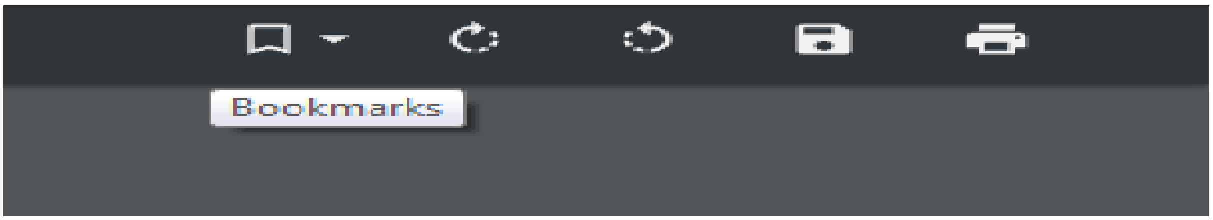
Senate Budget and Fiscal Review

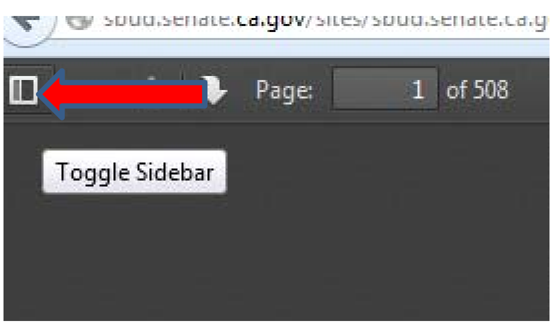
The 2016 Agendas for Subcommittee No. 4 on State Administration and General Government are archived below. To access an agenda or outcomes by a specific date, please refer to “Bookmarks” icon on the screen. Depending on your web browser the bookmarks menu will look different. Below are instructions to help you find the “Bookmarks” icon in Internet Explorer 11, Mozilla Firefox, or Chrome.

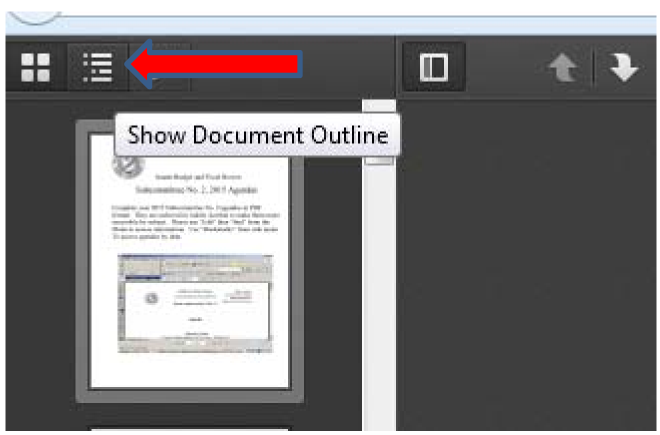
Chrome has access to Acrobat bookmark located in the upper right hand corner



Internet Explorer 11 selects Acrobat from box

Mozilla Firefox on upper left, click toggle sidebar, and then document outline.





Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Janet Nguyen
Senator Richard Pan

Thursday, March 3, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultant: Farra Bracht

Part A

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) 651-1505. Requests should be made one week in advance whenever possible.

1700 DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

Issue 1: Enforcement Staffing and Resources

Governor's Budget Request: The Governor's budget requests an increase of $2.5 million General Fund for 28 positions to provide investigations of discrimination complaints. This funding would provide:

- 24 positions in the Enforcement Division to investigate claims;
- Two positions to establish a training unit; and
- Two positions to respond to an increased number of Public Records Act requests.

Background: The Department of Fair Employment and Housing (DFEH) is responsible for protecting the people of California from unlawful discrimination in employment, housing, and public accommodations, and from hate violence. DFEH receives, investigates, conciliates, mediates, and prosecutes complaints of alleged violations of the Fair Employment and Housing Act (FEHA), Unruh Civil Rights Act, Disabled Persons Act, and Ralph Civil Rights Act. The budget proposes expenditures of $25.9 million ($20.2 million from the General Fund and $5.7 million federal funds) for support of the department in 2016-17. This represents an increase of $2.7 million (11 percent) over estimated current-year expenditures.

DFEH receives approximately 23,000 employment and housing discrimination complaints annually and is required to investigate all complaints. Most of these are employment complaints. Approximately 50 percent of the claims are requests for "Right to Sue". This occurs when complainants decide to immediately sue rather than proceed through DFEH's investigation process and a "right to sue" letter from DFEH is required to file the lawsuit. The remaining 50 percent of claims are investigated by DFEH.

SB 1038, (Committee on Budget and Fiscal Review), Chapter 46, Statutes of 2012 made significant changes to DFEH's workload by eliminating the Fair Employment and Housing Commission and transferring the duties of the commission to DFEH. As a result, some of the staff used to conduct investigations were transferred to other functions and the number of cases each investigator was responsible for increased significantly, from roughly 150 cases per investigator to over 200. According to DFEH, this high of a caseload per investigator is unmanageable and is resulting in complaints not being processed in a timely manner, which can have negative consequences for Californians in some cases. DFEH notes that federal departments with similar workloads average about 35-70 cases per investigator and it also used caseload information from the California Department of Industrial Relations, Division of Labor Standards Enforcement as a benchmark.

The figure below shows the total number of cases/complaints received, the number investigated, the number of investigator positions authorized and filled, and the average number of cases per investigator since 2006-07.

Department of Fair Employment and Housing
Investigator Caseloads
2006-07 through 2015-16

	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
Total Cases	21,454	24,827	25,119	22,993	22,720	21,785	17,178	19,403	22,646	22,646
Cases Investigated	13,504	15,506	14,563	11,840	11,473	9,772	9,421	8,646	11,675	11,675
Authorized Investigator Positions	96	106	107	102	99	95	82	76	70	59
Filled Investigator Positions	87.7	98	92.8	85.5	73.9	64.2	58	53	47	51
Average Cases per Investigator	154	158.2	156.9	138.5	155.2	152.2	162.4	163.1	248.4	228.9

As shown in this figure, the number of cases received and investigated has remained relatively flat over the time period however, the number of investigator positions has declined, and the average number of cases per investigator has increased. While DFEH has had problems filling its vacant investigator positions, recent changes in the allowable qualifications for this job classification should help to resolve DFEH's problem with filling vacant positions.

Staff Questions:

1) Please describe the changes that have occurred at the department since 2012 and the impact this has had on the department and its ability to manage its workload.

2) What has been the impact of changing the investigator position classification to broader classifications such as staff services analyst and associate governmental program analyst in August 2015? Has this resulted in filling existing vacancies more easily?

3) Please discuss what types of performance measures would be useful for assessing what the effect would be on workload of adding more investigator positions?

Staff Comment: DFEH has a history of problems in completing investigations within statutory time limits. The 1996 Budget Act required the State Auditor to perform a comprehensive fiscal and performance audit of the department and to develop recommendations for improving administrative operations and management of complaints related to housing and discrimination. The auditor found DFEH could make changes to improve the efficiency and timeliness of its complaint processing. However, at the time, the department took issue with many of the recommendations.

Unfortunately, DFEH continues to struggle with processing complaints in a timely manner and complaints take staff about as many hours to process as they did 20 years ago. The problem has been compounded over time by a reduction in the number of staff responsible for conducting investigations.

The budget request does not provide a good justification for the number of additional staff requested or an explanation of why investigations take the amount of time they do to complete. It is clear that DFEH would benefit from having additional investigators; however it is difficult to determine what is the appropriate level of staff. As a result, concurrent with, or prior to approving a request for additional positions, it may be useful to have the auditor again assess DFEH's 1) organizational effectiveness; 2) caseload management practices for housing and employment complaints; 3) development of workload standards; and 4) the adequacy of DFEH's information technology systems. As an alternative to an audit, the Legislature may wish to adopt statutory reporting language that would require DFEH to report in 2017 on performance metrics under development. If the proposal is approved, it would be especially useful to have benchmark data to thoroughly assess the value of the additional investigative staff.

Staff Recommendation: Hold open.

2240 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Issue 1: Consolidated Automated Program Enterprise System

Governor's Budget Request: The Governor's budget requests $568,000 in expenditure authority to use various Department of Housing and Community Development (HCD) funds to fund application development support for the Consolidated Automated Program Enterprise System (CAPES). HCD intends to hire five staff using these funds.

Background: HCD implemented CAPES in 2007 to serve as an enterprise-level data collection and organization system to accurately manage and report essential housing program and funding information. The system awards, tracks, monitors, and reports housing loans and grant information. However, because of inadequate funding, when CAPES was put into production in 2007, the implementation of some critical requirements needed to achieve program objectives was deferred.

HCD intends to use the funding augmentation to hire additional staff to design and implement required system enhancements and to ensure that the CAPES project is completed. In addition, these staff would help HCD address the backlog and ongoing requests for system enhancements and help to ensure that these are completed in a timely manner.

Staff Comment: The augmentation in expenditure authority would allow HCD to fund application development for CAPES which would better enable HCD to support its housing program operations.

Staff Recommendation: Approve as budgeted.

Vote:

Issue 2: Green Building Standards

Governor's Budget Request: The Governor's budget requests an augmentation of $150,000 from the Building Standards Administration Special Revolving Fund (Building Standards Fund) to fund one position to enable HCD's State Housing Law (SHL) Program to meet its code development and adoption responsibilities associated with the California Green Building Standards Code (CALGreen).

Background: SHL mandates HCD to develop and implement regulations for the construction, maintenance, use, and repair of housing, hotels, motels, and other residential dwellings in California. These regulations are enforced by local governments to protect the health, safety, and welfare of Californians in residential buildings.

In 2007, the California Building Standards Commissions (CBSC) requested HCD to develop residential green building standards for new construction of buildings. The 2008 CALGreen provided voluntary green building standards for new construction, with an effective date of August 1, 2009. In general, CalGreen requires new buildings and renovations in California to meet certain sustainability and ecological standards. During the 2009 Triennial Building Code Adoption Cycle, HCD proposed to make the 2010 version of CALGreen mandatory. The 2010 CALGreen was approved by the CBSC as a mandatory green building code and became effective on January 1, 2011.

Funding for HCD's SHL program is a mix of General Fund dollars and funds from the Building Standards Fund which supports 6.5 permanent positions and one two-year limited term position.

According to HCD it has had to redirect staff from other workload to assist with research and development of CalGREEN provisions and to participate in special projects. In addition, HCD states that it has struggled to fully monitor and participate in rulemaking activities and participate in in-person policy meetings which could potentially impact residential green building standards. HCD has not been able to provide the optimal amount of annual CalGREEN training and outreach to stakeholders. In addition, HCD has not had the resources to keep up with international and national green building standards and programs that could possibly be applied to California.

Staff Comment: CALGreen is evolving and the associated workload continues to grow. The addition of $150,000 may better enable HCD to complete activities associated with the implementation of CALGreen which include research and evaluating updates, conducting training and outreach, analyzing code changes submitted by other agencies, and participating in various work groups.

Staff Recommendation: Approve as budgeted.

