This proposal narrowly focuses only on port security. As passed by the voters in November 2006, grant allocations were specified for port, harbor, and ferry terminal security improvements. Eligible applicants were also to include ferryboat and ferry terminal operators – the proposal by OHS does not include either entity.
- Accompanying trailer bill language contains many incorrect cross-references and drafting errors.
- Is it wise to expend nearly three-fourths ($75 million out of $100 million) of available bond funds in 2007-08? Would an accelerated appropriation of these funds possibly deter future federal funding opportunities – thereby minimizing the state's ability to leverage its limited bond capacity in this area?

Staff Recommendations:

1. Since this program is new, lower the amount appropriated to $40 million in 2007-08. This would provide the Legislature the opportunity to review the program's operations and make necessary changes prior to committing additional funds in the future.

2. Reject the administration's proposed trailer bill language (TBL) and adopt placeholder TBL that minimally (1) is consistent with language in Proposition 1B regarding eligible applicants for grants, (2) that addresses the state's most urgent security needs, and (3) balances the demands for funding between large and small ports.

8860 Department of Finance

The Department of Finance was heard by the Subcommittee on April 11. Two issues were left open and a May Finance Letter was submitted by the Department (the May Finance letter is recommended for approval, as modified, on the vote-only list).

Discussion Issues

1. **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.

   Staff Comments. It is clear that the retention and recruitment of staff at DOF is critical to insure that both the Governor and Legislature are able to do their jobs related to the operation and oversight of state government. Staff concurs that given the critical nature of work at DOF they cannot afford to lose staff at rates that have occurred in the past few years.

   Staff Recommendation. Approve the proposal.

2. **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. Since the time of the April 11 hearing, DOF has provided additional workload information consistent with the need for an additional staff counsel.

   Staff Recommendation. Approve the proposal.

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Part B
Monday, May 21, 2007
11:00 a.m. - Room 2040

Item **Department** **Page**

0390 Contributions to the Judges' Retirement System

Previous Subcommittee Direction. At the March 1 meeting of the Subcommittee, information was gathered about the two judges' retirement systems. Specific concerns were raised about the requirements of Judges' Retirement System (JRS) II system that has a maximum defined benefit service retirement formula of 75 percent of the average monthly salary during the last 12 months on the bench with 20 years of service at age 65. Furthermore, there was some concern that the conditions of these systems discourage recruitment and retention of judges.

The Chief Justice announced at the 2007 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 the 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 approve placeholder trailer bill language to improve the JRS II system to enhance recruitment and retention of judges.

0250 Judicial Branch

Trial Courts

1. State Appropriations Limit Adjustment – Trial Courts

Previous Subcommittee Direction. At the March 1 meeting of the Subcommittee, the $130.1 million State Appropriations Limit (SAL) adjustment to the Trial Courts' budget was held open. The LAO recommended reducing the base in which the SAL is calculated by approximately $584,000 because the base included funding for judicial salaries, which are excluded from SAL under current law.

Finance Letter and May Revision. A Finance Letter (dated March 29, 2007) recommends making the adjustment to the SAL calculation identified by the LAO.

In addition, the May Revision includes an updated calculation of the SAL, which reduces the adjustment allocated to the trial courts to $126.6 million. (The SAL has declined from 5.36 percent to 5.24 percent since the Governor's budget was released in January.)

Draft SAL Allocation. The AOC has released a draft allocation of the SAL to the trial courts. Of the total trial court SAL funding, $125.3 million is available for distribution directly to the courts. The AOC has proposed $5 million for various statewide court program allocations. Furthermore, a majority of the funding will be allocated to the courts on a pro rata basis (i.e. the allocation is based on the current size of the court's budget). Only $7.7 million will be allocated to help equalize access to justice in courts that have historically been under-resourced. The proposed allocation of the SAL is summarized in the table below along with the actual allocation made in the current year:

SAL Category	**2006-07 Actual**	**2007-08 Proposal**
Staffing and operating expenses for new trial court facilities	$1,300	$1,500
Self-help programs	3,700	1,500
Baseline deficiencies in conservatorship funding	0	2,000
Retirement adjustment	23,199	-1,065
Other SAL carryover adjustments	-291	0
Security funding	19,987	23,515
Inflation and Workforce (discretionary funds allocated pro rata)	50,674	82,533
Workload (50% for equalization and 50% allocated pro rata)	12,796	15,312
Total	**$111,365**	**$125,295**

Staff Recommendation. Staff recommends that the Subcommittee approve the Finance Letter and updated SAL calculation contained in the May Revision, including approving, in concept, the draft allocation for the trial courts.

2. Maintenance of Effort Payment Adjustment – Los Angeles County

Previous Subcommittee Direction. At the March 1 meeting of the Subcommittee, a budget proposal to increase the expenditure authority from the Trial Court Trust Fund by $23.5 million to reflect an increase in maintenance of effort (MOE) payments from Los Angeles County was held open. The Subcommittee heard testimony from the Judicial Council on their preference to amend statute to reflect the new MOE amount and increase General Fund expenditures by approximately $1.2 million to provide SAL on the revised MOE amount in the budget year.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the budget proposal to increase expenditures from the Trial Court Trust Fund to reflect an increase in MOE payments from Los Angeles County.

3. New Trial Court Judgeships

Previous Subcommittee Direction. At the March 1 meeting of the Subcommittee, the Governor's budget proposal to add 100 new judgeships over a two-year period beginning in April 2008 and convert up to 162 judicial officers to judgeships was held open. This proposal would cost $27.8 million in the budget year and $74.3 million in 2008-09. Legislation is required to authorize new judgeships.

May Revision. The May Revision includes a technical adjustment that will appropriately schedule support funding, such as rent and tenant improvements, associated with the new judgeships as state operations as opposed to local assistance. There are no additional costs related with this proposal.

Staff Recommendation. Staff recommends that the subcommittee take the following actions:
- Approve the Governor's budget proposal to create 100 new judgeships over a two-year period.
- Approve trailer bill language to create 100 new judgeships.
- Approve the May Revision proposal to change scheduling of funding to support new judgeships in the budget year.

4. Trial Court Security Funding

Background. When the state took over as the primary funding source for trial court operations in 1998, varying levels of security were being provided at each court facility. Subsequent legislation (SB 1396, Dunn) enacted in 2002 required the sheriff or marshal and presiding judge of any county to develop a court security plan to be utilized by the court. The legislation required the court and the sheriff or marshal to enter into an annual or multi-year memorandum of understanding specifying the level, costs, and terms of payment related to the court security.

In 2003, the Judicial Council was directed to establish a working group to promulgate uniform standards and guidelines in regard to court security services. The group was directed to implement policies, standards, and establish policy direction for court security in order to achieve efficiencies and reduce security operating costs.

May Revision. The Governor's May Revision proposal contains $36.6 million from the General Fund to augment Trial Court security. This funding would grow to $57.8 million General Fund in 2007-08 to reflect the full-year cost of the proposal. This funding is above the $21 million that is already allocated to the trial courts for court security. This proposal is a work product of the working group directed by 2003 legislation. Specifically, the funding would address the following:
- **Ongoing Shortfalls for Courts *Below* Standards.** $4.4 million to address ongoing security costs for existing levels of service at some courts that are below security standards.
- **Ongoing Shortfalls for Courts *Above* Standards.** $6 million to address ongoing security costs at six courts ($5.6 million for Los Angeles County) whose security services currently exceed statewide security funding standards.
- **New Court Security Standards.** $21.2 million for half-year costs associated with implementing new court security standards at courts that are currently below security standards developed by the Court Security Working Group and approved by the Judicial Council.
- **Retiree Health Costs.** $5 million to fund retiree health costs in six counties where the courts have historically funded these costs. The six counties are Contra Costa, Kern, Los Angeles, Sacramento, and Santa Clara.

The budget proposal also includes scheduling court security in a separate item in the budget and draft trailer bill language that will address the following:

- Accountability provisions;
- Provision that SAL will provide the only annual adjustment to security funding;
- Cost containment measures;
- Reporting requirements; and
- Process for addressing emergency funding needs for court security.

LAO Recommendation. The LAO recommends rejecting this proposal and approving trailer bill language to require that the courts contract for security services on a competitive-bid basis.

Inconsistent Funding Levels. Staff finds that the May Revision proposal does not set consistent standards across jurisdictions related to the costs that the state will fund related to court security. Specifically, the state will continue to fund some courts for security service that exceeds state funding standards, while other courts will only be brought up to minimum standards by this proposal. Staff finds that this policy opens the state up to significant additional costs as other counties seek consistency in what court security costs are covered by the state.

Trailer Bill Language. The trailer bill language that is a part of the May Revision proposal has not been submitted to the Legislature. Therefore, staff has not had an opportunity to review its merits.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the May Revision funding proposal less $11 million to fund courts that are already above statewide funding standards and the retiree health costs for some courts.
- Approve placeholder trailer bill language to govern accountability and cost containment measures for court security.

Judicial Council/Administrative Office of the Courts

1. AOC Staffing: Office of the General Counsel

Previous Subcommittee Direction. At the March 1 meeting of the Subcommittee, all the budget proposals related to staffing for the AOC (this item and the next eight agenda items) were held open pending clarification of the role of DOF in reviewing AOC budget proposals. At this hearing the DOF admitted to providing the entire Judicial Branch with an augmentation equivalent to SAL growth in the Governor's budget and did not play a role in reviewing the budget change proposals. Current law only requires a SAL adjustment to the budget for the trial courts. Since this meeting, the DOF has agreed to provide technical assistance and workload analysis to the AOC on future budget proposals. The DOF will not be involved in prioritizing the budget proposals from the courts.

Staff also requested additional information from the AOC on existing staffing related to all of the budget proposals to add additional staff to AOC.

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.

Current AOC Staffing. The AOC currently has 77 positions in the Office of the General Counsel.

Staff Recommendation. Staff recommends that the Subcommittee delete the position and funding ($185,000) for the Criminal Law and Traffic Law programs.

2. AOC Staffing: Emergency Response and Security Unit

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.

Current AOC Staffing. The AOC currently has three positions in the Emergency Response and Security Unit.

Staff Recommendation. Staff recommends that the Subcommittee approve these positions.

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

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.

Current AOC Staffing. The AOC currently has about 15 positions in the Appellate and Trial Court Judicial Services Division.

Staff Recommendation. Staff recommends that the Subcommittee approve these positions.

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

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.

Current AOC Staffing. The AOC currently has 70 positions in the Center for Families, Children, and the Courts.

Staff Recommendation. Staff recommends that the Subcommittee approve these positions.

5. AOC Staffing: Education Division

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 relating to new laws in the areas of 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.

Current AOC Staffing. The AOC currently has 85.5 positions in the Education Division.

Staff Recommendation. Staff recommends that the Subcommittee delete the position and funding ($204,000) for Audio Visual Operations.

6. AOC Staffing: Executive Office Programs

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.

Current AOC Staffing. The AOC currently has 75.4 positions in the Executive Office Programs.

Staff Recommendation. Staff recommends that the Subcommittee approve these positions.

7. AOC Staffing: Finance Division

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.

Current AOC Staffing. The AOC currently has 164 positions in the Finance Division.

Staff Recommendation. Staff recommends that the Subcommittee approve these positions.

8. AOC Staffing: Information Services Division

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.

Current AOC Staffing. The AOC currently has 122.5 positions in the Information Services Division.

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

9. AOC Staffing: Human Resources Division

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.

Current AOC Staffing. The AOC currently has 60 positions in the Human Resources Division.

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

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

1. Court Facility Operations and Maintenance

Previous Subcommittee Direction. At the March 1 meeting of the Subcommittee, three issues related to Court Facility Operations and Maintenance were heard. The Subcommittee approved $805,000 from the Court Facilities Trust Fund to enable expenditure of court facility payments (CFPs) from eight additional court facilities that had transferred to the state. The Subcommittee also approved $412,000 General Fund to cover additional operations and maintenance costs of two new court facilities to be completed in the current year. The Subcommittee also held open a budget proposal to provide $399,000 General Fund to supplement CFPs paid on court facilities that had transferred to the state, but were not yet eligible to receive a SAL adjustment.

May Revision. The May Revision proposes technical adjustments to all three of the Governor's budget proposals related to court facility operations and maintenance. These proposals are summarized below:

- **Adjustments for Additional CFPs.** The May Revision proposes $732,000 from the Court Facilities Trust Fund to allow for expenditure of CFPs related to an additional 12 court facilities that have transferred to the state. This funding is in addition to the $805,000 approved by the Subcommittee on March 1 to cover other court facilities transferred to the state.
- **Adjustments for New Facilities.** The May Revision proposes a decrease of $65,000 from the $412,000 approved by the Subcommittee on March 1 to cover the operations and maintenance of two new court facilities. The AOC indicates that, because of delays in construction of a new court facility in Paso Robles, funding for operations and maintenance will not be needed in the budget year.
- **Inflation Adjustment for New CFPs.** The May Revision proposes to reduce by $198,000 the Governor's budget proposal to allocate $399,000 to inflate CFP payments on court facilities that had recently transferred to the state and were not eligible for a SAL adjustment. This reduction reflects the revised number of court facilities expected to transfer to the state before the end of the current year.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the May Revision proposal to augment the expenditure authority from the court Facilities Trust Fund to enable expenditure of additional CFP payments.
- Approve the May Revision proposal to adjust the funding provided for operations and maintenance of two new court facilities.
- Approve the Governor's Budget proposal with the May Revision amendment to provide inflationary adjustments to the CFP payments of newly transferred court facilities.

2. Trial Courts Facilities Transfers and Capital Outlay

Previous Subcommittee Action. At the May 9 meeting of the Subcommittee, funding for the first phase of eight new court construction projects were held open pending additional review of the AOC's plans to fund these projects using lease revenue bonds (lease payments paid by the State Court Facilities Construction Fund) if a general obligation bond is not passed by the voters. At this meeting of the Subcommittee, concerns were raised about committing the state to an estimated $900 million in construction costs needed to complete these projects without a commitment for future financing.

The projects held open by the Subcommittee on May 9 include the following projects that were included in the Governor's budget and a Finance Letter (dated March 29, 2007):

- **Madera - 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. The total cost of this project is expected to be $94.7 million.

  This project will replace the existing Madera courthouse and Family Court Services leased facility. Combined, these two facilities have seven courtrooms. These two facilities were transferred to the state on April 30 and May 1.

- **San Bernardino - 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. The total cost to the state of this project is expected to be $303.4 million.

  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 budget proposal also includes budget bill language that allows the State Court Facilities Construction Fund to be reimbursed by donations from the County of San Bernardino.

The nine facilities have not yet been transferred to the state, but are expected to be transferred by June 29, 2007.

- **San Joaquin - 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.

  A Finance Letter (dated March 29, 2007) requests an additional $3.2 million from the State Court Facilities Construction Fund to augment the funding available for acquisition. The increase is due to the need to acquire additional parcels to provide security setbacks and parking. One additional courtroom has also been added to the project making it a 30-court courthouse project. The total cost to the state for this project is expected to be $231.7 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 May 10, 2007.

- **Riverside – New 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. The total cost of this project is expected to be $56 million.

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.

- **Tulare – New Porterville Court.** A Finance Letter (dated March 29, 2007) requests $4.4 million from the State Court Facilities Construction Fund for acquisition to build a new 9-court courthouse in the City of Porterville. The total cost of this project is expected to be $81 million.

  This project will replace two court facilities with five courtrooms. These facilities have not been transferred to the state, but transfer is expected by May 30, 2007.

- **San Benito – New Hollister Court.** A Finance Letter (dated March 29, 2007) requests $541,000 from the State Court Facilities Construction Fund for acquisition to build a new 3-court courthouse in the City of Hollister. The AOC indicates that both the city and county have passed resolutions expressing the commitment to donate land worth about $5.5 million to assist in the construction of the facility. The total cost to the state of this project is expected to be $5.5 million.

  This project will replace the court facilities that are currently within the Civic Center Building in the City of Hollister. This facility has not been transferred to the state, but transfer is expected by June 2007.

- **Calaveras – New San Andreas Court.** A Finance Letter (dated March 29, 2007) requests $845,000 from the State Court Facilities Construction Fund for acquisition to build a new 4-court courthouse in the City of San Andreas. The total cost to the state of this project is expected to be $39.6 million.

  This project will replace two court facilities (one is a leased modular building). The AOC indicates that the County has written a letter expressing their commitment to provide land worth $316,000 for this project to be applied to the buy-out of the court-occupied space in an existing county facility. The two court facilities have not been transferred to the state, but transfer is expected by June 2007.

- **Lassen – New Susanville Court.** A Finance Letter (dated March 29, 2007) requests $1.5 million from the State Court Facilities Construction Fund for acquisition to build a new 3-court courthouse in the City of Susanville. The total cost to the state of this project is expected to be $35 million.

  This project will replace three county court facilities. Transfer of the historic Lassen County Courthouse was completed in July 2006. The transfer of the other two facilities has not been completed, but transfer is expected by June 2007.

Updated Status on Transfer of Trial Court Facilities. The AOC reports that, as of May 7, 2007, 45 county facilities have been transferred to the state (some are being operated under a memorandum of understanding because they are historic facilities). Another 15 leased facilities have been "consolidated" and will no longer be needed to support court operations. The majority of these transfers are a "transfer of responsibility" and do not include a transfer of title to the building. There are still hundreds of court facilities that need to be transferred to the state and will likely not make the statutory deadline.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the funding provided in the Governor's Budget and Finance Letter for the eight projects listed above.
- Approve budget bill language to require the AOC to make disposition plans part of each capital outlay project starting in 2008-09.
- Approve budget bill language to restrict the ability of the AOC to encumber additional expenditures from the Court Facilities Construction Fund above the level appropriated in the 2007-08 Budget Act unless the expenditures are replaced with increased revenues to the fund. This is to ensure that adequate funding remains in the fund to support the construction of the projects listed above.

3. Public-Private Partnership: Long Beach Courthouse

Background. Public-private partnerships can be an effective way for the state to attract additional capital that could be used to develop infrastructure projects and help offset the costs to the state over time of building and operating these facilities. Examples of the types of partnerships that could exist include the following:

- Exchanging outdated facilities located on expensive urban property for new facilities on less expensive property.
- Providing revenue-generating commercial space, such as law offices, in newly constructed court buildings.
- Design-build-operate contracts in which the private sector constructs and operates a facility in exchange for lease payments.

Governor's Budget and Finance Letter. The Governor's budget proposal includes trailer bill language to authorize the Judicial Council to use existing resources to leverage public-private partnerships for the construction of court facilities. The administration estimates that these partnerships could bring as much as $2 billion in additional resources to the courts.

A Finance Letter (dated March 29, 2007) includes $5.9 million from the State Court Facilities Construction Fund for the equity purchase of the Los Angeles County and City of Long Beach shares in the existing facility. (The court currently occupies about 43 percent of the building.) This request will give the AOC full title and equity to the existing court facility in Long Beach. The request also includes budget bill language to begin the process of developing a public-private partnership for the construction of a new 31-courtroom facility. The AOC indicates that this public-private partnership will be a pilot project with the goal of providing cost savings to the state.

If constructed using traditional state practices, the AOC estimates that this new facility will cost about $297 million. The existing courthouse has not transferred to the state, but is expected to transfer by October 1, 2007.

LAO Recommendation. The LAO finds that the Governor's public-private partnership trailer bill language is too broad and does not provide for appropriate legislative oversight. The LAO recommends rejecting the Governor's proposed trailer bill language. However, the LAO finds that public private partnerships could be an effective way for the state to attract additional capital that could be used to develop infrastructure projects and help offset the costs to the state over time of building and operating these facilities.

Staff Comments. Staff finds that public-private partnerships could be beneficial to the state, help leverage state resources, and save money. However, the potential benefits of a public-private arrangement are dependent on specific terms of the agreement established by the state and the private entity. The AOC has proposed budget bill language that directs the development of alternative methods of project delivery to facilitate a comparison between a public-private partnership and traditional state project delivery methods. Staff finds that this analysis is critical to determining whether or not the state is getting a "good" deal. The trailer bill language requires a 30-day notification to the Joint Legislative Budget Committee before the authorization of an alternative method of project delivery. Staff finds that this notification is a step in the right direction, but there continues to be uncertainty surrounding what sort of information would be provided to the Legislature and whether the information provided would allow for adequate legislative oversight.

Furthermore, the AOC has indicated that there is not currently sufficient funding in the State Court Facilities Construction Fund to support financing the Long Beach courthouse. If this facility is constructed utilizing state resources, it would most likely need to be financed by the General Fund.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the May Revision proposal to allocate money for the equity buy-out of the Long Beach courthouse.
- Approve modified trailer bill language that further defines a public-private partnership in the context of court construction and the information that should be submitted to the Legislature prior to approval by DOF of alternative methods of project delivery.

0855 Gambling Control Commission

1. Proposed Tribal-State Compacts—Informational Item

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, an updated revenue estimate was requested related to the proposed tribal-state compacts. Since that meeting, the Senate approved the following tribal-state compacts on April 19, 2007:

- Yurok Tribe of the Yurok Reservation – 99 Class III machines in Del Norte and Humboldt Counties.
- 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.

(The Yurok compact is a new compact, the remainder are existing compacts that have been amended.) The Assembly has not taken an action to ratify these compacts.

Furthermore, the Governor negotiated the following additional new compacts that have not been ratified by either house in the Legislature.

- 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.

At the hearing, the Subcommittee learned that the new compacts would not only increase the number of allowed gambling machines, but would also result in changes to the way the gaming revenues are allocated. 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 Revenue Sharing Trust Fund (RSTF) and significantly decrease payments to the Special Distribution Fund (SDF). However, because tribal financial information is confidential, it is difficult to estimate the amount that these funds will be impacted.

Concerns were also raised by the Subcommittee and the LAO about the reliability of the revenue estimate (about $500 million) included in the Governor's budget relating to the tribal-state gaming compacts. Furthermore, the LAO indicated that DOF had failed to adjust the revenues to the Special Distribution Fund and the Revenue Sharing Trust Fund to reflect the amended compacts.

The Subcommittee requested an updated General Fund revenue amount as well as an estimate of the revenues to the SDF and RSTF if the compacts were ratified and if they were not ratified.

Finance Letter. A Finance Letter (dated April 26, 2007) revised the revenue estimate from the amended tribal-state compacts to $313.5 million in the budget year. This total includes an estimate of $145.9 million in additional revenues from the expansion of additional gaming devices. The letter indicates that the state will lose an estimated $1.26 million a day from this revenue source for every day after May 15, 2007, that the Legislature waits to ratify the compacts.

LAO Issues. The LAO continues to be concerned that the new tribal-state revenue estimate continues to be overstated and relies on optimistic assumptions of when the compacts will be ratified. Furthermore, the Senate ratified the compacts on a majority vote, thereby triggering a January 1 implementation date which would further reduce revenues to the state in the budget year.

Impacts to SDF and RSTF. The administration has provided information regarding how the revenues to the SDF and RSTF will be impacted by the ratification of the five amended tribal-state compacts. Revenues to the SDF will decline by $91 million in the budget year if the tribal-state compacts are ratified. However, the administration projects that there will still be $84 million remaining in the fund balance of the SDF. This includes a transfer of $39 million to the RSTF to keep the annual distributions to non-compact tribes at $78 million. The ratification of the five amended tribal-state compacts will result in $6 million in additional revenue annually to the RSTF, which should eliminate the need for a backfill from the SDF starting in 2008-09.

2. Minimum Internal Control Standards

Background. At the March 22 meeting of the Subcommittee, the Commission testified that due to a recent court decision the federal government is no longer regulating Class III gambling operations operated by tribes. The Gambling Control Commission is also not regulating Class III gambling operations. The Commission indicates that it would need to work with the National Indian Gaming Commission to develop a blueprint on how to regulate Class III gambling.

May Revision. The May Revision proposal includes $1.7 million from the Special Distribution Fund to support 14 positions to establish an audit and compliance unit to review and enforce the minimum internal control standards adopted by gaming tribes pursuant to the terms of their respective gaming compacts.

LAO Recommendation. The LAO recommends rejecting the Governor's May Revision proposal because the commission's staff was expanded by over 50 percent in the 2006-07 Budget Act. The LAO finds that the commission does not have a long enough track record with the increased staffing to demonstrate that its regulatory processes produce consistent and measurable results for the state. The LAO recommends adopting two pieces of supplemental report language related to the commission's audit staffing, workload, productivity, and results; and field inspection and technical services (gambling device testing) programs.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Reject the Governor's proposal.
- Approve both of the supplemental reports recommended by the LAO to enable the Legislature to determine if their current regulatory processes are effective.

0552 Office of the Inspector General

1. Lawsuit Compliance

Background. The California Department of Corrections and Rehabilitation (CDCR) is currently under numerous court orders to change operations based on findings in class action lawsuits in the federal courts. Two of these lawsuits are the following:

- *Armstrong* – This lawsuit found CDCR institutions and programs out of compliance with the Americans with Disabilities Act.

- *Plata* – This lawsuit found CDCR medical care was in violation of the U.S. Constitution. In this case the federal court has appointed a Receiver that is directing the operations of medical care at CDCR.

May Revision. The May Revision proposal includes $191,000 in General Fund monies to support one new position to ensure lawsuit compliance. Half of the position will be used to oversee CDCR's compliance with the *Armstrong* lawsuit. This oversight is required under the terms of the injunction in this lawsuit. The remaining half of the position will be used to audit the Receiver's operating budget to ensure transparency and accountability as required by the federal court in the *Plata* lawsuit.

Staff Recommendation. Staff recommends that the Subcommittee approve this May Revision proposal.

2. California Rehabilitation Oversight Board

Background. A component of the prison bed package (AB 900, Solorio) passed by the Legislature in April 2007 was the creation of the California Rehabilitation Oversight Board (C-ROB). The board is made up of eleven members and was created to examine the various mental health, substance abuse, educational and employment programs for inmates and parolees operated by CDCR. The board is required to evaluate and recommend changes to the Legislature and Governor through two semi-annual reports.

AB 900 also requires the Inspector General to be part of a three-member panel that will be responsible for verifying that certain conditions have been met before funds are distributed for the second phase of prison bed construction and jail bed construction.

May Revision. The May Revision includes $810,000 from the General Fund for the Office of the Inspector General to implement the requirements of AB 900. Specifically, the department is requesting 3 positions (2 full-time and 2 half-time) as well as $250,000 in contract funds to contract with experts that have substance abuse and mental health expertise.

The department requests 2.5 deputy inspector generals that will be responsible for coordinating the C-ROB activities and inspecting educational and employment programs throughout the state. The department is also requesting 0.5 of an Associate Governmental Program Analyst to assist in planning the quarterly meetings and gathering and analyzing data provided from the inspections and contractors.

Staff Comments. Staff finds that the Inspector General currently lacks basic program expertise. Their traditional focus has been more on custody and management reviews, as well as traditional auditing functions. Staff finds that the office does need to develop some basic program expertise. However, staff finds that given the diverse group of panel members on the C-ROB that bring different types of expertise that it may not be necessary for all of the positions requested by the OIG.

Staff Recommendation. Staff recommends that the Subcommittee take the following action:
- Approve two positions (1 deputy inspector general, a half-time inspector general and a half-time Associate Governmental Program Analyst).
- Approve $125,000 in contract funding for supporting the meetings and expert contracts, when needed.

0820 Department of Justice

1. Proposition 69 – DNA Program Implementation

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, the implementation of the Proposition 69 DNA Program was held open and budget bill language granting DOF the authority to augment General Fund revenues if the DNA Identification Fund fell short was eliminated. The Subcommittee requested the following:
- An updated revenue estimate for the DNA Identification Fund.
- An approved Feasibility Study Report for the DNA Live Scan budget proposal and request that a Feasibility Study Report be submitted to the Legislature for review.
- Information on steps taken to reduce the vacancies in its Criminalist positions.
- Staff to review strategies for enhancing the collection of DNA Identification Fund revenues, including requesting an audit.
- Staff 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.

An update of the DNA Identification revenues has been contained in the May Revision and reflects a $10 million downward revision compared to the January budget. An approved Feasibility Study Report has been received by the LAO for the DNA Live Scan proposal. As part of an agreement with the Department of Personnel Administration, the Criminalist positions at DOJ have received an 11 percent increase over the last two years, including adding an additional step to the pay scale. It is unclear whether this may help with the recruitment of around 62 vacant positions.

Staff understands that Assembly Member Arambula has recently requested an audit by the Bureau of State Audits to complete an audit of the local collection of penalty assessments that are dedicated to support this program. This request has been approved. Staff continues to look at ways to more appropriately finance the DNA program that does not rely so heavily on the General Fund.

Governor's Budget, Finance Letter, and May Revision. The Governor's January budget proposal included $32.2 million from the DNA Identification Fund for support of the DNA Program in the budget year. The budget did not propose any General Fund for this program and it was highly unlikely that there would be sufficient revenues to support the program at that level. The May Revision includes an increase of $11.2 million from the General Fund to support the DNA Program and a corresponding decrease from the DNA Identification Fund. The administration's revised estimate of revenues to the DNA Identification Fund is $21.3 million.

This is a reduction of over $10 million from the revenue estimate in the January Governor's budget and reflects the actual revenues coming in the budget year.

The Governor's January budget also includes an augmentation of $2 (mainly one-time) to 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.

A Finance Letter (dated March 29, 2007) requests a $1 million reduction in expenditure authority from the Fingerprint Fees Account as a result of workload reductions in the Applicant Expedite Service. This service processes hard fingerprint cards for fee-paying clients, but because of the implementation of Live Scan the demand for these services has declined significantly.

Staff Comments. Staff finds that the approved Feasibility Study Reports and Special Project Reports related to the DNA Live Scan project and the databases in the next four items were not received by the LAO until late on May 18, 2007. They have still not been received by legislative staff. Staff finds that the timing of these reviews reduces the ability for legislative oversight without making decisions to delay the projects further. Staff finds that these information technology projects are important and should not be delayed, but the department should make a better effort to make more timely submittals to DOF related to their information technology requests.

Furthermore, staff finds that at the March 22 meeting of the Subcommittee it was discovered that a decision had been made to administratively exempt DOJ from the Independent Project Oversight reporting requirements. The department has agreed to comply with standard state information technology procedures and submit Independent Project Oversight Reports to DOF and the Legislature consistent with standard state policies. This change will go into effect on July 1 of this year.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the Governor's budget proposal as modified by the May Revision, excluding the budget bill language that was rejected at the March 22 meeting of the Subcommittee.
- Approve the funding for the DNA Live Scan project.
- Approve the Finance Letter to reduce expenditure authority from the Fingerprint Fees Account.

2. Sex Offender Registry: Megan's Law Website

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, funding to implement two law changes related to the Megan's Law Website were held open pending approved Feasibility Study Reports and Special Project Reports. At the time of the Subcommittee meetings, these reports were still under review by the Department of Finance. Furthermore, the Subcommittee requested additional information on the activities that would be funded to support legislation enacted in the current year related to sex offenders (SB 1128, Alquist) and on the estimate of Sexually Violent Predators that was used to justify the staffing augmentation to implement this legislation.

The LAO has received the approved Feasibility Study Reports and Special Project Reports related to this database. Furthermore, the Department of Mental Health has reduced their estimate of Sexually Violent Predators by 55 percent in the May Revision.

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 (Statutes of 2006). 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 recommends reducing the funding to update the Megan's Law Website by $221,000 to reflect the Department of Mental Health's revised estimate of the number of Sexually Violent Predators identified under the new laws passed in 2006. The DOF finds that the LAO's adjustment should actually save only $156,000.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the $250,000 General Fund to make changes to the Megan's Law website to implement AB 1849.
- Approve the $517,000 less $156,000 as recommended by the LAO and adjusted by DOF.

3. Major Database Redesign

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, funding for the Criminal Justice Information System and the Violent Crime Information Network was held open pending an approved Feasibility Study Report.

The LAO has received an approved Feasibility Study Report and has not raised any issues related to this proposal.

Governor's Budget and Finance Letter. 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. A Finance Letter (dated March 29, 2007) requests budget bill language to reappropriate $405,000 for the Violent Crime Information Network. The request also proposes to reduce funding for this project by $76,000 in the budget year because this project was budgeted for an Independent Oversight Program Consultant, which it no longer needs because this project is not a high control project.

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. A Finance Letter (dated March 29, 2007) requests budget bill language to reappropriate $928,000 from the Criminal Justice Information System.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the Governor's budget proposals related to the Criminal Justice Information System and the Violent Crime Information Network.
- Approve the Finance Letter to reappropriate monies for both of these projects.

4. National Criminal History Improvement Program

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, the Governor's budget proposal to allocate $900,000 in federal monies to support efforts to improve the completeness, accuracy, and accessibility of the state's criminal history records consistent with the National Criminal History Improvement Program was held open. This funding was held open because the Subcommittee had not received the approved Feasibility Study Report required by the state for information technology projects.

An approved Feasibility Study Report for this project has been received by the LAO.

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

5. California Criminalistics Institute

Previous Subcommittee Direction. At the March 22 meeting of the Subcommittee, $489,000 General Fund for the California Criminalistics Institute (CCI) was held open pending additional information on the department's ability to enter into an agreement with Los Angels law enforcement agencies for the space to establish a satellite facility for CCI in a new local facility. The proposal was also held open pending an approved Feasibility Study Report.

An approved Feasibility Study Report has been received by the LAO.

Staff Comments. Staff finds that office space has been made available for DOJ staff in the new local facility where the CCI will be housed. This will reduce the overall costs of this proposal $71,000 in the budget year and $34,000 ongoing. Furthermore, staff has received an approved Feasibility Study Report on this project.

Staff Recommendation. Staff recommends that the Subcommittee approve this proposal less $71,000 to reflect that the department no longer needs to lease office space.

6. California Witness Protection Program

Previous Subcommittee Action. At the May 9 meeting of the Subcommittee, $723,000 was added to the California Witness Protection Program consistent with a Governor's budget proposal. The California Witness Protection Program reimburses local district attorneys for the cost of relocation and protection services for witnesses.

May Revision. The May Revision proposal includes an additional $3 million from the Restitution Fund to support additional grants to local district attorneys. This proposal would double the size of this program.

Staff Comments. Staff finds that the funding for District Attorneys is generally a local funding responsibility. Furthermore, staff finds that the Governor's budget included a reasonable augmentation to this program.