Vote:

Issue 3: Habitat for Humanity Fund Appropriation

Governor's Budget Request: The Governor's budget proposes a $250,000 appropriation for the Habitat for Humanity Fund (Fund), with authority for Department of Finance to augment the appropriation, if needed, in order to align program expenditures with the revenue collections associated with a voluntary tax check-off program. Additionally, proposed budget bill and trailer bill language would appropriate the funds to HCD and give HCD the authority to issue one grant to Habitat for Humanity of California, which will provide grants to local affiliates.

Background: California's tax "check-off" programs allow taxpayers to donate to charitable causes by checking a box on their income tax returns. California taxpayers have 20 tax check-offs from which to choose, supporting a range of causes, from cancer research to endangered species. AB 1765 (Jones-Sawyer), Chapter 354, Statutes of 2014, authorized a tax-deductible voluntary check off contribution to raise funds for the Habitat for Humanity.

The Franchise Tax Board is authorized to collect these funds until January 1, 2021, with the first collection occurring during the 2014 tax year. Collections through June 2015 have yielded $167,000. The State Controller distributes these funds according to the enacting statute, which generally requires an appropriation by the Legislature. This budget change proposal proposes budget bill language that would appropriate these funds to HCD.

For some check-offs, taxpayers' contributions go directly to a state agency that administers a grant program. Other check-offs' authorizing statutes direct the administering agency to allocate donations to a private nonprofit organization, like the American Red Cross. AB 1765 specified that HCD award these funds as grants through a competitive, project-specific grant process and oversee the grant program. According to HCD, its grant-making process is relatively intensive and costly and administrative costs for awarding such a small amount of funds could reach up to 25 percent of the collected funds. As a result, the competitive process required in AB 1765 may not be the most efficient way to award these funds.

The proposed trailer bill language (below) would allow HCD to disburse appropriated funds to the non-profit California Habitat for Humanity and required Habitat for Humanity to submit an annual audit of the program. The proposed language below:

SECTION 1. Section 18900.24 of the Revenue and Taxation Code is amended to read:

18900.24. All money transferred to the Habitat for Humanity Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board, the Controller, and the Department of Housing and Community Development for reimbursement of all costs incurred by the Franchise Tax Board, the Controller, and the Department of Housing and Community Development in connection with their duties under this article.

~~(b) The Department of Housing and Community Development for distribution of grants to Habitat for Humanity affiliates in California that are in active status, as described on the Business Search page of the Secretary of State's Internet Web site, and that are exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code. The Department of Housing and Community Development shall award grants through a competitive, project-specific grant process and be responsible for overseeing that grant program. A Habitat for Humanity affiliate shall not use a grant award for administrative expenses or for any purposes outside of California.~~

(b) (1) To the Department of Housing and Community Development for disbursement to Habitat for Humanity of California, Inc., a California nonprofit public benefit corporation representing and supporting California Habitat for Humanity affiliates as a state-support organization.

(2) Habitat for Humanity of California, Inc., shall submit a plan to the Department of Housing and Community Development, within 60 calendar days of receiving a disbursement, for the use and distribution of moneys pursuant to this article to Habitat for Humanity affiliates in California that are in active status, as described on the Business Search page of the Secretary of State's Internet Web site, and that are exempt from federal income taxation as an organization described in Section 501(c)(3) of the Internal Revenue Code.

(c) Habitat for Humanity of California, Inc., shall not use more than 5 percent of the moneys received pursuant to this article for administrative expenses.

(d) A Habitat for Humanity affiliate shall not use the moneys received pursuant to this article for administrative expenses or for purposes outside of California.

(e) Habitat for Humanity of California, Inc., shall submit an annual audit of the program to the Department of Housing and Community Development within 60 calendar days of the completion of the audit.

SEC. 2. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

Staff Questions:

1) When AB 1765 was being considered did HCD raise any concerns about the costs of administering a relatively small competitive grant program? Did it offer any alternative approaches at the time?

2) Did HCD in its budget proposal consider a competitive approach for distributing funds for Habitat for Humanity? Why or why not?

Staff Comment: The Administration's proposed budget bill language would allow for the appropriation of the collected contributions to HCD. The proposed trailer bill language helps to address a problem sometimes associated with tax check-offs (described in more detail in the Senate Committee on Governance and Finance background paper for its December 9th hearing entitled "California's Tax Check-off Program: Room for Improvement". http://sgf.senate.ca.gov/sites/sgf.senate.ca.gov/files/oversight_background_12-9-15.pdf) that the programs can be administratively expensive and as a result, reduce taxpayer dollars available for program activities. However, the proposal seems to run counter to the original legislation which sought to establish a competitive process. It is reasonable that HCD would not want to spend a relatively large amount administering a relatively small competitive program. An alternative approach to consider is having Habitat for Humanity award grants through a competitive, project-specific grant process.

Staff Recommendation: Hold open.

Issue 4: Proposition 1C Adjustments

Governor's Budget Request: The Governor's budget requests the following adjustments to Proposition 1C local assistance budget authority:

- An appropriation of $20 million in disencumbered Infill Infrastructure Grant (IIG) funds to provide awards for new projects (and budget bill language to allow for the liquidation of encumbrances until June 30, 2021.)

- A $4.5 million increase to the Housing-Related Parks Program (HRPP) appropriation.

- Extension of the liquidation period for existing IIG awards, including California Recycle Underutilized Sites (CALReUSE) awards, until June 30, 2020, and the Transit Oriented Development (TOD) awards until June 30, 2019.

Adjustment to the January Budget Request: Since the release of the Governor's budget, the Department of Finance and HCD have made an additional request to increase the 2016-17 appropriation for the IIIG Program by $2.2 million for a total appropriation of $22.2 million. The additional request is due to an unforeseen project cancellation.

Background: In 2006, California voters approved Proposition 1C, authorizing the largest state housing bond in the state's history. The bond provided continuously appropriated funding for various programs and funds for the following programs under annual appropriations:

- **IIG program.** Proposition 1C authorized $850 million for the IIG program. The program uses competitive grants to fund infrastructure improvements to facilitate new housing developments in residential or mixed-use infill projects. The CALReUSE program is a grant and loan program administered by the California Pollution Control Financing Authority (Authority) that finances brownfield cleanup to promote infill residential and mixed-use development, consistent with regional and local land use plans. (SB 86 (Budget and Fiscal Review Committee), Chapter 179, Statutes of 2007, allocated $60 million of IIG funds to the CALReUSE program.)

- **TOD Program.** Proposition 1C authorized $300 million for the TOD Program to award loans for development and construction of housing projects or grants for infrastructure necessary for the development of higher-density housing in close proximity of transit stations.

- **HRPP.** Proposition 1C authorized $200 million for the HRPP to award grants for the creation, development, or rehabilitation of community or neighborhood parks to cities, counties, and cities and counties with deficient parks or deficient park acreage. (This increase would provide total budget authority of $32 million for HRPP.)

Budget Act appropriations are needed to award disencumbered or reallocated funds for IIG and HRPP, since they are not continuously appropriated. Additionally, infill developments are complex, multiyear projects that sometimes encounter unforeseen project delays and without an extension of the liquidation period, these projects would be cancelled or delayed until new funding is found.

HCD has disencumbered funds from IIG awards and funds previously set aside for program administration in the HRPP that are now available for additional awards. Additionally, although HCD initially awarded all Proposition 1C funds during the economic crisis, some project sponsors delayed their projects due to worsening market conditions and now need additional time for completion.

Staff Comment: Staff has no concerns with the proposal.

Staff Recommendation: Approve the proposal as budgeted, including the additional request to increase the IIG Program appropriation by $2.2 million for a total appropriation of $22.2 million in 2016-17.

Vote:

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Wednesday, March 30, 2016
10:30 a.m.
State Capitol - Room 3191

Consultant: Mark Ibele

PART A

ITEMS PROPOSED FOR VOTE-ONLY

Item	Department	Page
0509	**Governor's Office of Business and Economic Development**	**3**
Issue 1	Zero Emission Vehicle Infrastructure Project	3
	AAB, 3-1 (Nguyen no)	
0984	**California Secure Choice Retirement Savings Investment Board**	**4**
Issue 1	Reappropriation of Existing Funding	4
	AAB, 4-0	

ITEMS FOR DISCUSSION AND VOTE

Item	Department	Page
	Budgetary Role of State Reserve Funds	**5**
	Held open.	
	Proposition 2 Debt Payment Plan	**7**
	Held open.	
0509	**Governor's Office of Business and Economic Development**	**11**
Issue 1	California Competes Tax Credit Program – Oversight	13
Issue 2	New Employment Tax Credit Program – Oversight	16
Issue 3	California Infrastructure and Economic Development Bank – California Lending for Energy and Environmental Needs Center	17
	Held open.	
Issue 4	California Infrastructure and Economic Development Bank – Administrative Workload	18
	Held open.	
Issue 5	Governor's Office of Business and Economic Development – Administrative Workload	19
	AAB, 4-0	

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Janet Nguyen
Senator Richard Pan

Thursday, March 3, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultant: Samantha Lui

PART B

PROPOSED FOR VOTE-ONLY

DISCUSSION ITEMS

ISSUES PROPOSED FOR VOTE-ONLY

8790 COMMISSION ON DISABILITY ACCESS

Overview. The 1990 American with Disabilities Act (ADA) and California Building Standards Code require buildings, structures, and facilities be made accessible to and useable by persons with disabilities. The Division of the State Architect focuses on the development and maintenance of access regulations; and the Department of Rehabilitation works in partnership with consumers to provide services, independent living, and advocacy for individuals with disabilities.

Senate Bill 1608 (Corbett), Chapter 549, Statutes of 2008 established the Commission on Disability Access (Commission) to study existing disability access requirements and compliance, and to promote better compliance with existing laws and regulations. Today, the Commission services to help consumers, business owners/operators, and persons with disabilities understand the responsibilities under the ADA and California regulations to create accessible environments. The Commission coordinates with state agencies and local building departments to prevent and minimize compliance problems. In addition, the Commission determines the efficacy of public and private inspection programs, and acts as a centralized education hub for disability access compliance. Currently, the Commission is the only state agency that collects data on the impact of access non-compliance, and focuses on businesses and property owners' education needs, responsibilities, and legal liabilities related to access compliance.

Budget. The budget provides $639,000 General Fund and 3.6 positions to the Commission.

Issue 1: Construction-related Accessibility Claims (AB 1521)

Budget. The budget includes a $100,000 General Fund augmentation and one position to implement the provisions of Assembly Bill 1521 (Committee on Judiciary), Chapter 755, Statutes of 2015.

Background. SB 1186 (Steinberg), Chapter 383, Statutes of 2012, requires the California Commission on Disability Access (Commission) to collect and report on its website the top ten most frequently alleged construction-related physical access violations. From January to December 2015, the Commission received 2,946 records of court filings and/or demand letters, an average of 246 records per month. According to the January 2016 report to the Legislature, the Commission relies on interns, volunteers, or law clerks from stakeholder agencies to review demand letters and legal complaints alleging violations. Commission staff – comprised of one Executive Director, two analysts, and one office technician – must manually analyze the information, code the violations according to a list, and enter the data into an Excel matrix.

According to the Commission, between September 2012 and October 2014, 5,392 complaints (including demand letters) were filed (in both state and federal courts). More than half (54 percent) of the complaints were filed by just two law firms. Forty-six percent of all complaints were filed by just 14 parties. Further, according to the Commission, "these types of lawsuits are frequently filed against small businesses on the basis of boilerplate complaints, seeking expedited cash settlements rather than correction of the accessibility violation." In response to the high-volume of lawsuits, AB 1521 imposes additional procedural requirements on high-frequency litigants. Among other provisions, AB 1521 requires an attorney, who serves a complaint, to notify the Commission within five days of judgment, settlement, or dismissal, the outcome of the case. Specifically, the attorney must include the following information:

- Whether the violations were remedied;
- Whether the plaintiff achieved a favorable result; and,
- Whether the defendant submitted an application for an early evaluation conference or site inspection.

Since October 2015, the Commission estimated around 500 case resolutions were directly related to AB 1521. The Commission requests the additional staffing to address the additional workload associated with implementing AB 1521 and to assist the existing workload of analyzing demand letters and complaints.

Staff Comment and Recommendation. Approve as requested. Given the Commission's reliance on volunteers and student assistants to fulfill existing responsibilities, it appears that the need for additional staffing predates the provisions of AB 1521. To address the workload associated with increased notifications pursuant to AB 1521, the budget request appears justified. Next year, the subcommittee may wish to consider further oversight about the Commission's hiring of the position and additional issues related to accessibility claims.

DISCUSSION ITEMS

7910 OFFICE OF ADMINISTRATIVE LAW

Overview. The Office of Administrative Law (OAL) reviews over 200 state agencies' proposed administrative regulations for compliance with California's Administrative Procedure Act (APA); for transmitting these regulations to the Secretary of State; and for publishing regulations in the California Code of Regulations. In addition, OAL evaluates petitions from the public that challenge a state agency rule, also known as a policy or procedure, as an underground regulation. OAL will issue a legal opinion as to whether the state agency is operating with a rule that has not been duly adopted pursuant to the APA. Through its Reference Attorney service, OAL provides direct legal advice to state agencies and the public regarding California rulemaking law.

In 2014 and 2015, over 1,023 files were submitted to OAL, affecting 8,426 regulations. Each file submitted concerns a regulatory action that affects anywhere from one regulation section to over a hundred sections. Below is a chart that displays the number of petitions OAL received.

Year	Total Number of Petitions received	Number of Determinations or Summary Dispositions issued	Number of Section 280 Certifications received from state agencies	Number of incomplete Petitions that were never completed	Number of Petitions declined to be considered by OAL	Number of Petitions withdrawn
2014	87	12	5	6	63	1
2015	71	9	2	1	58	1

Most of the petitions are filed by inmates in the California Department of Corrections and Rehabilitation (CDCR). In 2014, 61 petitions challenged rules by CDCR; in 2015, 40 petitions challenged CDCR rules. Of these, four determinations in 2014, were deemed to be underground.

Currently, OAL uses ProLaw, an off-the-shelf product that has been customized, as the database for all files and notices submitted to OAL. An OAL attorney uses ProLaw to track legal issues during his or her review of a proposed regulatory action. Then, OAL can use this information, to determine what legal issues and procedures should be focused on during training classes.

Budget. The budget includes $3.4 million ($1.9 million General Fund, $111,000 reimbursements, and $1.4 million Central Cost Recovery Fund) and 20 positions for the OAL.

Issue 1: Enhanced Regulatory Training

Budget. The budget proposes $177,000 ($101,000 General Fund, $76,000 Central Service Cost Recovery Fund) for one attorney position, who will provide training on rulemaking actions for state agencies.

Background. State agencies adopt regulations that govern businesses and impact Californians. In order for state agencies to learn about the Administrative Procedure Act (APA) requirements, the Office of Administrative Law (OAL) holds a three-day training program for state employees. In this program, employees learn how to understand and comply with the rulemaking requirements. Specifically, agency personnel are trained on the following:

- Ensuring agency regulations are clearly written, necessary, and legally valid;
- Conducting an economic impact assessment of the proposed regulatory action;
- Providing a public notice; and,
- Creating a record for review by OAL, and if necessary, by the courts in any litigation.

From the inception of the training program in 1989 until May 2005, there has never been a single unit dedicated to conducting the classes. Initially, there were two primary senior attorneys, with two to three other attorneys participating. Over the years, one senior-level attorney conducted this three-day training – even continuing to lead the training after his retirement in 2005 until 2012. After two other attorneys, who also assisted in the training, retired, four full-time OAL attorneys now conduct the training in addition to their workload. This represents a diversion of 37.5 hours per month from the four attorney's current workload to accommodate their abilities to provide this training, as well as additional follow-up from each class.

Approximately nine training classes are scheduled annually. Currently, there is a waitlist of more than 250 state employees for the voluntary training.

The training costs $420 per student, effective January 1, 2016 – a $70 increase from last year. OAL notes "the training price is being increased to reflect the increased cost of materials and equipment" to operate the class.

The current size of the training room accommodates no more than 22 students. The $420 cost breakdown of each student follows:

Cost per student, assuming 22 students per class

Printed materials	89
Training classroom	73
Attorney time	107
Administrative time	55
Cost of equipment	3
Total cost per student	**$417**

Justification. OAL recently installed a data system that allows it track the number and type of legal issues that are a persistent challenge for state agencies to comply with the APA. According to that data, 94 percent of matters submitted for review in the last six months needed corrections. According to the OAL, the one position is needed “to meet the demand placed by state agencies for this training, and [to] enhance training so that state agency rulemaking actions are no longer substandard and are conducted as efficiently as possible.”

Implementation Plan. OAL intends to have the one attorney achieve the following, among other goals:

- Increase the number of three-day training classes from nine classes to 20 classes in two fiscal years.
- Focus the training on most frequent and common challenges of APA requirements.
- Conduct two half-day classes regarding underground regulations.
- Conduct special presentations to state agencies on a specified area of law.
- Make presentations to staff of the Senate and Assembly, and deputies of the Office of Legislative Counsel.
- Create “how-to” webinars, to be posted, on the OAL website.

To address the (as of February 19, 2016) 150 state employee waitlist, the OAL intends to immediately increase the number of classes each year. According to the OAL, they intend to “target 14 classes in 2015-16 and 20 classes in 2017-18. Further, OAL anticipates it can eliminate the waiting list within two to three years, while maintaining the increased ‘20-class-per-year’ schedule.” The attorney will also help the OAL during the November and December workload.

Staff Comment and Recommendation. Approve as requested, as no concerns have been raised.

Questions

1. How frequently do state employees receive this training (e.g., every two years, or as a new hire only)?

2. Please provide some examples of the types of APA requirements that state agencies frequently find most challenging.

8620 FAIR POLITICAL PRACTICES COMMISSION

Overview. The Fair Political Practices Commission (FPPC) is an independent non-partisan agency who regulates and enforces actions performed by governmental officials and agencies and requires extensive disclosure reports to provide the public with access to government processes. The FPPC provides education about the Political Reform Act of 1974 and according to the agency, "provides for public officials' disclosure of assets and income to avoid conflicts of interest."

Public officials whose decisions could affect their economic interests are required by law to file economic interest disclosure statements, titled "Statement of Economic Interests" (SEI) also known as "Form 700". These statements become public records after they are filed. The SEI reporting process provides transparency and ensures accountability in two ways: 1) it provides necessary information to the public about a public official's personal financial interests to ensure that officials are making decisions that do not enhance their personal finances, and 2) it serves as a reminder to the public official of potential conflicts of interests so the official can abstain from making or participating in governmental decisions that are deemed conflicts of interest.

Budget. The budget includes $11.9 million ($11.2 million General Fund and $741,000 in reimbursements) to support the FPPC. The agency has 80 established positions and 4.5 vacancies which includes two two-year limited-term positions.

Issue 1: Statement of Economic Interests Reporting – Gifts of Travel

Budget. The budget requests an increase of $210,000 General Fund authority for 2016-17 and $196,000 ongoing, as well as 1.5 positions to implement the provisions of Senate Bill 21 (Hill), Chapter 757, Statutes of 2015.

Background. The Fair Political Practices Act regulates campaign financing and spending, financial conflicts of interest, lobbyist registration and reporting, and governmental ethics. The Act prohibits public officials from receiving gifts in excess of $440 from a single source in a calendar year, with exceptions. One exception to this gift limit is for payments made to public officials for travel reasonably related to a legislative or governmental purpose, or to an issue of state, national, or international public policy and paid for by a 501(c)(3) nonprofit organization. Public officials are required to report travel payments from nonprofits on their Form 700. If a donor uses a nonprofit as an intermediary to pay for public officials' travel, the donor to the nonprofit is considered to be the source of the gift. In these cases, the public official is required to report both the donor to the nonprofit and the nonprofit on his or her Form 700. As such, the travel is subject to the $440 gift limit.

SB 21 (Hill), Chapter 757, Statutes of 2015, creates new requirements for nonprofit organizations that pay for travel for state and local elected officials. Specifically, it requires a nonprofit organization that regularly organizes and hosts travel for elected officials, as specified, and that pays for these types of travel for an elected state officer or local elected officials to disclose the names of donors who, in the preceding year, donated to the nonprofit organization and accompanied an elected officer or officeholder for any portion of the travel. The legislation also requires FPPC to analyze and determine which nonprofit organizations trigger this additional reporting requirement.

A nonprofit organization that makes travel payments of either (1) $5,000 or more for one elected state or local officeholder, or (2) $10,000 or more a year for elected state or local elected officeholders, and whose expenses for such travel payments total one-third or more of the organization's total expenses in a year as reflected on the organization's Internal Revenue Service Form 990, would trigger reporting. And, once it's determined that a nonprofit organization triggers this disclosure, it must disclose to the Commission the names of donors who donated $1,000 or more in the past year and also went on the trips.

As a new requirement, the FPPC will need to promulgate regulations to interpret these requirements. It will also need to develop an entirely new form to enable this disclosure. The legislation raises legal questions as to the FPPC's jurisdiction to enforce these provisions against nonprofit organizations. In addition, the Enforcement Division is concerned that the "one-third of total expenses" requirement would be difficult to prove in light of the reporting and language variations used by nonprofit organizations on the Form 990, as well as the difficulty in establishing that the expenses reported were related to elected officers. The FPPC will need to do additional training and outreach to nonprofit organizations and public officials. For all these reasons, there is additional workload as a result of the legislation. The statute also requires a person who receives a gift of a travel payment from any source to report the travel destination on his or her Form 700. This will require the FPPC to modify the Form 700 and instructions, as well as update trainings and provide additional advice. This proposal would add one and one-half permanent positions: 1 Associate Governmental Program Analyst and 0.5 Senior Commission Counsel.