Staff Recommendation. Staff recommends that the Subcommittee reject this proposal.

7. Natural Resources and Environmental Protection Litigation

Previous Subcommittee Direction. At the May 9 meeting of the Subcommittee, Senator Dutton requested additional information on a lawsuit filed by DOJ against San Bernardino County related to their General Plan. Correspondence from the department has been received.

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. These monies were redirected in the current year to fund the defense of the AB 1493 (Pavley) regulations. It was the intent of the Legislature, in the current year, that a portion of these funds be used to pursue new climate change-related litigation.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Approve the Governor's budget proposal.
- Approve $1 million General Fund so that the department can pursue new climate change related litigation.

8. Automated Firearms System

Background. The Automated Firearms System (AFS) was developed by the California Department of Justice in the 1970s to house records containing handgun information, as required by Penal Code section 11106. There are two types of handgun records within the database: law enforcement records, which contain a description of a handgun and its status (e.g., lost, stolen, etc.) and historical records that contain information on handguns and the individuals who are recorded as having possession of them. The AFS is linked directly to a corollary gun file in the FBI National Crime Information Center (NCIC). The AFS acts as a repository for firearms information and is limited severely in its ability to search for usable information to trace firearms. Instead, the Department of Justice has relied on the Bureau of Alcohol, Tobacco, and Firearms, and Explosives (ATF) for gun tracing information.

In 2003, Congress enacted a rider to the ATF's annual funding bill that limited the ATF's ability to share gun tracing data with state and local law enforcement entities. Due to this amendment, the ATF can only release firearms trace data to a law enforcement agency "solely in connection with and for use in a bonafide criminal investigation or prosecution and then only such information as pertains to the geographic jurisdiction of the law en agency requesting the disclosure." Strictly construed, the amendment eliminates law enforcement's ability to obtain cross-jurisdictional information, even when law enforcement investigations overlap because of common purchase patterns. In plain terms, this means that a law enforcement agency in one county cannot investigate gun trafficking patterns to determine whether guns are coming from a dealer in a nearby jurisdiction.

California cannot utilize the information stored in the AFS to trace crime guns like the ATF because the functionality of the AFS is limited. The system acts as a repository of information, not as a searchable database. As a result, the Department of Justice can inquire into individual firearms, but cannot search for information involving particular firearms sales, firearms dealers, or compile regional information dealing with firearms trafficking patterns.

Staff Comments. The state's ability to trace crime guns is seriously limited because the functionality of the AFS I s limited. Staff finds that tracing crime guns could help solve crimes and improve public safety.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve $541,000 from the Dealers' Record of Sale Special Account to modernize the Automated Firearms System subject to a Feasibility Study Report.
- Approve budget bill language to restrict the expenditure of these funds until a Feasibility Study Report has been approved by the Department of Finance and submitted to the Legislature.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Part C

Monday, May 21, 2007
11:00 a.m. - Room 2040

California Department of Corrections and Rehabilitation

Population Estimate

Adult Population. The Governor's January budget proposal estimated that the inmate population would be 179,600 at the end of the budget year. The May Revision estimate assumes that the inmate population would grow slower and result in 178,300 inmates at the end of the budget year. The May Revision assumes that the inmate population will actually be about 900 less than estimated in January in the current year.

Parole Population. The Governor's January budget proposal estimated that the parole population would be 123,400 at the end of the budget year. The May Revision estimate assumes that the parole population will grow faster than previously estimated and will result in 126,100 parolees at the end of the budget year. The May Revision assumes that the parole population will be about 2,700 parolees higher than estimated in January in the current year.

Population Estimate – Fiscal Impact. The Governor's January budget proposal contained an additional $47.9 million to fund the population estimate in the budget year. The major increase was related to the increased funding for the plan to transfer inmates out of state. The Governor's January proposal also contains an additional $9.7 million in the current year due to the plan to transfer inmates out of state.

The May Revision estimate reduces the amount proposed for the budget year by $46 million due to slower expected population growth. Furthermore, the May Revision estimate request included an additional $3.3 million in the current year.

In summary, the total increase in funding related to the population estimate is $1.9 million in the budget year and $13.1 million in the current year.

There are also several other miscellaneous items and local assistance items that are included in the population estimate package, but are not necessarily driven by the department's population changes. These totals add up to $10.3 million in the current year and $29.5 million in the budget year.

May Revision. The May Revision includes two proposals that are related to the population estimate. These proposals include:

- **Technical Adjustments.** The Governor's budget is making technical adjustments for prison reform elements that were not part of AB 900 (Solorio). Specifically, the department has reversed savings amounts related to the following proposals:
  - **Direct Discharge.** $47.9 million in savings.
  - **12 Month Clean Time.** $4.6 million in savings.
  - **Eliminating Z Case Diagnostic Evaluations.** $4.2 million in savings.

The administration has also deleted its funding proposal ($457,000) for a sentencing commission. The reversal of these proposals results in an increase of $56 million General Fund to the department's budget, which is offset by $31.2 million in savings related to pursuing a 12-month clean time discharge policy. The total savings estimated for the 12-month clean time policy is larger than estimated in January because institution savings are included.

- **Local Assistance Claims.** The department is proposing trailer bill language to require local entities to file claims with the department within six months. Not all entities are filing claims in the six-month timeframe and are instead filing claims with the Victims Compensation and Government Claims Board. The budget already contains budget bill language that requires local assistance claims to be filed within a six month timeframe, but this has not stopped this practice.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve recommendations on Attachment I.
- Approve technical adjustments (listed above) to the budget as proposed in the May Revision.
- Approve trailer bill language to prevent local entities from filing claims with the Victim Compensation and government Claims Board after the six-month deadline for filing claims with CDCR.
- Approve the following budget bill language to address the lack of transparency in the current population estimate process:

  Provision X: The Department will consult with legislative staff and the Department of Finance to define what is and is not allowable in the annual population budget requests, and to reformat the document to make it a more transparent document to ensure appropriate legislative oversight. These actions shall occur in time for the Department to present an example of the reformed population document to the Legislature for the 2007-08 Governor's Budget.

Performance Measures

Background. The 2006-07 Supplemental Report to the 2006-07 Budget Act required that the department track certain performance measurements. These performance measurements were included in the Governor's budget and in a supplemental report to the budget.

Furthermore, the department also 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.

Staff Comments. Staff finds that the performance measurements included in the budget and the supplemental report were a good first step, but more needs to be done to refine the measurements to ensure that data is collected consistently and displayed in a transparent manner. Furthermore, staff finds that more needs to be done to coordinate with the COMPSTAT measurements in order to avoid duplication of staff work. Staff finds that the types of information presented in COMPSTAT and the annual budget report serve two purposes; (1) they are critical to successful and informed management decisions and (2) they improve the transparency of the department's operations.

Staff Recommendation. Staff recommends that the Subcommittee adopt placeholder trailer bill language to continue the performance reporting requirements started in the current year.

Reducing Recidivism and Rehabilitation

1. Smart Expansion of Rehabilitative Programming

Previous Subcommittee Direction. At the April 26 meeting of the Subcommittee, there was extensive discussion about the progress the department has made in implementing the $52.8 million in new rehabilitative programming efforts in the current year. The department has made some progress, but there have been delays in the implementation efforts.

Furthermore, there was considerable discussion about the need for increased communication between program, custody, and parole to ensure that programming is effectively implemented. The Subcommittee requested information that would illustrate clearly who has overall responsibility for determining what rehabilitative programs should be implemented and/or expanded. The department has not provided the Subcommittee with this information.

The Subcommittee also requested information on the department's plans to put in place information technology solutions that will enable data collection so that rehabilitative programs can be evaluated and the department can move towards implementing evidence-based programming. The department has not provided the Subcommittee with this information.

Governor's Budget and May Revision. The Governor's budget includes $93.9 million for various reducing recidivism strategies. This is $41.1 million more than what was provided in the current year.

The DOF recently released a document with the May Revision that indicates that there will be $17.2 million in savings in the current year from the $52.8 million provided for reducing recidivism strategies. Therefore, the department estimates that it will implement $35.6 million in new reducing recidivism strategies in the current year. The majority of these savings are related to slippages in implementing new residential beds for parolees and expanding the substance abuse program. The $17.2 million in savings will revert to the General Fund at the end of the fiscal year. This reversion does not impact the $93.9 million proposed in the Governor's budget.

AB 900. The Legislature recently passed AB 900 (Solorio) that contained considerable legislative directives related to rehabilitative programming. In addition, the legislation also includes an appropriation of $50 million General Fund for rehabilitative programming in 2007-08. Specifically AB 900 requires the following:

- Expanded substance abuse beds.
- Mandatory needs assessment for all inmates at reception centers.
- Prison-to-employment plans to ensure programs provide sufficient skills to assist in successful re-entry.
- Establish mental health day treatment centers for parolees.
- Provide inmates with incentives to participate and complete educational goals.

The legislation also requires that all of the new infill beds include adequate programming space and requires the development of a staffing pipeline for rehabilitation services. The legislation also calls for a plan that will correct the management deficiencies that plague the department.

May Revision Does Not Implement AB 900. The May Revision does not contemplate a revised plan for expending the $93.9 million in light of the passage of AB 900 and the specific directives contained in this legislation. Furthermore, the May Revision does not contain a plan for allocating the $50 million appropriated in AB 900.

On May 11, 2007, the Governor announced a "Rehabilitation Strike Team" that will focus on: evaluating existing education, training, and substance abuse programs; developing leading-edge rehabilitation classes; delivering the services to inmates and parolees in order to improve public safety; designing facilities to best accommodate programs; and working with communities to continue services in local settings. The mission of the strike team is broad, and it is not clear what its timeframe is for developing new programming efforts. It is also not clear whether their efforts will directly inform the expenditure of the $50 million for the budget year.

Staff finds that the mission of the Rehabilitation Strike Team is similar to the Expert Panel funded in the current year. Staff finds that the work of the Expert Panel should be incorporated into the work of the Rehabilitation Strike Team.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Given the absence of a revised plan from the administration, staff recommends that the Subcommittee approve the revised reducing recidivism plan in Attachment II.
- Approve budget bill language to require that unexpended funds revert to the General Fund at the end of the fiscal year for funding provided for the reducing recidivism plan, including Senate changes to the plan.
- Approve placeholder trailer bill language to allocate the $50 million appropriated in AB 900 (Solorio).

(Attachment II includes a code on the left-hand side that designates whether the proposal is included in the reducing recidivism plan or whether it is a regular Governor's budget proposal.)

Health Care Issues

1. *Plata* Lawsuit Compliance

Previous Subcommittee Action. At the May 9 meeting of the Subcommittee funding ($1.5 million) to provide pay parity for classifications at the Division of Juvenile Justice was approved.

Summary of Funding for *Plata* Lawsuit Compliance. The table below summarizes funding allocated for the *Plata* lawsuit. The funding authorized is the funding appropriated for direction by the Receiver. The Receiver sends notification when he wants to release those monies for expenditure on his medical care priorities. The funding referred to as base funding in the budget year is the full-year ongoing cost of the Receiver's expenditure in the current year.

	Funding Authorized	Funding Requested	Funding Expended
Prior Years			$299
Subtotal Prior Years			***299***
Current Year 2006-07	100	50	79
Subtotal 2006-07	***100***	***50***	***79***
Budget Year 2007-08			
Governor's Budget		150	
Governor's Budget Base		55	
May Revision		25	
May Revision Base		18.2	
Subtotal 2007-08		***248.2***	
Total	**$100**	**$298**	**$378**

The budget also includes $1.3 million General Fund in the current year and $1.5 million in the budget year to provide salary enhancements to personnel at the Division of Juvenile Justice that have been impacted by salary increases ordered by the federal court in the *Plata* lawsuit.

May Revision. The May Revision proposal allocates an additional $25 million for the Receiver to allocate in the budget year. In addition, the administration proposes budget bill language that would allow the Receiver to expend these monies on projects that would benefit the *Coleman* lawsuit on mental health and the *Perez* lawsuit on dental care if there is agreement among the three courts.

The May Revision also incorporates an additional $18.2 million for the full-year budget costs of ongoing expenditures made by the Receiver in the current year.

Finally, the administration is also proposing to transfer the medical guarding and transportation expenditures from the main CDCR item to the health care item. This adjustment will transfer $65.5 million from the main item to the health care item, including 115 positions. The majority of medical guarding and transportation is funded from overtime. Of the total, $40.9 million is to fund overtime.

Staff Comments. Staff finds that the number of positions dedicated to medical guarding and transportation are very low. The current allocation assumes that each prison only have 3.5 officers dedicated to medical guarding. Furthermore, it is unclear why the department has historically relied so heavily on overtime to support medical guarding and transport.

The LAO indicates that DOF is currently in the process of reviewing medical guarding and transport and the Receiver has estimated that there may be tens of millions in additional expenditures in the current year to augment the resources dedicated to medical guarding and transport.

Staff Recommendation. Staff recommends that the Subcommittee take the following action:

- Approve Governor's budget and May Revision letter to provide $175 million to the Receiver in the budget year.
- Approve May Revision budget bill language to allow the Receiver to expend funding on projects that help the state comply with both the *Coleman* and *Perez* lawsuits.
- Approve transfer of medical guarding and transportation item from the main item to the health care item.

2. *Coleman* Lawsuit Compliance

Previous Subcommittee Action. At the May 9 meeting of the Subcommittee, the following projects were approved:

- $50.6 million for salary enhancements.
- $5.1 million for a Reception Center Enhanced Outpatient Program.
- $12.8 million for the administrative segregation unit intake cell conversions.

The Subcommittee also requested the department to develop a strategy to modify the new stand-alone administrative segregation units to be in compliance with the *Coleman* court. Staff finds that the department misunderstood this question and has provided a process that may allow inmates in the Mental Health Delivery System to be placed in these units. The concern raised by the Subcommittee at the May 9 hearing is that the department should not build thousands of additional administrative segregation units that look like the new stand-alone administrative segregation units if the court will not allow the state to house certain inmates in these units. The department should be concerned about addressing this issue before they construct new stand-alone administrative segregation units that are exactly like the units that are not suitable for mentally ill inmates as determined by the court.

Furthermore, the Subcommittee also requested information on the savings related to legislation (SB 1134, Budget) enacted in 2006. Staff finds that less than 5 percent of the staff authorized in SB 1134 has been hired to date. The department has not provided the Legislature with this information.

Summary of Funding for the *Coleman* Lawsuit Compliance. The table below summarizes the funding allocated by the Legislature to address the *Coleman* lawsuit. The table does not include funding for projects considered capital outlay projects.

	Funding Requested	Funding Appropriated
Prior Years		$87
Subtotal Prior Years		***87***
Current Year 2006-07		
Budget Act		71
SB 1134		36
Supplemental Appropriation Bill	$24.1	
Subtotal 2006-07	***24.1***	***35.5***
Budget Year 2007-08		
Governor's Budget	72.1	
Governor's Budget Base	40.2	
May Revision	4.7	
Subtotal 2007-08	***117***	
Total	**$141**	**$123**

The administration indicates that $2.4 million General Fund appropriated in the 2006-07 Budget Act for *Coleman* court compliance will revert as part of Provision 22.

May Revision. The May Revision includes $4.7 million for additional actions related to the *Coleman* lawsuit. The additional proposals include the following:

- **Mental Health Administrative Segregation Units.** $3.6 million for the conversion of 2,235 administrative segregation unit cells into mental health administrative segregation unit cells. These modifications will mainly reduce vent screens to reduce the risk of suicide by inmates that are placed in administrative segregation. These cells will be designated as mental health administrative segregation unit cells.

  A separate proposal makes modifications to administrative segregation units across the state to create new intake administrative segregation unit cells since most suicides occur when an inmate is first placed in administrative segregation.

- **California Medical Facility – Acute Cells.** $1.1 million to modify 124 existing mental health acute cells at the California Medical Facility to prevent suicide.

LAO Issue. There are three requests in the Governor's budget directed by the *Coleman* court to modify cells to prevent suicide. The LAO finds that the funding is likely over-budgeted and the per-bed costs vary significantly from project to project without clear justification from the department. The LAO recommends approving these projects because of the legal ramifications of these projects, but also proposes budget bill language to ensure that excess funds revert at the end of the budget year.

Staff Comments. Staff finds that there will likely be considerable savings related to SB 1134 in the current year due to delays in filling the positions established in that legislation. Staff estimated that savings could be around $30 million in the current year. There may also be savings in the budget year because the budget is based on a significant number of the positions being filled by July 1, 2007, which is highly unlikely.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the two May Revision requests to comply with the *Coleman* lawsuit.
- Approve LAO recommended budget bill language (this language also applies to the $12.8 million approved on May 9, 2007).
- Approve budget bill language to require that unexpended funds revert to the General Fund at the end of the fiscal year for funding provided for the *Coleman* salary enhancement budget proposal.
- Approve budget bill language to require that unexpended funds revert to the General Fund at the end of the fiscal year for funding to support the full-year costs related to staff added in SB 1134.

3. Health Care Staff Recruitment

Background. As mentioned above, recruitment of key health care staff has been extremely challenging in the mental health area. Recruitment has also been difficult in the dental and medical areas. The department has over 1,000 vacancies in mental health and dental alone. The courts in the *Coleman* lawsuit and the *Perez* lawsuit have both significantly increased salaries for clinical staff in the hopes of recruiting more qualified staff to fill these positions.

May Revision. The May Revision includes a proposal to fund 15 two-year limited-term positions to augment the department's hiring support function to hire additional mental health and dental clinicians and allocate $2 million to advertising. Total cost of the proposal is estimated to be $2.6 million, but the administration proposes funding the positions and advertising dollars by redirecting salary savings to fund these positions in the budget year.

These staff would assist in streamlining the hiring process, assist and guide potential candidates through the hiring process, and provide dedicated transactions staff to ensure that hiring documents are promptly addressed. These staff will also do a variety of other efforts that support the timely hiring of additional staff. The department is also requesting one position to monitor the hiring function and provide analysis and report on hiring statewide.

Staff Comments. Staff finds that there needs to be a concerted effort to recruit and fill the department's vacant positions. Filling these vacant positions is a critical step to complying with the federal courts on both the *Coleman* and *Perez* lawsuits. Staff finds that the practice of funding new administrative positions from salary savings related to clinical positions lacks transparency. Furthermore, salary savings should not be used to finance advertising costs related to recruitment of new staff.

Staff also finds that a Finance Letter has allocated $1 million to the Department of Personnel Administration to aid in the recruitment of mental health and dental clinical staff.

Furthermore, LAO recommends reducing two of the manager positions given the relatively small number of line staff proposed for these activities.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Reject the Governor's May Revision proposal.
- Approve $1.3 million General Fund to support 13 new staff and on-line exam capability to help in processing and hiring potential candidates.

4. *Perez* Lawsuit Compliance

Previous Subcommittee Action. At the May 9 meeting of the Subcommittee, $20.9 million was approved to support 231 new positions to meet the new lower inmate to dentist ratios (515:1). This funding will support 77 dental staff and 102 custody staff.

The Subcommittee also held open the Governor's budget proposal to allocate $57.8 million to fund salary raises for various dental classifications pending review of a recent pay letter from the Department of Personnel Administration (dated May 4, 2007). The $57.8 million includes $2.1 million to ensure pay parity for clinical staff at the Division of Juvenile Justice. The funding requested for the current year is to fund salary increases.

Summary of Funding for *Perez* Lawsuit Compliance. The table below summarizes the funding appropriated and requested for *Perez* lawsuit compliance.

	Funding Requested	Funding Appropriated
Prior Years		$13
Subtotal Prior Years		***13***
Current Year 2006-07		
Budget Act	25.1	
Supplemental Appropriation Bill	18.8	
Subtotal 2006-07	***43.9***	
Budget Year 2007-08		
Governor's Budget	78.7	
May Revision	2.7	
Subtotal 2007-08	***81.4***	
Total	**$125**	**$13**

May Revision. The May Revision includes $2.7 million to support 20 headquarters staff within the Dental Program at CDCR headquarters. The staffing includes a Statewide Dental Director and support staff, four Regional Dental Director positions, and other clinical staff to support a fourth regional Quality Management Assessment Team as recommended by the court. Monies to support four of the director positions were already included in the Governor's budget proposal to fund salary enhancements for dental staff. Therefore, this proposal only requests position authority for four of the director positions.

LAO Recommendation. The LAO recommends supporting the May Revision proposal to add additional staff to provide leadership and oversight over the dental program. However, the LAO finds that the proposal assumes that all positions will be filled by July 1, 2007, which is unlikely. The LAO recommends reducing this proposal in half to account for a phased in hiring schedule.

The LAO also recommends that the Legislature send the budget proposal for dental salary enhancements to conference. The LAO finds that the current and budget year figures to implement the May 4, 2007, pay letter need to be adjusted. For example, the budget proposal assumes that the salary increases are retroactive to January 1, 2007, in the current year, but the pay letter states that the pay raises are retroactive only to April 1, 2007.

Savings From Vacancies Likely. Staff finds that the department currently has a 57 percent vacancy rate at the first 14 institutions where it has implemented the reduced inmate to dentist staffing ratios. The department has a 40 percent vacancy rate for all of the other institutions. Staff finds that a salary increase would help to fill these vacancies. Staff finds that the department will likely have some savings in the current year due to the number of vacant dental positions.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the May Revision request less $1.1 million to reflect a phased in hiring schedule as recommended by the LAO.
- Approve the budget proposal to fund salary increases for dental positions at CDCR (including dental positions at DJJ).
- Approve budget bill language to require that unexpended funds revert to the General Fund at the end of the fiscal year for funding provided for the *Perez* salary enhancement budget proposal.
- Approve budget bill language to require that unexpended funds revert to the General Fund at the end of the fiscal year for funding provided for the *Perez* staffing augmentation (515:1) budget proposal.

5. Court Order Tracking

Background. The CDCR is currently in the process of complying with numerous court orders. These court orders will, collectively, cost the state billions of dollars. Presently, it is very difficult to track what funding has been allocated to help the state comply with these court orders.

Staff Recommendation. Staff recommends that the Subcommittee approve supplemental report language to require the department, with consultation from the DOF and LAO to develop a consistent methodology for tracking and reporting budgetary expenditures for lawsuit compliance.

6. Technical Facility Budget Realignment

May Revision. The May Revision includes a technical facility budget realignment to move $3.2 million ($1.1 million ongoing) from the health care item to the general support item to help facilitate the Receiver's request to relocate CDCR staff that at the 501 J Street facility that are not part of the Receiver's program.

Staff Recommendation. Staff recommends that the Subcommittee approve this May Revision proposal.

Division of Juvenile Justice

1. Juvenile Justice Continuum

Previous Subcommittee Direction. At the April 23 meeting of the Subcommittee, a budget change proposal ($585,000 General Fund) to add additional custody staff to the N.A. Chaderjian Youth Correctional Facility was adopted. The Subcommittee held open an additional budget change proposal ($395,000 General Fund) to fund positions and a consulting contract to convene a group to develop a Juvenile Justice Operational Master Plan in conjunction with the counties and other stakeholders.

Also at that hearing, the Subcommittee learned about a recent report by the Juvenile Justice Data Project, which is a group of stakeholders that include local law enforcement, probation, county government, state corrections, advocacy groups, and service providers. This group identified the need to define desired outcomes of the juvenile justice system, determine current data gaps, and propose policies to encourage the implementation of evidence-based practices. All of these efforts would help in laying the foundation for strengthening the juvenile justice continuum.

Furthermore, a recent report (dated April 2007) by the Data Project found that one-third of the counties were using a validated risk assessment to match youth with the appropriate level of intervention from diversion to confinement. The report also found that only about 5 percent of the programs in use by counties system-wide were being evaluated in terms of recidivism. Furthermore, the report found that considerable data challenges exist given the lack of common collection methodologies and tracking systems among counties.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve $395,000 for contracts and one Staff Services Manager III to continue the work of the Juvenile Justice Data Project. The funds should be used to work towards the development of a Juvenile Justice Operational Master Plan that will focus on strengthening the juvenile justice continuum, including implementing validated risk assessments across jurisdictions and developing comparable data that can be used to implement evidence-based programs.
- Approve budget bill language to require the department to contract with national experts from the *Farrell* expert panel in development of a Juvenile Justice Operational Master Plan. Also require that the plan address facility and infrastructure issues throughout the continuum.

2. Juvenile Reentry

Previous Subcommittee Direction. At the April 23 meeting of the Subcommittee the department announced the award of $10 million in re-entry grants that were included in the 2006-07 Budget Act. The grants were awarded to five projects and will be available for expenditure over the next three years. The Subcommittee requested additional information from the department on the evaluation components of these grants. The department has indicated that the contracts will include data elements so that outcomes can be measured. These date components are being developed and implemented with the department’s Office of Research.

Governor’s Budget. The Governor’s budget proposes to eliminate the Juvenile Justice Community Reentry Challenge Grant, in the budget year, resulting in $10 million General Fund savings.

Staff Comments. Staff finds that reentry of youth from DJJ facilities back into the community is a weak component of the juvenile justice continuum at both the state and county levels. More needs to be done to ensure that youthful offenders transition smoothly back into their community. Staff finds that the re-entry grants awarded in the current year will serve as a good pilot to evaluate the success of the different efforts.

Furthermore, staff finds that the development of more group home placements and foster care placements at the county level could also help ease the transition for some youth that do not have stable home environments. However, there continues to be a need for re-entry services and facilities for youth that are over 18 and paroling from DJJ. The Governor's May Revision proposal includes a small proposal for 20 residential beds in Northern and Southern California that could help with this transition (see next item).

Staff Recommendation. Staff recommends that the Subcommittee reject the Governor's budget proposal and restore $10 million for competitive re-entry grants.

3. Gang Prevention and Intervention—Project IMPACT

Background. Project IMPACT (Incarcerated Men Putting Away Childish Things) is a non-profit organization started by incarcerated men at San Quentin State Prison. This program is facilitated by men that are currently incarcerated and ex-offenders that have transitioned back into their community. The facilitators lead workshops and seminars that provide leadership on preventing violence, overcoming addictions, developing healthy relationships, and giving youth the tools to reconcile with themselves, their family, and their communities.

May Revision. The May Revision includes $820,000 General Fund to expand Project IMPACT so that more gang-involved youth in DJJ can participate in this program. The funding request includes $305,000 for additional CDCR staff to facilitate the expansion of the program at DJJ facilities and $515,000 to contract for 20 residential beds (10 in Northern California and 10 in Southern California) for youth paroling from DJJ.

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

4. *Farrell* Remedial Plan Technical Adjustment

Previous Subcommittee Direction. At the April 23 meeting of the Subcommittee, funding for a budget change proposal ($3.8 million General Fund) to support an additional Intensive Behavioral Treatment Program housing unit and additional youth correctional counselors in the classrooms at these units was held open. The Subcommittee requested additional information on the staffing dilemma related to recruiting mental health staff, the plan for filling the positions, and how that relates to the department's conversion timeline. The department has not provided the Subcommittee with information to respond to this request.

Governor's Budget and May Revision. The Governor's Budget contained several proposals to implement the *Farrell* remedial plans. These proposals were contained both in the population estimate and in budget change proposals. The May Revision proposes to make adjustments to the *Farrell* remedial plans outside of the population estimate. The table below summarizes the total increase in funding requested for these items. The funding requested in the Governor's budget that is labeled population below is contained in the population estimate (see the next item).

	Governor's Budget	May Revise	Total
Safety and Welfare Plan - Population	$10,717	$5,172	$15,889
Mental Health Plan - Population	-2,567	1,342	-1,225
Mental Health Plan - BCP	3,844	416	4,260
Total	$11,994	$6,930	$18,924

Furthermore, the administration indicates that $30.2 million appropriated for *Farrell* reform efforts in the current year is scheduled to revert to the General Fund as per Provision 22 budget bill language adopted in the 2006-07 Budget Act.

The department indicates that these additional monies are needed to ensure implementation of the staffing ratios required by the *Farrell* implementation plans.

Staff Comments. Staff notes that this increase is counterintuitive given the reduction in the population and the projected closure of a facility. However, staff would note that unallocated savings are assumed in other budget items that would offset this increase, including a savings of $13 million if the realignment proposal is adopted and the state decides to close Herman G. Stark Youth Correctional Facility (see item below). Furthermore, staff finds that the department is continuing to ramp up staffing to ensure that the higher staff to ward ratios required under the *Farrell* reforms are achieved.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve this budget and May Revision proposals.
- Approve budget bill language to require that unexpended funds revert to the General Fund at the end of the fiscal year for the $35.4 million appropriated to implement the Safety and Welfare Remedial Plan.
- Approve budget bill language to require that unexpended funds revert to the General Fund at the end of the fiscal year for the $20.9 million appropriated to implement the Mental Health Remedial Plan.

5. DJJ Population Estimate

DJJ Population. The Governor's January budget proposal estimated that the ward population would decline from 2,900 wards as of June 30, 2006 to about 2,500 wards by the end of the budget year. The May Revision estimate assumes further decline to 2,340 wards by the end of the budget year. This is nearly a 25 percent decline in population. This decline is primarily the result of fewer juvenile court commitments to state facilities. The May Revision assumes that the ward population will decline to just over 2,600 wards by the end of the current year. These baseline projections do not reflect the administration's proposal to realign certain wards to the counties.

DJJ Parole Population. The Governor's January budget proposal estimated that the DJJ parole population would decline from 3,100 wards as of June 30, 2006 to 2,400 parolees by the end of the budget year. The May Revision estimate stays relatively flat, estimating an additional decline to 2,385 parolees. This is a 23 percent decline in population. The decline is primarily due to the continuing declines in the DJJ population. The May Revision assumes that the parole population will decline to 2,765 by the end of the current year. These projections also do not reflect the administration's proposal to shift a portion of the ward population to the counties.

Population Estimate – Fiscal Impact. The Governor's January budget proposal contained an additional $3.2 million to fund the population estimate in the budget year. The increase is a result of the department's ongoing implementation of the remedial plans that are part of the *Farrell* reforms. The Governor's January budget proposal contains a $2.3 million downward adjustment in expenditures for the current year due to delays in implementing the *Farrell* reforms and the decline in population.

The May Revision estimate is driving an additional $1.6 million in the budget year due to additional funding needed to implement the *Farrell* remedial plans. Furthermore, the May Revision estimate request includes an additional $1.2 million in the current year mainly to fund additional cadets that are scheduled to attend the academy in the current year.

In summary, the total increase in funding related to the population estimate is $4.8 million in the budget year and a decline of $1.1 million in the current year. The increased funding in the budget year is due to increased staffing needed to implement smaller living units required by *Farrell* remedial plans. The declines in the current year are due to delays in implementing the *Farrell* reforms and the general decline in the population.

Staff Recommendation. Staff recommends that the Subcommittee take the actions listed on Attachment III.

6. DJJ Population Realignment

Previous Subcommittee Direction. At the February 28 meeting of the Subcommittee, testimony was heard about the Governor's proposal to realign a portion of the youth currently sent to DJJ to county placements. The Subcommittee heard considerable testimony about the benefits of treating youthful offenders locally in their communities. However, the Subcommittee also learned that there is considerable variation among the counties related to capacity to serve special populations of youthful offenders such as mental health services and substance abuse services.

Governor's Budget and May Revision. The Governor's January budget proposal would realign the youthful offender population by stopping intake of all female offenders and all non-707(b) male offenders starting July 1, 2007. The proposal would include a block grant to the counties to support this shift based on average costs of $94,000 per youth. In addition to the block grant, the counties would no longer have to pay the sliding scale fees to the state, which the administration estimates is about $26,000 per youth. Therefore, the total amount the counties would have to serve this population is $120,000 per youth.

The May Revision contains the same juvenile realignment proposal as is contained in the Governor's January budget. However, the population impacted by the shift has been revised downward due to the revised population estimate that assumes that the DJJ population continues to decline on the natural. The May Revision proposal also assumes the closure of DeWitt Nelson Youth Correctional Facility, further increasing the savings in the budget year. The table below summarizes the impacts of the Governor's shift proposal and the revised population estimate.

	Governor's Budget	**May Revise**
DJJ Savings	-$86	-$77
Block Grant to Counties	53	36
Total	-$33	-$41

The DJJ savings listed in the table above does not include another savings proposal contained in the Governor's proposal related to eliminating the $10 million re-entry grant. Furthermore, staff would note that the savings related to the closure of Herman G. Stark Youth Correctional Facility is included in the May Revision estimate of savings ($13 million). The closure of the DeWitt Nelson Youth Correctional Facility (estimated at $1.7 million in the budget year) is included in the population estimate and is not contingent on the realignment proposal being approved. Furthermore, the savings listed above are slightly different from what is included in the May Revision because the annual per capita ward cost used to calculate the May Revision savings was incorrect.

The table below summarizes the May Revision adjusted population that would be realigned to the counties under the Governor's proposed DJJ realignment. It should be noted that the figure below contains the total number of wards that would be realigned and does not reflect average daily population. For example, if the state stopped intake of non-707(b) males, 290 male offenders would be added to county caseloads over the course of the entire year, they would not all show up on July 1, 2007.

	2007-08	**2008-09**
Stop Intake of Non-707(b) Females	20	40
Stop Intake of 707(b) Females	15	30
Stop Intake of Non-707(b) Parole Violators	130	260
Stop Intake of Non-707(b) Males	290	580
Return of Non-707(b) Males	350	700
Total	805	1,610

The May Revision also contains revised trailer bill language that implements the block grant to counties and new budget bill language to allow mid-year budget adjustments based on unforeseen changes in the number of offenders who are shifting from the state to the local jurisdictions.

LAO Recommendations. The LAO recommends that the Subcommittee adopt the DJJ population realignment proposal with the adjustments made in the May Revision. However, the LAO continues to have concerns with the proposal. First, the LAO finds that the Governor's proposed trailer bill language to establish the block grant to counties lacks details and does not ensure that funding sent to counties is used effectively to improve supervision and treatment services. The LAO finds the language requiring outcome measures too vague.

Second, the LAO finds that additional technical adjustments should be made to other budget proposals to reflect the lower population at DJJ and the shutdown of DeWitt Nelson Youth Correctional Facility. The LAO recommends adjustments to the Proposition 98 funding allocated to DJJ and a January budget proposal to update equipment at various juvenile facilities.

The department continues to pursue contracts to house all of the female offenders currently at DJJ. The LAO finds that this contract will likely not be activated by July 1, 2007 as envisioned in the budget. Furthermore, the LAO finds that the amount budgeted for the contract may have to be augmented to address increased health care costs.

Finally, the LAO recommends budget bill language to require the department to develop a long-range plan for reducing and consolidating existing DJJ facilities. The LAO finds that such a plan would avoid problems similar to the state's recent investment of state funds in facility improvements at DeWitt Nelson just before it was selected by the administration for closure at the end of the budget year.

Staff Comments. Staff finds that there continues to be many technical issues and details that need to be resolved related to the realignment proposal, especially in the area of accountability. Furthermore, it is not clear that all counties will be ready to take back the non-707(b) youth that are currently committed to DJJ.

In addition, many counties currently do not have the capacity to deliver specialized services such as mental health services or substance abuse. Staff finds that these services are especially limited for youth outside of major urban areas.

Staff finds that any realignment proposal should have a specific focus on strengthening the continuum of care at the county level for youthful offenders. The continuum should include foster care, group homes, specialized treatment facilities, camps, and other placement options at the county level.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the May Revision realignment proposal, but assume that only 25 percent of the non-707 (b) youth currently housed at DJJ are returned to the counties. This would add $9.7 million to the May Revision proposal (thereby reducing savings).
- Approve an additional $5 million for competitive grants to develop local, regional capacity to provide specialized services to youth, such as mental health services and

substance abuse services, with a focus on strengthening the continuum of care for juvenile offenders at the county level.

- Approve placeholder trailer bill language to implement the population realignment, including the methodology to allocate grants, and requirements for performance and outcome measures for the counties. Requirements should be focused on strengthening the continuum of care for juvenile offenders at the county level and should include the development of common data systems and measurement methodologies across counties.
- Approve revised budget bill language to limit the transfer of funding between items to adjustments related to the return of non-707(b) males currently in custody at DJJ with notification to the Joint Legislative Budget Committee.

The intent of the Subcommittee is to send this proposal to conference committee.

Board of Parole Hearings

1. Lifer Hearing Process

Previous Subcommittee Action. At the April 23 meeting of the Subcommittee, the following information was requested related to the lifer hearing process:

- Strategies to reduce the number of incomplete files being sent to commissioners.
- Strategies to ensure that errors in the files are corrected.

The department has not responded to these requests.

Governor's Budget. The Governor's budget proposal includes $4.5 million General Fund to support 19 positions, hardware, telecommunications, and contracts to implement a new information technology system for tracking and scheduling lifer prisoner parole hearings. The Department of Finance approved a Feasibility Study Report for this project on May 31, 2006.

The Governor's budget proposal also includes $701,000 General Fund to support overtime costs for Correctional Counselors to prepare reports in preparation of lifer hearings. The funding will also support overtime costs for Correctional Officers needed as security in the lifer hearings. These funds are requested on a one-time basis to try and reduce the backlog of lifer hearings.

May Revision. The May Revision includes $1.4 million General Fund to support a contract for transcription services for lifer parole consideration proceedings.

State law requires that the board record and transcribe all recordings of lifer hearings. These hearing shall be made public no later than 30 days from the date of the hearing. A 2006 Stipulated Agreement in the *Lugo* (formerly *Rutherford*) lawsuit requires the board to take actions to comply with state law. The department is redirecting $1.3 million in the current year from other board expenditures to fund this transcription service.

Staff Comments. Staff finds that the lifer hearing process continues to be fraught with inefficiencies and dysfunction. One-third of lifer hearings continue to be postponed, which is a significant waste of taxpayer resources and the department does not have a systematic and strategic way to address the reasons for the postponements. It is difficult to understand why incomplete files are sent to commissioners and errors are not fixed in the files.

Furthermore, the board has failed to provide the Subcommittee with additional information about why it has selected two additional risk-assessment tools that are different from the COMPAS tool being implemented in the rest of the department.

In addition, the Appeals Unit, within the Board of Parole Hearings, appears to be a mirror image of a unit that was abolished in 2004 because it was ineffective and inefficient. This unit has been re-established with the same regulations and with analytical staff that are not qualified to review legal decisions related to appeals. Furthermore, when this budget proposal was approved it was presented as an appeals unit to address concerns related to the *Valdivia* lawsuit. Staff understands that the *Valdivia* court has actually prohibited the board from creating an appeals unit.

Furthermore, there continues to be ongoing debate about how to track the backlog of lifer hearings. The department should have a clear methodology that is consistent and easily understood and tracked.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the Governor's budget proposal to fund the Lifer Scheduling and Tracking System.
- Approve the Governor's budget proposal to fund overtime for Correctional Counselors and Correctional Officers to help reduce the backlog of lifer hearings.
- Approve the May Revision proposal to fully fund the contract for transcription services.
- Delete funding ($640,000 General Fund) and position authority (8 positions) and eliminate the Appeals Unit within the Board of Parole Hearings.

2. Parole Revocation Processes

May Revision. The May Revision proposal includes $1.6 million to support 12 positions in the Office of Legal Affairs to establish the Independent Self-Monitoring team that will provide sufficient monitoring and analysis to the parole revocation hearing process to ensure compliance with the *Validivia* class action lawsuits.

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

Parole Operations

1. COMPAS Risk/Needs Assessment—Informational Item

Previous Subcommittee Direction. At the April 23 and May 9 meetings of the Subcommittee, additional information was requested related to the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) risk/needs assessment tool that is being used by CDCR. There has been some confusion regarding whether or not the COMPAS tool had been validated for California and the Subcommittee requested a report on what validations are needed of the COMPAS tool, the timing of those validations, and how they will be utilized by both institutions and parole.

How COMPAS is Being Used? The department indicates that, over the last eighteen months, the parole division has been piloting the COMPAS risk/needs assessment as a part of pre-parole services in CDCR institutions. More than 50,000 assessments of offenders have been conducted to date. The department is also starting a pilot project at four reception centers to use the COMPAS tool to guide placement and treatment while the offender is housed in CDCR institutions.

Validations and Evaluation Needed. The department indicates that it has entered into a contract with UCLA to conduct a validation and evaluation of the COMPAS tool using the California data collected. The Office of Research is consulting with the Division of Adult Operations, Adult Programs, and the Board of Parole Hearings to understand better the needs of the user and how the assessment will be utilized to determine the goals of the validation study. The department indicates that the validation and evaluation studies have already started and are tentatively set to be completed in November of the current year.

The department has agreed to meet with Legislative staff after each phase of the validation to review findings and recommendations and explain the actions needed to modify the tool to meet the needs of the department.

2. Sex Offender Management Plan – Proposition 83

Previous Subcommittee Direction. At the April 23 meeting of the Subcommittee, the Governor's proposal to implement Proposition 83, the Sex Offender Management Plan was held open and the following information was requested from the department.

- An implementation plan for the GPS monitoring programs and additional information on the type of technology being chosen by the department.
- Findings from the $50,000 allocated in the current year to survey best practices of in-prison sex offender treatment.
- An estimate of the costs, if any, of the residence restriction component of Proposition 83.

The department indicates that the $50,000 was used to contract with two subject matter experts from Colorado to draft an in-custody treatment model. The department indicates that the report is due to be completed by June 30, 2007.

The department indicates that the implementation of the residency restrictions included in Proposition 83 are dynamic and that it is too early to estimate the costs associated with the restrictions. The department indicates that finding compliant housing remains the initial burden for the parolee and that many parolees find suitable housing.

The department indicates that it has chosen to implement the one-piece GPS technology and has had good success with this type of unit. Furthermore, the department recognizes that other jurisdictions utilize a two-piece unit, but that many experienced problems when the parolee lost or left the second piece (worn at the waist or in a pack) triggering a false alert to the parole agent.

Current Year Funding. The Governor's budget and a Finance Letter (dated January 29, 2007) requested $30.4 million in the current year to fund Proposition 83, SB 1178 (Speier), and SB 1128 (Alquist). A subsequent Finance Letter (dated March 28, 2007) was received that reduced the original request by $11.8 million. The majority of these savings were due to overstated facilities costs in the original proposal. However, additional savings are also estimated based on more realistic expectations of the time it will take to hire staff and implement the new GPS units. Staff finds that the revised current year funding amount ($18.6 million) is contained in a supplemental appropriations bill (SB 101, Budget) pending in the Assembly.

Sex Offender Management Plan		**2006-07**		
	Budget	**3/28/07**	**Total**	**Positions**
Adult Institutions:				
Prescreening for Sexually Violent Predators	$2,784	-$1,253	$1,531	8.6
Board of Parole Hearings:				
Probable Cause Hearings for Sexually Violent Predators	1,489	-99	1,390	11.7
Parole Operations:				
Passive GPS Monitoring for non-High Risk Parolees	8,840	-6,896	1,944	17.9
Active GPS Monitoring for High Risk Parolees	15,529	-2,057	13,472	29.0
Screening of Parolees for Sexually Violent Predators	1,758	-1,455	303	19.1
Total	**$30,400**	**-$11,760**	**$18,640**	**86.3**

The Department of Mental Health has also requested additional funds to implement the new laws and voter initiative in the current year. A Finance Letter (dated January 10, 2007) requested additional funding for the Department of Mental Health to implement these law changes in the current year. The original amount requested in the Finance Letter was revised and $15.7 million will be funded in the current year from the 9840 budget item (Augmentation for Contingencies or Emergencies) ($3.2 million) and SB 866 (Runner) ($12.4 million).

Governor's Budget and Finance Letter. The Governor's budget requested $77.3 million General Fund to support the Sex Offender Management Plan in the budget year. A Finance

Letter (dated March 29, 2007) proposes to reduce this amount by $9.3 million General Fund. This reduction is due to overstated facilities costs in the original proposal. Furthermore, the department has determined that the modular units requested for Pleasant Valley State Prison and four other locations for screening and record keeping related to the Sexually Violent Predator screening will not occur until the budget year.

Sex Offender Management Plan		**2007-08**		
	Jan 10	**3/29/07**	**Total**	**Positions**
Adult Institutions:				
Prescreening for Sexually Violent Predators	$1,416	$1,253	$2,669	16.9
Board of Parole Hearings:				
Probable Cause Hearings for Sexually Violent Predators	2,592		2,592	23.1
Parole Operations:				
Passive GPS Monitoring for non-High Risk Parolees	33,365	-6,862	26,503	82.2
Active GPS Monitoring for High Risk Parolees	35,211	-3,663	31,548	132.2
Screening of Parolees for Sexually Violent Predators	4,116		4,116	37.7
Establish the Sex Offender Management Board	586		586	2.7
Total	**$77,286**	**-$9,272**	**$68,014**	**294.8**

The Governor's budget proposal also included an additional $25 million in the budget year for the Department of Mental Health to phase in the law changes that will likely result in a larger number of Sexually Violent Predators. A Finance Letter (dated March 29, 2007) revised this funding request to $21.7 million. The Department of Mental Health projects that this amount will be further impacted by the caseload changes in the May Revision.

LAO Recommends Workload Adjustments. The LAO recommends two additional adjustments to this budget proposal beyond what the administration proposed in the Finance Letter (dated March 29, 2007). The department has concurred in these adjustments that result in $5.6 million in additional savings in the budget year. The two adjustments are as follows:

- **Active GPS Parole Agents** – A reduction of $2.5 million and 23 parole agent positions to account for over-budgeting related to the Active GPS program.
- **Active GPS Unit Costs –** A reduction of $3.1 million to reflect a lower per unit cost of the active GPS unit.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the Governor's budget and Finance Letter (dated March 29, 2007) less $5.6 million consistent with the LAO's workload adjustments.
- Approve budget bill language to require that unexpended funds revert to the General Fund at the end of the fiscal year for funding provided for the Sex Offender Management Plan.

3. High Risk Sex Offender Task Force

Previous Subcommittee Direction. At the April 23 meeting of the Subcommittee, the Governor's budget proposal to support various recommendations of the High Risk Sex Offender Task Force was held open. Furthermore, staff was directed to work on trailer bill language with all parties to require a research based component in each treatment contract to ensure that the department can track recidivism outcomes of these programs.

Governor's Budget. The Governor's budget proposes $45.6 million General Fund to support six positions to implement the recommendations of the High Risk Sex Offender Task Force. The department indicates that this budget proposal would complete implementation of the "containment system" for sex offenders. The table below details the funding and positions for various components of the proposal.

High Risk Sex Offender Task Force	**2007-08**	
	Funding	**Positions**
Sex Offender Treatment	$42,700	
Polygraph Testing	1,650	
Parole Agent Training on Containment Model	640	
Parole Agents for SAFE Teams	417	3.8
Data Collection and Contract Oversight	172	1.8
Total	**$45,579**	**5.6**

LAO Recommendation. The LAO recommends that the Legislature approve the requested funding for this proposal. The LAO has recommended in past Analyses that the containment model approach is a cost-effective way to supervise sex offenders on parole.

Furthermore, the LAO finds that $6.1 million was appropriated for sex offender treatment in the 2000-01 Budget Act. The department indicates that it is currently expending $3.5 million to provide sex offender treatment services to 250 parolees. Therefore, the LAO recommends reducing the current proposal by $2.6 million to account for the funding that should be supporting sex offender treatment, but has been redirected to fund other activities. The department concurs with $2.2 million of this request because the department indicates that the original appropriation was actually $400,000 less.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve this budget proposal less $2.2 million consistent with the LAO's recommended adjustment.
- Approve placeholder trailer bill language to require a research based component in each treatment contract to ensure that the department can track recidivism outcomes of these programs.
- Approve budget bill language to require that unexpended funds revert to the General Fund at the end of the fiscal year for funding provided for the High Risk Sex Offender Task Force, including Senate changes to the plan.

Correctional Standards Authority

1. Local Jail Bed Construction

Background. Recently enacted legislation (AB 900, Solorio) authorized $1.2 billion in lease revenue bonds to fund the construction of 13,000 county jail beds, with a 25 percent match from the counties. The legislation requires the local jail bed construction funding to be allocated by the Correctional Standards Authority (CSA). The grants will be allocated in two phases. The first phase will be for $750 million.

May Revision. The May Revision proposal includes $1.9 million General Fund for CSA to administer the local jail bed construction grants. The request will fund 14 positions to administer local jail construction funds. Responsibilities of the staff will include the development of Requests for Proposal criteria and monitor ongoing projects for standards compliance.

LAO Recommendation. The LAO recommends reducing the May Revision proposal by two positions and $320,000 General Fund. The LAO finds that the workload justification statements for some of the new positions appear to include a number of tasks that would not be accomplished until 2008-09. The LAO indicates that, in future years, additional positions could be considered as the department demonstrates that the grant program is moving forward as planned.

Staff Recommendation. Staff recommends that the Subcommittee approve the May Revision proposal less two positions and $320,000 as recommended by the LAO.

2. Adult Probation Funding

Governor's Budget. The Governor's January budget proposal contained $50 million General Fund for a new probation grant to target the at-risk 18-to 25-year-old probation population. The Governor's January proposal included the grant amount growing to $100 million in 2008-09.

The Governor's budget proposal also included trailer bill language that specified that the grants be allocated to local probation departments that submit an action plan to address adult probation services for the 18-to 25-year-old population. The program would require the local probation department to identify and implement 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.

May Revision. The May Revision reduces the January proposal by $25 million in the budget year and $75 million in 2008-09.

LAO Recommendation. The LAO recommends reducing the Governor's probation grant proposal to a $5 million pilot project and revised trailer bill language that would establish a more targeted competitive grant program in a few counties.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Reject the May Revision proposal.
- Approve $20 million funding to support four one-time probation pilot projects.
- Approve placeholder trailer bill language to guide the design and implementation of these pilot projects.

3. Mentally Ill Offender Crime Reduction Grants

Background. The Mentally Ill Offender Crime Reduction (MIOCR) grant program was established by Chapter 48, Statutes of 2006 (AB 1811) to support locally developed efforts to reduce recidivism and promote long-term stability among mentally ill offenders.

Governor's Budget. The Governor's budget includes $44.6 million for the Mentally Ill Offender Crime Reduction Grants to local governments.

Staff Recommendation. Staff recommends that the Subcommittee eliminate funding for the Mentally Ill Offender Crime Reduction grants (less $44.6 million).

Correctional Officer Recruitment

1. Peace Officer Selection Staffing

Background. 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.

The 2006-07 Budget Act included $54.4 million and 218 positions to greatly expand the Basic Correctional Officer Academy. The department has indicated that $19.8 million of this appropriation will revert to the General Fund because the department was not able to utilize the funds in the current year. The department indicates that the funds approved last year were to address the resources needed to process an increased number of applicants.

The department indicates, historically, it has received 2,300 applications per month. However, in the first six months of the current fiscal year the department has been receiving over 6,700 applicants per month. This is almost a 200 percent increase in applicants. However, the department indicates that it is still below their goal of approximately 10,000 applicants per month.

Furthermore, the department has made changes to the peace officer recruitment process in an effort to streamline the process. The department indicates that it is now conducting background checks and pre-employment medical screenings simultaneously. The department is also attempting to conduct portions of the selection process in remote areas near the hardest to fill institutions.

May Revision. The May Revision proposal provides $18.7 million to support 102 positions and $6 million for advertising contracts to increase recruitment, testing, and appointment of well qualified staff to fill entry-level peace officer positions at CDCR institutions. The department also requests the conversion of 73 Associate Governmental Program Analysts (AGPAs) to 73 new Correctional Sergeants to conduct background checks. The table below summarizes the allocation of funding and positions contained in the department's proposal.

	May Revision		**Sub Action**		**Difference**	
	Funding	**Positions**	**Funding**	**Positions**	**Funding**	**Positions**
Marketing and Recruitment Positions	$499	5.0	$0	0.0	-$499	-5.0
Advertising Contract	5,900		0	0.0	-5,900	
Customer Service Call Center	464	7.0	0	0.0	-464	-7.0
Administrative Support and Management Analysis	1,129	12.0	1,129	12.0	0	0.0
Selection and Standards - Support	491	6.0	0	0.0	-491	-6.0
Selection and Standards - Testing	1,076	16.0	0	0.0	-1,076	-16.0
Selection and Standards – Backgrounds	7,962	74.0	2,775	37.0	-5,187	-37.0
Pre-Employment Medical	960	10.0	0	0.0	-960	-10.0
Selection and Standards – Appointments	187	3.0	0	0.0	-187	-3.0
Total	$18,668	133.0	$3,904	49.0	-$14,764	-84.0
Subtotal: Custody Staff		*112.0*		*0.0*		

Staff Comments. The department indicates that it has decided to use Correctional Sergeants to conduct background investigations instead of the Associate Governmental Program Analysts that were assigned to this work. In doing this the department has either significantly reduced the number of staff doing background checks or decided to spend at a rate that exceeds their current year budget authority by approximately 40 percent. If the department has done the latter, it is likely resulting in the redirection of resources from other activities.

Furthermore, it is not clear why retaining over 100 custody classifications in support-type positions is the best use of sworn staff given the current shortage of correctional officers in the institutions.

The department already expends $1 million in advertising and it is not clear whether these expenditures are resulting in increased applications. Furthermore, staff finds that other outreach activities may be more effective, including making more trips to the communities where the prisons are located and networking in these communities.

Furthermore, staff finds that the $1.1 million for the administrative support and management analysis branch are expected to evaluate the current recruitment process and "blow up the boxes" and develop tools and strategies that enable the department to improve recruitment and selection process.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Reject the Governor's budget proposal.
- Add $1.1 million for the administrative support and management analysis branch.
- Add approximately 37 AGPA positions and $3.9 million to expand the staff for the unit that does the background checks, but reject the administration's proposal to use the Correctional Sergeant classification for the background checks, including rejecting the department's administrative action to convert AGPA positions to Correctional Sergeant positions.
- Add budget bill language that would allow the department to submit a new staffing plan for the background unit to improve retention of the staff in this unit. The staffing plan should not include sworn peace officer positions and is subject to notification of the Joint Legislative Budget Committee.

Office of Correctional Safety

1. Criminal Intelligence and Analysis Unit

May Revision. The May Revision proposal includes $3.4 million General Fund and $5.5 million in reimbursements to support 37 positions to develop a permanent Criminal Intelligence and Analysis Unit. The reimbursement funds are the proceeds of a grant from the Office of Homeland Security to develop an information technology system. The staff would develop methods of assessing threats and vulnerabilities against the safety and security of CDCR prisoners, staff, and the public and more effectively partner with the U.S. Office of Homeland Security to prevent prison radicalization.

Staff Comments. Staff recognizes that there is significant gang activity and gang-related problems in state prison. However, staff does not think this proposal is justified at this time. The department has other internal affairs operations and it is unclear why their efforts are not focused on collecting criminal intelligence.

Furthermore, a Feasibility Study Report for the new information technology project has not been received and it is unclear how this system will interface with the new Strategic Offender Management System being pursued by the department.

Staff Recommendation. Staff recommends that the Subcommittee reject this proposal.

2. Regional Gang Task Force

May Revision. The May Revision proposal includes $3.3 million to support 34 positions to implement a Multi-Jurisdictional Gang Interdiction Task Force. The goal of the task force is to combat organized crime through the development of partnerships with local, state, and federal law enforcement agencies.

Staff Comments. Staff recognizes that gang activity is a significant issue in state prison and in certain local communities. However, it is not clear how this new layer of staff in the Office of Correctional Safety will enhance the current efforts to address gang issues. For example, the Department of Justice is also funded with special agents that assist in Gang Suppression efforts.

Furthermore, some research indicates that direct gang suppression efforts actually lead to increased gang activity and increased violence. Therefore, it is not clear that this is the best alternative for reducing violence related to gangs.

Staff Recommendation. Staff recommends that the Subcommittee reject this proposal.

Other Issues

1. Community Correctional Facility Contract

May Revision. The May Revision includes $4.6 million General Fund to support increased costs associated with revised contracts with three private community correctional facilities (Mesa Verde, Baker, and Leo Chesney).

Staff Comments. Staff finds that budget bill language was added to the 2006-07 Budget Act that required CDCR to pass-through the state cost-of-living adjustment to the public community correctional facilities under contract with CDCR. This budget bill language was removed in the 2007-08 Governor's budget.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the May Revision proposal.
- Approve budget bill language to ensure that public community correctional facilities receive the state cost-of-living adjustment in the budget year.

2. *Armstrong* Court Order

May Revision. The May Revision includes $7.9 million General Fund to support 70 limited term positions for specific actions directed by the *Armstrong* court to ensure compliance with the Americans with Disabilities Act. The proposal includes adding a designated *Armstrong* compliance coordinator at each institution. The proposal also contemplates hiring state sign language interpreters at prisons designated for inmates that are hearing impaired. The court order also requires the department to establish a network of regional staff that will monitor compliance with *Armstrong* and will be responsible for training staff on the Americans with Disabilities Act.

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

3. Administrative Segregation Unit Staffing – Valley State Prison for Women

May Revision. The May Revision includes $600,000 General Fund to support overtime funding for an overflow administrative segregation unit at Valley State Prison for Women.

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

4. Restitution Accounting Canteen System

Governor's Budget. The Governor's budget proposal includes $1.5 million from the Inmate Welfare Fund to support the Restitution Accounting Canteen System. These monies will be used to purchase replacement hardware and software for this project. This system allows CDCR to calculate and distribute interest earned on inmate trust account balances pursuant to a class action settlement. This project has an approved Feasibility Study Report.

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

5. Employee Compensation Adjustments

May Revision. The May Revision includes $14.3 million General Fund to fully fund employee compensation increases for the fall budget change proposals and the population estimate. The CCPOA arbitration settlement and several other court-ordered pay increases that changed salary levels were not known when the fall budget change proposals and population estimate was prepared. Therefore, these proposals are not funded at a level to adequately cover the new employee compensation costs.

Staff Recommendation. Staff recommends that the Subcommittee approve this May Revision adjustment, but only for budget change proposals that the Subcommittee has approved.

Attachment I

Attachment II

Attachment III

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Part C

Monday, May 21, 2007
11:00 a.m. - Room 2040

Attachments

Attachment I

CDCR Population Estimate							
	Governor's Budget		**May Revision**		***Total***		
	2006-07	**2007-08**	**2006-07**	**2007-08**	***2006-07***	***2007-08***	
Institution							**Recommendation**
Yard Conversions - Level Change	5,217	9,849	549	-2,050	***5,766***	***7,799***	AAB
Yard Conversions - Mission Change	3,628	5,762	-662	-1,880	***2,966***	***3,882***	AAB
Yard Conversions - Gender Change	0	0	-1,630	-926	***-1,630***	***-926***	AAB
Housing Unit Activations and Deactivations	-7,096	3,788	-1,658	-51,763	***-8,754***	***-47,975***	AAB
Staff for Institutions (5.6:1)	-1,818	4,343	-565	-6,857	***-2,383***	***-2,514***	AAB
General Operating Expenses	920	7,432	5,029	-10,964	***5,949***	***-3,532***	AAB
Health Care Operating Expenses	-898	2,877	2,951	-4,740	***2,053***	***-1,863***	AAB
Unallocated Bed Adjustment	-4,528	2,281	11,284	10,381	***6,756***	***12,662***	AAB
DOF Adjustment to Population	-15,572	-15,544	-12,554	-30,121	***-28,126***	***-45,665***	AAB
Staffing for Mental Health Population	5,553	9,666	7,115	11,848	***12,668***	***21,514***	Reduce by $1,000
Institutions Subtotal	***-14,594***	***30,454***	***9,859***	***-87,072***	***-4,735***	***-56,618***	
Contract Facilities							
Community Corrections Facilities	-5,900	-939	-2,359	-8	***-8,259***	***-947***	AAB
Out of State Beds	20,346	46,549	-18,304	13,388	***2,042***	***59,937***	Reduce by $1,000
Staff for Out of State Bed Program	1,407	2,520	-1,201	374	***206***	***2,894***	Reduce by $1,000
Unallocated Contract Bed Adjustment	-5,143	-23,531	17,497	14,263	***12,354***	***-9,268***	AAB
Staff for Leased Jail Beds	1,093		-1,093	0	***0***	***0***	AAB
General Operating Expenses for Leased Jail Beds	1,429		-1,429	0	***0***	***0***	AAB
Health Care Operating Expenses for Leased Jail Beds	667		-667	0	***0***	***0***	AAB
Unallocated Leased Jail Bed Adjustment	8,764	0	-1,405	0	***7,359***	***0***	AAB
Contract Subtotal	***22,663***	***24,599***	***-8,961***	***28,017***	***13,702***	***52,616***	

Attachment I

	Governor's Budget		May Revision		*Total*		
	2006-07	2007-08	2006-07	2007-08	*2006-07*	*2007-08*	
Parole							
Felon (70:1) Supervision	1,844	8,107	2,198	2,397	***4,042***	***10,504***	AAB
2nd Striker (40:1) Supervision	-101	-176	737	1,560	***636***	***1,384***	AAB
Enhanced Outpatient Program (40:1) Supervision	335	692	98	111	***433***	***803***	AAB
Non-Felon (63.4:1) Supervision	-539	-507	-17	-17	***-556***	***-524***	AAB
US ICE Pending Deportation	111	138	118	143	***229***	***281***	AAB
US ICE Deported	16	27	10	43	***26***	***70***	AAB
Parole Service Centers Supervision	0	0	-79	67	***-79***	***67***	AAB
Parole Service Center Contracts	-1,333	0	-5,610	2,929	***-6,943***	***2,929***	AAB
Parole Clerical Adjustment	2,328	2,304	103	11	***2,431***	***2,315***	AAB
Parole Outpatient Clinics	-1,858	-220	5,223	4,120	***3,365***	***3,900***	AAB
Parole Leased Jail Bed Adjustment	-4,983	-25,505	-430	0	***-5,413***	***-25,505***	AAB
Parole Subtotal	***-4,180***	***-15,140***	***2,351***	***11,364***	***-1,829***	***-3,776***	
Other							
Geographical Recruitment and Retention Bonuses for some institutions.	0	0	0	-302	***0***	***-302***	AAB
Personnel Services Specialists.	0	0	112	705	***112***	***705***	AAB
Valdivia Workload	1,691	5,035		1,365	***1,691***	***6,400***	AAB
Health Records Technicians	163	57	-34	-45	***129***	***12***	AAB
Misc. Adjustments	1,177	481	0	0	***1,177***	***481***	AAB
Technical Adjustments	2,829	2,412	0	0	***2,829***	***2,412***	AAB
Other Subtotal	***5,860***	***7,985***	***78***	***1,723***	***5,938***	***9,708***	
Adult Workload Total*	***9,749***	***47,898***	***3,327***	***-45,968***	***13,076***	***1,930***	
*** This total is what the administration refers to as the fiscal impact of population growth.**							

Attachment I

	Governor's Budget		May Revision		*Total*		
	2006-07	**2007-08**	**2006-07**	**2007-08**	***2006-07***	***2007-08***	
Misc. Adjustment Category							
Parole Reform - Savings related to pursuing a 12-month clean time discharge policy.	0	0		-31,205	***0***	***-31,205***	AAB
Staffing for a 50-bed Mental Health Crisis Bed at the California Medical Facility.	0	0		8,220	***0***	***8,220***	Reduce by $1,000
Out of State Beds - Incremental cost of the Out of State Bed Proposal.	10,343	13,158		9,578	***10,343***	***22,736***	Reduce by $1,000
Realignment of two housing units at California Medical Facility to accommodate the single cell status of inmates in these housing units.	0	0		-1,961	***0***	***-1,961***	AAB
Drug Treatment Furlough - Funding needed to keep this program whole since the department was using aftercare funding to support this program. Aftercare funding is now needed to implement statutory requirements for mandatory aftercare.	0	10,928	0	0	***0***	***10,928***	AAB
Female Beds - Funding to activate a 35-bed community based facility in Fresno and continue to develop contracts for up to 4,500 beds in community facilities that will provide wrap-around services to meet specific needs of the female offenders.	0	3,836	0	0	***0***	***3,836***	AAB
Misc. Subtotal	***10,343***	***27,922***	***0***	***-15,368***	***10,343***	***12,554***	

Local Assistance							
Pitchess Adjustment - Reimburse LA County because the state has not moved parolees out of the Pitchess Detention Center.	0	0	0	6,106	***0***	***6,106***	Reduce by $1,000
Jail Rate Increase - A policy decision to provide counties with a $5.60 per day rate increase for the jail rate.	0	0	0	1,456	***0***	***1,456***	Reduce by $1,000
Reimburse various county claims for medical, security, revocation hearings, and daily jail bed expenditures.	0	0	0	6,847	***0***	***6,847***	Reduce by $1,000
Reimburse county transportation costs.	0	0	0	2,473	***0***	***2,473***	Reduce by $1,000
Local Assistance Subtotal	***0***	***0***	***0***	***16,882***	***0***	***16,882***	
Adult General Fund Total	***20,092***	***75,820***	***3,327***	***-44,454***	***23,419***	***31,366***	

Attachment II

1. Visiting and Family Connections

Code	Program	2006-07 Plan	2006-07 Savings	2006-07 Net	2007-08 Plan	Sub Action	Recommendation
RR	Reinstate 3rd day visiting at 10 institutions, plus adding social workers in visiting rooms and "get on the bus" program.	4,492	-595	3,897	5,224	5,224	AAB
SA	Reinstate 3rd day visiting at 10 additional institutions, including social workers in visiting rooms.					3,998	Approve additional funding to expand 3rd day visiting to 10 additional institutions.
SA	Start a four year phase-out of state concession fee on inmate phone calls.					6,500	Approve phase-out of the state concession fee on inmate phone calls.

2. SB 618 Program-Case Management Approach

Code	Program	2006-07 Plan	2006-07 Savings	2006-07 Net	2007-08 Plan	Sub Action	Recommendation
RR	SB 618 pilot in San Diego County.	3,424	-980	2,444	5,233	5,233	AAB. Add supplemental report language to require the department to prepare a report for the Legislature on the outcomes of this program.

3. Re-Entry Partnerships

Code	Program	2006-07 Plan	2006-07 Savings	2006-07 Net	2007-08 Plan	Sub Action	Recommendation
RR	Re-entry Partnership Initiative Project	1,300	-805	495	1,626	0	Reduce funding for this project because it does not support reducing recidivism.
RR	Re-entry and Recidivism Office	2,739	-391	2,348	2,838	2,838	AAB
GB	Re-entry Advisory Committee (Chapter 782, Statutes of 2006 {AB 3064, Public Safety}).				77	77	AAB

Attachment II

4. Office of Research							
Code	**Program**	**2006-07 Plan**	**2006-07 Savings**	**2006-07 Net**	**2007-08 Plan**	**Sub Action**	**Recommendation**
RR	Office of Research	3,508	-110	3,398	3,615	3,615	AAB
5. Right Prison Right Mission							
Code	**Program**	**2006-07 Plan**	**2006-07 Savings**	**2006-07 Net**	**2007-08 Plan**	**Sub Action**	**Recommendation**
RR	Right Prison Right Mission	350	-4	346	0	0	No action at this time, wait for management strike team
6. Pre-Release Programs							
Code	**Program**	**2006-07 Plan**	**2006-07 Savings**	**2006-07 Net**	**2007-08 Plan**	**Sub Action**	**Recommendation**
RR	Estelle Transitional Program.	420	-371	49	82	82	AAB
RR	Pre-Parole Planning	2,752	-657	2,095	4,718	4,718	AAB
SA	Reinstate post parole component of the ***Offender Employment Continuum Program.*** Current funding for this program is $1.1 million, which supports a pre-release program that is operated by the parole division.					800	This action will restore the post-parole component of this program. This component of the program was eliminated as the department lost WIA funds. An independent study of this program found that it produced a 16 percent reduction in recidivism after one year. The existing program provides employment services to parolees in Los Angeles, San Diego, Fresno and Sacramento counties.
GB	Four-year reducing recidivism pilot in Alameda County (Chapter 732, Statutes of 2006 - {AB 1998, Chan})				400	400	AAB

Attachment II

7. Female-Specific Programming

Code	Program	2006-07 Plan	2006-07 Savings	2006-07 Net	2007-08 Plan	Sub Action	Recommendation
RR	Multiple gender responsiveness efforts.	3,020	-659	2,361	2,959	2,959	AAB - Continue strategies including a gender responsive substance abuse program at Leo Chesney CCF.
RR	Life Skills Development: Develop and reproduce life skills development materials.	125	-73	52	0	0	No action.