Justification. According to the department, the positions would create a new travel form to ensure that travel payments made by nonprofit organizations are reported in a consistent and standardized manner; revise the Form 700 and travel payment form instructions; prepare outreach materials; provide oral and written legal advice regarding the new law; and provide training for staff and filers at local and state agencies. In addition, the FPPC notes the positions would provide long-term functions that would benefit the department, namely:

- Perform the complex enforcement investigations involving nonprofit organizations under the new requirements of SB 21; and

- Research and train individuals regarding the IRS code on 501(c) organizations.

Staff Comment and Recommendation. Although some of the job duties and functions appear to be temporary, the department notes its necessity to have staff to specialize in nonprofit jurisdictions and matters. Staff recommends approving the proposal as requested, with the opportunity to revisit the issue next fiscal year for oversight.

Questions

1. Please provide some context for how nonprofits are an emerging jurisdiction for the department.

2. Please describe how SB 21 raises "legal questions as to FPPC's jurisdiction to enforce provisions against nonprofits."

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Janet Nguyen
Senator Richard Pan

Thursday, March 3, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultant: Samantha Lui

PART B

PROPOSED FOR VOTE-ONLY

Item	Department	Outcome
8790	**Commission on Disability Access**	
Issue 1	Construction-related Accessibility Claims	Approve, 3-0

DISCUSSION ITEMS

Item	Department	Outcome
7910	**Office of Administrative Law**	
Issue 1	Enhanced Regulatory Training	Approve, 3-0
8620	**Fair Political Practices Commission**	
Issue 1	Statement of Economic Interest Reporting: Gifts of Travel	Approve, 3-0

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, March 10, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultant: Samantha Lui

PROPOSED FOR VOTE-ONLY

ISSUES PROPOSED FOR DISCUSSION/VOTE

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

ISSUES PROPOSED FOR VOTE-ONLY

2100 DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Issue 1: Legislative – Senate Bill 796 Sunset Deletion

Budget. The budget proposes to convert one limited-term position to a permanent position to continue enforcement activities, resulting from Senate Bill 796 (Committee on Governmental Organization), Chapter 311, Statutes of 2015.

Background. "Tied-house laws" are federal and state laws that attempt to prohibit brewers, distillers, winegrowers and other alcohol beverage suppliers from exerting undue influence over retailers. Existing law provides several exceptions to the tied-house provisions, such as allowing licensees to sign autographs at off-sale retail locations under specified conditions. Bottle autographing at events has presented significant enforcement challenges to ABC, now that the bottle is determined to be a valued good.

SB 796 eliminates the January 1, 2016 sunset, now authorizing alcoholic beverage suppliers to participate in promotional events held at an off-sale retail licensed location, and to provide autographs on bottles or other items to consumers. Further, AB 636 (Hall), Chapter 329, Statutes of 2013, authorized, until January 1, 2016, autographs at an instructional event for consumers held at a retailer's licensed premise. As a result of the workload associated with AB 636, the Department of Alcoholic Beverage Control (ABC) received funding for one, two-year limited-term agent in the 2015 budget.

The deletion of the January 1, 2016 sunset makes these events and the added authorized autographed bottles, a permanent exception, creating a need to convert the limited-term position to permanent and extend funding for two additional years, at which time, ongoing resource needs will be reevaluated.

Between October 2015 and January 2016, ABC received 30 complaints related to these types of events. Of the seven investigations completed, five were found to have no material issues and two were found to have issues that warranted administrative action.

Workload Measure	2015-16
Number of Complaints Received	30
Number of Investigations Initiated	30
Number of Investigations Completed	7
Number of Accusations Filed	2

Staff Recommendation. Approve as requested, as no concerns have been raised.

1111 DEPARTMENT OF CONSUMER AFFAIRS (DCA)

Issue 1: Board of Accountancy – Cashiering Staff Augmentation

Budget. The Board requests $154,000 (Accountancy Fund, Professions and Vocations Fund) in the budget year and $138,000 (Accountancy Fund, Professions and Vocations Fund) ongoing for two office technician positions to complete cashiering functions in compliance with the State Administrative Manual Guidelines and to process timely licensure and registration renewals.

Background. Over the last three fiscal years the CBA cashiering office processed approximately $6 million annually in state funds. In October of 2014, $20 was missing from a deposit transmitted from the CBA office to the Department of Consumer Affairs' (DCA) Central Cashiering Unit. According to CBA, after an extensive search, the money was not located. The CBA's Executive Officer requested the DCA's Division of Investigation to conduct an internal investigation, and requested DCA's Internal Audits to assess the CBA's internal controls and transmission of monies. The on-site audit, which included a review of processes, procedures, cashiering manuals and duties, found several deficiencies, including the inadequate separation of duties and no secondary review or reconciliation of the cashiering function.

Currently, three staff (one reception staff and two staff from the Licensing Division) and a blanket position have been redirected to assist with the CBA's cashiering and mailroom functions. In addition, the CBA noticed an increase in stakeholder inquiries, which "can be attributed to the increased inquiries and complaints associated with the delay of processing applications for examination or licensure."

Staff Recommendation. Approve as requested.

Issue 2: Court Reporters Board – Occupational Analysis

Budget. The Board requests $53,000 (Court Reporters Fund) in the budget year and $47,000 (Court Reporters Fund) in 2017-18, for an occupational analysis for the Board's English, Professional Practice, and Machine Skills licensing exams. The occupational analysis is needed to create a question bank, reflective of current court reporting knowledge and practices.

Background. The Court Reporters Board licenses shorthand reporters, known as court reporters, and administers a minimum-level competency test, regulating the minimum curriculum that court reporting schools and programs must offer.

To ensure the Board's licensing exams were relevant to current court reporter practices, and legally defensible, the Board contracted with DCA'S Office of Professional Exam Services (OPES) to perform an occupational analysis. The results of this analysis were incorporated into the current exam in 2009. However, the current exams no longer reflect updated practices in the last six years. Specifically, there have been changes to the requirements for interpreters (must now be court-certified) and changes to the gift-giving regulations. In addition, laws related to the Transcript Reimbursement Fund have changed, as has a law requiring a contracting relationship between court reporters and attorneys to be included in deposition notices. These changes are not reflected in the current exam.

According to OPES, exams validation studies must be performed every three to seven years. An updated occupational analysis can help ensure that skills and knowledge being tested are reflective of the marketplace.

Implementation. The Board would enter into an interagency contract with OPES to facilitate and validate the occupational analysis. OPES convenes a two-day workshop with subject matter experts and sends a survey to a sampling of licensees. The survey data is gathered, and additional workshops with subject matter experts and focus groups review and evaluate the content. From there, OPES would prepare final reports regarding the outcome of the studies and would address the validity of the examinations for shorthand reporters. Additionally, OPES would develop an updated exam plan, which forms the basis of the license examinations.

Staff Recommendation. Approve as requested.

Issue 3: Medical Board – Medical Expert Reviewers

Budget. The Board requests $206,000 (Contingent Fund of the Medical Board of California) ongoing to fund expert reviewers' enforcement costs.

Background. The Expert Reviewer Program was established as an impartial and professional means to support the investigation and enforcement functions of the Board, by reviewing the facts of medical cases and determine if the standard of care has been met. Experts also conduct professional competency, physical, and psychiatric examinations.

The Board sent 765 cases to 418 experts (of the 1,138 active experts) in fiscal year 2014-15. Although there are 1,138 active experts, they are dispersed through 26 medical specialties (cardiologist, family medicine, pediatrics). Because the Board sends cases to physicians in the same specialty, some areas receive a high volume of cases. For example, while there were 47 pediatric experts available, only eight cases needed to be reviewed. On the other hand, 141 cases were related to psychiatry, but the Board only has 69 experts.

In the last few years, the Board has exceeded its authorized expenditures because the number of cases, including complex cases, have increased; and some cases require two expert reports.

Staff Recommendation. Approve as requested.

LEGISLATIVE IMPLEMENTATION

The following DCA budget requests pertain to workload associated with implementing recently passed legislation.

Issue 4: Acupuncture Board –Curriculum Review and Licensing (SB 1246)

Budget. The budget requests $512,000 (Acupuncture Fund) in the budget year, $373,000 (Acupuncture Fund) in 2017-18 and ongoing, to fund four positions in the Licensing Curriculum Compliance Unit, as well as modifications to the Board's IT system, Consumer Affairs System, to comply with Senate Bill 1246 (Lieu), Chapter 397, Statutes of 2014.

Background. Senate Bill 1246, one of the Senate Business and Professions Committee "sunset review" bills, extends the sunset date of the California Acupuncture Board (CAB) to January 1, 2017, revises acupuncture program approval requirements; and extends the sunset date of CAB's authority to appoint an executive officer (EO) to January 1, 2017. Among other provisions, the bill requires the Board to establish standards for approving education training and clinical experiences received outside of the U.S. and Canada.

LAO Comment and Recommendation. We recommend the Legislature modify the Governor's proposal by (1) approving $179,000 for two positions to address additional licensing workload on a limited-term rather than permanent basis, because the ongoing level workload associated with licensing activities is highly uncertain; and (2) rejecting the remaining two positions ($173,000) requested for curriculum review of non-Board-approved schools and development of standards for curriculum for foreign training programs. Third, the LAO recommends rejecting the $160,000 for additional office space because the uncertainty related to workload and staff on an ongoing basis.

Staff Comment and Recommendation. Reject proposal. On February 29, 2016, the Department of Finance requested to withdraw the proposal. Staff recommends concurring with the Administration's request at this time.

Issue 5: Board of Registered Nursing – Enforcement Audit (SB 466)

Budget. The Board of Registered Nursing (BRN) requests $450,000 (Board of Registered Nursing Fund, Professions and Vocations Fund) to reimburse the State Auditor’s Office for conducting an enforcement audit, beginning February 1, 2016, to December 31, 2016.

Background. In 2015, the Senate Business, Professions and Economic Development Committee and Assembly Business and Professions Committee conducted joint oversight hearings to review 12 regulatory entities, including the Board. The committees identified a number of concerns related to the Board's enforcement efforts. SB 466 requires the State Auditor's Office to conduct a performance audit of the Board's enforcement program, to be funded by the Board. Senate Bill 466 (Hill), Chapter 489, Statutes of 2015, also requires the Board to review schools' clinical instruction to determine if it adheres to the regulations for granting educational credits for persons who received military education and experience as a registered nurse, review applications from schools to determine if they are eligible to grant credit for military experience and education, revoke nursing program's approval if they do not give credit for military education and experience, and review applications from any person who has served on active duty to determine if their military education and experience qualifies them for licensure.

In addition, SB 466 requires, by February 1, 2016, the State Auditor to begin a performance audit of the Board's enforcement program, and report the results of the audit, by January 1, 2017. The estimated cost of the audit is $450,000, as provided by the State Auditor’s Office.

Staff Comment. The Board's fund condition has been declining for the past 3 years and is projected to continue this decline. The Office of Administrative Law approved an emergency fee increase regulation, effective August 2015. A fee study was conducted and is currently under review by the Board, which will support these fee increases. The Board's appropriation is not adequate to fund these costs. The subcommittee may wish to consider a larger oversight review of the fund status of certain boards, bureaus, and committees that request fee increases at a later hearing date.

Staff Recommendation. Approve as requested.

Issue 6: State Athletic Commission – Drug Testing (SB 469)

Budget. The California State Athletic Commission (CSAC) requests $115,000 (Athletic Commission Fund) in the budget year and $107,000 ongoing to fund a 0.5 associate governmental program analyst (AGPA) and associated drug testing provisions, pursuant to Senate Bill 469 (Hill), Chapter 316, Statutes of 2015.

Background. Currently, the Commission budgets $31,860 annually for drug testing approximately 70 athletes out of approximately 2,000 competing athletes. SB 469 authorizes the Commission to conduct drug testing at any time during a fighter's period of licensure. The Commission interprets this as an increase in a minimum of 50 drug tests per year. Currently, the Commission has a contract with UCLA to read the drug tests. The cost for each drug test panel is $1,200. The Commission estimated having conducted 284 field tests and finding 35 positive drug tests. Specifically:

- In Fiscal Year 2014-15, there were 19 positive drug tests. Of those positive drug tests, 11 tested positive for marijuana, four for elevated levels of testosterone, and the remaining four tested positive for steroids. All of the licensees were suspended from one month to two years; and fined ranging from $100 to $10,000.

- In Fiscal Year 2015-16 to date, there were 16 positive drug tests. Of those positive drug tests, 13 tested positive for marijuana, one for elevated levels of testosterone, one for failure to disclose medications, and one for steroids. All of the licensees were suspended from one month to two years; and fined ranging from $400 to $2,500.

Tests are mostly randomly selected, however, on large fights, testing is scheduled the night of the fight. Additionally, according to the Commission, it "targets fighters who have previously failed drug tests or have reason to believe may have taken drugs in the past."

Staff Comment. The subcommittee may wish to conduct oversight of this issue at next year's hearings, for further discussion about the costs of each panel relative to the findings of positive drug tests.

Staff Recommendation. Approve as requested.

Issue 7: Department of Consumer Affairs/Bureau of Vocational Nursing and Psychiatric Technicians – Administrative and Enforcement Program Monitor (AB 179)

Budget. The department requests $150,000 in budget year, and $150,000 in 2017-18, to contract with a consultant, effective March 1, 2016, to provide services as an Administrative and Enforcement Monitor, to monitor and evaluate the administrative process and disciplinary system and procedures of the Board of Vocational Nursing and Psychiatric Technicians (BVNPT).

DCA will absorb the current year costs of the contract ($124,000). Additionally, this proposal requests the same budget augmentation for the BVNPT in budget year, and 2017-18, to reimburse the department for the costs of the contract.

Background. During DCA's Sunset Review process, policy committees raised serious concerns about the management and operations of the Board. Specifically, concerns included: board members did not participate in committees, the Board's fund condition, the moratorium of the school approval process, inadequate staffing levels, enforcement processing delays, inconsistencies in reported metrics, and the lack of concern about how the Board was managed and operated.

Assembly Bill 179 (Bonilla), Chapter 510, Statutes of 2015, requires the Director of DCA to appoint an Administrative and Enforcement Program Monitor (AEPM) to monitor and evaluate the administrative processes and disciplinary systems and procedures of the BVNPT. The bill requires the appointment be made no later than March 1, 2016, and the Director may retain a person for this position by a personal services contract. The AEPM will monitor and evaluate the BVNPT's administrative processes, with specific concentration on the management of staff, assistance of BVNPT board members, and the working relationship with the Legislature; and the BVNPT's disciplinary system and procedures, with specific concentration on improving the overall efficiency and consistency of the enforcement program.

AB 179 requires the AEPM to submit periodic reports of his or her findings and conclusions to the BVNPT, DCA, and the Legislature by July 1, 2016, and subsequent reports by November 1, 2016, and February 1, 2017, and a final report before January 1, 2018. This will ensure that the monitoring, evaluation, and recommendations and findings or the BVNPT's administration and enforcement processes are addressed, as required by AB 179.

Staff Comment. The department shares that the contract with the vendor is currently in process, is currently at DGS for review. The request appears consistent with recommendations made during last year's joint oversight hearings.

Recommendation. Approve as requested.

LICENSING, ENFORCEMENT, and OTHER STAFF AUGMENTATIONS

The following DCA budget requests are proposals that augment the number of staff to achieve timely processing of licensing applications or renewals, or improved enforcement functions.

Issue 8: Board of Behavioral Sciences – Increased Position Authority in Licensing and Examination Units

Budget. The budget proposes $557,000 (Behavioral Science Examiners Fund, Professions and Vocations Fund) in the budget year, and $533,000 (Behavioral Science Examiners Fund, Professions and Vocations Fund) ongoing for eight positions (3.5 management services technician, two office technicians; and two office assistants) in the Licensing and Examination Unit.

Background. The Board of Behavioral Sciences (BBS) licenses specified mental health professionals, including: licensed marriage and family therapists (LMFT); licensed clinical social workers (LCSW); licensed educational psychologists (LEP); licensed professional clinical counselors (LPCC); marriage and family therapist interns (IMF); associate clinical social workers (ASW); and professional clinical counselor interns (PCCI). As of June 30, 2015, the Board has over 102,000 licensees and registrants, a 16 percent increase since 2012-13. The increased number of licensees and registrants corresponds with higher volume of mail, applications, requests for address and name changes, database file entry and maintenance, certification of licensure requests, and inquiries for assistance.

As of January 1, 2016, the Board's examination was restructured, now requiring all registrants to take the Law and Ethics examination within one year of registering for the Board. According to the Board, "This new requirement creates a new workload in that a new population of individuals must enter the examination cycle upon registration. Previously, individuals entered the examination cycle only upon completion of their supervised work experience hours."

Currently, around 36,500 registrants must comply with this new requirement. The Board anticipates around 8,000 to 9,000 new applications for registration that will be required to take this exam. According to the Board, with only three vacancies (one as a limited-term position and the two in the Board's Enforcement Unit), existing staff cannot absorb this new workload.

Staff Recommendation. Approve as requested.

Issue 9: Bureau of Real Estate – Subdivision Workload

Budget. The budget proposes $313,000 (Real Estate Fund) in the budget year, and $289,000 (Real Estate Fund) ongoing for three special investigators in the Bureau of Real Estate (BRE)’s Subdivisions Program.

Background. Before marketing new subdivisions in California, subdividers must apply for and receive a Public Report from the BRE. Applications for a Public Report include an analysis and verification of such specifics as schools, fire protection, water, sewer systems and costs and assessments for maintaining homeowners' associations and common areas. Prospective buyers must receive a copy of the Public Report upon request by a prospective purchaser, and always before a buyer becomes obligated to purchase a lot or unit within a subdivision. Following the improvement in California's economy, an increase in development and new home construction creates an increase in applications for a Public Report from developers.

Subdivision Applications Received	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Public Report Applications	1484	1470	1563	2098	2796	3060
Year-Over-Year % Change	17.60%	-1.00%	6.30%	34.20%	33.30%	9.40%
Average Number of Days	46.2	49.5	45.2	46.4	51.8	50.6

The increase in applications has resulted in an additional 4.4 days on average for BRE staff to issue a Public Report. The current forecast is for the continued growth in the number of applications for a Public Report, with an increasing risk that the Bureau would be unable to achieve its statutory mandate of completing its reviews within 60 days.

According to the Bureau, the three positions will review an application for a public report in less than 16 hours, and reduce the current wait time, from 52 days to 45 days or less, to issue a public report.

The Bureau currently has 28.6 vacancies. According to the BRE, “All of the current vacant positions are either recently vacated, offers have been made and accepted, or they are in various stages of recruitment.” Further, it appears that the vacancies (e.g., Assistant Deputy Commissioner in the Executive Office, IT position, and two counsel positions) are in units that cannot be redirected.

Staff Comment and Recommendation. Approve as requested.

Issue 10: Bureau of Security and Investigative Services – Licensing and Enforcement Positions

Budget. The Bureau requests $245,000 ($166,000 Private Security Services Fund and $79,000 Private Investigator Fund); $221,000 ($150,000 Private Security Services Fund and $71,000 Private Investigator Fund) in 2017-18; and $143,000 ($72,000 Private Security Services Fund and $71,000 Private Investigator Fund) in 2018-19 and ongoing, for two program technicians to process license applications and other licensing documents timely, and one program technician to process private investigator (PI) initial and renewal applications for the Licensing Unit.

In addition, the Bureau requests $241,000 (Private Security Services Fund); $225,000 (Private Security Services Fund) in 2017-18; $126,000 (Private Security Services Fund) in 2018-19 and ongoing, to support one staff services manager and one associate governmental program analyst. These positions will support the Private Security Services Program in the Enforcement Unit.

Background on Licensing Unit. The Bureau regulates seven professions involving over two dozen different license types: locksmiths, repossessors, private investigators, proprietary security services, private security service and training facilities/instructions, and alarm companies. Currently, the Licensing Unit receives approximately 1,600 company license applications and 80,000 registrant license applications in a fiscal year (10,000 documents, on average, monthly). Complexities of the private security business have increased the unit's workload and processing times. Approximately 80 percent of guard applications received are submitted through the DCA's online professional licensing system; however, 15-20 percent of the applications must be manually processed by Licensing Unit staff, if there are data entry errors by the applicant. According to the Bureau, an average of 211 hours a month of staff time was required to resolve guard exceptions.

The Bureau has one of the largest licensee to staff ratios (8,000 licensees per employee). However, due to the growing number of applications received, some processing weeks have been around six to eight weeks, instead of four to six weeks. Currently, DCA Call Center fields the Bureau's calls two days a week and receives around 1,000 calls each day.

Background on Enforcement Unit. Enforcement staff carry out compliance inspections of licensees, firearm training facilities, baton training facilities, and provide security guard skills training. Unarmed security guards must complete eight hours Power to Arrest Training prior to licensure, which includes de-escalation techniques. According to the department, there are 45,000 active Bureau Firearms Permits, 80 percent of which are issued to a security guard. As a result of a 2012 pilot project, the Bureau conducted 15 inspections of firearms training facilities. Of the 15 facilities inspected, 60 percent had egregious violations needing disciplinary actions, including license revocation.

Because an enforcement analyst's caseload spans seven very different professions (e.g, investigating whether an alarm agent was authorized to perform locksmith work, if a private investigator carried out the terms of his/her contract with a client appropriately), the breath of knowledge to enforce the multiple provisions of law takes a significant time to learn. With approximately 284,000 security guards (13 percent carry firearms), the department finds that it is critical for them to receive training.

Staff Recommendation. Approve as requested.

Issue 11: Dental Board – Enforcement Support Staff

Budget. The Dental Board of California requests $128,000 (Consulting and Professional Services) from its operating expenses and equipment funding for two Office Technician Typing positions to provide clerical support with processing criminal, administrative, and probationary reports for investigative staff. The staff will replicate case documents for referral to the Attorney General or District Attorney for probation. In addition, staff will process contracts for subject matter experts, track return of materials, and process payment for services rendered.