8. Basic Education Programs

Code	Program	2006-07 Plan	2006-07 Savings	2006-07 Net	2007-08 Plan	Sub Action	Recommendation
RR	Inmate education, including COMPAS pilot for risk/needs assessment and additional educational testing at Reception Center.	3,089	-1,255	1,834	4,683	4,683	AAB
GB	Pay increase for filled teacher positions funded from teacher vacancies.				4,868	4,868	AAB
MR	Pay increase for 115 of the 236 vacant teacher positions in the budget year.				11,700	9,000	Approve Finance Letter (dated May 14, 2007) less LAO's recommendation to base estimate on the midpoint salary.

9. Vocational/Job Skill Development Programs

Code	Program	2006-07 Plan	2006-07 Savings	2006-07 Net	2007-08 Plan	Sub Action	Recommendation
RR	Vocational and Life Skills Education Expansion.	2,052	-608	1,444	1,836	1,836	AAB
RR	Carpenter Pre-Apprenticeship Program.	323	8	331	323	331	Augment by $8,000 to reflect true costs.

Attachment II

10. Life Skills and Self-Help

Code	Program	2006-07 Plan	2006-07 Savings	2006-07 Net	2007-08 Plan	Sub Action	Recommendation
RR	Life Skills Development: Purchase Victim Impact Curriculum	160	-160	0	160	160	AAB
SA	Add positions to the Division of Community Partnerships.					175	Approve additional positions to research and coordinate and expand the implementation of national models that deliver life skills and self-help training, including anger management, changing criminal attitudes, and developing healthy relationships. These positions should reach out to the inmate men's advisory committees for help in implementing new self-help programs.

11. Volunteer Programs

Code	Program	2006-07 Plan	2006-07 Savings	2006-07 Net	2007-08 Plan	Sub Action	Recommendation
RR	Funding for Community Partnership Manager Pilot at 3 prisons.	331	16	347	460	460	AAB
SA	Reinstate Community Partnership Managers at 30 additional institutions.					3,600	Add Community Partnership Managers at the remaining institutions and adopt supplemental report language to require annual report summarizing programs and activities coordinated by these managers. Headquarters should develop uniform reporting standards. (Assumes phase in hiring, full year costs estimated at $4.6 million.)

Attachment II

12. In-Prison Programs: Special Populations

Code	Program	2006-07 Plan	2006-07 Savings	2006-07 Net	2007-08 Plan	Sub Action	Recommendation
RR	In-Prison Sex Offender Treatment Program	50	0	50	0	0	No Action.
RR	Alternative Education: Adult basic education for Enhanced Outpatient Program population.	1,229	-314	915	1,229	1,229	AAB
RR	Develop a Behavior Management Program for mental health population.	25	0	25	0	0	No Action.

13. Other In-Prison Programs

Code	Program	2006-07 Plan	2006-07 Savings	2006-07 Net	2007-08 Plan	Sub Action	Recommendation
RR	Peer Education: Public health care issues.	250	-250	0	250	250	AAB
RR	Library Awareness Program	50	5	55	272	272	AAB
RR	Recreation and Leisure: Arts in Corrections and physical education programs.	561	-312	249	561	561	AAB

14. Residential Services

Code	Program	2006-07 Plan	2006-07 Savings	2006-07 Net	2007-08 Plan	Sub Action	Recommendation
RR	Residential Services	7,882	-4,499	3,383	32,248	16,000	Reduce funding in the budget year and phase in funding for residential services over multiple years.
SA	Wraparound services and residential services for mentally ill parolees.					4,000	Add funding for contracts with residential services and other casework services for mentally ill parolees.

Attachment II

15. Parole Outpatient Clinics							
Code	**Program**	**2006-07 Plan**	**2006-07 Savings**	**2006-07 Net**	**2007-08 Plan**	**Sub Action**	**Recommendation**
RR	Increase Clinical Services to Mentally Ill Parolees	3,023	-456	2,567	4,763	4,763	AAB

16. Parolee Employment							
RR	**Program**	**2006-07 Plan**	**2006-07 Savings**	**2006-07 Net**	**2007-08 Plan**	**Sub Action**	**Recommendation**
GB	Replace Workforce Investment Act (WIA) funding supporting four parolee employment programs with General Fund.				3,400	3,400	AAB - WIA funds were further reduced at May Revision.
SA	Expand ***Parolee Employment Program*** - the base budget includes $1.8 million for this program that refers parolees to local organizations for job assistance.					3,600	Augment this program which has demonstrated a 15 percent reduction in recidivism in an independent study. Approve supplemental report language to improve policies and procedures regarding parolee employment programs.

Attachment II

17. Community Partnerships							
Code	**Program**	**2006-07 Plan**	**2006-07 Savings**	**2006-07 Net**	**2007-08 Plan**	**Sub Action**	**Recommendation**
RR	Add additional staff to the Division of Community Partnerships to develop more outreach with the non-profit community.	575	-276	299	575	575	AAB
RR	Pilot project grant program with community groups.	750	-60	690	750	0	Delete funding for this program because it is unclear that these grants were allocated using a formal RFP process based on clearly delineated criteria. It is also not clear whether these grants include data elements or research component.
RR	Inter-Governmental Partnership Grants with local government jurisdictions.	1,350	60	1,410	1,350	0	Delete funding for this program because it is unclear that these grants were allocated using a formal RFP process based on clearly delineated criteria. It is also not clear whether these grants include data elements or research component.
18. Day Reporting Center - San Diego							
Code	**Program**	**2006-07 Plan**	**2006-07 Savings**	**2006-07 Net**	**2007-08 Plan**	**Sub Action**	**Recommendation**
RR	San Diego Day Reporting Center	700	0	700	1,400	1,400	AAB

Attachment II

19. In-Prison Substance Abuse Programs							
Code	**Program**	**2006-07 Plan**	**2006-07 Savings**	**2006-07 Net**	**2007-08 Plan**	**Sub Action**	**Recommendation**
RR	Add new substance abuse program at Kern Valley State Prison.	3,773	-1,779	1,994	3,773	3,773	AAB
RR	Expand existing substance abuse programs.	1,639	-895	744	5,697	5,697	AAB
GB	Funding to fully implement mandatory aftercare as a condition of parole for some offenders (SB 1453, Speier) and preserve Drug Treatment Furlough beds (see population estimate for corresponding proposal).				1,295	1,295	AAB
20. Mandatory Conditions of Parole							
Code	**Program**	**2006-07 Plan**	**2006-07 Savings**	**2006-07 Net**	**2007-08 Plan**	**Sub Action**	**Recommendation**
RR	Substance abuse aftercare placements as mandatory conditions of parole.	2,821	-1,772	1,049	7,304	7,304	AAB
GB	Funding to support mandatory conditions of parole program created by Chapter 875, Statutes of 2006 (SB 1453, Speier). The population estimate also includes an additional $10.9 million for this effort.				1,295	1,295	AAB
	Total	**52,763**	**-17,192**	**35,571**	**116,964**	**116,971**	
	Total of Gov's Reducing Recidivism Plan	**52,763**	**-17,192**	**35,571**	**93,929**	**73,963**	
	Total Other				**23,035**	**43,008**	
	Other Governor's Proposals				*23,035*	*20,335*	
	Senate Changes				*0*	*22,673*	

Attachment III

1. Division of Juvenile Justice Population Estimate

	Governor's Budget		May Revision		Total		
	2006-07	2007-08	2006-07	2007-08	2006-07	2007-08	Recommendation
Proposition 98. This is the allocation of Proposition 98 funding provided to DJJ high schools. They are funded using a special formula and are not eligible for categorical funding sources.	-1,940	-2,588	0	4,079	-1,940	1,491	Staff recommends sending this item to conference committee. The LAO indicates that this amount may need to be adjusted based on population and the realignment.
Population. This is the department's estimate of institution population, which continues to decline. This estimate does not include the Governor's realignment proposal, which is handled in a separate adjustment to DJJ's budget.	-31	-188	165	-637	134	-825	AAB
Programs. This is a technical adjustment related to program funding in the budget year.	1,058	437	0	0	1,058	437	AAB
Parole. This is the department's estimate of the juvenile parole population, which continues to decline. This estimate does not include the Governor's realignment proposal, which is handled in a separate adjustment to DJJ's budget.	-1,185	-2,371	22	-158	-1,163	-2,529	AAB

Attachment III

	Governor's Budget		May Revision		Total		
	2006-07	2007-08	2006-07	2007-08	2006-07	2007-08	Recommendation
Sex Offender Population. This is a separate adjustment for the sex offender population.	-204	-204	0	0	-204	-204	AAB
Dewitt Nelson Closure Plan. This is the estimate of operational savings related to the closure of Dewitt Nelson Youth Correctional Facility.	0	0	0	-1,727	0	-1,727	AAB
Academy Adjustment. This adjustment is needed because there are 54 additional cadets expected to enter the academy in the current year and the department does not have adequate funding to support this increase.	0	0	982	0	982	0	AAB
Safety and Welfare Plan Adjustment. This adjustment is to continue to add additional staff to lower staff to ward ratios required by the *Farrell* remedial plan. The savings in the current year are due to delays in implementation. There is a separate BCP adjustment in the May Revision that adds $5.2 million to this item in the budget	-6,959	10,717	0	0	-6,959	10,717	AAB

Attachment III

	Governor's Budget		May Revision		Total		
	2006-07	2007-08	2006-07	2007-08	2006-07	2007-08	Recommendation
Mental Health Plan Adjustment. This adjustment is to continue to add additional staff to provide the full complement of staff needed to implement the *Farrell* remedial plan. There is a separate BCP adjustment in the May Revision that adds $1.7 million to this item in the budget year.	-3,154	-2,567	0	0	-3,154	-2,567	AAB
Technical Reversal. The DOF has backed out the savings in the current year related to the Safety and Welfare and Mental Health Plans because they are part of the Provision 22 reversion and are accounted for outside of the population estimate.	10,113	0	0	0	10,113	0	AAB
Juvenile General Fund Total	-2,302	3,236	1,169	1,557	-1,133	4,793	

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael J. Machado, Chair
Robert Dutton
Christine Kehoe

Part D – CDCR Infrastructure

Monday, May 21, 2007
11:00 a.m.
Room 2040

State Administration—General Government—Judiciary—Transportation

5525 California Department of Corrections and Rehabilitation

Prison and Jail Bed Package: AB 900 (Solorio) Summary

Background. On April 26, 2007, the Legislature approved legislation (AB 900, Solorio) to authorize additional prison and jail bed capacity. The legislation authorized $7.4 billion in lease-revenue bonds and appropriated $350 million General Fund to implement this legislation. Some of the components of this proposal were similar to those proposed by the Governor in the Strategic Growth Plan contained in the January budget proposal.

Summary of Legislation. The legislation containing the prison and jail bed package includes several major components. These components are summarized below:

- **Phase I – Prison Bed Construction.** The legislation authorizes $3.6 billion in lease-revenue bonds to construct: (1) 12,000 infill beds at existing prisons ($1.8 billion); (2) 6,000 re-entry beds, which are smaller secure facilities of up to 500 beds with concentrated rehabilitative services ($975 million); and (3) 6,000 medical and mental health beds ($857 million). The legislation also appropriates $300 million General Fund for infrastructure improvements at existing prisons.

- **Recidivism Reduction and Rehabilitation Efforts.** The legislation also requires CDCR to implement various reforms to reduce recidivism and increase rehabilitation efforts. The legislation also appropriates $50 million to enhance rehabilitation programming in 2007-08. These reforms include the following:

    - **New Beds Must Include Program Space.** Requires all new state prison beds to include substance abuse treatment, work programs, academic and vocational education, and mental health care. Also, authorizes CDCR to use portable buildings for inmate rehabilitation treatment, and housing to ensure sufficient program space is available.
    - **Expanded Substance Abuse Beds.** Requires implementation of 4,000 new dedicated substance abuse treatment beds with post-release aftercare treatment for parolees.
    - **Mandatory Needs Assessment.** Requires individualized program needs assessment for all inmates at reception centers.
    - **Prison-to-Employment Plan.** Requires development of a prison-to-employment plan to ensure programs provide sufficient skill to assist in successful re-entry and employment.
    - **Rehabilitation Oversight Board.** Creates the California Rehabilitation Oversight Board (C-ROB) to evaluate CDCR rehabilitation and treatment programs and recommend changes to the Governor and the Legislature.
    - **Mental Health Day Treatment.** Requires development of mental health day treatment for parolees.

  - **Education Incentives.** Requires implementation of a system of incentives designed to increase participation in education programs and encourage inmates to complete educational goals.
  - **Rehabilitative Staff Pipeline Development.** Requires development of a staffing pipeline plan to fill vacant prison staff positions, obtain treatment services from local governments, and increase the number of rehabilitation and treatment personnel with proper education and credentials.
  - **Management Deficiencies.** Requires CDCR to develop and implement a plan to address management deficiencies within the department.

- **Phase II – Prison Bed Construction.** The legislation also authorizes an additional $2.5 billion in lease-revenue bonds to construct: (1) 4,000 infill beds at existing prisons ($600 million); (2) 10,000 re-entry beds, which are smaller secure facilities of up to 500 beds with concentrated rehabilitative services ($1.6 billion); and (3) 2,000 medical and mental health beds ($286 million). Funding will be made available for Phase II only if certain conditions and benchmarks are met and verified by a three-member panel comprising of the State Auditor, the Inspector General, and an appointee of the Judicial Council. The conditions and benchmarks are as follows:

  - **Infill Beds.** At least 4,000 of the infill beds authorized in Phase I are under construction or sited, including rehabilitation programming space.
  - **Substance Abuse Beds.** At least 2,000 of the new substance abuse beds must be established.
  - **Needs Assessment.** Individualized needs assessment for inmates at reception center must be in place for at least six months.
  - **Mental Health Day Treatment.** Specified levels of parolees being served in mental health day treatment centers.
  - **Rehabilitation Oversight Board.** The California Rehabilitation Oversight Board must be in operation for one year.
  - **Management Deficiencies.** A management deficiency plan must be implemented.
  - **Educational Programs.** An increase in educational program participation of 10 percent over the April 2007 levels must be achieved.
  - **Vacancy Rate.** The vacancy rate for positions delivering rehabilitation services must be no greater than the average vacancy rate for state employees.

- **Phase I – Local Jail Construction.** The legislation authorizes $750 million in lease-revenue bonds for the construction of 8,000 county jail beds. The financing will require a 25 percent county match. The funding will be allocated to counties that help the state site re-entry facilities, increase mental health and substance abuse services for parolees, and help the state site mental health day treatment for parolees.

- **Phase II – Local Jail Construction.** The legislation also authorizes $470 million in lease-revenue bonds for the construction of an additional 5,000 county jail beds. Funding will be made available for Phase II only if conditions and benchmarks are met. These benchmarks include:

  - **Jail Beds.** At lease 50 percent of Phase I jail beds are under construction or sited.
  - **Re-entry Beds.** At least 50 percent of Phase I re-entry beds are under construction or sited.

- **Out-of-State Beds.** The legislation also authorizes CDCR to house up to 8,000 inmates in out-of-state contract facilities for up to four years. The authority will expire in July 2011. Inmates with serious medical or mental health problems would be excluded from transfer.

- **Correctional Officer Academy.** The legislation also authorizes the construction of a peace officer training academy in Southern California.

Infill Prison Bed Construction

AB 900 Funding for Infill Beds. Legislation (AB 900, Solorio) authorized by the Legislature in April 2007, includes $2.4 billion in lease-revenue bonds to support the construction of 16,000 infill beds at existing prisons. The legislation does not authorize funding for specific projects but directs that these beds be designed to eliminate “bad beds,” such as double- and triple-bunking in gyms and dayrooms.

New Capital Outlay Process. The legislation (AB 900, Solorio) also modifies the capital outlay process to include additional reporting. The legislation requires CDCR to update its Master Plan. This master plan should include all of the capital outlay projects it is undertaking, including a plan to remove temporary beds in dayrooms, gyms and other areas. The department is required to submit to the Joint Legislative Budget Committee the following items 30 days prior to the submission of preliminary plans to the State Public Works Board:
- A preliminary plans submittal package;
- An estimate of the annual operating costs of the facility;
- A staffing plan for the operation of the facility;
- A plan for providing medical, mental health, and dental care to inmates; and
- A plan for inmate programming at the facility, including education, work, and substance abuse programming.

The department is also required to submit to the Joint Legislative Budget Committee quarterly reports on the progress of implementing funded projects. This report is similar to a report that is required in the State Administrative Manual. The legislation also requires the department to provide an annual report that provides a status report on each of the projects that are part of the Master Plan, including what projects are planned, projects in preliminary planning, working drawing and construction phases, and projects that have been completed.

LAO Recommendations. The LAO finds that AB 900 contains $132 million in lease-revenue bond authority that is in excess of the funding requested by the administration in its infill bed proposal. The LAO finds that these funds could be reduced or could be used to set up a reserve that could be used for the group of projects that would be accessible to the department upon notification of the Legislature. Furthermore, the LAO finds that the architectural and engineering fees built into the administration's infill are high and should be reduced.

The LAO also recommends that the individual infill projects be scheduled individually in order to provide legislative oversight. The LAO notes that the authorization of block funding means that cost overruns on individual projects many not necessarily come to the attention of the Legislature until very late in the construction process. The LAO recommends adopting statutory language that schedules the projects individually as well as supplemental report language that spells out their scope and budgeted level. Furthermore, the LAO recommends that the Legislature clarify language in AB 900 to require that the costs of individual projects be subject to approval and oversight by the State Public Works Board.

Operational Costs Not Identified. Furthermore, the LAO finds that the department has not identified operational costs associated with the infill bed proposal. There will likely be considerable increases in operational costs associated with the infill proposal. The department is required to estimate these costs as part of the Master Plan process. Staff is aware that the department has not updated its Master Plan in many years. Staff finds that the Master Plan is critical to ensuring adequate oversight related to the department's building program.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve placeholder trailer bill language, budget bill language, and supplemental report language to schedule each infill project separately and ensure that the State Public Works Board treats infill projects separately.

Critical Infrastructure for Infill Prison Bed Plan

AB 900 Funding for Prison Infrastructure. Legislation (AB 900, Solorio) authorized by the Legislature in April 2007, appropriates $300 million General Fund for capital outlay to renovate, improve, or expand infrastructure capacity at existing prison facilities. The legislation does not provide funding for individual projects, but instead allocates funding broadly to these efforts. The new capital outlay process outlined in the item above also applies to the infrastructure projects.

LAO Recommendations. The LAO has also raised concerns related to the $300 million that was appropriated in AB 900 (Solorio). The LAO recommends that these funds be scheduled similar to their recommendation for the infill housing. Furthermore, the department's original infrastructure request contained $30 million for infrastructure related to a Southern California Correctional Academy. Since AB 900 does not include lease-revenue bond financing to construct a new academy, the LAO recommends either reducing the excess infrastructure funds or authorizing these funds to be used to build a new training academy. The LAO also recommends clarifying that individual infrastructure and academy projects be subject to legislative notification and cost controls if cost overruns occur.

Is Infrastructure Sized Correctly? The department is currently pursuing many infrastructure projects to upgrade existing infrastructure that is generally stressed and not functioning well given the current level of overcrowding. The infill bed plan adds an additional layer of complication as the department pursues building additional capacity at institutions that are already stretching the capacity of their infrastructure. Furthermore, the department is also embarking on a major information technology infrastructure upgrade program. Staff finds that, given the large volume of projects, it is critical that the department develop a comprehensive Master Plan as required by AB 900. As mentioned above, the current Master Plan has not been updated in several years. The department needs to ensure that this plan is complete so that it can avoid duplication of efforts and ensure that the state does not waste money on projects that are not adequate to meet the needs of the prison.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve placeholder trailer bill language, budget bill language, and supplemental report language to schedule each infrastructure project separately and ensure that the State Public Works Board treats each infrastructure project separately.
- Approve budget bill language to require the unexpended funds remaining from the $30 million allocated for a new Southern California Training Academy in AB 900 be reverted to the General Fund at the end of the fiscal year (Provision 22).

Re-entry Beds

AB 900 Funding for Re-entry Beds. Legislation (AB 900, Solorio) authorized by the Legislature in April 2007, authorizes $2.6 billion in lease-revenue bonds to construct 16,000 re-entry beds, which are beds in smaller secure facilities of up to 500 beds that include concentrated rehabilitative services. The legislation does not provide funding for individual projects, but instead allocates funding broadly to these efforts. The new capital outlay process outlined in the item above also applies to the infrastructure projects.

The legislation describes re-entry facilities as secure facilities of up to 500 beds each that house inmates within one year of being released or re-released from custody, and, to the extent possible, be sited in urban locations. The legislation indicates that these facilities should only be established in a city, county, or city and county that request a re-entry program facility. The legislation directs that re-entry program facilities provide programming to inmates and parole violators tailored to the specific problems based on a risk and needs assessment. These persons should also include case management services and various wraparound services to provide a continuity of support services between custody and parole. The legislation also directs CDCR to develop collaborative partnerships with local government, local law enforcement, and community service providers where re-entry facilities are established.

Previous Subcommittee Direction. At the April 12 meeting of the Subcommittee, the department was directed to submit draft guidelines that would guide the development of re-entry facilities. The department has not responded to this request.

LAO Recommendations. The LAO is also concerned that the funding for the re-entry facilities is not allocated to specific projects which inhibits the Legislature's ability track the costs of these projects. Given that these projects are in the very early stages of development, the Legislature is not able to schedule these projects individually. The LAO recommends clarifying that the State Public Works Board treat each project individually so that the projects will be subject to the same cost controls as other capital projects.

Staff Comments. Staff finds that there continues to be a great amount of uncertainty regarding what these re-entry facilities will look like and what services they will provide. Staff finds that it would be helpful if the department would draft a concept paper that it can use when talking to local governments, and the Legislature, about what the department is pursuing.

Staff Recommendation. Staff recommends that the Subcommittee approve placeholder trailer bill language to ensure that the State Public Works Board treats each project individually.

Capital Outlay Staffing

Previous Subcommittee Direction. At the April 12 meeting of the Subcommittee, additional information was requested about the staffing needed to ensure adequate fiscal oversight of the capital outlay projects being proposed in the Governor's budget. Since that time, AB 900 passed authorizing $3.1 billion in infrastructure projects that will be managed by the department. The Subcommittee also requested additional justification for the positions being requested to support the new training academy.

Strike Team Announced. On May 11, 2007, the Governor announced that he had directed a Facilities Construction Strike Team to restore CDCR's major project management capability and begin work immediately to build the facilities authorized in AB 900. The strike team is being lead by Deborah Hysen. Among many tasks, the strike team has been directed to do the following:

- Evaluate all alternative construction methods for the construction of re-entry facilities and infill capacity.
- Look at any options for housing inmates in existing facilities within the state that are not being utilized before inmates are transferred.
- Develop cost containments for proposed construction.
- Evaluate regulatory impediments to construction and whether a waiver of regulations benefits the state.
- Address local mitigation issues for communities that are impacted by current prison facilities.

The Governor's office estimates that the strike teams will take 6 to 12 months to complete their work.

Finance Letter. A Finance Letter (dated March 29, 2007) requests $521,000 General Fund to support five new positions to coordinate the development of a correctional officer training academy in southern California.

May Revision. The May Revision includes a request for $581,000 to support four new positions and $104,000 to reimburse the Department of Finance for a position within their capital outlay unit to handle additional workload related to the prison construction projects contained in AB 900.

The department indicates that these positions will act as liaisons with the strike team.

No New Positions to Support Majority of Proposals. The administration has not put forward a comprehensive proposal to augment capital outlay staffing levels to provide adequate oversight over the projects authorized in AB 900, as well as the other capital projects required by various lawsuits and to contend with the general disrepair of the current state prison facilities. Furthermore, it is not clear to staff whether the department is *currently* staffed adequately to support its existing workload. The department reports that it currently has a little over 300 authorized divisions. The table below summarizes how the positions are currently allocated in the Office of Facilities Management.

	Authorized Positions	Reimbursable Vacancies	Vacancies	Filled Positions
Executive	5	0	0	5
Energy Management Section	7	0	0	7
Facility Planning and Finance Branch	28	1	4	23
Project Administration and Delivery Branch	32	3	8	21
Property Leasing and Management Section	19	0	3	16
Environmental Planning Section	2	0	0	2
Telecommunications Branch	40	1	6	33
Maintenance Services Branch	4	0	0	4
Design Standards and Review Services Branch	20	2	1	17
Inmate Ward Labor Program (IWL) Administration	5	0	0	5
IWL Architectural and Engineering Services	32	0	2	30
IWL Material and Technical Services	28	0	2	26
Inmate Ward Labor Program-Field Positions	87	9	2	76
Total	309	16	28	265

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. Staff finds that the department has historically relied heavily on outside private contractors for the majority of its capital outlay projects, 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.

LAO Recommendation. The LAO recommends approving the May Revision proposal to establish four positions to work with the strike team, but fund the positions out of the bonds. The LAO recommends budget bill language to accomplish this.

Training Academy Positions Not Justified. Staff finds that three of the positions requested to support development of a correctional academy in Southern California are not justified. Furthermore, the LAO recommends eliminating these positions since funding for a training academy was not included in AB 900.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve $239,000 to support two positions (a project director and analyst) to develop project for a new Southern California Training Academy.
- Approve the May Revision proposal to establish four positions to be liaisons with the strike team.
- Add $20 million General Fund to establish additional positions in the Office of Facilities Management to support infrastructure projects in AB 900.
- Approve budget bill language to require the department to report to the Joint Legislative Budget Committee with 30 day notification on the classifications the department plans to establish in the Office of Facilities Management.

Coleman Ordered Mental Health Capital Outlay

Previous Subcommittee Direction. At the April 12 meeting of the Subcommittee two *Coleman* court ordered projects were held open. Furthermore, the department was asked to develop and submit a new plan based on forthcoming action by the court (including the reversion of funds allocated in the current year). The Subcommittee also requested staff to work with the department on developing an annual report to track the mental health capital outlay projects being pursued to improve the transparency of the program.

The department indicates that, in addition to the monies requested in the budget and funded in the 2006-07 Budget Act, the department is pursuing the following minor capital outlay projects and special repair projects in the current year:

- California Medical Facility – $393,000 to convert an administrative segregation unit to an intermediate care facility.
- California Medical Facility - $240,000 to convert an EOP unit to an administrative segregation unit.
- Mule Creek State Prison - $149,000 to convert Facility A to EOP housing.

- Stand-Alone Administrative Segregation Units - $110,000 to replace air vents in administrative segregation unit intake cells.
- Salinas Valley State Prison - $8,900 to convert 5 additional cells to immediate care facility cells.
- Salinas Valley State Prison - $50,000 to repair walls in the immediate care facility.

Governor's Budget. The Governor's budget includes funding for the following projects to help comply with the *Coleman* court directives:

- **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 an order in late March directing the department to construct these beds.

May Revision. The May Revision contains the following capital outlay projects related to *Coleman*, including the reversion of $43.5 million from several projects that are no longer being pursued at this time due to changes in the Mental Health Bed Plan:

- **California Men's Colony – Locked Observation Unit Upgrade.** $593,000 General Fund to modify a Locked Observation Unit to make it safe for inmates in mental health crisis, including adding new doors with larger windows.
- **Temporary Intermediate Care Facility – California Medical Facility.** $5.4 million General Fund is proposed to be reverted for working drawings and construction to convert 30 temporary Intermediate Care Facility beds to permanent beds. The department indicates that $27,000 of the original appropriation had been expended on working drawings, but the project has now been canceled.
- **Temporary Intermediate Care Facility – Salinas Valley State Prison.** $8.5 million General Fund is proposed to be reverted for working drawing and construction to convert temporary Intermediate Care Facility beds to permanent beds. The department indicates that $27,000 of the original appropriation had been expended on working drawings, but the project has been canceled.
- **Intermediate Care Facility – Salinas Valley State Prison.** $7.6 million General Fund is proposed to be reverted for preliminary plans to build a 128-bed facility. The department indicated that the environmental work had commenced on this project and that $301,000 of the original appropriation has been expended on working drawings, but the project has now been canceled.
- **Acute – California State Prison, Sacramento.** $15 million General Fund is proposed to be reverted for preliminary plans for a 350-bed facility. This project was never started.
- **Intermediate Care Facility – California State Prison, Sacramento.** $7 million

General Fund is proposed to be reverted for preliminary plans for a 128-bed facility. This project was never started.

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 they are working out issues related to the staffing of the new facilities and other issues related to transition to the new facilities. They expect the court to take action on the bed plan this summer.

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.
- Approve the May Revision proposal to revert funding for projects that are no longer part of the Mental Health Bed Plan.
- Approve supplemental report language that requires the department to develop a report that can be constantly updated that summarizes all of the capital projects related to implementing the *Coleman* court directives. This report could be part of the department's Master Plan.

Perez Related Dental Care Capital Outlay

Previous Subcommittee Direction. At the April 12 meeting of the Subcommittee, additional information was requested on the scope of the projects being pursued to comply with the *Perez* lawsuit related to dental care. The Subcommittee also requested that the department and staff determine the best way to proceed with these projects to ensure coordination with the Receiver over medical care.

The department submitted the Space Needs Study to staff that outlines the methodology for determining the space needs for each institution based on the 515 to 1 inmates to dentist ratio and the number of inmates at each institution.

Finance Letter and May Revision. 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.

The May Revision includes a proposal to modify the Finance Letter proposal by shifting the funding for these projects to lease-revenue bonds. The department proposes to allocate $285 million of the lease-revenue bonds authorized in AB 900 for health care facilities to the construction of the first phase of dental facilities at the institutions listed above.

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 Comments. Staff finds that every prison will need medical and dental space in order to comply with the increased level of medical and dental care. Staff finds that it would be more cost effective for the state if these projects were coordinated.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Delete the Governor's budget proposal and reject the May Revision proposal.
- Approve budget bill language to request that the department make efforts to try and coordinate the *Perez* capital outlay with the capital outlay projects being pursued by the Receiver.

Farrell Related Minor Capital Outlay

Previous Subcommittee Direction. At the April 12 meeting of the Subcommittee, additional information was requested on how the funding for temporary buildings contained in the 2006-07 budget was allocated in the current year. The Subcommittee also requested additional information on how the department planned to allocate the funding for additional capital outlay in a Finance Letter (dated March 29, 2007).

The department indicates that, in the current year, 14 PIA modular units were delivered to the following facilities using funding provided in the current year:

- Three were delivered to O.H. Close Youth Correctional Facility for use as classrooms.
- Five were delivered to DeWitt Nelson Youth Correctional Facility for use as classrooms.
- Six were ordered for the Southern Youth Reception Center and Clinic, Norwalk for use as classrooms.

The department also used minor capital outlay funding to design eight Behavioral Treatment Programs. The department indicates that it will begin construction activities on these units in July 2007.

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.

In the May Revision, the department has proposed closing DeWitt Nelson Youth Correctional Facility and Herman G. Stark Youth Correctional Facility if the population continues to decline. Given these changes, the department now plans to utilize some of the funds included in the Finance Letter to move the five modular classrooms that were delivered to DeWitt Nelson Youth Correctional Facility in the current year since the department plans to close this facility. The department also plans to procure 20 additional modular classrooms for the Ventura Youth Correctional Facility. These units had been scheduled to be delivered to Herman G. Stark Youth Correctional Facility, but the department plans to close that facility as well if the population continues to decline.

May Revision. The May Revision contains a proposal to request an additional $7.6 million in General Fund monies to support increased construction costs and the installation of modular units at six juvenile institutions.

LAO Recommendation. The LAO recommends that the Senate and Assembly take differing actions in order to put this proposal in conference. The LAO indicates that the department has not responded to several requests related to these proposals and, absent that information, it is impossible to reach a conclusion on the merit of these proposals.

Staff Comments. Staff finds that the *Farrell* reforms required the department to hire a significant number of new teachers to implement the education remedial plan, but did not provide for an adequate number of classrooms for these additional teachers. It is impossible for DJJ to implement the education remedial plan without adequate classroom space. Staff concurs that investment in modular units is an appropriate solution given the inadequacy of the current DJJ institutions. The department is currently in the process of designing a prototypical new DJJ facility that would be favorable to the old prison-like facilities that the department currently utilizes.

Staff Recommendation. Staff recommends that the Subcommittee take the following action:

- Approve the Finance Letter less $1,000.
- Approve the May Revision less $1,000.
- Reject the budget bill language to allow projects to exceed the $400,000 limit on minor capital outlay projects.
- Approve budget bill language that express Legislative intent that DOF's new policy of treating PIA modular units as capital outlay has minimal impact on the PIA program.

The intent of the Subcommittee is to send this item to conference.

Other Capital Outlay

1. Waste Water Treatment Plant Upgrades

Previous Subcommittee Direction. At the April 12 meeting of the Subcommittee, several proposals to fund upgrades to the department's waste water treatment plants (WWTPs) were held open. At this meeting, the Subcommittee requested additional information on what water use efficiency measures had been taken at each of the institutions and how these projects would need to be modified if the infill housing proposal was approved.

The department has provided information on each of the projects and has indicated that in all cases initial assessments are that the current plans, when coupled with water efficiency measures, should support the additional capacity of the infill beds. Also, when "bad beds" are removed from these institutions, there should be a reduction in wastewater that will offset the additional flow from the new infill beds. Furthermore, the department has indicated that flushometers (meters that restrict the number of times the toilet can be flushed in a set time period) have been installed, or are planned to be installed, at all of the institutions requiring upgrades to their WWTPs.

The Subcommittee also requested that the department work with staff to develop and report on strategies to address cost controls and schedule controls on the department's capital outlay projects given the significant cost overruns in the WWTP projects included in the Governor's budget proposal. The department has submitted a letter indicating that they implement numerous project controls, including project briefings, design quality reviews, and master schedules that are monitored continually to ensure that project issues are addressed as early as possible.

Governor's Budget and Finance Letters. The Governor's budget proposal and Finance Letters (dated March 29, 2007 and May 1, 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.

  A Finance Letter (dated March 29, 2007) 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.

- **California Correctional Institution.** A Finance Letter (dated March 29, 2007) 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.

- **Sierra Conservation Center.** A Finance Letter (dated March 29, 2007) 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.

  A Finance Letter (dated March 29, 2007) 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.

  A Finance Letter (dated March 29, 2007) 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.