Background. The Board regulates approximately 101,000 licensees – 46,418 Dentists (DDS), 53,111 Registered Dental Assistants (RDA), and 1,713 Registered Dental Assistants in Extended Functions (RDAEF). In addition, the Board is responsible for setting the duties and functions of approximately 50,000 dental assistants who work in dental offices. Currently, the Board's enforcement program is supported by two office technicians positions: one to support the Board's Northern California enforcement office, and one to support the Board's Southern California enforcement office.

The Board employs 18 sworn peace officer investigators to investigate criminal violations, as well as administrative complaints against licensed dentists and auxiliary personnel. The enforcement staff conducts an average of 800 investigations and 1,000 quarterly probation meetings per year. This casework results in an average of 98 criminal or administrative case closures, and 80 quarterly probation case closures per month, which must be processed by administrative support staff prior to distribution, closure and filing.

Staff Recommendation. Approve as requested.

Issue 12: Board of Occupational Therapy – Licensing and Enforcement Staff Positions

Budget. The Board of Occupational Therapy proposes two items:

- **Enforcement.** $596,000 (Occupational Therapy Fund) in the budget year and $548,000 (Occupational Therapy Fund) ongoing for six positions (three associate governmental program analysts and three staff service analysts).

- **Licensing.** $121,000 (Occupational Therapy Fund) in the budget year, and $105,000 (Occupational Therapy Fund) ongoing for 1.5 positions to address the increase in licensing applications and to support continuing education audits that verify the self-certifications in license renewals.

Background on Licensing Unit. The Board licenses approximately 1,000 new practitioners each year. Currently, there are 12,110 occupational therapists and 2,470 occupational therapy assistants with active licenses. Over the past several years, the applications for licensure received by the Board and the number of licenses issued, has increased steadily. Application/license data for the past few fiscal years is as follows:

Fiscal Year	OT Apps Received	OT Licenses Issued	OTA Apps Received	OTA Licenses Issued	TOTAL Apps Received	TOTAL Licenses Issued
2008-09	627	601	128	124	755	725
2009-10	757	692	104	106	861	798
2010-11	746	647	129	137	875	784
2011-12	826	790	180	185	1,006	975
2012-13	849	860	262	256	1,111	1,116
2013-14	986	854	323	291	1,309	1,145
2014-15	979	960	331	322	1,310	1,282

Since 2004, the Board has had only one full-time office technician to review and evaluate all applications for licensure and applications for limited permits. In addition to the current increase in applicants, a number of new schools have opened or have added new occupational therapy education programs in California. In addition, existing law requires applicants be notified within 30 days of submission of the application, whether the application is complete or that it is deficient and what specific information or documentation is required to complete the application. According to the Board, it is unable to redirect resources to ensure compliance with the 30-day requirement.

Background on Enforcement. The Board receives a number of complaints, including supervision, billing and documentation, and scope of practice issues. According to the Board, since 2011-12, the number of open and pending cases has increased. If the violation does not warrant license revocation or denial, the license is placed on probation. However, Due to inadequate staffing levels, probationers are not met with in-person nor are quarterly Written Probation Reports (submitted by probationers) and Work Performance Evaluations (submitted by supervisors/employers) being reviewed in a timely manner to ascertain if terms and conditions are being met.

Workload Measure	2011-12 Actual	2012-13 Actual	2013-14 Actual	2014-15 Actual	2015-16 Estimated
Complaints Received	541	557	749	738	760
Complaints Closed	565	493	629	737	680
Pending	135	206	326	327	407
Avg. Time to Close	70	70	97	133	178
Range of days to close (each qtr.)	50-79	50-79	73-158	97-162	143-213

According to the Board, "Unchanged staffing levels, coupled with an increasing complaint volume, have led to an increase in the pending/open complaints. In the last three years, the number of pending complaints has increased more than 140% (from 135 pending complaints in 2011-12 to 327 pending complaints in 2014-15) due to the fact that the volume of complaints exceeds staff capacity to investigate and process timely."

Staff Recommendation. Approve as requested.

Issue 13: Physical Therapy Board – Licensing Staff Augmentation

Budget. The Board requests $268,000 (Physical Therapy Fund) in the budget year, $244,000 (Physical Therapy Fund) ongoing, for three positions in the Application and Licensing Services Program.

Background. Since 1953, the Board regulates practice of physical therapy by evaluating physical therapists, physical therapist assistants, Analysis of Problem Electroneuromyography and Kinesiological Electromyography certifications.

Over the past several years, the Board's operating expenditures have exceeded its revenues, due to increased enforcement activities and temporary help costs to address the growing backlogs within the Board's Licensing and Enforcement Program. The Board has overspent its budget authority in these areas for the past four fiscal years, creating a structural fund imbalance.

Program Budget	PY – 4	PY – 3	PY – 2	PY – 1	PY
Authorized Expenditures	3,421	3,321	3,456	3,526	4,175
Actual Expenditures	3,325	3,321	3,303	3,506	4,079
Revenues	3,334	3,185	3,249	3,449	3,517
Authorized Positions	15.4	14.3	13.1	16.1	19.1
Filled Positions	15.0	14.3	12.1	16.1	19.1
Vacancies	0.4	1.0	1.0	0	0

* Actual Expenditures data reflects FY2014-15 (FM12). The Board estimates an increase in revenue, assuming the implementation of its revised fee schedule, January 1, 2016.

In an effort to meet the increase in application workload, the Board redirected 2.3 existing staff positions, established two permanent intermittent positions and one AARP volunteer (7,973 additional work hours) to address its application workload. As a result, the Board decreased its backlog from 9,395 hours to 1,422 hours of workload. Since 2010, the Board's volume of applications has increased.

Application Workload

Fiscal Year	Applications Received	Licenses Issued	Applications Closed	Pending
2010-11	1,711	1,406	363	305
2011-12	1,953	1,395	170	270
2012-13	1,900	1,431	0	453
2013-14	2,038	1,549	106	273
*2014-15	2,139	1,663	325	670
**2015-16	2,203	1,712	192	394

*Data reflects current fiscal year 2014-15 (FM12). **Data reflects projections based on 3.0% increase in applicants and licenses issued (FY 2014-15). In addition, applications closed and pending are based on annual average.

Staff Comment. The Board’s last fee increase was in March 2009. The Board anticipates the new fees changes, from $200 to $300 for renewals and $125 to $225 for applications, to be in effect in the final quarter of the current fiscal year. Staff recommends the subcommittee consider a broader discussion of boards and bureaus’ fund health and status at a later hearing.

Staff Recommendation. Approve as requested.

Issue 14: Speech Language Pathology and Audiology and Hearing Aid Dispensers Board – Licensing Staff Augmentation

Budget. The budget requests $90,000 (Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund) in budget year and $82,000 (Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund) in 2017-18 for one staff services analyst position to address increased Licensing Division workload.

Background. The Board regulates over 21,000 individuals and entities across ten license types, including speech-language pathologists (SLP), audiologists, dispensing audiologists, speech-language pathology assistant (SLPA), speech-language pathology aides, audiology aides, hearing aid dispensers, required professional experience temporary licenses, hearing aid dispenser trainees, and branch licenses. The Board issues over 3,000 licenses every year. The majority of these licenses are issued to SLPs and SLPAs who work in school districts and are pursuing a SLP Services Credential simultaneously. SLPs are utilized in California's public schools to Services to perform the following services: Conduct Language, Speech, and Hearing Assessments including the screening, evaluation, and interpretation of test results and referrals for further evaluation for treatment; provide Educational Services including the development of speech and language goals and objectives and the delivery of speech and language services; and provide specific learning disability area services related to speech and language; and special education services to individuals with language and speech impairments across the special education disability areas, to students from birth, through age 22, in services across the continuum of program options available.

In the 2012 sunset review of the Board, the Board reported license application processing delays of over eight weeks. The Board did not request additional positions, instead utilized temporary staff to address the backlogs. However, the delays continue to increase in time, reaching a peak of 12-14 week s in FY 2014-15.

Projected Outcomes

Licenses Issued Cycle Times	PY	CY	BY
Speech-language pathologists and audiologists	56 days	21 days	14 days
RPEs	54 days	14 days	14 days
Speech-language pathology assistant	62 days	24 days	14 days

Staff Recommendation. Approve as requested.

Issue 15: Board of Professional Engineers, Land Surveyors, and Geologists – Exam Development Personnel Selection Consultant

Budget. The Board request to redirect $105,000 in budget year and ongoing for one consultant position, who will provide the Board with analytical and technical expertise in-house relative to the design, development, and verification of the Board's licensing examination and reduce contracting out for psychometrical services. Specifically, the positions would conduct pass point analysis, planning and selection research, formulate policies and priorities, and provide guidance to the Licensing Unit regarding the performance of the items for each licensing examination offered by the Board.

Background. The Board is mandated to administer licensing exams at least once each year, with some exams being offered biannually to advance licensing. National examinations for Professional Engineers and Land Surveyors are developed and administered by the National Council of Examiners for Engineering and Surveying (NCEES). National exams for Professional Geologists are developed by the Association of State Boards of Geology (ASBOG) and are administered by Board staff. State specific examinations are developed by the Board and administered through computer-based testing (CBT).

Currently, the Examination Development Program is staffed with three associate governmental program analysts, two special analysts, and one office technician. Workload is not absorbable, because the unit does not include a psychometrician, whose expertise is necessary to continue developing, interpreting, and validating the examinations. The Board does not have any vacancies at this time.

Justification. According to the Board, a staff Psychometrician would be able to interpret statistical exam data, determine the effectiveness of exam items, consult with and train staff and subject matter experts on proper exam development techniques and processes, review items for effectiveness; and develop plans for item improvement where needed.

Staff Comment. Currently, the Board contracts for the psychometric services associated with the development of state-specific examinations. The average annual cost to contract for psychometric services is $230,273. The estimated cost to perform psychometric services in-house per year is $118,000 the first year and $110,000 on going.

Staff Recommendation. Approve as requested.

Issue 16: Dental Hygiene Committee (DHCC) – Probation Monitoring Staff Augmentation

Budget. The committee requests $90,000 (State Dental Hygiene Fund), $82,000 (Dental Hygiene Fund) ongoing, for one staff services analyst to assist the enforcement program functions.

Background. As an independent committee, the DHCC represents the only self-regulating dental hygiene agency of its kind in the United States. The DHCC is responsible for overseeing three categories of dental hygienists: registered dental hygienist, registered dental hygienist in alternative practice (RDHAP), and registered dental hygienist in extended functions (RDHEF). In all, there are over 25,000 dental hygiene licensees that the DHCC oversees.

Existing law authorizes DHCC to discipline a licensee by placing him or her on probation under various required terms and conditions. Licensees are placed on probation due to some type of criminal activity (e.g., driving while intoxicated, petty theft, burglary, and spousal abuse) on their record, or unprofessional or unethical practice where they may have harmed a patient or performed a procedure outside their scope of practice.

Licensees who are ordered on probation may have more complex requirements to fulfill as a condition of their probation. Some must submit to bodily fluid testing, meet with enforcement staff face-to-face on a quarterly basis, and submit quarterly reports of compliance. Other probationers must complete remedial education, new or additional training, complete community service, or take a law and ethics examination. DHCC’s minimum term for probation is three years, and can be higher depending on the infraction.

When a licensee is placed on probation, the DHCC incurs costs associated with investigation and disciplinary process. Cost-recovery may occur if the probationer/respondent reimburses DHCC for the cost of the investigation or disciplinary process; travel costs associated with traveling to meet the probationer/respondent; or restitution.

Currently, DHCC has one full-time analyst to run all of the enforcement program functions of probation, citation and fine, complaint intake, case investigation, writing investigative reports, case preparation for the Attorney General's Office, enforcement statistical tracking and reporting, and review of stipulated settlements and decisions as they are submitted.

Staff Recommendation. Approve as requested.

CONVERSION OF LIMITED-TERM TO PERMANENT POSITIONS

Issue 17: Board of Psychology – Program Technician

Budget. The Board requests making the one program technician position, from intermittent to full-time, in order to perform increased workload associated with new cashiering and mail processing responsibilities. The request will be funded by redirecting $63,000 in budget year and ongoing from the Board's existing operating expenses and equipment budget to its personal services budget.

Background. The Board is authorized for 20.3 positions, and there are no vacancies at this time. In the 2015-16 year, the Board anticipates receiving 2,500 applications and 392 online applications for licensing. Staff must process online applications by building a physical file. As 50 percent of applicants per month utilize this method of application, this staff must spend more time processing applications. In addition, the program technician currently spends an estimated 90 percent of time distributing mail to staff, entering new applicant transactions into BreEZe, logging fee checks, and responding to inquiries.

Staff Recommendation. Approve as requested.

8940 CALIFORNIA MILITARY DEPARTMENT

Issue 1: Search and Rescue

Budget. The department requests $350,000 General Fund for search and rescue (SAR) missions.

Background. According to the department, CMD has seen an overall increase for National Guard SAR assets across the state within the past few years. Because local governments may not have sufficient aviation assets with specialized capabilities to support the day and night SAR missions, local and regional SAR agencies rely on the department's advanced capabilities, on an average of 16 times per year. Additionally, CMD has seen at least a 30 percent increase in requests to utilize the night capabilities of CMD helicopters that increase the Probability of Detection due to its specialized Infrared and Electro-Optical technologies.

As more requests have incorporated the "search" function of SAR, the overall number of flight hours spent during a SAR mission has increased. These flight hours, dedicated to search operations and the additional personnel days required for these SAR, consume federal funds originally programmed for training new pilots.

Staff Comment and Recommendation. Approve as requested.

Issue 2: Cadet Uniform

Budget. The department requests $827,000 General Fund in the budget year and $369,000 General Fund ongoing to purchase and replace uniforms for the California Cadet Corps.

Background. The California Cadet Corps (CACC), established in 1911, is a statewide, middle school and high school-based leadership program conducted within a military framework. Currently, there are 6,388 cadets in the program, across 73 schools (one elementary school, 39 middle schools, and 42 high schools). CACC's current uniform budget is $134,000 ($21 per cadet), which outfits 432 cadets (6.7 percent of the total cadet population). Some schools purchase uniforms for cadets; and parents, if financially able, pay the commercial cost of the child's uniform. If a parent purchases the uniform, the cost of one uniform set is $310; whereas the state's cost is $57.

Many training events require a specific uniform, and without it, cadets are unable to participate. For example, Color Guard, graduation events, and military ceremonies require a coat and tie uniform. According to the department, only three (located in Oakland, Susanville, San Luis Obispo, and Los Alamitos) of the 73 schools have access to a coat and tie uniform. The department has dealt with the uniform shortage by reducing, or eliminating, CACC events; relying on schools to raise funds for uniforms; and reducing the size of the CACC.

Staff Comment. Staff notes that $827,000 is an amount higher than the total current CACC budget of $782,000 (personnel, bus contracts, summer camp, and facilities). The department acknowledges that this one-year increase is large in proportion to current funding because many cadet corps members do not currently have uniforms, so the increase will replenish uniform inventory for all currently enrolled students. The following years' increase of $369,000 funds the replacement of worn-out uniforms, funding the program at $1.1 million (52 percent of its pre-2001 budget).

Staff Recommendation. Approve as requested.

Issue 3: Facilities Operations and Maintenance Activities

Budget. The department requests $507,000 ($117,000 General Fund and $390,000 Federal Trust Fund) and five positions to complete facility repair and maintenance for base infrastructure. The positions, by location, are listed below:

- **129th Rescue Wing, Moffett Federal Airfield.** One stationary engineer, one electrician, and one heavy equipment operator to manage air-conditioning and chiller systems; electrical and fire alarm systems; storm water drainage systems; and airfield mowing to meet bird/animal aircraft strike hazard prevention requirements. The department anticipates these positions will reduce the maintenance backlog to 755 hours or less.

- **146th Airlift Wing, Channel Islands Air National Guard Station.** One supervisor of building trades to provide a preventative maintenance program, increase the oversight of state resources, and improve work efficiency. Specifically, the deferred maintenance is anticipated to shrink within the first year, and is expected to be closed within 24 months.

- **163rd Attack Wing, March Air Reserve Base.** One material and stores specialist to enable more work requests to be completed in a given period of time, increase internal controls and physical control of the local storage warehouse, and ensure the accuracy of the material database and protection of existing assets.

Background. The Master Cooperative Agreement (MCA) between the CMD and National Guard Bureau (NGB) provides for federal reimbursement of state-supplied services and support to Air National Guard bases through California. California, through the MCA, is obligated to share 15 to 25 percent of the annual program cost for Air National Guard (ANG) facilities operations and maintenance (O&M) activities. Last year, the total annual program cost for ANG facilities O&M activities was $7 million. Of the $7 million, around $4.7 million was for personnel, operations, and maintenance; the remainder ($2.3 million) was for the sustainment, restoration, and modernization of facilities.

- **129th Rescue Wing, Moffett Federal Airfield.** The infrastructure maintenance at Moffett Federal Airfield within the established "cantonment area" and the Temporary Use Areas occupied by the 129th Rescue Wing was initially transferred to the Wing in 2009, as a result of the permit to United States Air Force from NASA Ames Research Center. The permitted property and infrastructure systems within the "cantonment area" and temporary use areas are no longer maintained or repaired by NASA Ames Research Center.

  Last year, the 129th Rescue Wing, Civil Engineering Flight reported over 7,500 annual hours of unfulfilled preventative maintenance workload to include electrical, heating, ventilation, air conditioning, plumbing, and equipment operations.

- **146th Airlift Wing, Channel Islands Air National Guard Station.** The 146th Airlift Wing, Civil Engineering unit currently mitigates staffing deficiencies by directing Federal Employees to perform state jobs. The supervisor of building trades position requested was eliminated in 2008, when its previous incumbent retired during the state budget crisis.

- **163rd Attack Wing, March Air Reserve Base.** The 163rd Attack Wing, Civil Engineering unit has one federal technician working out of class to procure state equipment. According to the department, the lack of manpower to support the increased accountability impedes state workers' ability to access tools and equipment in a timely manner.

Staff Comment. Staff notes that according to the MCA, the state must pay for the operating costs of the National Guard facilities, and the National Guard Bureau will reimburse the state, usually between 75 to 100 percent of total state costs. Further, the ANG Readiness Center has appropriated sufficient funds each year to pay the federal share of the installation maintenance and repair costs.

Staff Recommendation. Approve as requested.

8955 CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

Issue 1: Northern California Veterans Cemetery Drought Mitigation

Budget. The department requests $300,000 General Fund in the budget year, $180,000 General Fund in 2017-18, and $145,00 General Fund to replace the Northern California Veterans Cemetery turf with drought tolerant landscape, renovate the existing irrigation system to re-establish burial areas, and re-establish burial areas. Specifically, the request will:

- Redesign the irrigation system and replace the pump/fire suppression system. During the initial phase of cemetery construction, wind and headstones were not taken into consideration. As a result, when sprinklers are running, spray is lifted into the air and blown opposite direction of the wind or are deflected by headstones. Also, many sprinklers have settled below ground level.

- Re-establish in-ground cremation burials for specified areas. Although there have been attempts to overseed the area, the areas are rocky and have unsuitable soil. Turf is necessary for burial in one of the sections, and the other section will need to be returfed with tile and topsoil.

Background. Due to the ongoing drought in the state, and Governor's Executive Order B-29-15, which mandates state agencies to collectively replace 50 million sq. ft. of lawns (this request would re-turf approximately 308,000 sq. ft.) and reduce by 25 percent the potable urban water usage through February 2016, the Northern California Veterans Cemetery has already eliminated irrigation to areas set-aside for future burials – a loss of more than half of the cemetery's existing turf. CalVet estimates it will exhaust all existing burial sites by 2017-18. In order to accommodate additional burials, and meet federal USDVA National Cemetery Administration Shrine Standards, the proposal seeks to sod two existing burial areas with drought-resistant turf.

Staff Recommendation. Approve as requested, as no concerns have been raised.

Issue 2: California Email System and Wide Area Network Fee Increase

Budget. The department requests $451,000 ($433,000 General Fund and $18,000 Farm and Home Building Fund of 1943) ongoing to cover the fee increases associated with Assembly Bill 2408 (Smyth), Chapter 404, Statutes of 2010.

Background. AB 2408 requires the department to migrant existing e-mail services to the California E-Mail System (CES), as managed by the Office of Technology Services (OTech) within the Department of Technology. The CES is a cloud environment, where e-mail hardware and software are housed at Microsoft data centers. According to the department, it has incurred an increase in the cost to provide e-mail services to staff.

Prior to AB 2408, the department spent $50 million annually to maintain its own infrastructure for 2,700 mailboxes. As a result of the migration in 2013, the cost per mailbox increased from $18 per user to $91 per user. In addition to CES Mail, the CalVet WAN services are provided by OTech. In January 2014, OTech increased theses costs. OTech rate increases and migration to CES Mail increase department costs by approximately $451,000 ($203,000 for CES Mail and $248,000 for WAN connectivity).

Staff Comment. According to the department, one-time costs to migrate were absorbed. However, the department believes that it will be unable to absorb ongoing costs. Attempts to control and reduce e-mail costs have included an initiative to eliminate all Blackberry devices from CalVet inventory and delete employee mailboxes within 90 days of separation.

Staff Recommendation. Approve as requested.

Issue 3: Human Resources Division Staff

Budget. The department requests $334,000 ($301,000 General Fund and $33,000 Farm and Home Building Fund of 1943), $317,000 ($286,000 General Fund and $31,000 Farm and Home Building Fund of 1943), for two positions in the Classification and Pay Unit and one position in the Transactions Unit at CalVet's Human Resources headquarters. This proposal also includes $1,000 in additional travel funds for the analyst positions to provide training at the veterans homes.

Background. Since 2009, staffing at the department has increased from 2,096 employees to 3,268 employees, an increase of 56 percent. This increase is due in large part to the opening of five new veterans homes. However, staffing in the Human Resources' Classification and Pay Unit and Transactions Unit has not increased.