- **California Men's Colony.** A Finance Letter (dated May 1, 2007) requests the reappropriation of $25.6 million in lease-revenue bonds to construct upgrades to the existing WWTP so that it will consistently comply with the discharge requirements of the Regional Water Quality Control Board. Total costs for this project are estimated to be

$27.7 million. Of this total, $2.1 million was funded from the General Fund in 1999-00 and 2000-01.

Staff Comments. Staff finds that that there continue to be irregularities with many of the construction projects at CDCR. Staff appreciates that they have existing project controls; however, they do not seem to be adequate in addressing issues and reducing delays and cost overruns. For example, the funds for the WWTP at California Men's Colony were originally provided in 2001-02. However, the project has been delayed and has still not gone to construction. Furthermore, it appears that there have been no adjustments to the projected construction costs of this project, which is counterintuitive given the significant increase in construction costs generally over the last five years. Staff finds that staffing issues may be part of what is plaguing the department's problems related to managing construction projects.

Staff Recommendations. Staff recommends that the Subcommittee take the following actions:

- California Correctional Center/High Desert State Prison – Approve funding for working drawings and construction.
- California Correctional Institution – Approve funding for this project.
- Sierra Conservation Center – Approve reversion and construction funding for this project.
- Centinela State Prison – Approve funding for this project.
- California State Prison, Corcoran/Substance Abuse Treatment Facility – Approve funding for this project.
- Mule Creek State Prison – Approve this budget proposal.
- California Men's Colony – Approve this reappropriation.

2. Equipment Funding

Previous Subcommittee Direction. At the April 12 meeting of the Subcommittee, a budget proposal to provide additional funding to replace obsolete equipment was held open. The Subcommittee requested that the department report back with the following information:

- Requested 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.
- Requested that the department provide additional information, by May Revision, on how this proposal coordinates with the Consolidated Information Technology Infrastructure Project.
- Requested 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.
- Requested 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.

The department has not provided any information to respond to these requests.

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

Staff Comments. Staff recognizes that there may be needs in this area, but key information has not been provided by the department in response to questions posed by the Subcommittee at the April 12 hearing. Furthermore, the Governor's May Revision proposal would close one DJJ facility. However, this proposal has not been amended to account for this request. In addition, the Office of Emergency Services and the Department of General Services are currently involved in statewide efforts to improve interoperability of radio systems among law enforcement and first responders. Staff finds that it would be beneficial for CDCR to be involved in this type of effort.

Staff Recommendation. Staff recommends that the Subcommittee reduce this request by $19.7 million and approve only the $3.3 million for bus replacement and modifications.

3. Water Supply System – California Men's Colony

May Revision. The May Revision contains a proposal to reappropriate $33.6 million General Fund for construction of a new potable water supply system at the California Men's Colony. The working drawings are complete and the department is waiting to receive environmental permits. The department indicates that the environmental permits are also complete, but they have not been received to date and there is concern that they will not be able to award a construction contract until the budget year.

Staff Recommendation. Staff recommends that the Subcommittee approve this May Revision proposal.

4. Lethal Injection Chamber

Background. In April 2007, analysts from the LAO were on a facility tour at San Quentin. During the tour, the LAO analysts were shown a partially constructed new death chamber. This project had been funded through the redirection of minor capital outlay funding. The administration then notified legislative staff that the project would exceed the limit ($400,000) on minor capital outlay projects. At this time, the administration shut down construction on the project.

The construction of a new death chamber was initiated by the department. The court in the *Morales* case did not order the construction of a new death chamber and it is not clear that the configuration pursued will meet the requirements of the court. The department submitted a revised lethal injection procedure to the court on May 15, 2007.

May Revision. The May Revision contains $182,000 General Fund to complete construction of the lethal injection chamber at the prison at San Quentin. The department also proposes to revert the same amount from the current-year appropriation for minor capital outlay to offset these costs.

LAO Recommendation. The LAO recommends approval of this proposal, but recommends that the amount be increased by $23,000 to reflect the actual costs needed to complete this project. Furthermore, the LAO recommends budget bill language to restrict the department from expending these funds until DOF has certified that: (1) the *Morales* court has approved the construction plans or (2) has indicated that it will not rule on the adequacy of the proposed chamber until construction is complete. The LAO recommends that DOF notify the Joint Legislative Budget Committee when such findings are made.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Approve the LAO recommendation, including the budget bill language.

5. Minor Capital Outlay

Governor's Budget. The Governor's budget proposal includes $7.5 million General Fund. The department has put forward specific projects for $5.8 million of the projects. The remaining projects are still being reviewed by DOF and are not identified. The projects that have been approved by DOF include the following minor capital outlay projects:
- **California Correctional Center.** $336,000 to add space to an administrative segregation unit to provide adequate space to conduct classification committee hearings.
- **California Correctional Institution.** $166,000 to construct a freezer placed outside the Support Warehouse with direct access to the refrigerator.
- **California Institution for Men.** $359,000 to install a new fire alarm, sprinkler system, and fire rated walls in the Cleveland Housing Unit.
- **California Institution for Men.** $359,000 to install a new fire alarm, sprinkler system, and fire rated walls in the Sequoia Housing Unit.
- **California Men's Colony.** $322,000 to upgrade and add an additional pharmacy dispensing window as well as installing telecommunications upgrades.
- **California Men's Colony.** $304,000 to construct three offices in one room. These offices will be used for confidential meetings between clinicians and EOP inmates in administrative segregation.
- **California Men's Colony.** $390,000 to install modular units for triage nurse positions to comply with the *Plata* lawsuit.
- **California State Prison, Corcoran.** $287,000 to install new security fencing and gates to prevent inmates from entering the program office area without staff approval.
- **Correctional Training Facility.** $153,000 to enhance the lighting on the inmate recreation yard.

- **Correctional Training Facility.** $393,000 to install a modular unit that will serve as a visitors processing center. The center will have two Americans with Disabilities Act compliant bathrooms, an officer station, and air conditioning.
- **High Desert State Prison.** $117,000 to install a new HVAC system.
- **Mule Creek State Prison.** $295,000 to build a new staff facilities building for the staff that maintain and operate the waste water treatment plant.
- **Mule Creek State Prison.** $165,000 to construct two additional freezers.
- **North Kern State Prison.** $269,000 to remodel and expand a retherm kitchen.
- **Substance Abuse Treatment Facility.** $310,000 to install a 1,500 square foot refrigeration unit outside of the Central and Re-thermalization kitchens.
- **N.A. Chaderjian.** $324,000 for a new exhaust fan and duct system to improve the ventilation in the living units.
- **N.A. Chaderjian.** $395,000 to install HVAC in a housing unit that houses mentally ill wards.
- **Pine Grove Camp.** $150,000 to construct a larger security control office attached to a dormitory dayroom.
- **Northern California Youth Correctional Center.** $95,000 to purchase and install a water softening system to minimize maintenance and failure of the pot washer in the Central Kitchen.
- **O.H. Close.** $195,000 to retrofit an air conditioning system for the chapel.
- **O.H. Close.** $185,000 to construct a separate secured visitor parking area.
- **N.A. Chaderjian.** $200,000 to construct an access road to three transformers at the facility.

Staff Comments. Staff finds that there are many facility needs in the prison system. However, staff is concerned that the detail related to these minor capital outlay projects (that were proposed in January) was not received until May 18, 2007, far after deadlines set by DOF. Furthermore, staff understands that the department is allowed to redirect minor capital outlay funding. However, staff finds that these redirections should ideally be kept to a minimum and be reserved for special circumstances and emergencies. As mentioned above, a new lethal injection chamber was partially constructed by redirecting minor capital outlay funds. This construction was not ordered by the court and it is unclear how the redirection would fit into a special circumstance or emergency category.

LAO Recommendation. The LAO recommends reducing the funding for minor capital outlay projects by $3.4 million because the department did not provide backup information on the projects costing over $350,000 after repeated requests. Without backup information, it is impossible to determine if a project is likely to be subject to cost overruns, thereby becoming a major capital outlay project like the lethal injection chamber. (The information was received on May 18, 2007, and did not give staff or the LAO enough time to review these proposals.)

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve the LAO recommendation and reduce this request by $3.4 million.
- Approve budget bill language to restrict the redirection of minor capital outlay projects unless there are special circumstances or an emergency.

Information Technology Issues

1. Consolidated Information Technology Infrastructure Project

Previous Subcommittee Direction. At the April 12 meeting of the Subcommittee, a major proposal to overhaul CDCR's information technology backbone was held open. At this meeting the Subcommittee requested the following information:

- Requested 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.
- Requested that the department and DOF develop options, by May Revision, for using wireless technology for some or all of the infrastructure upgrades.
- Requested 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.
- Requested 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.

The department has indicated that it does intend to use the best technology available to deliver the information technology infrastructure needed by the institutions. One of the first tasks of the department is to do thorough site assessments of every prison facility to determine what the best technology will be. The department indicates that, in some cases, it may be wireless technology, but in other cases it may be fiber or cable technology. The department has committed to pursuing the latest and most cost effective technology when building the department's information technology infrastructure.

Furthermore, the department has indicated that this project will require considerable collaboration between the Office of Facilities Management and the Enterprise Information Services Division. Since the Office of Facilities Management is responsible for implementing the information technology infrastructure they will be able to coordinate with other construction and infrastructure upgrade programs at the individual institutions. The department indicates that $102 million of the $118.5 million will be overseen by the Office of Facilities Management.

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. The cash costs of this project are estimated to be $268 million over the next four fiscal years. However, if the state finances the project over the next seven years the total cost of the project will be $294 million.

The administration also proposes budget bill language to allow for funding to be reverted when a GS $MART financing arrangement has been made.

Staff Comments. Staff finds that this infrastructure project is critical and necessary if the department is going to implement information technology solutions and efficiencies. The Subcommittee heard testimony at its March 15 hearing about how a lack of automated information and data hinders the department's ability to manage the population and reduce recidivism. Staff recognizes that there is some uncertainty regarding how much this project will actually cost, but this uncertainty is unavoidable because some costs will not be known until walls are opened up to determine solutions for retrofitting the department's diverse buildings (some that are over 100 years old).

Furthermore, the department has indicated that the first priorities for "data drops" are the business services areas of the institutions and the health care areas of the institutions. However, staff finds that the Receiver is pursuing a separate system and does not demand the data drops. Staff finds that data drops should be prioritized to rehabilitative programming areas of the institution, in lieu of health care. Staff finds that the Principal that is in charge of rehabilitative programming does not have access to a personal computer with Internet access at some institutions. This makes it cumbersome for headquarters to coordinate with program staff in the field.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:
- Approve this budget proposal and budget bill language to accommodate for GS $MART financing.
- Approve budget bill language to give first priority to business services and rehabilitative programming "data drops" if possible.

2. Strategic Offender Management System

Background. The Strategic Offender Management System (SOMS) is a large information technology system that the department plans to implement over the next seven years. The system will be comprised of many commercial-off-the-shelf solutions that will enable the department to collect and use more detailed offender information in the management of the prison system. The department's current system was designed in the 1970s and does not provide the type of information that the prison managers need today to make complicated population management decisions. Furthermore, information systems are critical to implementing evidence based programming and being able to constantly evaluate the effectiveness of policies and programs.

Governor's Budget. The Governor's budget proposal includes $3.6 million General Fund to support 17 limited-term positions to develop and manage the Request for Proposal for the SOMS project. The SOMS project is estimated to cost about $300 million to fully implement.

Previous Subcommittee Direction. At the March 15 meeting of the Subcommittee, a request was made to assess what modules of the SOMS project could be fast-tracked to help improve efficiency and the department's population management efforts. The department has not responded to this request.

Staff Comments. Staff finds that prison managers need more and better information on which to base management decisions. The Subcommittee learned at the March 15 meeting that the department's current information technology systems are inadequate in informing population management. The sheer size of CDCR also makes it difficult to coordinate without electronic connectivity.

Staff finds that the education, inmate restitution, and canteen sales are not currently a part of the feasibility study report (FSR) because the department indicates that they were being handled by other CDCR projects. However, unfortunately EdFirst, an education FSR, was denied by DOF and is currently not being pursued. Staff finds that any information technology system implemented by the department must have capabilities to track rehabilitative programming information including education-related information to be successful. The primary focus of the department is in rehabilitating the vast majority of inmates. Therefore, it does not make sense to develop an information technology tool that leaves out rehabilitative programming.

The department has communicated to staff that it can incorporate the information technology needs of rehabilitative programming into the SOMS Request for Proposal.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions:

- Approve this budget proposal.
- Approve budget bill language that requires the department to incorporate the information technology needs of rehabilitative programming into the SOMS Request for Proposal.

3. Juvenile Justice Infrastructure Migration

Background. The Department of Juvenile Justice was created in 2005 when the California Department of Corrections and Rehabilitation was reorganized. This reorganization collapsed the independent California Youth Authority into CDCR. At the time of the reorganization, the California Youth Authority was operating primarily on an Apple MacIntosh computer platform.

Governor's Budget. The Governor's budget proposal includes $3 million General Fund to continue the department's efforts to migrate from the old Apple MacIntosh computer platform to a Windows platform.

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

4. Business Information Systems Project

Background. In 2004 a feasibility study report (FSR) was approved to procure, develop, implement, and maintain an information technology solution to improve its business practices. This project is now referred to as the Business Information Systems Project (or BIS). The total costs of the project are expected to be $144 million, which is $8 million less than 2006 estimates of the project. This reduction is due to decreased software costs and contracting services. The project costs have also been reduced by amending the financing strategy to limit the services that are financed.

May Revision. The May Revision requests reappropriation of $4 million, appropriated in 2005-06 for the BIS project. The reappropriation is needed to align the funding with the new project implementation schedule. The new schedule is to implement the new program in two phases. The two phases are summarized below:

- Phase I – Accounting, procurement, contracts, and budgets will be implemented from May 2007 to July 2008.
- Phase II – Human resources will be implemented starting in January 2008 and continuing until January 2009.

To date, approximately $30.4 million has been appropriated for this project. The Governor's budget contains $23.4 million, including the $4 million in funds proposed for reappropriation in the May Revision proposal.

LAO Recommendation. The LAO recommends a technical change to reduce the reappropriation to $3.4 million to be consistent with the backup information provided in the proposal.

Staff Recommendation. Staff recommends that the Subcommittee approve the LAO's recommendation.

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Robert Dutton
Christine Kehoe

Agenda – Part "A"

Tuesday, May 22, 2007
10:00 a.m.
Room 2040

Consultant: Brian Annis

May Revision & Open Issues

Departments with Budget Issues Proposed for Consent / Vote Only

2740 Department of Motor Vehicles

1. **Additional Vendor Costs for Electronic Insurance Verification (May Finance Letter #7)**. The Department of Motor Vehicles (DMV) requests $9.4 million (various special funds) to pay increased vendor costs for the Vehicle Registration Financial Responsibility Program (Program) due to higher-than-anticipated activity. Budgeted Program costs would increase from $13.1 million to $22.5 million. The Program was established by Chapter 920, Statutes of 2004 (SB 1500) and requires insurance companies to electronically report insurance policies on private-use vehicles and the DMV to suspend vehicle registrations when evidence of insurance is not provided by specified deadlines. The Program reduces the number of uninsured drivers, and should result in state Medi-Cal savings (to the extent that Medi-Cal recipients are involved in accidents and private auto insurance can cover the related healthcare costs). Costs are up because the vendor is paid per transaction and suspension notices are expected to be sent for 5.5 million vehicles lacking proof of insurance rather than the 3.6 million previously anticipated. The current vendor contract ends in 2 years, the DMV may submit a budget change proposal in the 2008-09 Governor's budget to either bring the activity in-house or continue contracting out after a new procurement.

   Staff Recommendation: Approve the May Finance Letter.

2. **Telephone Service Center (May Finance Letter #8)**. The Administration requests a budget reduction of $826,000 (various special funds) and a current-year reversion of $2.8 million due to savings related to the decision to use the CalNet II contractor for replacement of the DMV's telephone service center equipment, an option which was not available at the time the Feasibility Study Report and funding was approved last year. The CalNet II contract was finalized by the Department of Technology Services on January 31, 2007. Under the CalNet II contract, vendors own the telephony equipment and software. DMV estimates that using CalNet II, instead of proceeding with the original project approved last year, will save the state $7 million over the life of the project (reducing total costs from $31.9 million to $24.9 million).

   Staff Recommendation: Approve the May Finance Letter.

3. **Web Site Infrastructure (WSI) Project Reappropriation (Administration Request)**. The Administration requests the re-appropriation of the unencumbered balance of $11,867,233 for the Web Site Infrastructure (WSI) Project originally funded in the 2006 Budget Act. This re-appropriation is due to a change in the bid due date and the contract award date by the Department of General Services (DGS). During the bid evaluation review, DGS declared the WSI bids for the hardware, software, and contract services to be second drafts and extended the final bid due date to July 26, 2007. The project will allow DMV to expand services on the web while adding additional layers of security. The DMV and the Department of Finance requested this change by phone and email on Tuesday, May 15. The Administration indicated the DGS decision was not known until after the May Letters were finalized.

Staff Recommendation: Approve a reappropriation for the Web Site Infrastructure project.

8380 Department of Personnel Administration

4. **Human Resources Modernization Project (April Finance Letter #1).** The Department of Personnel Administration (DPA) requests $2.8 million (General Fund), 5.0 new positions, and 70 redirected/loaned positions, to begin development and design for the Human Resources (HR) Modernization Project. This proposal was discussed at the April 25 hearing and left open for further review and consideration of legislative reporting requirements. The LAO has developed the following Supplemental Reporting Language (SRL) in coordination with the DPA, the Department of Finance, the State Personnel Board and Committee staff:

Supplemental Report Language: *On or before February 5, 2008, the Department of Personnel Administration (DPA) shall submit an annual report concerning the Human Resources Modernization Project. The report will describe: (1) key activities of the project to date during 2007-08, (2) major planned and proposed activities of the project for the remainder of 2007-08 and 2008-09, (3) any significant changes in the plans, goals, or timelines for the project, and (4) any changes in the anticipated long-term costs of the project. The DPA shall consult with the executive officer of the State Personnel Board (SPB) or her designee in preparing the report, and the executive officer or her designee may include with the report a letter describing any areas of significant disagreement between SPB and the administration concerning the progress and plans of the project. Should the administration submit a budget change proposal (BCP) concerning the project to the Legislature as part of the 2008-09 Governor's Budget, the BCP may be designated as the submission satisfying this annual report requirement, provided that it includes all of the information described in this section.*

Staff Recommendation: Approve the Finance Letter with the addition of the LAO Supplemental Report Language.

5. **"Head Hunter" Services for Medical Classifications (April Finance Letter #2).** The Department requests $1.0 million (two-year limited term General Fund) to hire a recruitment contractor to locate and develop a pool of prospective healthcare professionals to fill State jobs at the California Department of Corrections and Rehabilitation, the Department of Mental Health, the Department of Developmental Services, and the Department of Veterans Affairs. This proposal was discussed at the April 25 hearing and left open for further review and consideration of performance-based contracting and appropriate funding levels. The LAO has developed the following compromise proposal in coordination with the DPA, the Department of Finance, and Committee staff: Reduce budgeted funding to $350,000 in 2007-08 and $350,000 in 2008-09, and add the following provisional language in DPA's budget item that would allow expenditures to increase up to $1.5 million in each year, if specified requirements are met:

Budget Bill Language: *(X) Of the funds appropriated in this item, $350,000 may be spent by the Department of Personnel Administration to contract with one or more recruitment contractors to locate and develop a pool of prospective health care professionals for various state departments that employ medical, mental health, and/or dental professionals. It is the intent of the Legislature that these contracts will be structured on a performance basis with payments tied to the successful hiring of state staff. Should the Director of Finance, upon receiving a recommendation of the Director of the Department of Personnel Administration, determine that it would be in the interests of the state to expand the dollar amount committed to this project, he may submit to the Chairperson of the Joint Legislative Budget Committee and the Legislative Analyst a report describing the number of individuals that have been successfully hired to permanent positions in affected departments as a result of the recruitment contractors' work to date and the anticipated benefits (including funds that affected departments would revert to the treasury due to decreased overtime and contracted personnel costs) that would result from an expansion of the funds committed to this project. Not less than 30 days after submitting the report described above, the Director of Finance may augment this item by an amount not exceeding $1,500,000 in order to increase health care personnel recruitment efforts.*

Staff Recommendation: Consistent with the LAO recommendation, reduce the requested funding from $1.0 million to $350,000 and adopt the LAO budget bill language.

6. **Vacant Position Eliminations.** The Chair of the Budget Committee requests that Government Code 12439 be amended to require the abolishment of positions vacant for any twelve-month period, as specified. At present, GC 12439 requires the abolishment of positions when vacant for six consecutive months.

   The Chair believes that, in the current state civil service environment, it has become increasingly rare that positions can be filled within the six month period of time. This leads to a loss of numerous positions that need to be reinstated and the beginning of the civil service cycle again. This problem has been prevalent in the area of hiring non-correctional personnel. This, among many other issues, has lead DPA to begin a top-to-bottom review of the whole state hiring process.

   Staff Recommendation: Approved placeholder trailer bill language to require the abolishment of positions vacant for any twelve-month period, instead of the current six-month period.

9800 Augmentation for Employee Compensation

7. **Administration Budget Adjustments (January 19 Finance Letter):** The Administration requests the following budget changes related to a court decision in a suit brought by the California Correctional Peace Officer Association (CCPOA). The Finance Letter adds costs above the Governor's budget of $153.5 million in 2006-07, and $46.3 million in 2007-08, both General Fund. The total lawsuit costs through 2007-08 are $439.8 million which is $199.8 million more than assumed in the Governor's budget (all General Fund over 2006-07 and 2007-08). This issue was discussed at the April 25 hearing, but no budget action was taken pending receipt of the anticipated May Finance Letter.

   Staff Recommendation: Approve the January 19 Finance Letter.

8. **Administration Budget Adjustments (May Revision Finance Letter).** The Administration requests various changes in the employee compensation budget that net to a $27.1 million increase in the General Fund cost and a $2.1 million decrease to other funds. All of these changes are driven by updated estimates of the cost for current contractual obligations. The Adjustments include a Cost-of-Living Adjustment (COLA) of 3.4 percent instead of 3.3 percent (as estimated in the Governor's Budget); cost changes for Highway Patrol Officers and Engineers based on salary surveys of other public sector employers (again, per contractual terms); adjustments for updated population counts; and a reduction to the healthcare inflation cost from 12 percent to 10 percent based on the California Public Employees Retirement Board's decision to increase co-payments for office visits.

   Staff Recommendation: Approve the funding adjustments requested in the May Finance Letter.

Control Section 3.60 Contributions to Public Employees' Retirement Benefits

9. **Retirement Contribution Rates (PERS Action and May Finance Letter)** At the May 15, 2007, California Public Employees' Retirement System (PERS) Board hearing, the Board adopted revised State retirement contribution rates for 2007-08. According to estimates from the Department of Finance, the new rates will result in an increased cost of $1.1 million General Fund and a decreased cost of $23.0 million in other funds, relative to the amounts included in the Governor's Budget. The January Governor's Budget estimated contributions to PERS in 2007-08 at $2.8 billion ($1.5 billion General Fund) – an increase of $80 million over 2006-07 (including a $44 million General Fund increase). The Subcommittee previously discussed this issue (minus the May Revision adjustment) at the April 25 hearing.

Background / Detail: Control Section 3.60 of the budget bill specifies the contribution rates for the various retirement classes of State employees in CalPERS. This Control Section also authorizes the Department of Finance to adjust any appropriation in the budget bill as required to conform to changes in these rates. The Department of Finance also requests that the General Fund be decreased by $272,000 to reflect the change to the State's fourth quarter deferral payment to PERS.

Category	**Governor's Budget**	**New Rates**
Miscellaneous, First Tier	16.997%	16.633%
Miscellaneous, Second Tier	16.778%	16.565%
State Industrial	17.861%	17.345%
State Safety	19.294%	18.835%
Highway Patrol	31.463%	32.212%
Peace Officer / Firefighter	24.505%	25.552%

LAO Recommendation: The Legislative Analyst recommends approval of the new rates and associated May Finance Letter.

Staff Recommendation: Approve the Control Section with the new rates adopted by the PERS Board and the related budget adjustments requested in the May Finance Letter.

10. **Pension Obligation Bonds.** (May Finance Letter) The Governor's Budget assumed that pension obligation bonds (POBs) will be sold in 2007-08, yielding $525 million in General Fund benefit. The sale of these bonds has been delayed due to ongoing litigation. The May Finance Letter indicates that it now appears unlikely that there will be a final unappealable decision on the validity of the bonds in time for the bonds to offset the State's pension contributions in 2007-08, and requests to move the bond revenue from 2007-08 to 2008-09.

Background / Detail: In 2004, the Legislature enacted a law authorizing the sale of up to $2 billion in POBs to fund the State's CalPERS obligation. Litigation has delayed the issuance of bonds and the Administration has reduced the assumed bond proceeds: the 2005 Budget Act assumed bond proceeds of $525 million from a 2005-06 issuance; the 2006 Budget Act assumed no bond sales would occur in either 2005-06 or 2006-07, but assumed a bond issuance in 2007-08. A 2007-08 bond issuance totaling $525 million was included in this year's Governor's Budget for 2007-08. The Administration is currently appealing a November 2005 Sacramento Superior Court decision that found the bonds unconstitutional. The practical effect of a delay in bond issuance beyond 2007-08 is a reduction to the General Fund reserve of $525 million.

LAO Recommendation: The Legislative Analyst recommends approval of the May Finance Letter to shift POB funds out of 2007-08.

Staff Recommendation: Approve the May Finance Letter.

Staff Recommendation: Approve the Staff Recommendation for each vote only issue as specified.

Department Budgets Proposed for Discussion

1111 Bureau of Private Postsecondary and Vocational Education

The Bureau of Private Postsecondary and Vocational Education (BPPVE) 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's Budget 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 (May Finance Letter):** The Administration requests a reduction of $3.5 million to more-accurately reflect costs in 2007-08. Expenditure of the appropriation 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. 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.

   Two policy bills currently under consideration, SB 823 (Perata) and AB 1525 (Cook) would respectively recreate the Bureau as the Board for Private Postsecondary Education on January 1, 2008, and provide for some student protections in the interim period of July 1, 2007, through December 31, 2007.

   Staff Recommendation: Approve the Finance Letter, but also amend the Budget Bill to conform to SB 823. To conform to the bill, the three BPPVE appropriations should be changed from the "Bureau" organization code to the "Board" organizational code and the name changed to "Board of Private Postsecondary Education." The following budget bill language should be added:

   It is the intent of the Legislature to enact legislation in the first year of the 2007-08 Regular Session to establish the Board for Private Postsecondary Education effective January 1, 2008. Upon the effective date of legislation to establish the Board for Private Postsecondary Education, the Director of Finance may adjust this budget item, as necessary, to conform to the implementing legislation.

1920 State Teachers' Retirement System

The State Teachers' Retirement System (STRS) administers retirement and health benefits for more than 735,000 active and retired educators in the public schools from kindergarten through the community college system.

The State funds teachers' retirement based on two statutory formulas:

- Benefits Funding – the State's contribution is statutorily based on 2.017 percent of the teachers' salaries. The 2007-08 cost is budgeted at $501 million General Fund.
- Supplemental Benefit Maintenance Account (SBMA) – The State's contribution is fixed by statute at 2.5 percent of teachers' salaries and is intended to provide retiree purchasing power protection. The Governor proposes statutory changes to vest purchasing power protection at 80 percent of initial retirement level, which the Department of Finance believes would result in a State savings of $75 million and a revised contribution of $547 million or 2.2 percent of salaries. (See issue #2 below for additional detail).

Issue Proposed for Vote Only:

1. **Reappropriation Request (May Finance Letter).** The Administration requests a reappropriation of up to $3,476,000, which is 3 percent of Item 1920-001-0835, Budget Act of 2006. This reappropriation would allow CalSTRS to meet unanticipated system costs and promote better services to the system's membership. Budget bill language is also proposed to require quarterly reports to the Legislature on expenditures made pursuant to this item. The proposed language and methodology is consistent with a reappropriation item in the Budget Act of 2006.

   Staff Recommendation: Approve this request.

Issue Proposed for Discussion and Vote:

2. **New Purchasing-Power-Protection Vesting & Related Savings (Governor's Budget Trailer Bill).** The proposed budget reduces the Supplemental Benefit Maintenance Account (SBMA) State contribution from 2.5 percent of salary to 2.2 percent – for an annual estimated savings of about $75 million (from reducing this contribution from $622 million to $547 million). The Administration indicates that this contribution level is sufficient to maintain the existing purchasing-power-protection benefit based on a 2005 actuarial analysis. In return, the Administration proposes to vest this purchasing-power-protection benefit at 80-percent of an individual's initial retirement allowance (instead of the current vesting that sets the States contribution at 2.5 percent of salary without a specific level of purchasing-power-protection). Because the funding cut would be tied to a new vested benefit, the Administration argues this proposal is substantially different from the 2003-04 suspension currently under litigation.

Background / Detail: As actuarial analyses are performed over time, the State would have to pay more or less than 2.2 percent of salary – whatever was estimated as necessary to maintain the 80 percent purchasing power protection. However, the proposed trailer bill language cites 2.2 percent specifically instead of the amount needed to maintain the 80 percent benefit – so further statutory change would likely be needed if the contribution level necessary to maintain the new vested benefit changed from 2.2 percent.

LAO Recommendation: The Legislative Analyst recommends that the Legislature reject the Administration's proposal. The LAO finds there are risks in creating a new vested benefit, because under certain inflation assumptions, this proposal could increase State costs over the long-term (instead of producing the annual savings of about $75 million as the Administration calculates). Additionally, the LAO recommends that any benefit changes be made in concert with a comprehensive plan to address retiree pension and health costs.

Staff Comment: STRS contracted for an actuarial analysis that estimates the Governor's proposal has a 68 percent chance of saving the State money, and a 32 percent chance of increasing State costs. Inflation rates exceeding 3.5 percent over a period of years would likely trigger State costs instead of savings. It should also be noted that STRS or other interested parties could choose to litigate the proposed change if they believed the new vesting was not a comparable benefit to the current statutory funding of 2.5 percent of salary.

The Assembly approved this proposal as budgeted, but indicated a desire to continue the discussion in Conference. Staff concurs and the following Staff Recommendation would put this issue into the Conference Committee.

Staff Recommendation: Reject the Administration's trailer bill, but retain the scored savings of $75 million General Fund. This action will put the issue into the Budget Conference Committee.

1900 Public Employees' Retirement System

The Public Employees' Retirement System (PERS) provides benefits to about one million active and inactive members and about 441,000 retirees. PERS membership is divided approximately in thirds among current and retired employees of the State, schools, and participating public agencies. The Constitution grants the PERS Board "plenary authority and fiduciary responsibility for investments of moneys and administration of the system" as specified. PERS was previously heard by the Subcommittee at the April 25 hearing, but the budget was left open pending expected May Revision Finance Letters.

Issue Proposed for Consent / Vote Only

1. **Final PERS Board Budget (May Finance Letter).** Consistent with the practice established last year, the Administration has submitted a May Revision Finance Letter to adjust the PERS budget to correspond to the final budget adopted by the PERS Board at the April 18 meeting. The items proposed for changes are "non-add" items displayed for informational purposes in the Budget Bill. The adjustments total an increase of $42.4 million, and with April Finance Letter requests already approved, result in a total state operations budget of $313 million.

   Staff Recommendation: Approve the May Finance Letter.

Issue Proposed for Discussion / Vote

2. **Health Care Premium Report (May Finance Letter).** The Administration proposes that provisional language be added to Item 1900-001-0950 requiring PERS to report when it imposes health care premium increases on the state government, state workers, and state retirees that exceed actuarial assumptions listed in retiree health liability valuations that are expected to be produced by the State Controller's Office (SCO) on an ongoing basis. In its first actuarial valuation, released on May 7, 2007, the SCO used actuarial assumptions consistent with those specified by PERS, including estimates of future healthcare costs. The valuation assumes that the annual growth rate of health care premiums adopted by the CalPERS board will be 10 percent in 2008, 9.5 percent in 2009, and 9 percent in 2010, declining further until the annual rate of increase is no more than 4.5 percent per year beginning in 2017. The total cost of the State's unfunded liability was estimated at $48 billion, and the costs to begin pre-funding this benefit was estimated at an additional $1.2 billion annually.

   LAO Recommendation: The Legislative Analyst believes additional reporting language is appropriate, given the significant degree of latitude currently granted PERS under state law to impose health premium increases on state and local governments, workers, and retirees. To ensure accurate and specific reporting consistent with the administration's intent, the LAO recommends the adoption of the following substitute provisional language:

(X) Consistent with the statutory duty of the California Public Employees' Retirement System's health care program to promote increased economy and efficiency in state service, as described in Section 22751 of the Government Code, the Legislature finds and declares that the system is accountable to its members, governmental entities, and taxpayers with respect to the health premium increases that it imposes on public employers, public employees, and retirees. Within 45 days of adopting annual health care premium increases in excess of those assumed in the most recent actuarial valuation report for the State of California Retiree Health Benefits Program, the Board of Administration of the California Public Employees' Retirement System shall submit a report to the Chair of the Joint Legislative Budget Committee, the chairs of policy committees and budget subcommittees that consider the system's budget and activities, the Director of Finance, and the Legislative Analyst discussing specific actions that the system plans to take to ensure that future health care premium increases are at or below the levels assumed in the valuation report. This reporting requirement shall apply to any premium increases exceeding actuarial assumptions that are adopted for the 2008 calendar year, as well as any such increases adopted thereafter.

Staff Comment: At a recent Assembly hearing, PERS staff indicated concern with the language, indicating that the actuarial assumptions were not intended to be a goal-setting devise. The Assembly Subcommittee rejected the proposed language sharing the same concern as PERS staff.

There will likely be extensive discussions next year concerning post retirement benefits. Executive Order S-25-06 signed on December 28, 2006, created the Public Employee Post-Employment Benefits Commission to examine unfunded retirement benefits. This Commission is charged with delivering a plan by January 1, 2008, that would include a proposal to address the government's unfunded retiree health and pension obligations. As another input for those discussions, it would be valuable to know how contractual costs for 2008 compare to the actuarial assumptions in the Controller's study, and if PERS believes they can stay within the costs assumed in the actuarial study – this would be useful information to the Legislature when budget decisions are made in this area.

Additional edits may be warranted to the proposed language to address the concerns of PERS and the Assembly, but since the Assembly has already rejected this proposal Senate approval would send it to Conference. It may be more beneficial to amend the language at Conference Committee after further discussions with the Assembly and other interested parties have occurred.

Staff Recommendation: Approve the LAO's modified language to send the issue to Conference where further language edits may be warranted.

9650 Health and Dental Benefits for Annuitants

This budget item provides funding for health and dental benefit services for more than 210,000 retired state employees and their dependents.

Discussion / Vote Issues:

1. **Budgeting for Retiree Health (Governor's Budget & May Revision).** The Governor's Budget included a total of $1.137 billion for retiree health in 2007-08 ($1.057 billion in the 9650 budget item and $80 million in a special set-aside expenditure item). The LAO indicates that this 12 percent budget increase, over 2006-07, is less that the 14 percent average increase experienced over the past three years, and is less than the 16 percent average increase experienced over the last seven years.

   The May Revision Letter requests to: shift the $80 million in the set-aside item to the main 9650 item (for no net change in General Fund cost); reduce funding by $9.5 million to match new premium estimates from the Department of Finance that relate to PERS staff recommendations to increase co-payments; and increase funding by $2.9 million to account for recent enrollment increases.

   LAO Recommendation: The Legislative Analyst recommends the Subcommittee takes action to put this budget item into the Conference Committee. The LAO indicates that the administration has provided less information than in the past on the reasoning and detailed estimates underlying its budget proposal for Item 9650, and questions if the revised amount in Item 9650 covers all likely budget-year costs, including enrollment growth.

   Staff Comment: The PERS Board acted on May 15 on their staffs' recommendations to increase co-payments – the Board adopted some, but not all of the co-payment increases. Therefore, the Finance May Revision adjustment for co-payment increases does not tie to the final Board action. Staff understands that the Administration is working with CalPERS to adjust the savings assumptions in the May Revision.

   Staff Recommendation: Approve the May Finance letter, but put the issue into Conference by adjusting each 9650 appropriation down by $1,000. There will likely be further adjustments needed after the savings estimates are adjusted for final Board action on co-payments, and it is possible PERS will conclude negotiations with health plans, when the issue is open in Conference.

2. **Medicare Part D Revenue (Governor's Budget):** As indicated on previous pages, the Governor's Budget assumes $38.0 million in federal government reimbursements associated with Medicare Part D, which is the new prescription drug benefit. The Administration proposes that the State continue to receive these reimbursements and that the funds be used to offset the State's retiree healthcare costs.

   Background / Detail: The federal Medicare Modernization Act was signed into law in December 2003 and established Medicare Part D. The Part D benefit is designed to provide Medicare beneficiaries with affordable drug coverage. The federal government created the Part D subsidies to encourage employers, such as the State, to continue offering drug benefits to retirees, instead of shifting enrollees to the Medicare plan. The California Legislature adopted AB 587 (Ch. 527, St. of 2005, Negrete McLeod) which requires CalPERS health program participants who are eligible to participate in Medicare Part D to enroll only in a CalPERS health plan.

   2006 Budget Act - Budget Bill Language: In the spring of 2006, the CalPERS Board considered alternatives to using Part D reimbursements to offset State costs, including using the funding to lower costs for CalPERS enrollees and/or directing the Part D subsidies to the health plans instead of to the State. In response, the Legislature added budget bill language to direct the Part D reimbursements to a special deposit account with the intent that this would retain legislative oversight over the use of the funds. However, CalPERS obtained an opinion from the Attorney General that says the Part D funds should be deposited in the Contingency Reserve Fund (instead of the stand-alone special deposit fund that would segregate the funding until a new appropriation is provided).

   Staff Comment: In past budgets, PERS has been able to provide some General Fund relief while also maintaining existing benefit levels. In 2005, PERS adopted a rate stabilization plan to spread market value asset gains and losses over 15 years instead of 3 years. While that change will be cost neutral over the long term, it did stabilize State costs and resulted in a General Fund savings of $150 million in 2005-06. The Governor's proposal would seem to present PERS with a similar opportunity – to maintain existing benefit levels, while still aiding the General Fund with a $38 million benefit.

   LAO Recommendation: The Legislative Analyst recommends that the Legislature approve the Administration's proposal to use the Part D reimbursements to offset State costs, instead of to increase benefits or costs to state retirees. The LAO indicates this direction is consistent with the intent of both federal and State law. The LAO recommends technical language changes in conformance with this recommendation.

   Staff Recommendation: Approve the Administration's proposal to use Part D to offset state costs, but direct staff to draft technical language changes pursuant to the LAO recommendation.

2180 Department of Corporations

The Department of Corporations (Corporations) administers and enforces State laws regulating securities, franchise investment, lenders, and certain fiduciaries. The Governor's January Budget proposed total expenditures of $33.9 million (no General Fund) and 277 positions, an increase of $553,000 and 2 positions.

Context for Staffing Discussion: The Department's budget was discussed at the March 14 hearing and the Subcommittee left all budget issues open for further review of the sufficiency of the staffing request. A January 2007 State Auditor Report indicated that, among other findings, 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 Department testified that the Governor's Budget did not include sufficient new positions to allow the department to meet all audit requirements, but that the 2008-09 Governor's Budget would include further adjustments. The Subcommittee was concerned about the Department being unable to meet statutory audit requirements and the associated financial risk that places on consumers. The Administration agreed to reevaluate 2007-08 staffing and has submitted two May Revision Finance Letters that would add another 25 positions to the Department's budget. In discussions with Committee staff, the Department indicated that up to 112 new positions might be needed over the long term to fully address all audit issues – the Department of Finance indicates that it will continue to work with the department to produce a comprehensive staffing analysis and plan, and the 2008-09 Governor's Budget will include additional adjustments as warranted. *(Note, for brevity the net increase of 2 positions in the January Governor's Budget via BCP #1 [extension of 3 limited-term positions & $342,000] and BCP #2 [addition of 2 new positions & $159,000] are not included in the issues below –those are included in the Governor's Budget and can be approved without a vote)*.

Context for Funding Discussion: Statute requires Corporations to reduce its fund balance to maintain a fund balance not to exceed 25 percent of annual expenditures. The Governor's Budget indicates the State Corporation Fund would end 2006-07 with a reserve of $9.0 million. Additionally, there is a loan outstanding to the General Fund of $18 million.

Issues for Discussion / Vote

1. **Lender-Fiduciary Program: Staffing Augmentation (May Finance Letter #1**). The Administration requests $2.3 million (special fund) and 18.0 new Examiner positions in the Lender-Fiduciary Program which would be allocated to the following sub-programs: 3.0 positions for the California Deferred Deposit Transaction Law (CDDTL) – which includes "pay-day lenders;" 11.0 positions for Escrow Law (Escrow); and 4.0 positions for the California Residential Mortgage Lending Act (CRMLA). The Examiner positions will help address the substantial increase in workload associated with statutorily-mandated examinations, provide an adequate level of industry regulation, and help ensure consumer protection against lending and financing fraud. While these new positions represent a large improvement from the number included in the Governor's Budget, the Administration indicates that more positions will likely be needed in future budgets to fully meet all statutory audit requirements.

   Staff Comment: At the past hearing, the Subcommittee had expressed particular concern about the payday lending industry, which is part of the CDDTL program (3.0 new positions are requested). The payday lending industry has only been licensed and audited by the department since 2004-05, and the number of licensees has grown by 30 percent since then. Statute requires that Corporations audit each payday lending business not less than once every two years. Discussions with the department suggest that addition Examiners (beyond this May Finance Letter) will be needed to meet all statutorily-required audits. While the Department might not realistically be able to address all staffing deficiencies in a single year, the Subcommittee may want to consider fully staffing the audit function for the payday-lending industry. Staff believes an augmentation of 5.0 positions (and related funding) should allow the department to staff to a level that would provide the consumer protections outlined in statute.

   Staff Recommendation: Approve the May Finance Letter, but add an additional 5.0 Examiners and $648,000 (special fund) to fully meet statutory audit requirements for the payday lending industry.

2. **Enforcement: Staffing Augmentation (May Finance Letter #2**). The Administration requests $973,000 (special fund) and 7.0 additional positions (1.0 Examiner and 6.0 Counsels) to improve the Department's response time to complaints from the public and to effectively pursue those who commit predatory investment, lending and financial fraud against consumers. The Department indicates that since staffing was reduced by 40 percent in 2002-03 and 2003-04, Corporations has had to reject cases because of insufficient staff resources. The Department estimates it will have to annually reject 72 cases without investigation if current staffing is not increased. The new positions would assist in processing new complaints and prevent a potential backlog of complaints and cases. The result of obtaining the additional positions will be quicker investigations and increased chances of obtaining restitution for victims of financial crime.

   Staff Comment: As an additional measure of staffing need, the Department compared enforcement staffing to similar departments in other large states. California is proportionally understaffed relative to the other states studies – for example both Texas and California have current enforcement staff of 36 positions, but California has 283,000 licensees versus 180,000 in Texas.

As was suggested in the last issue, the staffing augmentation may not be sufficient, and additional staffing increases may be warranted in the 2008-09 budget. So the Legislature can stay informed on Corporations enforcement activities, Staff recommends the Subcommittee adopt Supplemental Report Language.

Supplemental Report Language: *The Department shall report to the appropriate fiscal and policy committees of the Legislation no later than September 1, 2007, and March 1, 2008, and every September 1 and March 1 thereafter through March 1 2011, on the Department's enforcement efforts. The report shall include, but need not be limited to, the following data from the prior six-months of enforcement activity:*

1) *The number of authorized enforcement positions and the number of vacancies.*
2) *The total number of complaints received; the number of complaints that were resolved without opening a case; the number of complaints that resulted in cases being opened and the number of cases opened that resulted in an enforcement action.*
3) *The number of complaints and cases, if any, that were rejected due to insufficient staff resources.*
4) *The average time to close an enforcement case.*
5) *The amount of consumer restitution resulting from enforcement actions and the amount of penalty or fine revenue received by the Department from enforcement actions.*
6) *The following data on specific programs as defined by California Financial Code Section:*
   a) *Section 23058: The number of citations issued by the department, a description of what the citations issued for, and a description of the violations.*
   b) *Section 23052: The number of licenses revoked or suspended and a description of the reasons for the revocation or suspension.*
   c) *Section 23051: The number of civil actions the department brought to enforce the California Deferred Deposit Transaction Law and a description of the basis of the actions.*
   d) *Section 23060: The number of contracts the department voided because a consumer was overcharged.*
   e) *Section 23050: The number of cease and desist orders the department issued against: (1) unlicensed operators or (2) licensed operators and a description of the violations at issue.*
7) *An update on how the department's efforts to "migrate" some of their enforcement techniques into the examination process is working, including the number of citations issued per this new policy, and a description of what violation for which the licensee was cited.*
8) *Each subsequent report shall include numerical data from the prior reports for comparison purposes.*

Staff Recommendation: Approve the May Finance Letter, but also adopt the suggested "placeholder" Supplemental Report Language.

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. **Community Development Block Grant (CDBG) Staffing (BCP#8).** The Administration requests $444,000 (federal funds) and 4.0 positions to better meet federal requirements for program monitoring and reporting. The primary objective of the CDBG program is that development of viable rural and small urban communities by providing decent housing and a suitable living environment, funding public works including infrastructure and by expanding economic opportunities, principally for lower income households. HCD indicates that the four additional positions would also increase the timeliness of disbursement to localities of the federal funds. This budget request was inadvertently left off the March 14, 2007, Subcommittee agenda – so this is the first time this issue is before the Subcommitttee.

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

Vote:

Issues for Discussion / Vote:

1. **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 budget trailer bill language to fully implement the 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: 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).

The Subcommittee may want to consider the following when taking action on the Prop 1C budget proposal:

- Several Senate bills are under consideration to implement Prop 1C programs, among these are SB 46 – Perata; SB 522 – Dutton; and SB 546 – Ducheny. These bills provide alternative implementing language to that included in the Administration's trailer bills.
- The Incentive Infill Grant Program is an $850 million dollar program, but only $100 million is proposed for appropriation in 2007-08, the Subcommittee may want to consider increasing that amount.
- The Housing Urban-Suburban and Rural Parks program could alternatively be placed in the Department of Parks and Recreation, since they have prior experience with administering grants for parks. Since the bond language specifies "housing-related parks grants," the Legislature may want retain a prominent role for HCD (in a coordination and advisory role) if the program is moved to the Department of Parks and Recreation.

Staff Recommendation: Staff recommends the following actions:

- Reject the Administration's Prop 1C trailer bill language and adopt placeholder trailer bill language. This action would put the trailer bill language into the Conference Committee.
- Increase the budget bill appropriation for the Incentive Infill Grant Program from $100 million to $300 million.
- Delete the $30 million appropriation in the HCD budget for the Housing Urban-Suburban and Rural Parks program.

2. **Proposition 1C Staffing and Associated Administrative Costs (BCP #3).** The Administration requests $6.4 million (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: Adjust staffing to conform to the action taken on Issue #1. If the Subcommittee adopts the Staff Recommendation for Issue #1, the Incentive Infill Grant Program staff should be augmented and the Suburban and Rural Parks program staff should be reduced. Since the implementing trailer bill language will be in Conference Committee, further adjustments to HCD staffing can be made in Conference, as warranted.

2660 Department of Transportation

Issues Proposed for Vote Only:

1. **Transfer of Fleet Management for Cars and Light Trucks to DGS (May Revision Finance Letter):** The Administration requests $912,000 (State Highway Account) to pay the Caltrans share of Department of General Services' (DGS) redistributed fleet management fees. DGS re-issued its *State of California Fleet Handbook* on January 2, 2007, which specifies that under Government Code Section 11000, all State agencies owning or leasing vehicles or other mobile equipment are subject to DGS oversight under the auspices of the State Fleet Asset Management Program. The May Finance letter would provide Caltrans a budget augmentation to pay this new DGS assessment. Staff recommends approval of this May Letter

2. **Technical Corrections to the Governor's Budget (May Revision Finance Letter):** The Administration requests adjustments to the budget bill to correct the scheduling of expenditures by budget item. Also included in the request is a shift of federal funds and State Highway Account funds to accommodate revised federal guidance on eligible expenditures. None of these adjustments change net expenditures, nor is net federal funding reduced. Staff recommends approval of this May Letter.

3. **Prop 42 – Minor Forecast Adjustments (May Revision Finance Letter):** The Administration requests a decrease of $8.6 million in 2006-07 (to $1.419 billion) and an increase of $5.4 million in 2007-08 (to $1.481 billion) in Proposition 42 gasoline sales tax revenue and proposes various adjustments to update the budget to reflect the new revenue estimates. Staff recommends approval of this May Letter.

4. **Prop 42 Loan Repayments (Governor's Budget Trailer Bill):** The Administration requests trailer bill language to amend statute to conform to the Proposition 42 loan repayment requirements of Proposition 1A, approved by voters in November 2006. Prop 1A amended Article XIXB of the California Constitution to require full repayment of Proposition 42 loans made in 2003-04 and 2004-05 to the General Fund by June 30, 2016. Article XIXB requires yearly repayments at a minimum of one-tenth of the amount outstanding on July 1, 2007. Staff recommends approval of the trailer bill language, including any technical amendments that might be warranted.

Staff Recommendation: Approve the staff recommendations for all the vote only issues listed above.

Issues for Discussion and Vote:

5. **Proposition 1B – Appropriations and Statutory Implementation (May Revision and Trailer Bill Language).** The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Prop 1B) provides for a general obligation bond issue not to exceed $19.925 billion. The May Revision of the Governor's Budget requests appropriations totaling $11.487 billion in Prop 1B bond funds, although only $4.087 billion is expected to be allocated, or committed, in 2007-08. Dollars below are in thousands.

Proposition 1B Category	**2007-08 Allocations**	**2008-09 Allocations**	**2009-10 Allocations**	**2007-08 Appropriations**	**Total 1B Amount**	**Budget**
Corridor Mobility Improvement Account (CMIA)	$610,000	$1,577,000	$1,229,000	$3,416,000	$4,500,000	Caltrans
Transit	600,000	350,000	350,000	1,300,000	3,600,000	State Trans Assistance
State Transportation Improvement Program (STIP)	739,000	799,000	274,000	1,812,000	2,000,000	Caltrans
Local Streets & Roads	600,000	300,000	150,000	1,050,000	2,000,000	Shared Revenues
Trade Infrastructure	202,000	302,000	302,000	806,000	2,000,000	Caltrans
State Highway Operations and Preservation Program (SHOPP)	405,000	267,000	24,000	696,000	750,000	Caltrans
State/Local Partnership	202,000	197,000	200,000	599,000	1,000,000	Caltrans
Grade Separations	123,000	123,000	0	246,000	250,000	Caltrans
State Route 99 Improvements	16,000	109,000	302,000	427,000	1,000,000	Caltrans
School Bus Retrofit*	97,000	97,000	0	194,000	200,000	Air Resources Board
Local Bridge Seismic Retrofit	14,000	11,000	11,000	36,000	125,000	Caltrans
Trade Infrastructure Air Quality*	111,000	0	0	111,000	1,000,000	Air Resources Board
Port / Transit Security**	178,000	123,000	101,000	402,000	1,100,000	Office of Emerg Svc
Intercity Rail	190,000	74,000	128,000	392,000	400,000	Caltrans
TOTAL	**$4,087,000**	**$4,329,000**	**$3,071,000**	**$11,487,000**	**$19,925,000**	

* These Prop 1B Appropriations will be heard in Subcommittee #2

** This Prop 1B Appropriation was considered by the Subcommittee when the Office of Emergency Services was heard.

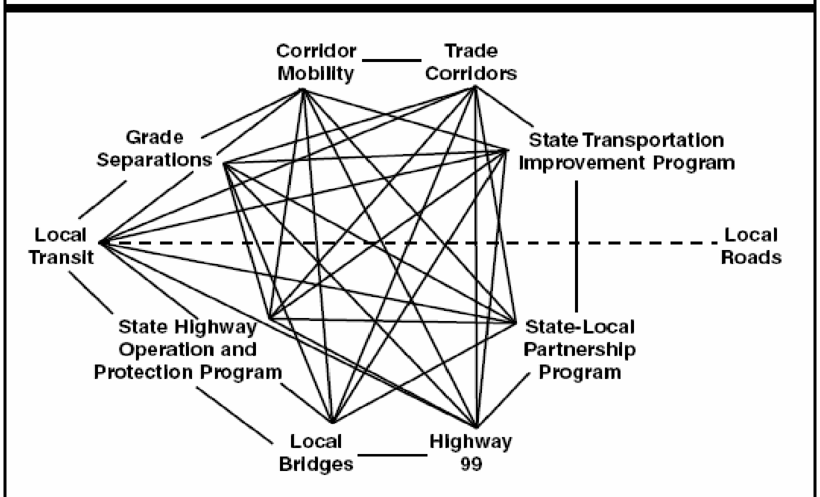
While many past bond revenues have been continuously appropriated upon bond passage, Prop 1B funds require an appropriation by the Legislature to expend the funds. The Administration is requesting an appropriation level that will cover anticipated expenditures through 2009-10. This means that the Administration would not have to come forward with a Prop 1B appropriation request in either the 2008-09 or 2009-10 budgets.

The Administration has submitted statutory changes to implement certain Prop 1B programs. Several Senate bills are also under consideration to implement Prop 1C programs, among these are SB 286 – Lowenthal & Dutton; SB 9 – Lowenthal; SB 748 – Corbett; SB 716 & SB 45 – Perata; and SB 784 – Torlakson. These bills provide alternative implementing language to that included in the Administration's trailer bill.

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). 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 Recommendation: Staff recommends the following actions:

- Reject the Administration's Prop 1B trailer bill language and adopt placeholder trailer bill language. This action would put the trailer bill language into Conference Committee.
- Reject the multi-year appropriations and appropriate only the amount identified in the May Revision for allocation in 2007-08 and delete related budget bill language.

- Adopt new budget bill language for the following bond categories that would allow the Director of Finance to augment the 2007-08 appropriations by up to 25 percent of the 2008-09 estimated appropriation need (to accommodate any projects that may be ready for allocations sooner than currently anticipated – the actual dollar estimates should be included in the budget language): CMIA, STIP, SHOPP, Route 99, Local Bridge Seismic (see above table for key to acronyms).
- Reduce the Local Streets and Roads appropriation to $400 million. The Administration proposes $600 million in 2007-08, $300 million for 2008-09 and $150 million for 2009-10. Spreading the funding more evenly across the years may allow more effective state oversight, whether that oversight is provided by the Controller or the California Transportation Commission, by reducing the number of projects for review in 2007-08 while appropriate review structures are developed. Additionally, spreading the funding more evenly across years may reduce project costs by reducing the project bubble for contractors who do local street and road work.
- Reject budget bill language that would allow the Administration to shift appropriation authority among bond programs.
- Amend budget bill language to provide the standard 3 years to allocate bond projects instead of the 4 year period requested in the January budget bill.
- Action on this issue should include the conforming action in the 2640 budget item (State Transit Assistance) where the Transit Prop 1B funding is appropriated and in the 9350 budget item (Shared Revenue) where the Local Streets and Roads Prop 1B funding is appropriated. Additionally, Provision 1 of the 9350 item specifies allocation by the California Transportation Commission, but SB 286 (Lowenthal and Dutton) specifies allocation by the State Controller – therefore, delete this provision. (This language can be further amended in Conference, as required, to conform to the final package).

6. **Proposition 1B – Administrative Staffing (May Finance Letter):** The Administration requests $13.4 million (Prop 1B bond funds) and 112.0 new three-year limited-term positions to provide administrative staffing for Prop 1B workload in the non-Capital-Outlay-Support (COS) areas. The request for COS workload, which includes engineering, review, and oversight of capital outlay projects, is requested in a separate May Finance Letter that is discussed in the following issue.

Background / Detail: The request includes the following elements:

- $5.3 million and 49.0 positions in the Local Assistance Program for workload associated with CMIA, STIP, State-Local Partnership, and Traffic Light Synchronization. (See the table included in the prior issue for a description of the acronyms.)
- $1.1 million and 6.0 positions for Program Development for workload associated with Local Bridge Seismic Retrofit.
- $3.7 million and 19.0 positions for the Mass Transportation Program for workload associated with transit, intercity rail and grade separation.
- $122,000 and 1.0 position for Transportation Planning to develop and implement Trade Corridors Improvement projects.
- $4.6 million and 37.0 positions for the Division of Accounting (31 positions), the Division of Budgets (5.0 positions) and the Division of Audits (1 position)

LAO Recommendation. The Legislative Analyst recommends a total reduction of $3.67 million and 42.4 Personnel Years (PYs) in 2007-08. (the dollar value associated with the reductions are estimates; and may need modification after further discussions with the Administration). Discussions with the Administration indicate that this request may overstate actual workload needs in 2007-08. In general, workload estimates assume that Proposition 1B programs, such as State-Local Partnership (SLP), would fund project development beginning July 1, 2007, and that Caltrans would have a role in administering Local Transit, as well as Local Streets and Roads program funds. It is likely that the Legislature would want to revisit Caltrans' personnel resource requirements in 2008-09, when workload can be better assessed. The LAO recommends the following specific reductions:

- Accounting. Reduce by 10 PYs and about $700,000. It is unclear, at this time, whether the division will need the PYs requested to address accounting workload related to the Local Transit, Local Streets and Roads, and SLP programs. This is because the Legislature has not decided whether Caltrans will be involved in administering funds for the Local Transit and Local Streets and Roads programs. Moreover, it is unclear how much accounting workload would be generated by the SLP program in 2007-08, as projects are unlikely to be selected before early 2008.

- Local Assistance. Reduce by 22 PYs and about $2 million. A large part of the estimated workload is related to implementation of the SLP program. Discussions with the administration suggest that the workload estimate assumes that 415 SLP projects are selected by July 1, 2007 and generate immediate workload by Local Assistance. Because it is highly unlikely that these projects would be selected before early 2008, we recommend reducing the administration's request.

- Mass Transportation. Reduce by 5.5 PYs and about $450,000. The administration's request for 9.5 PYs is not justified by the expected increase in workload in 2007-08. Discussions with the department indicate that the increase in workload will only likely occur if total funding to transit projects increases. Reductions in PTA revenues to transit programs as proposed in the Governor's budget will offset much of the additional workload resulting from the $600 billion in Prop 1B funds being appropriated to this program. In the past, the department has absorbed changes in workload without increasing PYs, even when funding levels have fluctuated significantly.
- Rail - Grade Separation. Accept request for 3 PYs but reject $12,000 request for out-of-state travel. The influx of Prop 1B funds in 2007-08 will increase funding for this program significantly. While it is still unclear how greatly workload will increase, the request for PYs seems reasonable. The request for $12K for out of state travel is not justified and we recommend deleting this amount.
- Rail - Procurement. Reduce by 4 PYs and about $500,000. A large part of the estimated workload would not be able to begin until after the completion of an audit of the existing rail fleet and an analysis of ridership and revenue projections. Discussions with the administration indicate that the audit will not be complete until about February 2008. Furthermore, the results of the audit and projections could impact the number and specifications of the railcars and locomotives to be purchased. Since it is unlikely that the much of the increased workload will occur prior to February 2008, we recommend reducing the administration's request.
- Planning. Delete the requested .9 PY and $8,000. Due to the small size of the request we recommend the department absorb any increase in workload with existing staff.

Staff Comment: The LAO’s recommendations provide the Subcommittee a reasonable set of actions relative to the information known at this time. Some of the workload associated with Prop 1B is dependent on how the Legislature chooses to implement certain Prop 1B programs. Overall Proposition 1B implementation will be discussed further in the Conference Committee. After the Legislature determines what statutory changes are appropriate to implement Prop 1B programs, further budget changes may be warranted for administrative staffing.

Staff Recommendation: Adopt the LAO recommendation – reduce the Administration’s request for $13.4 million and 112.0 new positions, by $3.67 million and 42.4 personnel years.

7. **Capital Outlay Support (COS) (May Finance Letter).** The Administration requests an augmentation of $206 million (various funds including Prop 1B bond funds), a reduction of 100 state staff positions, and an increase of 595 contract-out resources. This request would result in total COS resources of $1.8 billion and 13,121 full-time equivalents (FTEs) composed of 10,515 state staff, 668 FTEs of state-staff overtime, and 1,938 FTEs of contracted staff resources. Included in the request is funding of $63.2 million to fully fund the cost of existing state staff – Caltrans indicates it is underfunded for position costs, and has been forced to maintain higher vacancies at the beginning of each year to produce savings. The request indicates that 640 FTEs are associated with Prop 1B COS workload, along with about $119 million in Prop 1B funds.

Background / Detail: Every year, there is significant discussion between the Administration and Legislature concerning the appropriate split of COS workload between state staff and contract resources. There is also debate over the relative cost of state staff versus contract resources. The numbers assumed by the administration in compiling the budget request are that state staff cost $126,000 (including all benefits and the standard cost of operating expenses and equipment) and contract out resources cost $209,000 per FTE. However, Caltrans argues that additional overhead are associated with state staff that might appropriately increase the cost of state staff to $150,000 for comparison purposes. For budgeting purposes, staff recommends the Subcommittee consider the cost of state staff at $126,000 and contract resources at $209,000 per full time equivalent – the number used by the Administration in the budget request. For comparison purposes, the following "Full Time Equivalent" chart was developed, with assistance from Caltrans.

Year	State Staff	Overtime	Contract Out	Total
1988-89	6,796.2	292.0	1,047.0	8,135.2
1989-90	7,072.3	310.0	937.0	8,319.3
1990-91	7,901.5	352.9	1,207.0	9,461.4
1991-92	8,789.2	379.4	1,305.0	10,473.6
1992-93	8,760.6	379.4	1,285.0	10,425.0
1993-94	8,696.0	305.0	855.0	9,856.0
1994-95	8,394.0	299.0	801.0	9,494.0
1995-96	7,782.0	298.0	803.0	8,883.0
1996-97	7,164.0	298.0	1,306.0	8,768.0
1997-98	7,538.0	351.0	1,176.0	9,065.0
1998-99	9,434.2	691.5	921.0	11,046.7
1999-00	9,854.3	546.0	592.0	10,992.3
2000-01	10,565.3	821.9	1,159.0	12,546.2
2001-02	11,072.0	650.0	1,646.0	13,368.0
2002-03	10,803.0	650.0	1,382.0	12,835.0
2003-04	10,245.0	303.0	500.0	11,048.0
2004-05	10,651.0	699.0	1,070.0	12,420.0
2005-06*	11,200.0	710.0	1,568.0	13,478.0
2006-07*	10,638.0	636.0	1,410.0	12,684.0
2007-08 Proposed	10,515.0	668.0	1,938.0	13,121.0
Long-run average %	**85%**	**4%**	**10%**	
2006-07 (at Budget Act)	**84%**	**5%**	**11%**	
2007-08 (Proposed)	**80%**	**5%**	**15%**	

* At the time of the Budget Act - excludes mid-year adjustments

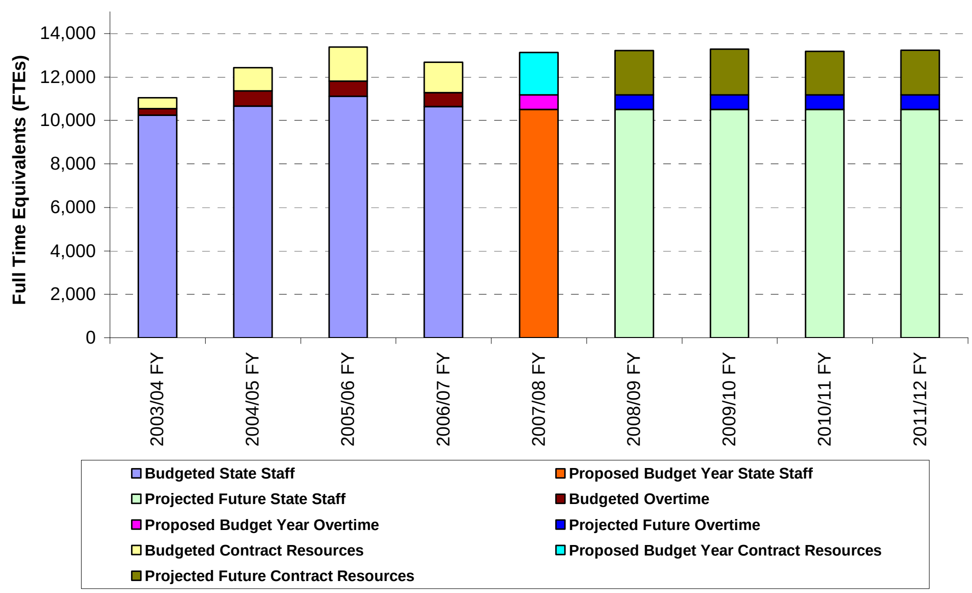
LAO Recommendation: The Legislative Analyst believes that the total level of personnel resources requested by the department is reasonable, and appropriate mix of state staff versus contracted resources is a policy decision for the Legislature. The LAO offers another option for budgeting Prop 1B bond funds:

> Option for Budgeting State Operations Funds. Currently, the administration proposes to fund state operations activities related to Proposition 1B implementation through individual appropriations by each Proposition 1B account. These state operations activities include the COS resources requested in this issue, as well as the administrative resources requested in issue 201. Discussions with the administration indicate that it is very difficult to estimate the exact level of funding that should be appropriated from each account to state operations activities related to Proposition 1B. This is because some programs have yet to be fully developed and thus, the exact amount of state resources required to administer programs and provide capital outlay support are unknown. To address this uncertainty, the administration request flexibility to transfer state operations appropriations between programs. (While this provides the needed flexibility, it also creates additional workload for the department to track movement of expenditure authority among Prop 1B accounts. Over time, this workload can become unwieldy and very cumbersome.)
>
> Recognizing this uncertainty, we are offering an alternative approach for budgeting state operations expenditures of Proposition 1B funds. The Legislature may want to consider creating a separate, consolidated Proposition 1B account designated for state operations expenditures. Under this option, the budget would transfer a specified percentage of funds from each Proposition 1B account into the new consolidated state operations account rather than making separate appropriations for state operations items from each Proposition 1B account.
>
> Some advantages to this approach include:
> (1) Cleaning up budget bill language by simplifying state operations appropriations and deleting flexibility provisions;
> (2) Saving time for the administration in tracking state operations activities (it would be much simpler to estimate total Proposition 1B state operations expenditures than to track what percentage of hours is attributable to a specific account);
> (3) Increasing accountability by limiting the total percentage of Proposition 1B funds spent on state operations to a percentage that the Legislature finds acceptable.

Staff Comment: By whatever measure is chosen, state staff are less expensive that contract-out staff. However, it is beneficial to maintain a certain level of contractor work to even out the peaks and valleys in workload across the state and in individual districts, and to prevent the need for layoffs when the workload drop is dramatic. Additionally contract staff may be desirable where unique experience is needed for a specific project. As the table indicates, the Administration is requesting a higher-than-average level of contract staff and a lower-than-average level of state staff. Given the $83,000 cost difference between state staff and contract staff (based on how Caltrans budgets the costs), adjusting the budget back to the long-run average of 90 percent state resources and 10 percent contract resources (by shifting 595 contract FTEs back to state staff) would result in a savings of about $50 million.

Shifting 595 contract resources to state staff (a net increase of 467 state staff relative to the 2006 Budget Act level) would seem feasible from the perspective of recruiting (relative to past staffing increases as displayed on the table). While bond workload may represent a bit of a workload boom, the *draft* long-term workload estimates provided by Caltrans do not suggest a dramatic drop in overall workload anytime in the next five years (state staff is the bottom bar, state staff overtime is the middle bar, and contract work is the top bar).

Chart 3 - Historic, Budget Year and Projected Future Capital Outlay Support Resources



The LAO recommendation on setting up a new account for Prop 1B state operations expenses merits additional discussion. Since Prop 1B issues will be further discussed in Conference, staff recommends no action on that LAO proposal at this time.

Staff Recommendation. Shift 595 contract resources to state staff to achieve a savings of approximately $50 million. Direct staff to work with the Administration to primarily shift workload funded by the State Highway Account (SHA) and federal funds (instead of Prop 1B funds or other funds) – this will produce SHA savings that could be used for needed maintenance or State Highway Operation Protection Program (SHOPP) projects.

8. **Shift Public Transportation Account Revenues to Pay General Fund Obligations (Governor's Budget).** The Governor's January Budget proposed 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.

Based on a revised revenue forecast, a May Revision Finance Letter proposed to increase the amount of this shift to $1.3 billion, with an additional shift of $200 million to Home-to-School Transportation.

Background / Detail: The PTA will receive an estimated $827 million in "spillover" funds in 2007-08 – up from the revised estimate of $551 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, and also expend non-spillover PTA revenues. 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. The California Transportation Commission (CTC) indicates that some portion of the $568 million in mass transit projects programmed for 2007-08 allocations in the State Transportation Improvement Program (STIP), will have to be shifted to Prop 1B bond funds, or other STIP funding sources that would otherwise be available for highway projects. The proposal would represent a major reduction in what local transit agencies would otherwise receive for operations in 2007-08 (current statute directs half of the spillover, or about $414 million to local transit agencies – see also the State Transit Assistance budget later in this agenda).

The Administration proposes 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 indicated the Administration's January plan for Home-to-Schools portion of this proposal involved the "re-benching" of Proposition 98, which was likely unconstitutional. An April Finance Letter revised the Home-to-Schools proposal such that the PTA funding reimbursed the General Fund cost and Prop 98 would not be rebenched – the LAO indicates that the revised Home-to-Schools proposal is also legally unworkable.

Staff Recommendation: Reject this proposal, including related trailer bill language. While this proposal might be further discussed in the Budget Conference Committee or final budget negotiations, the proposal raises many concerns that remain unaddressed at this time.

9. Non-Article XIX Funding (Trailer Bill Language). The Administration proposes to amend statute to permanently retain approximately $65 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).

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: If the Subcommittee accepted the Staff Recommendation on the prior issue and rejected the shift of $1.3 billion in PTA funds to support General Fund obligations, the Administration proposal to retain non-Article XIX in the SHA for 2007-08 would appear warranted. The SHA funds maintenance and SHOPP activities that are constrained due to SHA cash balances. However, staff recommends the Subcommittee consider this shift on a one-time basis and not delete Section 183.1 of the Streets and Highways Code.

Staff Recommendation: Reject the Administration's trailer bill language to repeal Section 183.1 of the Streets and Highways Code, which directs the annual transfer of non-Article XIX revenues from the SHA to the PTA. Adopt budget bill language to allow non-Article XIX funds to be retained in the SHA in 2007-08 (only), notwithstanding Section 183.1.

10. **Allocation of Tribal Gaming Revenue (Governor's Budget and April Finance Letter):** The January Budget Bill included new budget bill language to track expenditure of tribal gaming money that is received from five tribes pursuant to gaming compacts ratified in 2004. The State is receiving about $100 million annually from these tribes for transportation. The revenue stream was originally intended to support bonds, but litigation has delayed the issuance of bonds and the revenue stream is available for transportation expenditures pending resolution of legal issues for the bond issuance. The revenue supports the repayment of transportation loans made to the General Fund prior to 2003-04. The April Finance letter made modifications to the proposed budget bill language as follows:

Budget Bill Language *- Provision 5 of Item 2660-302-0042. The funds appropriated in this item include $100 million attributable to the tribal gaming revenue collected and deposited in the State Highway Account pursuant to Section 63048.65 of the Government Code. These funds shall only be available for pavement rehabilitation projects programmed in the State Highway Operation and Protection Program (SHOPP), and shall not supplant any other funding available for SHOPP. The first $100 million of the SHOPP projects allocated using the appropriation provided by this item shall be funded from tribal gaming revenue deposited into the State Highway Account. The Department shall monitor the allocation and expenditure of these funds and report on their status upon request of the Department of Finance.*

Staff Comment: The tribal revenue is available to repay loans to both the Public Transportation Account (PTA) and State Highway Account (SHA), although existing statute directs that the SHA be repaid first. If the Subcommittee accepted the staff recommendation on the earlier issue and rejected the shift of $1.3 billion in PTA funds to support General Fund obligations, the Administration proposal to direct the tribal revenue to the SHA (instead of the PTA) seems warranted. The SHA funds highway maintenance and SHOPP activities that are constrained due to SHA cash balances. No concerns have been raised with the revised budget bill language. Staff understands the tribes are supportive of the language because they would like to know what transportation projects the tribal revenue is supporting.

Staff Recommendation: Approve the April Finance letter that requests the revised budget bill language and directs the tribal revenue to the State Highway Account.

11. **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 operate 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.

Background / Detail: This issue was heard by the Subcommittee at the March 29, 2007 hearing and rejected. One factor in the rejection was that the Office of Emergency Services (OES), which chairs the Public Safety Radio Strategic Planning Committee (PSRSPC), had not released the annual Statewide Integrated Public Safety Communications Strategic Plan that was due January 1, 2007. The OES has since released the plan and it was discussed at subsequent Subcommittee hearings on April 11 and May 10. At the May 10 hearing, Caltrans Director Will Kempton requested the Subcommittee reconsider the Caltrans proposal now that the OES plan has been submitted and discussed in the Subcommittee.

Staff Comment: The Caltrans proposal was discussed at the May 10 hearing in the context of the California Highway Patrol (CHP) ongoing radio project and the PSRSPC plan for radio interoperability. The Caltrans proposal is narrowly focused on highway corridors and does not attempt to add broad geographic coverage like the CHP system. Due to the limited scope, the Caltrans system is less expensive. The project would include updated portable and mobile equipment that would improve interoperability with the CHP and other public safety entities.

Staff Recommendation: Rescind the prior vote and approve the Caltrans radio request.

12. Corridor System Management Plan (May Revision Finance Letter): The Administration requests a two-year appropriation of $9.67 million, $4.888 million in 2007-08 and $4.78 million in 2008-09, for contracting costs associated with the development of corridor system management plans. Caltrans proposes to develop a plan for each of the corridors in which a Corridor Mobility Improvement Account (CMIA) project has been funded. Specifically, the funds would be used to develop micro-simulation models of each corridor.

LAO Recommendation: The Legislative Analyst recommends the Legislature provide only a single year appropriation of $4.888 million and adopt SRL to report on progress of proposed work and its benefits.

There is a current-year appropriation of $5 million for the first phase of the micro-simulation project to identify and simulate strategies to manage certain traffic corridors for congestion. Discussions with the department indicate that due to delays this first phase has not yet been implemented and contracts will not be awarded for the computer simulation efforts until the end of May. Given this progress (or lack of progress), it is unlikely that the department will award contracts for the full amount requested for the next two fiscal years. Depending on progress, the Legislature can appropriate the requested $4.78 million for 2008-09 in the 2008-09 budget.

LAO Supplemental Report Language:

By April 1 of 2008, the Department of Transportation shall report to the Joint Legislative Budget Committee, the fiscal subcommittees and policy committees on transportation on its micro-simulation efforts in developing corridor system management plans (CSMP) with funds appropriated in 2006-07, 2007-08 and for the initial pilot project on I-880. The report shall include the following:

(1) For each corridor for which a CSMP is to be developed, provide:
- The status of the micro-simulation modeling, including the level of completion.
- The total cost of the micro-simulation modeling contract.
(2) A description of the alternatives to micro-simulation modeling.
(3) Comparison of costs and benefits of micro-simulation modeling versus other alternatives in identifying strategies for long-term corridor management.
(4) An assessment of the types of corridors that are best suited and least well suited for the use of micro-simulation modeling.
(5) A description of the accountability framework developed and the advantages and disadvantages compared to current reporting methods.

Staff Recommendation: Adopt the LAO recommendation – provide one-year funding of $4.888 million and adopt the suggested Supplemental Report Language.

13. 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.

The following chart provides a history of Bicycle Account appropriations (in millions):

Year	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08*
Appropriation	$7.2	$7.2	$7.2	$7.2	$9.2	$5.0

*proposed

Staff Recommendation: Amend Street and Highway Code Section 2106 to increase annual revenue for the Bicycle Account to $10 million and increase the budget bill appropriation to $10 million.

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 January Governor's Budget proposes total expenditures of $5.7 million and 17.6 positions for the CTC (no General Fund). The April Finance Letter increases the proposed CTC budget by $584,000 and 5.0 positions.

Discussion / Vote Issues

1. **Proposition 1B Workload - New Positions (BCP #1, April FL #1):** The Administration requests $873,000 (Proposition 1B bond funds) and 7.0 positions to perform workload associated with two components of Prop 1B. The BCP #1 request is $289,000 and 2.0 positions for the following bond programs: the Corridor Mobility Improvement Account (CMIA) and the Trade Corridor Improvement Fund (TCIF). The April Finance Letter #1 request is $584,000 and 5.0 positions for the following bond programs: State Transportation Improvement Program, the State Highway Operation and Protection Program, Local Transit, Local Streets and Roads, State-Local Partnership, Grade Separations, State Route 99, and Local Seismic Retrofit.

   LAO Recommendation: In the February *Analysis of the 2007-08 Budget Bill*, the Legislative Analyst recommended that the CTC be designated by the Legislature to perform ongoing oversight of all bond related activities. The April Finance letter adds additional CTC staff to provide oversight for the bond categories not included in the January Budget, and is consistent with the LAO recommendation.

   Staff Comment: The following are the estimated costs by bond program:

CMIA:	$194,000
Trade Corridor:	$95,000
STIP:	$220,000
Transit:	$50,000
State/Local Partnership:	$111,000
Local Bridge:	$12,000
Grade Separation:	$40,000
SHOPP:	$111,000
Local Streets and Roads:	$40,000

   Staff Recommendation: Approve the budget request for Prop 1B staffing. Further adjustments may be warranted in the Conference Committee pending the final Prop 1B package.

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.

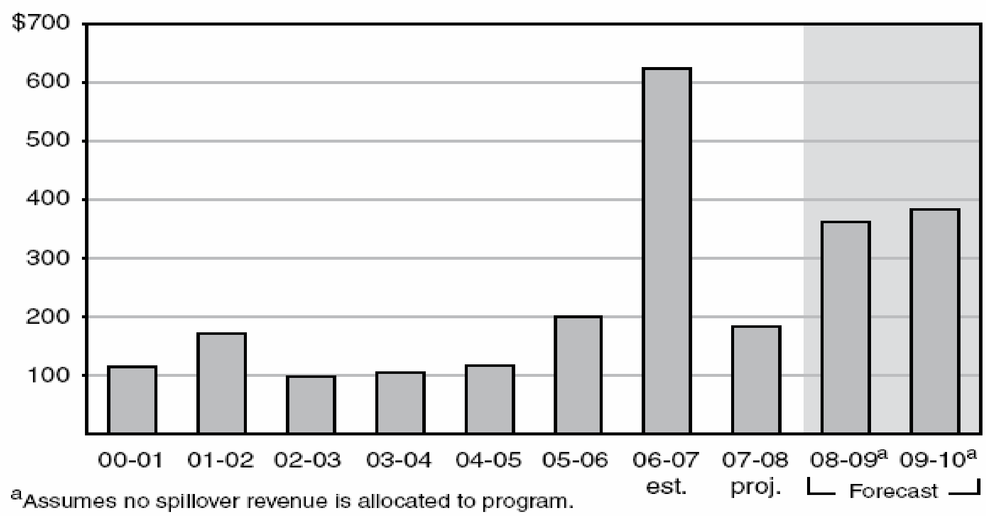
The Governor's January Budget proposed funding of $784.7 million for State Transit Assistance – an increase of $160.9 million. This proposal includes $600 million in Prop 1B bond funds and $185 million in traditional fuel sales tax funds. However, this proposal includes trailer bill language that would redirect $411 million to aid the General Fund (see Caltrans issues #8 earlier in this agenda for a complete discussion of the General Fund proposal). Absent this redirection proposal, current statue would provide for an additional $411 million for STA. The May Revision retains the overall proposal, but adjusts STA funding up by about $21 million and redirected funding up by $98 million – both due to the new fuel sales tax revenue forecast.

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 January 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 (Gov Budget and May Finance Letter – includes Trailer Bill Language).** The Administration proposes a permanent shift of "spillover" revenue from the 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 $508 million (updated for May Revision) 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 and other base revenue, would total $1.294 billion. The Administration indicates this $508 million reduction ties to an overpayment of $95 million in 2006-07 and the STA's share of 2007-08 spillover revenue, which is estimated at $413 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 $1.3 billion in Public Transportation Account revenues for General Fund relief. The overall proposal is discussed in the Caltrans section (see Caltrans issue #8).

   Staff Comment: The broader Spillover / Public Transportation Account proposal is an issue in the Caltrans section of this agenda. The action taken for this issue should conform to the action on that issue. Staff concurs with the calculated overpayment of $95 million in 2006-07. The intent of the 2006 Budget Act was to provide STA 80 percent of specified revenue, not a specified dollar amount, as is described in budget trailer bill SB 1132 (Chapter 56, Statutes of 2006). However, because language in the Budget Bill (AB 1801 and AB 1811) was not amended to reference the changes in SB 1132, the State Controller overpaid the STA in 2006-07 by about $95 million.

   Staff Recommendation: Conform to the action taken on the Governor's proposal to shift $1.3 billion in PTA funds to General Fund obligations (see Caltrans issue #8). If that proposal was rejected, the conforming action would be to augment the STA budget by $434 million ($21 million for the revenue adjustment in the May Revision and $413 million to add back STA's statutory share of spillover revenue). Reject the proposed trailer bill language to redirect the spillover revenue, but approve the language to correct for the Controller's overpayment in 2006-07.

2665 High-Speed Rail Authority

The California High-Speed Rail Authority (HSRA) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The total cost to build the entire system was most-recently estimated at $37 billion.

The January Governor's Budget proposed $1.2 million and 6.5 positions for the HSRA, a decrease of $13.2 million and no change in positions. Last year the Legislature augmented the HSRA budget by $13 million and 3 positions to: (1) complete the draft environmental impact report for the Central Valley to San Francisco Bay Area route; (2) complete a financing plan to be submitted to the Legislature no later than May 1, 2007; and (3) commence site-specific environmental work, right-of-way acquisition, and identification of necessary grade separations to improve and preserve rail corridors. Current law provides for a proposition on the November 2008 ballot to provide $9.95 billion in general obligation bonds for the high-speed rail and related rail projects; however, the Governor proposes to delay this bond vote indefinitely.

1. **High Speed Rail Project Implementation (Report from HSRA).** The HSRA was provided $13.0 million in the 2006 Budget Act to begin project implementation, including project-specific environmental work, right-of-way acquisition, and identification of necessary grade separations to improve and preserve rail corridors. In a report to the Legislature dated March 8, 2007, the HSRA indicated that an additional $103.3 million would be needed in 2007-08 (above the $1.2 million in the Governor's Budget) to continue implementation of the project. Funding at the $103.3 million level assumes the state is proceeding to construction of the project, with additional funding to come from the 2008 $10.0 billion ballot measure or other funding mechanisms. The total cost of the project was most-recently estimated at $37 billion. The expenditure plan from the HSRA report is outlined in the table below ($ in thousands):

Description	2006-07 Budget Allocation	2007-08 Budget Request*
Financing Plan	$750	$500
Visual Simulation	1,000	750
Program Management	3,094	12,000
Los Angeles - Orange County (Prelim Engr & EIR/EIS)	2,500	4,500
Los Angeles - Palmdale (Prelim Engr & EIR/EIS)	2,600	15,000
Los Angeles - San Diego (Prelim Engr & EIR/EIS)	900	7,000
Palmdale - Fresno (Prelim Engr & EIR/EIS)	1,100	11,000
Fresno - Sacramento (Prelim Engr & EIR/EIS)	500	5,000
San Francisco - Merced (Prelim Engr & EIR/EIS)		10,000
Right-of-Way Purchase		37,000
Land Use Planning	200	100
Program Management Oversight		150
3.0 New HSRA Staff		250
Bay Area - Central Valley "Next-Tier" EIR/EIS	350	
Total	**$12,994**	**$103,250**

* Amounts are HSRA Board requests beyond funding included in the Governor's Budget.

Staff Comment: As was indicated on the prior page and above, the Financing Plan due May 1, 2007, has been delayed to 2007-08. Therefore, the Subcommittee does not have information on expenditures and funding options beyond 2007-08. However, the table above indicates how the HRSA would continue implementation of the project in 2007-08 if $103 million in new funding is provided.

Staff Recommendation: If the Subcommittee rejected the Governor's proposal to shift $1.3 billion in PTA funds to General Fund obligations (see Caltrans issue #8), staff recommends using some of this additional Public Transportation Account (PTA) funding to augment the HSRA budget. Augment the HSRA budget by $40 million (PTA) – this action would put the HSRA into the budget Conference Committee where the level of funding can be further reviewed and budget bill language developed to specify authorized expenditures.

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 January Governor Budget proposed $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 Discussion and Vote:

1. **Motor Carrier Safety Program (BCP #7 & Trailer Bill Language / Administration Revisions).** The Governor's Budget requested a permanent increase of $7.7 million to augment staffing 67.9 positions (60 Motor Carrier Specialists and 11.5 support positions). The Administration indicated this would 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.

   March 14, 2007 Hearing. At the March hearing, the CHP indicated that they were modifying their fee proposal and asked that the Subcommittee keep the issue open.

   Revised CHP Proposal: The CHP indicates that they have continued to work with industry to address concern about a fair distribution of fees, while also maintaining the amount of revenue necessary to provide for a self-supporting program. The revised fee structure is expected to increase program revenue from the $8.2 million received in 2005-06 to $14.8 million in 2007-08 (and to $18.1 million in 2009-10 and ongoing). The CHP has also revised the schedule to hire new staff, as such the new incumbents are hired at multiple times in 2007-08 and also in 2008-09. The new hiring schedule reduces 2007-08 costs from the $7.7 million in the Governor's Budget to $3.4 million in the revised proposal. The existing fee schedule is $400, except for very small operators that pay $100. The new proposed fee schedule (table below) provides revised fee groups based on the size of the terminal fleet.

<u>Terminal fleet size</u>	<u>Required fee per terminal</u>
<u>1</u>	<u>$270</u>
<u>2</u>	<u>$375</u>
<u>3 to 8</u>	<u>$510</u>
<u>9 to 15</u>	<u>$615</u>
<u>16 to 25</u>	<u>$850</u>
<u>26 to 50</u>	<u>$1,040</u>
<u>51 to 90</u>	<u>$1,165</u>
<u>91 or more</u>	<u>$1,870</u>

In addition to the fees outlined above, the motor carrier shall submit an additional $350 for each of their terminals not previously inspected under this program.

Staff Recommendation: Approve the revised funding, staffing, and fee levels, including the adoption of revised trailer bill language.

2. **CHP's Enhanced Radio System (May Finance Letter).** The Governor's January 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 had total costs originally estimated at $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. The report was submitted in April and indicates some major cost escalations. The report indicates that the CHP intends to down-scope the project instead of requesting additional funds. This revised project proposal was discussed at the May 10 hearing, but action was held pending receipt of the anticipated May Finance Letter. The May Letter requests a reversion of $16.4 million in 2006-07 funding (from $56.9 million to $40.2 million). The CHP also indicates the 2007-08 cost estimates have fallen as a result of the down-scoped project – the 2007-08 budget should be reduced by $10.3 million (from $108.0 million to $97.7 million).

   Staff Comment: The CHP's annual report and their revised radio plan were discussed extensively at the May 10 hearing. The May Revision Letter to revert some 2006-07 funds and the additional request to adjust 2007-08 funding are consistent with the discussion at the May 10 hearing.

   Staff Recommendation: Approve the May Finance Letter to revert $16.4 million in 2006-07 funds, and additionally reduce 2007-08 funding by $10.3 million to conform to the revised CHP cost estimates.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Mike Machado, Chair
Senator Robert Dutton
Senator Christine Kehoe

Tuesday, May 22, 2007
10:00 a.m.
Room 2040
Consultant: Bryan Ehlers

"B" AGENDA

Item Number and Title **Page**

(continued on following 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.

Appendices

A Trailer Bill to authorize direct transfer to the State Controller of payment for services rendered under the California Automated Travel Reimbursement System program

B STO Description of New General Fund Revenue

C Technology Identification and Development of a Collaborative Strategy—April 27th, 2007 letter from the Fed/State Partnership to the Legislative Analyst's Office

Departments with Issues Proposed for Vote-Only

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 ISSUE:

1. 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 Subcommittee denied this BCP at the March 8, 2007, hearing; however, the Chair requested additional workload data and indicated the issue might be reconsidered at a later date. The OPR subsequently responded to the Chair with a letter addressing the Subcommittee's concerns.

Staff Recommendation: RESCIND the previous action and APPROVE as budgeted.

VOTE:

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 ISSUE:

1. May Revise Letter: Funding to Conduct the February 2008 Presidential Primary Election. The SOS requests $11.7 million (General Fund) to fund the additional costs associated with Chapter 2, Statutes of 2007 (SB 113), which requires a presidential primary election be held in February 2008. The funds would be used to provide California voters with an adequate supply of voter registration cards (VRCs) and state ballot pamphlets, and to conduct election night reporting and provide state support (including overtime for staff to gather and post the election night results).

Staff Comments: Historically, the SOS has conducted one statewide election per fiscal year; however, SB 113 requires a presidential primary in February 2008 in addition to the statewide primary election to be held in June 2008. The requested funding is based on the SOS's best estimates of the length of the ballot pamphlets and the number of VRCs that will be needed. Staff notes that the final cost of the election is highly contingent upon two factors that are subject to change: (1) the length of the ballot pamphlet—which is contingent upon the number of initiatives that qualify for the ballot and will not be known until 85 days before the election; and (2) the number of VRCs needed—which depends largely on the magnitude and extent of voter outreach activities. Therefore, a supplemental appropriation may eventually be necessary to fully fund the election.

Staff Recommendation: APPROVE the request.

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 in 2005-06 to make local governments whole for the Vehicle License Fee "Gap Loan."

VOTE-ONLY ISSUE:

1. Trailer Bill Language: Technical Amendment to Booking Fee Statute.

Staff Comments: Due to an inadvertent deletion of code section, under existing statute the County of San Diego would receive booking fee payments twice—once from the state and once from the City of San Diego. Trailer Bill Language should be adopted to fix the statute so that the City of San Diego pays the County of San Diego and the state reimburses the City of San Diego for the booking fees.

Staff Recommendation: APPROVE Trailer Bill Language.

VOTE:

Departments with Issues Proposed for Discussion

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. April Finance Letter: California Child Support Automation System (CCSAS) Audits. The SCO requests 2.0 one-year, limited-term positions and $192,000 (Reimbursement Authority) to fulfill CCSAS responsibilities.

2. Trailer Bill Language: Direct Transfer of California Automated Travel Reimbursement System (CalATERS) Payments to the SCO. The Administration proposes trailer bill language (see Appendix A) to authorize direct transfer to the SCO of CalATERS payments (from departments).

STAFF RECOMMENDATION ON VOTE-ONLY ISSUES 1 and 2: APPROVE as requested.

VOTE:

DISCUSSION ISSUES:

1. 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 was heard previously and the Chair held it open to provide maximum opportunity for the collective bargaining process to work. To date, the SCO indicates the DPA has approved the proposed auditor salary increase, and all other departments who use this classification plan to absorb the additional costs. However, staff notes that the salary increase has not received final union approval.

Staff Recommendation: DENY the request.

VOTE:

2. May Revise Letter: Human Resource Management System (HRMS) – 21st Century Project. The SCO requests a one-year limited-term position, a $996,000 General Fund increase, and a $536,000 reduction in Federal Funds to support the HRMS project. Changes in project funding prohibit the SCO from charging the Federal Government for a portion of the application development costs prior to implementation; therefore, the SCO must reduce Federal Funding by $536,000 in 2007-08, and increase General Funding correspondingly. The remaining $460,000 requested would fund: (1) a Project Communications Manager ($93,000); (2) retention pay for staff on the HRMS project ($67,000); and (3) one-time training room build-out costs ($300,000). The SCO also proposes the following provisional language:

> 16. *The Director of Finance may authorize a decrease in expenditures for this item to reflect the final outcome of the retention pay proposal for the Human Resources Management System project. The Director of Finance may authorize an expenditure decrease per this provision not sooner than 30 days after notification in writing of the necessity to decrease the item is provided to the chairpersons of the committees in each house of the Legislature that consider appropriations and the Chairperson of the Joint Legislative Budget Committee, or his or her designee.*

Staff Comments: Staff has no concerns with the proposed funding shift or the training room build-out. The fund shift is necessary based on direction from the federal government, and the build-out funding is necessary to complete the training room project.

Regarding the Project Communications Manager, staff sees insufficient justification to warrant the addition of this position. The SCO has not adequately articulated the way in which current staff fail to meet the project's communications needs, and has not demonstrated with any high degree of specificity the added value a $93,000-per-year Communications Manager would provide.

Regarding the staff retention-pay request, staff notes the same concerns as voiced above in Issue #1, insofar as the proposal has not yet been approved by the DPA. While the language proposed (above) would make funding contingent upon DPA approval, staff notes concern that similar language has not been proposed for other pay increase proposals that lack DPA approval. If the Legislature is to seriously consider such language, it should be part of a larger discussion between the Department of Finance (Finance), the Department of Personnel Administration, and the Legislature, and should be used consistently. Staff notes, that when the Subcommittee heard the Salary Increase for Staff Management Auditors issue (see Issue #1 above) on May 9, 2007, Finance was requested to return at a future hearing prepared to have just such a discussion.

Staff Recommendation: APPROVE in-part. Approve the $536,000 funding shift from Federal to General Fund and the $300,000 one-time General Fund augmentation for training room build-out costs. DENY the Project Communications Manager, the retention pay for HRMS projec staff, and the proposed provisional language.

VOTE:

0950 State Treasurer's Office

The State Treasurer, a constitutionally established office, provides banking services for State government with the goals of minimizing interest and service costs, and maximizing yield on investments. The Treasurer is responsible for the custody of all monies and securities belonging to or held in trust by the State; investment of temporarily idle State monies; administration of the sale of State bonds, their redemption and interest payments; and payment of warrants drawn by the State Controller and other State agencies.

The Governor's budget funds 226.6 positions (with 4.0 new positions) and expenditures of $24.4 million ($6.6 General Fund).

VOTE-ONLY ISSUE:

1. April Finance Letter: Expanded General Obligation Bond Program Workload. The STO requests 4.0 permanent positions and $421,000 in reimbursement authority to address increased workload and complexity associated with issuance and refunding of general obligation (GO) bonds. Voters recently approved five new GO Bond measures totaling $42.7 billion.

Staff Comments: This issue was previously held open pending additional workload data from the STO. Based on information provided subsequently, staff no longer has concerns with this proposal

STAFF RECOMMENDATION ON VOTE-ONLY ISSUE 1: APPROVE the request.

VOTE:

DISCUSSION ISSUE:

1. May Revise Letter: Augment Personal Services Funding. The STO requests a $720,000 augmentation ($216,000 General Fund and $504,000 Reimbursement Authority) to fully fund authorized positions. According to the STO, existing funding is insufficient to fund personal services costs for all authorized positions, requiring the STO to maintain a 12 percent vacancy rate (on average over the past three years) to remain within budget.

Staff Comments: The STO indicates that the existing personal services budget is inadequate because of two primary reasons:

1. *Upgraded Positions Without Corresponding Funding Increase* – Although the STO handled approximately one-third more security investment transactions and sold twice as much in bonds in 2005-06 compared to 1990-91, the net increase in total staff over those 15 years was only 3.6 positions (225.4 to 229.0). The STO indicates that the additional volume and complexity of workload during this time was primarily addressed by upgrading key positions without corresponding increases in funding.

2. *Unallocated Reductions/Employee Compensation Increases* – The department was made to absorb multiple unallocated reductions and employee compensation increases dating back to the early 1990s.

Staff notes that this request highlights a very real dilemma for the Legislature, and an analytical challenge for staff. The STO makes a relatively compelling case—one that could perhaps be made by many state agencies—that 15 years of increasing workload, innumerable position re-classes, position increases and decreases, and unallocated reductions has cumulatively rendered the department's personal services budget inadequate to cover full staffing costs. However, short of undertaking an exhaustive and comprehensive analysis to re-baseline the personal services budget for the entire department, the calculus required to determine the STO's "true" need is difficult if not impossible to know. Put another way, the data necessary to completely validate or invalidate this request is simply not available.

In the absence of historical staffing, workload, and funding data, staff weighed the logic and credibility of the STO's overall case. First, the STO demonstrates a considerable growth in workload over time (noted above) that is not matched by a commensurate increase in staff (also noted above). This lends credence to the claim that the STO has necessarily had to rely on attracting, retaining, and promoting more experienced, more highly skilled staffers (who can handle more workload per position), and partially accounts for the expansion of personal services costs over time. Meanwhile, numerous unallocated reductions have no doubt eroded the personal services budget at STO, widening the gap between costs and available resources. The data provided by the STO (see Appendix A) testifies to this gap, reflected in a vacancy rate of between 9 and 14 percent over the past three years. In terms of reasonableness, the dollars requested reflect an additional need of approximately $36,000 per each of the 20 vacant positions that would need to be filled to achieve a 5 percent vacancy rate. Finally, the STO has identified new General Fund revenue totaling approximately $3.9 million annually (described in Appendix B) that would more than offset the additional funding requested.

Staff Recommendation: APPROVE the request, and score an additional $3.9 million in General Fund revenue.

VOTE:

1730 Franchise Tax Board

The Franchise Tax Board (FTB) administers state personal income tax and corporation taxes for the State of California, collects debt on behalf of other state agencies and local entities, and performs audits of campaign statements and lobbyist reports authorized by the Political Reform Act of 1974. The FTB is tasked to correctly apply the laws enacted by the Legislature; to determine the reasonable meaning of various code provisions in light of the legislative purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view.

The Governor's budget funds 5,174.5 positions (including 240.7 new positions) and expenditures of $623.4 million ($518 million General Fund).

VOTE-ONLY ISSUES:

1. May Revise Letter: Vehicle Registration Collection Augmentation. The FTB requests 24.0 two-year limited-term positions and $1.5 million ($1 million Motor Vehicle Licensing Fee Account and $500,000 Motor Vehicle Account) to meet increasing workload demands under the Department of Motor Vehicles (DMV) Collections Program.

2. May Revise Letter: California Child Support Automation System (CCSAS) Funding. The FTB requests a $724,489 increase in reimbursement authority to continue implementation and management of the CCSAS System.

3. April Finance Letter: CCSAS, Child Support Enforcement (CSE). The FTB requests a budget year (BY) increase of $30 million (and a corresponding BY+1 decrease) in reimbursement authority to reflect a revised rollout schedule for the CSE portion of the CCSAS project. The Department of Child Support Services is already budgeted to provide the reimbursement to FTB, therefore, this request would not result in any additional General Fund expenditures.

The following provisional language is contained in the Budget Act of 2006, and the FTB proposes to add it to the Budget Act of 2007 also:

> *Notwithstanding any other provision of law, upon request of the Franchise Tax Board, the Department of Finance may transfer any amounts not fully expended in Schedule (4)—Child Support Automation, to the Department of Child Support Services to provide for unanticipated costs associated with the California Child Support Automation System project. This notification may become effective no sooner than 30 days after providing notification in writing 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 ON VOTE-ONLY ISSUES 1 through 3: APPROVE the requests.

VOTE:

DISCUSSION ISSUE:

1. Provide Contractor Funding to Support Tax Agency Information and Data Exchange Assessment. Redirect $250,000 (General Fund) to fund a contractor in support of increased data-sharing between tax agencies.

Staff Comments: At a previous hearing, on April 19, the subcommittee reallocated a total of $865,000 that was budgeted for FTB Tax Gap Efforts, with $615,000 redirected to higher payoff activities and $250,000 reserved for potential funding of the technology consultant contract for the Tax Information and Data Exchange effort.

Staff suggests approval of the $250,000 redirection, plus the following Budget Bill language for Item 1730-001-0001 (FTB):

> *Of the amount appropriated in this item, $250,000 is for the Franchise Tax Board, working with the Board of Equalization, the Employment Development Department through the Fed/State Partnership, to contract for a technology consultant to explore existing technology solutions to increase data sharing efforts and promote compliance. The consultant's work shall emphasize Technology Identification and Development of A Collaborative Strategy, as described in the memorandum of April 27th, 2007 from the Fed/State Partnership to the Legislative Analyst's Office. The FTB, through the Fed/State Partnership shall report to the Legislature by March 15, 2008 on the status of the consultant contract and work product, and shall provide an update of the list of Future Data Sharing Efforts that was provided with the April 27th memorandum.*

The letter to the LAO (described above) is contained in Appendix C.

Staff Recommendation: APPROVE the redirection of the reserved $250,000 for a technology consultant and adopt the Budget Bill Language proposed above to specify the use of the funds and to provide a report to the Legislature.

VOTE:

1760 Department of General Services

The Department of General Services (DGS) provides management review and support services to state departments. The DGS is responsible for the planning, acquisition, design, construction, maintenance, and operation of the state's office space and properties. It is also responsible for the procurement of materials, data processing services, communication, transportation, printing, and security. 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 ISSUE:

1. May Revise Letter: Department of Motor Vehicles (DMV) – Custodial Services. The DGS requests 20.0 positions and $913,000 (Service Revolving Fund) to provide custodial services to the DMV at two locations.

Staff Comments: The DMV had planned to contract for custodial services with an outside vendor, but the State Personnel Board disapproved the request and it was subsequently determined that the DGS could provide services at these locations.

2. May Revise Letter: Fuel and Ongoing Preventative Maintenance Costs. The DGS requests $364,000 (Service Revolving Fund) to permanently fund fuel and ongoing maintenance costs for an168 additional vehicles procured in fiscal year 2006-07 under Provision 3 authority.

3. May Revise Capital Outlay Letter: Food and Agriculture Building Renovation Reappropriation. The DGS requests reappropriation of $20.8 million (Public Buildings Construction Fund) to allow sufficient time for the resolution, and potential payment, of a claim brought by a contractor on this project.

4. May Revise Capital Outlay Letter: Supplemental Appropriation for Structural Retrofit of the Department of Corrections and Rehabilitation (CDCR), DVI, Tracy, Hospital Building. The DGS requests an additional $1.2 million (Public Buildings Construction Fund) because the lowest bid for this project was 31 percent over the state's original estimate. This request reflects the additional construction phase-funding needed to match the average of the three bids received.

5. State Capitol and Grounds Maintenance and Repairs. The budget includes $1.2 million General Fund and 4.5 positions to conduct repair projects in the State Capitol and maintenance needs of the barrier system in Capitol Park.

6. State Capitol Security Funding. Provide an additional $1.2 million General Fund for State Capitol security.

7. State Capitol Maintenance and Repair. Provide $750,000 General Fund for State Capitol maintenance and repair projects.

8. BCP: California Highway Patrol (CHP) Enhanced Radio System. The budget includes 14.0 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.

9. April Finance Letter: Client Radio Replacement Program. The DGS requests 33.0 permanent positions and $3.9 million ($3.2 million ongoing) from the Service Revolving Fund for implementation of public safety communications requested in 2007-08 by the Department of Transporation (Caltrans) and Department of Corrections and Rehabilitation (CDCR). All costs associated with this request would be recovered through billing to Caltrans and the CDCR.

Staff Comments: The staff recommendation is to deny the CDCR client radio replacement. If the Subcommittee approves the staff recommendation in the CDCR budget, then this issue should be reduced accordingly.

STAFF RECOMMENDATION ON VOTE-ONLY ISSUES 1 through 9: APPROVE vote-only issues 1 through 8, and conform to actions on the CHP, Caltrans, and CDCR budgets for issues 9 and 10.

VOTE:

DISCUSSION ISSUES:

1. 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 (CHP), 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—the state has no building security policy in place. 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 was not received until May 7 (requiring this issue to remain open until this May Revise hearing).

The report confirms that the CHP has conducted building security assessments in only 42 percent of the buildings (24 of 57) over the last six years. According to the DGS, these assessments were conducted in response to tenant requests, and are not part of a larger strategy to systematically evaluate state-building security needs on a common basis. However, the DGS indicates that discussions have begun between the department and the CHP to address this issue.

Questions for DGS:

1. Please describe for the Subcommittee the content of the discussions held thus far with the CHP on building security. What is the plan for next steps?
2. What end result or product does the DGS anticipate to come out of the talks with CHP, and what might this Subcommittee do to assist?

3. How can building tenants be brought into the development of security standards?

Contingent upon the responses to the above questions, the Subcommittee may wish to adopt the following Supplemental Report Language in order to ensure that the Legislature is kept apprised of developments on this issue and to allow the Subcommittee to take appropriate action during the next fiscal year's budget process:

> *No later than March 1, 2008, the Department of General Services shall provide to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees of each house of the Legislature, a report containing the following information: (1) the dates of meetings held between the department and the California Highway Patrol on the topic of state-building security; (2) minutes from each of the aforementioned meetings; (3) a summary of issues and/or problems raised in the meetings and an identification of whether they have been resolved or remain outstanding; (4) a plan for systematically assessing the security needs of state-owned buildings according to a uniform set of standards, or a timeline for developing such a plan with identification of the next steps necessary to meet the timeline.*

Staff Recommendation: APPROVE as budgeted with the Supplemental Reporting Language proposed above.

VOTE:

2. May Revise Capital Outlay Letter: Supplemental Appropriation and Request for Extension of Availability of Funds for Central Plant Renovation, Sacramento. The DGS requests an additional $82,734,000 (Public Buildings Construction Fund) and reappropriation of existing funding.

Staff Comments: This request would bring total project funding to $222 million, and reflects a 52 percent increase in costs over the original authorized budget. The DGS indicates these cost over-runs are the result of multiple factors, including the following:

1. ***Rapid escalation of costs for raw materials and labor*** – The original cost estimate was made in October 2002 and allowed for a cost escalation of 17 percent; however, the actual increase is 28 percent to date.
2. ***Escalation in pricing for design liability and construction risk*** – Since 2002, large lawsuits for design and construction deficiencies and accidents have driven up insurance premiums.
3. ***Project delay*** – The project has experienced delays in nearly every phase. Six months were lost because the state allotted insufficient funds to engage a design-builder during the proposal phase, and an additional five months was needed to obtain additional expenditure authority through the budget process. Other delays stemmed from the need to prepare separate Environmental Impact Reports due to the project's proximity to the West End Project. Finally, the DGS indicates that the initial construction duration estimate was overly optimistic and will now require an additional six months.

The cost of raw materials, labor, and liability and construction insurance, are not under the state's control, and estimating the interplay of these variables in estimating the cost of a project is an inexact science. However, to the extent project delays subject the state to greater uncertainty with regard to increasing costs for the above project inputs, it behooves the state to budget in a manner that will reasonably avoid delays. Staff notes that nearly a year was lost on this project because of insufficient funding, during which time the cost increases noted above “cascaded.” Some of these additional costs might have been avoided had project funding been sufficient to engage a design-builder immediately.

The Subcommittee may wish to inquire of the DGS and DOF about the margin of error built into large capital outlay projects when cost increases are built into cost estimates.

Questions for DGS/DOF:

1. What is the percent cost increase currently built into capital outlay cost estimates? Has recent experience matched these projections?
2. Would an incrementally larger cost-increase estimate (of, say, an additional 5 percent) have allowed this project to go forward without the 11-month delay?

Finally, the LAO recommends adoption of the following Budget Bill Language to ensure the requested funds are used for the proposed purpose only.

Provisions:

1. *After execution of a design-build contract, any funds provided in this item for design build contracts in excess of the executed amount of the contract shall be immediately reverted and shall no longer be available for expenditure.*

Staff Recommendation: APPROVE the request with the LAO-recommended Budget Bill Language (above).

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. May Revise Letter: Payment of New Claims. The Administration requests reappropriation of $41 million (General Fund) from the local government mandates payment appropriation in the 2006-07 Budget Act ($232.5 million). This reappropriation is requested to pay additional claims for costs incurred in the 2004-05, 2005-06, and 2007-08 fiscal years and to pay for the statewide cost estimates for two newly determined mandates. Most of these claims are for costs incurred in 2004-05. This reappropriation would be available for expenditure for two years. Payment of these claims generally is necessary to avoid the suspension requirement of Proposition 1A.

Staff Comments: Although the state needs to fund the additional claims noted above, staff notes the following concerns:

1. ***Reappropriation Should Be Limited to One Year.*** There is no need to provide two-year funding for these past claims. The amount of overall outstanding mandate claims should be re-evaluated each year. Having multiple overlapping appropriations creates unnecessary complications.

2. ***Peace Officer Procedural Bill of Rights (POBOR)* Claims should *be Excluded.*** As proposed, the language of the reappropriation would authorize payment of past POBOR claims because the reappropriated item included $16 million each year for POBOR claims in 2005-06 and 2006-07. However, POBOR is not subject to Proposition 1A's suspension requirement, and remaining unpaid POBOR claims are handled as part of the annual payment of deferred mandate claims.

3. ***Existing Provisional Language Is Superfluous.*** Item 8885-295-0001 of the 2007-08 Budget Bill includes a provision allowing the Director of Finance to augment the item to pay any unpaid claims for 2006-07 mandate costs. This open-ended spending authority would not appear to be necessary in light of the proposed reappropriation. The specific language that should be deleted is Provision 1:

> ~~*If the amount in Schedule (1) of Item 8885-295-0001 of the 2006 Budget Act (Ch. 47, Stats.2006) is insufficient to pay claims for costs incurred to carry out the cited state mandates in the 2006–07 fiscal year, the Controller shall notify the Director of Finance of the amount of the deficiency and, with the approval of the director, shall augment the amount in Schedule (1). The director shall notify the Chairperson of the Joint Legislative Budget Committee and the chairpersons of*~~

~~*the fiscal committees in both houses of the Legislature prior to authorizing any augmentation pursuant to this provision.*~~

Staff Recommendation: ADOPT the reappropriation in the Finance Letter with the following modifications:

1. Limit to one year (not two).
2. Exclude POBOR from the reappropriation.
3. Delete Provision 1 in the existing Budget Bill language.

VOTE:

2. Mandate Reform Trailer Bill Language. The Administration proposed trailer bill language to reform the mandate process.

Staff Comments: The Subcommittee heard discussion on the competing Administration and LAO mandate reform proposals on March 8, and recognized the need for additional talks to identify a "compromise" reform package. However, subsequent discussions have not produced a clear plan on which the Subcommittee might take action, and the issue appears to have moved out of the budget process and into the policy process, with an LAO reform bill (AB 1576, Silva) passing out of the Assembly and currently being considered by the Senate.

Staff Recommendation: Formally DENY the trailer bill language.

VOTE:

3. Technical Cleanup Trailer Bill Language. Commission staff, along with the LAO, Department of Finance, and the State Controller's Office have been developing technical cleanup Trailer Bill Language in response to direction of the Subcommittee at its April 24th hearing. The LAO has pointed out that the current budget funding approach for mandates is not consistent with existing statutory mandate claiming and payment provisions. For example, statute calls for claims to be paid on a current basis each year, while the budget calls for 2007-08 claims to be paid in the following year, as permitted under Proposition 1A. Also, existing law calls for an annual Mandate Claims Bill, while current practice is to fund mandates through the annual Budget.

Staff Comments: Staff suggests that the Subcommittee adopt the language developed by the various staffs as placeholder Trailer Bill Language. This will enable the language to be circulated to local governments, education organizations, and other interested parities to enable any errors, omissions, or unintended effects to be corrected.

Mandate Reform (in contrast to technical cleanup) is being addressed in legislation through the policy process.

Staff Recommendation: ADOPT DOF mandate technical cleanup language as placeholder Trailer Bill Language.

VOTE:

8940 Department of the Military

The California Military Department (CMD) 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 CMD 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 CMD 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 ISSUE:

1. May Revise Capital Outlay Letter: Minor Projects. The Department of the Military requests budget authority to reappropriate funding ($391,000 General Fund) for the department's minor capital outlay projects (e.g. kitchen, latrine, and lighting upgrades) funded in the Budget Act of 2006. The Military Department utilizes the Army Corps of Engineers (Corps) to design and manage these projects; however, the Corps was unavailable for this project in 2005-06 due to Hurricane Katrina (requiring reappropriation for 2006-07) and were in high demand again in the current fiscal year because of the war in Iraq.

STAFF RECOMMENDATION ON VOTE-ONLY ISSUE 1: APPROVE the request.

DISCUSSION ISSUE:

1. May Revise Capital Outlay Request: Headquarters Complex. The Department of the Military requests budget authority to reappropriate funding ($775,000 General Fund) for the acquisition phase of the department's new headquarters complex (to be located on 30 acres at the former Mather Air Base). The Military also proposes the following Budget Bill Language to allow the State Public Works board to augment the acquisition phase-appropriation by up to 30 percent:

> *1. Notwithstanding Section 13332.11 of the Government Code, the State Public Works Board may augment the amount appropriated for the Consolidated Headquarters Complex project in Schedule (1) of Item 8940-301-0001, Budget Act of 2006, by up to 30 percent. Upon the receipt of future Budget Act authority for this project, the cumulative amount augmented may not exceed 20 percent of total appropriations.*

Staff Comments: According to the Department of Finance, this reappropriation is not strictly necessary because there are still two years remaining to encumber the original capital outlay appropriation. However, the reappropiation item is requested as a technical means of ensuring that the proposed provisional language is applied only to this project (and not other projects funded in the original item of appropriation). The provisional language is intended to ensure that adequate funds are available for the Military to secure property at the desired location (which holds many advantages for the department over other alternatives) but to still require the project to remain within the standard 20 percent augmentation cap.

The LAO notes concern that the Administration proposal could set a precedent which would encourage other departments to request similar provisional language. In this instance, an additional 10 percent would only amount to $100,000; however, if applied to larger projects in the future, this type of language could lead to millions of dollars in augmentations, greatly reducing legislative oversight of capital outlay expenditures.

Notwithstanding these concerns, the Subcommittee may wish to provide the department with the additional expenditure authority it asserts is necessary to secure acquisition of the desired project site. An alternative approach that would address both the LAO's and the Military's concern would be to increase item 8940-301-0001 by $100,000 to provide additional acquisition authority. The following schedule would ensure that the dollars were used strictly for the acquisition phase of the Headquarters Complex project:

> *((0.5) 70.22.015-Consolidated Headquarters Complex: Acquisition............ 100,000)*

Additionally, the following Budget Bill Language would tie the augmentation to the original appropriation and make the dollars easier to track in the future:

> Item 8940-301-0001
> Provisions:
>
> *XX. Funding provided in Schedule (0.5) of this item is to be used in a manner consistent with the conditions provided in Provision 1 of Item 8940-301-0001, Budget Act of 2006.*

Staff Recommendation: DENY the May Revise request, and APPROVE a $100,000 General Fund augmentation to the project acquisition phase appropriation and Budget Bill Language (as described above).

VOTE:

9618 Economic Recovery Financing Committee

The Administration proposes a $595 million supplemental repayment of Economic Recovery Bonds (ERBs) in order to fully pay them off by August 1, 2009, five months ahead of previous projections. The Administration estimates this proposal would save almost $90.9 million in simple interest and make available an additional $701 million General Fund in 2009-10 that would otherwise be used to reimburse local governments for the Triple Flip.

Staff Comments: This proposal represents a trade-off between General Fund now and General Fund later—it would significantly reduce the amount of General Fund available to address the state's most pressing needs today in order to free up a marginally greater amount of General Fund in the future. While reducing debt service generally benefits the state's bottom line in the long-run, the LAO notes that ERBs represent relatively low-cost debt and points out that extending the repayments of the ERBs would be preferable to paying them off early only to incur new, higher-cost debt (for example, pension obligation bonds). Based on the LAO Analysis, the Subcommittee may wish to deny this proposal and forego the expected debt service savings in order to meet more immediate needs like balancing the 2007-08 budget and maintaining a prudent General Fund reserve. Staff notes that in its report on the May Revise, the LAO estimates the Administration has overstated the General Fund reserve by $1.7 billion.

Staff Recommendation: DENY the proposal, and score $595 million in General Fund savings.

VOTE:

Control Sections

VOTE-ONLY ISSUES:

1. May Revise Letter: Amendment to Control Section 4.30, Lease-Revenue Payment Adjustments. The Administration requests a $4.4 million (General Fund) increase to this control section for the payment of lease-revenue debt service in fiscal year 2007-08 resulting from accelerated bond sales for the Office of Emergency Services Los Angeles Crime Lab. The control section would allow the Director of Finance to adjust amounts in appropriation items for rental payments on lease-purchase and lease-revenue bonds if budgeted costs change during the 2007-08 fiscal year. The Administration proposes to reflect the requested augmentation as a set-aside and to process an executive order once the Budget Act has been signed.

Staff Recommendation: APPROVE the request.

2. May Revise Letter: Control Section 4.85, Disposition of Remaining 1993 Series A and 1998 Series B Public Works Board Energy Bond Proceeds. The Administration proposes this control section to authorize the remaining bond proceeds from the 1993 Series A and the 1998 Series B Public Works Board Energy Bonds to be swept to the General Fund. The bond debt from these bonds has been retired and approximately $5.1 million in remaining funds have been identified as surplus.

Staff Recommendation: APPROVE the request.

3. May Revise Letter: Control Section 15.25, Appropriation Adjustments to Reflect Technology Service Rate Changes. The Administration proposes this control section to authorize the Director of Finance to adjust appropriation items to reflect cost changes resulting from mid-year adoption of new Department of Technology rate adjustment packages. The Administration estimates that the net savings from 2007 rate changes would be approximately $26.7 million statewide, including $7.3 million General Fund and $19.4 million special fund.

Staff Recommendation: APPROVE the request.

STAFF RECOMMENDATION ON VOTE-ONLY ISSUES 1 through 3: APPROVE the requests.

VOTE:

DISCUSSION ISSUES:

1. April Finance Letter: Control Section 4.04, "Price" Reduction. The Administration proposes this Control Section to allow the Director of Finance to reduce all General Fund items of appropriation by an amount not to exceed a total of $46.3 million.

Staff Comments: The Governor's Budget includes a $100 million unallocated reduction (see Control Section 4.05 below); however, the additional reduction contained in this control section was proposed when an arbitrator's ruling awarded the California Correctional Peace Officers Association an additional pay increase (on top of one already contained in the budget). The $46.3 million reduction proposed is roughly equivalent to half of the price increase granted to departments in the Governor's Budget.

Given the random havoc past unallocated reductions have wrought on departmental budgets (see STO, Discussion Issue #1 for an example), the Subcommittee may wish to minimize the impact of Control Section 4.05, by simply eliminating the price increase altogether (augmenting this proposal by $46.3 million for a total price reduction of $93 million). The following language would accomplish this purpose, and allow the unallocated reduction in Control Section 4.05 to be reduced by a corresponding amount (bringing it to $53.7 million):

> *SEC. 4.04. Notwithstanding any other provision of law, no General Fund baseline price increase adjustment shall be provided to any state department, agency, or bureau in the 2007 Budget. This section does not apply to the Legislature, Constitutional Officers, and the Judicial Branch.*

Staff Recommendation: APPROVE the revised Control Section 4.04 language (above), eliminating the price increase, and bringing the overall impact of the control section to a $93 million reduction.

VOTE:

2. Control Section 4.05, Unallocated General Fund Reductions. This Control Section is intended to generate $100 million in budget year savings through unspecified reductions in departments' budgets. The Director of Finance (Director) may provide agency secretaries with target reduction amounts and may solicit recommended reductions from the agencies, but the Director would have ultimate discretion over the amount of the reductions. Additionally, this control section places limits on the percent reduction that may be applied to any state operations or local assistance appropriation, and requires reporting to the Legislature of the final reduction amounts.

Staff Comments: See the comments above in Issue #1

Staff Recommendation: DECREASE the unallocated reduction contained in this control section by $46.3 million. The revised control section would authorize a $53.7 million unallocated reduction.

VOTE:

3. Control Section 28.00, Program Change Notification. This control section compliments Section 8.50 (see below) and authorizes the Director of Finance to augment an appropriation mid-year if unanticipated federal or other non-state funds become available provided the funding meets the following requirements: (1) the funds will be used for a purpose consistent with state law; (2) the funds are made available for a specified purpose and will be used for that purpose; (3) acceptance of the funds does not impose upon the state a requirement to commit or expend new state funds; and (4) the need exists to expend the additional funding during the 2007-08 fiscal year. The control section also specifies the circumstances under which a mid-year augmentation must be reported to the Legislature.

Staff Comments: In the fall of 2006, the Legislature hosted a Department of Finance-organized "training" department staff to clarify expectations regarding the implementation of this and other Budget control sections. At that time, legislative staff highlighted past misuse and abuse of Section 28.00 and placed special emphasis on the need to submit reports to the Legislature in a timely fashion and only for unanticipated funds. However, continued late reporting triggered a letter from the Senate Budget Committee Chair to the Director of Finance requesting the convening of a staff workgroup to discuss whether Section 28.00 should be modified to ensure appropriate legislative oversight.

Staff notes that, to date, workgroup discussions have not borne specific solutions to ensure departments notify Finance of additional federal funds in a timely manner, and Finance, in turn, notifies the Legislature in a timely manner. At this late stage in the budget process, the Subcommittee may wish to delete Section 28.00 and its counterpart, Section 8.50, in order to send this issue to conference for additional discussion.

Staff Recommendation: DELETE Control Section 28.00.

VOTE:

4. Control Section 8.50, Federal Funds Receipts. This control section appropriates any federal funds received during the budget year, subject to any provisions of the Budget Act that apply to the expenditure of the funds, including Section 28.00.

Staff Comments: See comments for Issue #6 above.

Staff Recommendation: DELETE Control Section 8.50.

VOTE:

5. Control Section 35.60, Budget Stabilization Account Transfer to the General Fund. Proposition 58, approved by the voters in the March 2004 primary election, enacted a balanced budget requirement, established a process for the Governor to declare a fiscal emergency and call the Legislature into special session to take mid-year corrective action to keep the budget in balance, and also created the Budget Stabilization Account (BSA).

Staff Comments: The Subcommittee previously deleted this control section, as did Assembly Budget Subcommittee #4. However, in acknowledgement of the fact that the LAO's analysis of the May Revise projects an insufficient General Fund reserve, the Subcommittee may wish to adopt the control section, but do so in such a way as to send it to conference for additional consideration.

Staff Recommendation: RESCIND the previous Subcommittee action and APPROVE the control section with an amendment to section (b). The revised version would change the 15 day notification period to "14 days."

VOTE:

APPENDIX B – STO Description of New General Fund Revenue

The STO is the legal custodian for securities pledged as collateral to the State by companies operating or performing a particular business or function in the State, as required by various laws under State Agencies such as the Departments of Insurance, Industrial Relations, Transportation, and the California State Universities. As Custodian since the 1940's, Citibank is responsible for holding these investments and pledged securities in separate accounts.

As custodian bank, Citibank is responsible for collecting the interest payments for bonds and securities pledged as collateral to the state from the Paying Agent and crediting the funds to the owner. Upon authorization from the STO, Citibank wires the funds to the owner. Occasionally, companies will change banks or bank accounts and not inform the STO. When this occurs, the funds are returned to Citibank, and held until the STO receives updated wire instructions from the company.

Similarly, when bonds and securities pledged as collateral are called or matured, Citibank collects the funds from the Paying Agent and credits them to the owner. The STO informs the company that the bond or security has been called or matured and that it must be replaced. The company is also informed that the bond or security is no longer earning interest. In order for the company to receive the cash, the company must replace the matured or called bond or security held as collateral with a new one. When securities pledged as collateral are called or matured, the interest payments cease and the security is converted to cash and held at Citibank until the company purchases a replacement security.

In all previous Custodial Services Agreement's, there was no mention of how to allocate the earnings of the Citibank account cash balances. When the Agreement was renewed in July 2006, additional language was added to specify that the STO would be paid interest on the cash balances until the STO received a transaction request from the company to release or exchange the funds. The calculation of the interest earned on these cash balances is: Overnight London Interbank Offering Rate (LIBOR) minus 37.5 basis points divided by three hundred and sixty (360) days.

The STO estimates that over the next 5 years (the term of the Agreement) these earnings would minimally total $15 million (an average of $250,000 per month).

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

August 27, 2007
2:00 p.m. or Upon Adjournment of Session
Room 113

Review of the Expert Panel on Adult Offender and Recidivism Reduction Programming

Overview of Report by Chair of the Expert Panel

1. *Marisela Montes,* Chief Deputy Secretary Adult Programs
California Department of Corrections and Rehabilitation

Report by Chair of Program Review Subcommittee

2. *Joan Petersilia, Ph.D.,* Director
Center for Evidence-Based Corrections
U.C. Irvine

Report by Chair of Model Program Subcommittee

3. *Joseph Lehman,* Secretary (Ret.)
Department of Corrections in the states of Washington, Maine, and Pennsylvania

Other Perspectives on and Highlights of the Expert Panel Report by Panel Members

4. *Michael Jacobson, Ph.D.*, President
   VERA Institute of Justice

5. *James Austin, Ph.D.,* President
   JFA Institute

6. *Reginald Wilkinson*, Ed.D., Director (Ret)
   Ohio Department of Rehabilitation and Corrections

7. *Barry Krisberg, Ph.D.,* President
   National Council on Crime and Delinquency

Department Response

8. *Kathryn Jett*, Director
   Division of Addiction and Recovery Services
   California Department of Corrections and Rehabilitation

9. *Marisela Montes,* Chief Deputy Secretary
   California Department of Corrections and Rehabilitation

Public Comment

If you would like to participate in public comment, please sign in with the Sergeant at Arms.

Thank you.

Senate Budget and Fiscal Review—Denise Moreno Ducheny, Chair

SUBCOMMITTEE NO. 4 Agenda

Michael Machado, Chair
Robert Dutton
Christine Kehoe

Monday, December 3, 2007
1:00 p.m.
Room 4203

Consultant: Brian Annis

Oversight Hearing: Proposition 1B Implementation

Background / Informational Presentation by:

Legislative Analyst's Office: Anthony Simbol, Principal Fiscal and Policy Analyst

Available for Questions and Comments:

California Transportation Commission: John Barna, Executive Director

California Department of Transportation: Ross Chittenden, Proposition 1B Program Manager

Department of Finance: Mark Monroe, Principal Budget Analyst

Public Comment

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.

Overview of Prop 1B Budget for 2007-08

The 2007 Budget Act and associated legislation appropriated a total of $4.2 billion, or 21 percent, of total Proposition 1B funds. The bond categories and appropriations (in millions of dollars) are as follows:

Proposition 1B Category	Total 1B Amount	2007-08 Appropriations	Allocations through Nov	Budget Entity
Categories with already-selected projects:				
Corridor Mobility Improvement Account (CMIA)	$4,500	$608	$139	Caltrans
State Transportation Improvement Program (STIP)	$2,000	$727	$413	Caltrans
State Highway Operations and Preservation Program (SHOPP)	$500	$280	$26	Caltrans
State Route 99 Improvements	$1,000	$14	$8	Caltrans
Local Bridge Seismic Retrofit	$125	$14	$14	Caltrans
Categories with formula-based allocations:				
Local Streets & Roads	$2,000	$950	$0	Shared Revenues
Transit	$3,600	$600	$0	State Transit Assistance
Categories with guidelines / project section underway:				
Intercity Rail	$400	$188	$0	Caltrans
Grade Separations	$250	$123	$0	Caltrans
Traffic-Light Synchronization	$250	$123	$0	Caltrans
Categories outside CTC / Caltrans:				
School Bus Retrofit*	$200	$193	$0	Air Resources Board
Trade Infrastructure Air Quality*	$1,000	$250	$0	Air Resources Board
Port Security	$100	$41	$0	Office of Emergency Services
Transit Security	$1,000	$101	$0	Office of Emergency Services
Categories with 2008-09 implementation (no 2007 Budget Act appropriation):				
Trade Infrastructure	$2,000	$0	$0	Caltrans
State/Local Partnership	$1,000	$0	$0	Caltrans
TOTAL	**$19,925**	**$4,213**	**$599**	

* These Prop 1B Appropriations are heard in Subcommittee #2

To date, Caltrans indicates that about $600 million has been allocated (or made available for expenditure) to project sponsors. The Administration indicates allocations should accelerate over the next 7 months such that the majority of appropriated funds should be allocated by the end of 2007-08.

Suggested Areas of Discussion

1. **Bond categories with already-selected projects.** The California Transportation Commission (CTC) has programmed individual projects for the following bond categories. Also indicated is the number and amount of project allocations in 2007-08, as planned at the time of the Budget Act:

   - **Corridor Mobility Improvement Account (CMIA)** – Allocations were planned for 9 projects in 2007-08 with allocations totaling $594 million.

   - **State Transportation Investment Program (STIP) –** Allocations were planned for 32 projects in 2007-08 with allocations totaling $804 million.

   - **State Highway Operations and Improvement Program (SHOPP) –** Allocations were planned for 10 projects in 2007-08 with allocations totaling $269 million.

   - **State Route 99 -** Allocations were planned for 2 projects in 2007-08 with allocations totaling $6 million.

   - **Local Bridge Seismic Retrofit -** Allocations were planned for 17 projects in 2007-08 with allocations totaling $17 million. (Note, most of these are "design" phase not right-of-way or construction.)

   Project Status: Caltrans and the CTC should update the Subcommittee on whether any of the projects planned for allocation in 2007-08 will be delayed until 2008-09. Secondarily, can any projects planned for allocation in 2008-09, or later, be advanced for allocation in 2007-08? What are Caltrans and the CTC doing to accelerate project completion, and what are the constraints that result in some projects not going to construction until 2012? Will Caltrans request additional 2007-08 appropriation authority for these projects (using provisional language in the 2007 Budget Act)?

   Staffing and Contracting Out: Caltrans should update the Subcommittee on hiring additional state staff and contract staff to perform design, environmental, and construction oversight activities. Caltrans estimated Prop 1B engineering workload in 2007-08 would be about 640 personnel-years. Including non-bond workload, the Legislature approved net new staffing and contract resources of about 500 personnel-years for 2007-08, with 90 percent state staff resources and 10 percent contract resources. The budget assumed these new staff resources would be quickly brought onboard in early 2007-08.

   (Continued on next page)

Staff understands that Caltrans hired 149 new Capital Outlay Support (COS) staff in the July – October 2007 period (includes both bond and non-bond). Hiring at this level only fills excess vacancies the Department had on June 30, 2007, and backfills attrition. So through October 2007, Caltrans has not made any measurable progress in hiring the 450 new staff included in the budget. Government Code 12439 requires the Controller to abolish any state position vacant for more that 6 months; therefore, many of the newly authorized positions may be abolished. Caltrans indicates that engineering service contracts are underway to expend about 85 percent of budgeted resources. Caltrans will likely enter into additional contracts which would increase the expenditure of budgeted resources – perhaps to the budgeted level.

If the Administration's May workload estimates proved accurate, the slowness in hiring would result in project delays. However, the Administration indicates that workload estimates from May overestimated the workload need. Caltrans indicates that not all individual projects were known at that time and that the mix of selected projects has a lesser workload. Additionally, construction inflation has decreased the number of projects that can be accomplished with the fixed level of bond funds. Caltrans should inform the Subcommittee on their hiring goals for the next 7 months and indicate how many positions may be abolished under the Government Code 12439 vacancy rule.

Public testimony as applicable.

2. Bond categories with formula-based allocations. Existing statute defines a formula-based allocation for the following bond categories. Also indicated is the amount of planned allocations in 2007-08, and a brief description of the statutory allocation methodology:

- **Local Streets and Roads** – The budget includes allocations of $400 million to cities and $550 million to counties. Statute specifies that cities and counties submit project descriptions to the Department of Finance (DOF), who monthly reports to the Controller on those cities and counties who have met the reporting requirement. Upon the notification from DOF, the Controller will allocate the funds. No funds have been allocated to date.

- **Transit –** The budget includes allocations of $600 million to transit operators. Statute specifies that the Controller develop a list of eligible entities and identify the amount each entity may receive. Eligible project sponsors must submit project descriptions to Caltrans, who reports to the Controller on transit operators who have met the reporting requirement. Upon the notification from Caltrans, the Controller will allocate the funds. No funds have been allocated to date.

The Department of Finance and Caltrans should update the Subcommittee on the status of project approvals and allocations for these bond categories. Staff understands that the Administration is currently working with the Treasurer and the Controller to determine bond issuance costs and fund distribution costs, so that these amounts can be deducted from the allocations. The Administration is trying to resolve these cost issues prior to developing reporting templates and reporting instructions that would allow local entities to submit their projects for review and qualification. While the Administration is hoping to resolve these administrative cost issues within the next few months, it is delaying the allocation process. The Administration may want to consider a concurrent, as opposed to sequential, process, where they allow local entities to submit their projects for qualification now, even as issues of administrative cost are still being resolved.

Note, these categories differ from the first group in that appropriated funds may be allocated “all at once” when qualifying projects are identified, instead of project by project. These may include smaller road and transit projects that can expend funds in a relatively short time.

Public testimony as applicable.

3. Bond categories with guidelines / project selection underway. The following categories have 2007-08 allocations, but the project guideline / project selection process is still underway.

- **Intercity Rail** – The budget includes allocations of $188 million for intercity rail improvements on the three rail corridors Caltrans operates with Amtrak. Budget Bill language proposed by the Administration and approved by the Legislature requires the completion of an audit prior to expenditure of funds. The language requires the audit to be completed by March 31, 2008. The audit is being performed by the Office of State Audits and Evaluations in the Department of Finance and the first phase will include, "an accurate measure of the daily average and peak ridership for each segment of Caltrans' intercity rail routes, actual existing rail equipment availability and ridership capacity, train schedules, and trainset configurations utilized to support ridership demand." The second phase of the audit will include "an accurate measure of Caltrans' methodology for forecasting future ridership and rail equipment requirements." Given the audit requirement, the first allocation will not likely occur before May or June of 2008.

- **Grade Separations –** The budget includes allocations of $123 million for grade separations. Statute requires the CTC to adopt guidelines by February 15, 2008, in cooperation with the Public Utilities Commission, Caltrans, and the High Speed Rail Authority. The CTC indicates they are on track to meet the statutory deadline and that project selection should occur in the spring with the first allocations as early as May or June of 2008.

- **Traffic-Light Synchronization –** The budget includes allocations of $123 million for traffic light synchronization. Statute requires that $150 million of the $250 million available from Proposition 1B be allocated to a city with a population exceeding 3.5 million – only the City of Los Angeles meets that criterion. The CTC is on track to adopt allocation guidelines in January 2008. Project selection should occur in the spring with the first allocations as early as May or June 2008.

The CTC and Caltrans should update the Subcommittee on the status of project programming and guideline approval.

Public testimony as applicable.

4. Other project delivery / oversight issues. The subcommittee may want to hear updates from the CTC and Caltrans on related topics.

- **Prop 1B categories with 2008-09 implementation –** The Trade Corridor Improvement Fund (TCIF) and the State Local Partnership Program Account were not appropriated in the 2007 Budget Act – implementation is planned for 2008-09.

  The CTC and Caltrans should update the Subcommittee on their efforts to adopt guidelines and projects for the Trade Corridor Improvement Fund. The CTC did adopt TCIF guidelines at their November 27 meeting which assumed that the $2.0 billion TCIF program can be augmented by non-bond funds in the range of $500 million to $1.0 billion (using existing and/or new state and/or federal funds). Additionally, the CTC adopted TCIF corridor programming ranges defining the amounts intended for different geographic areas of the state. As indicated above, no appropriation was included for TCIF in the 2007 Budget Act, so implementation of the program still depends on a future legislative action.

- **Non-bond STIP & Prop 1B impacts** – Many planned projects are funded with both bond and non-bond resources. Additionally, many planned projects are eligible for funding under several bond categories, as well as non-bond funding sources. Therefore, the availability of non-bond funding has an affect on Prop 1B projects. The CTC recently adopted the 2008 STIP Fund Estimate which projects a reduction in available funds of $820 million (excluding bond funds) in the 2007-08 to 2010-11 period, relative to the 2006 STIP estimate. This is primarily due to the redirection of Public Transportation Account “spillover” funds in the 2007 Budget Act and trailer bills, and secondarily the policy bill SB 717, which shifts an increased portion of Prop 42 transit funds from the STIP to direct allocation to transit agencies under the State Transit Assistance budget item (about $85 million annually beginning in 2008-09).

  The CTC and Caltrans should update the Subcommittee on the non-bond 2008 STIP, and how that may affect future Prop 1B appropriations and allocations.

Public testimony as applicable.