The Classification and Pay Unit provides continuous personnel/performance management training, particularly for staff, such as those in the newly opened Veterans Homes, who are new to state service. The unit also monitors the personnel process, such as recruitment for vacant positions, delays of appointments, and analyzing unit restricting, and guidance to managers and supervisors on discipline issues. Existing analysts in the unit worked a total of 179 hours in 2014-15, in response to demands of increase workload. Based on a July 2015 estimate (37.5 hours), the department projects overtime hours to reach 478 hours.

The Transactions Unit processes appointments, leave, retirement, benefits, workers compensation, and state disability insurance. In addition, the unit must comply with new mandates.

Currently, the department has not yet developed or implemented procedures to ensure errors are corrected on an ongoing basis. Instead, CalVet often puts off other assignments when quarterly reports are due to the Department of Human Resources.

Justification. According to the department, the two positions will help reduce the number of "grievances that are a result of untrained and inexperienced managers and supervisors." Specifically, the department reports, "Due to the lack of training for the new state service support staff and supervisory/management staff at the eight Veterans Homes, there have been merit issue complaints, nepotism issues, staff working out of class without HR approval, and hiring of unqualified staff. In addition, Headquarters HR staff has had to assist managers and supervisors with re-writing and editing probationary reports, Individual Development Plans, position justifications, Request for Personnel Actions, duty statements, and classification allocations."

Staff Comment and Recommendation. Approve as requested.

ISSUES PROPOSED FOR DISCUSSION/VOTE

2100 DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Overview. The Department of Alcoholic Beverage Control (ABC) licenses and regulates persons and businesses engaged in the manufacture, importation, distribution, and sale of alcoholic beverages in California. ABC currently has 45 vacancies and a vacancy rate of approximately 10 percent. Of these, 25 vacancies are for sworn positions, with 13 conditional offers of employment made.

Vacancy Rates at ABC as of 2/15/16			
	Sworn	Non-Sworn	Total
Authorized Positions	207	239	446
Vacancies	25*	16	45
Vacancy Rate	12%	7%	10%

*13 Conditional Offers of Employment have been made for these vacancies – meaning that job offers are contingent upon successful completion of psychological and medical requirements.

ABC receives 3,000 to 6,000 complaints annually from concerned citizens, local law enforcement agencies, and the alcoholic beverage industry itself. Each complaint is analyzed by sworn management staff and evaluated for further investigation. For example, in FY 14/15, ABC received 3,685 complaints that sworn managers believed were serious enough, and provided sufficient information, to warrant an investigation. During 2014-15, ABC completed 3,671 investigations. Within the same time period, ABC made 3,457 arrests; filed 2,239 administrative enforcement actions; and issued 376 letters of warning to ABC licensed businesses for various prohibited actives. Of those cases that were adjudicated during this period, ABC suspended 729 licenses (including stayed suspensions), revoked 195 licenses (including stayed revocation) and collected fines from 1,150 ABC licensees, totaling $3.2 million.

Budget. The balance of the Alcoholic Beverages Control Fund, which, according to ABC, funds 98 percent, of all activity (the other two percent is reimbursements from Office of Traffic Safety grants), is projected to be approximately $30 million at the end of the current year, and $25 million at the end of 2016-17.

Issue 1: Staff Resources for Information Technology

Budget. The budget includes one position (System Software Specialist II) and an increase in $117,000 in appropriation authority to provide information technology (IT) infrastructure support and security to the department and the public.

Background. Currently, two positions at ABC provide network and server support. To meet additional needs, as a result, the department has redirected staff from other functions to meet its needs. Specifically, one analyst from the Help Desk performs IT security officer duties on a part-time basis. According to the department, ABC "has implemented a variety of additional technologies with no increase in staffing." For example, below is a list of technologies implemented without any increase in staffing.

- BMC TrackIT
- Juniper SSL VPN
- Wireless Pilot at Headquarters
- TMSP/Federated Data Center
- Blade/Virtualization
- Dell SAN Storage
- Riverbed WAN Optimization
- Unitrends Digital to Digital Backup
- Verizon/MAAS Fluke Network Probe
- SCCM 2012

In addition, the department notes "an internal need and public desire" for moving to mobile technology. As ABC enforcement and licensing staff use applications on mobile devices, it requires broader access through virtual private network (VPN), Wi-Fi and Bluetooth. Many ABC employees, such as sworn staff and licensing representatives, spend time away from the office. The department is seeking the staff to monitor this aspect of technology, as well.

Currently, the department has 16 vacant positions, 13 of which are conditional offers.

Staff Comment. Staff concurs with the department's assessment about the importance of securing information technology and infrastructure. However, given the department's historical vacancy rate, the committee may wish to reserve its right to conduct oversight regarding the implementation of this staffing request, as well as an update on all vacant positions, during next year's subcommittee hearings.

Staff Recommendation. Approve as requested.

1111 Department of Consumer affairs (DCA)

Overview. The department seeks to protect Californians by establishing and enforcing licensing standards for approximately three million professionals across 250 business and professional categories. DCA oversees forty entities (26 Boards, two committees, one commission, ten bureaus, and one certification program). The committees, commission, and boards are semi-autonomous bodies, whose members are appointed by the Governor and the Legislature. License fees primarily fund DCA's operations.

Budget. The budget includes $648.9 million total funds and 3,109 positions to support the department, its programs, and its services. Specifically, the budget includes:

Code	Program	Actual 2014-15*	Estimated 2015-16*	Proposed 2016-17*
1100	California Board of Accountancy	$-	$-	$14,833
1105	California Architects Board	-	-	4,800
1110	State Athletic Commission	-	-	1,846
1115	Board of Behavioral Sciences	-	-	11,373
1120	Board of Chiropractic Examiners	-	-	4,135
1125	Board of Barbering and Cosmetology	-	-	22,977
1130	Contractors' State License Board	-	-	65,426
1132	CURES	-	-	1,112
1135	Dental Board of California	-	-	16,427
1140	State Dental Hygiene Committee	-	-	2,042
1145	State Board of Guide Dogs for the Blind	-	-	208
1150	Medical Board of California	-	-	63,641
1155	Acupuncture Board	-	-	4,330
1160	Physical Therapy Board of California	-	-	5,323
1165	Physician Assistant Board	-	-	1,722
1170	California Board of Podiatric Medicine	-	-	1,515
1175	Board of Psychology	-	-	5,013
1180	Respiratory Care Board of California	-	-	3,799
1185	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	-	-	2,036
1190	California Board of Occupational Therapy	-	-	2,350
1196	State Board of Optometry	-	-	2,224
1200	Osteopathic Medical Board of California	-	-	2,344
1205	Naturopathic Medicine Committee	-	-	335
1210	California State Board of Pharmacy	-	-	20,903
1215	Board for Professional Engineers and Land Surveyors and Geologists	-	-	11,931
1220	Board of Registered Nursing	-	-	43,527
1225	Court Reporters Board of California	-	-	1,304
1230	Structural Pest Control Board	-	-	5,264
1235	Veterinary Medical Board	-	-	4,990
1236	Veterinary Medical Board Pet Lover's License Plate Program	-	-	150
1240	Board of Vocational Nursing and Psychiatric Technicians of the State of California	-	-	13,889
1400	Arbitration Certification Program	1,233	1,207	1,253
1405	Bureau of Security and Investigative Services	12,490	15,713	17,545
1410	Bureau for Private Postsecondary Education	11,845	17,515	18,047

1415	Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation	7,398	7,907	8,187
1420	Bureau of Automotive Repair	179,736	187,171	192,292
1425	Consumer Affairs Administration	99,793	120,028	120,023
1426	Distributed Consumer Affairs Administration	- 99,626	- 119,848	- 119,843
1430	Telephone Medical Advice Services Bureau	167	178	196
1435	Cemetery and Funeral Bureau	3,582	4,492	4,651
1440	Bureau of Real Estate Appraisers	5,472	5,850	-
1441	California Bureau of Real Estate Appraisers	-	-	6,068
1445	Bureau of Real Estate	47,352	52,730	-
1446	California Bureau of Real Estate	-	-	54,380
1450	Professional Fiduciaries Bureau	602	636	549
1455	Bureau of Medical Marijuana Regulation	-	10,000	3,781
Total Expenditures (All Programs)		**$270,044**	**$303,579**	**$648,898**

Issue 1: Osteopathic Medical Board – Office Technicians and Rent Increase

Budget. The Board requests a $175,000 (Osteopathic Medical Board of California Contingent Funds) increase in expenditure authority to fund three previously established office technician positions. In addition, the Board requests $50,000 (Osteopathic Medical Board of California Contingent Funds) in the budget year and ongoing to move to the larger office space in the future.

Background. The Board licenses and regulates osteopathic physicians and surgeons. The Budget Act of 2014 authorized three office technicians to help address the workload associated with significant growth in its licensing population (from 2002 to present, the population of licensed osteopathic physicians grew from 4,200 to 7,440) and to reduce the open complaints backlog. Since hiring the three licensing positions, nearly 399 complaints have been resolved. Currently, the number of open complaints is 252. In 2014, the Board did not request funding for these positions because, at the time, there was a sufficient amount of appropriation to absorb the costs of the additional positions within their existing resources.

According to the Board, the request for additional funding for a new space was an oversight in the original 2014 budget request. The Board has made internal tenant improvements to accommodate the staff increase, such as using a portion of a meeting room, an empty file room, and a front counter. Since the last lease was put in place, the program has grown from seven to 14 positions. The Board's current annual rent cost is $70,996. The annual cost to move to an office suitable for staff will be approximately $50,000 greater than the annual cost of their current office.

Staff Comment. Prior to hiring the three positions in fiscal year 2014-15, the Board's annual reversion was sufficient to absorb any additional costs within their existing resources. Specifically, at the time, the Board was absorbing two intermittent positions and was working to eliminate the licensing backlog. It was anticipated that the savings created by eliminating the temporary help and overtime expenditures associated with eliminating the licensing backlog would offset costs. However, due to an increased volume of cases referred to field investigations and the Attorney General's office for prosecution, enforcement costs have increased and become more complex. As of March 2015, there were 53 cases pending at the Attorney General's office.

Staff Recommendation. Approve as requested.

Issue 2: Veterinary Medical Board

Budget. The budget requests the conversion of four limited-term positions to four permanent positions (one staff services analyst and three program technicians), and $256,000 (Veterinary Medical Board Contingent Fund) in two-year limited-term funding to support these positions. Specifically, the positions:

- Three program technicians will be responsible for the processing of initial and renewal license applications, which includes preliminary review and evaluation, processing and cashiering, and will be the main points of contact for the applicants. The Board indicates that these positions will also provide enforcement related support, which was not identified in the FY 2014-15 BCP.

- One staff services analyst will be responsible for the increased workload associated with processing complaints and desk investigations of veterinary assistants stemming from applicants with previous criminal history and or permit holders who are either convicted of crimes, or violate the Veterinary Medicine Practice Act subsequent to becoming permitted by the Board.

Background. The Board's mission is to protect consumers and animals through the development and maintenance of professional standards, the licensing of veterinarians and registered veterinary technicians, and through enforcement of the California Veterinary Medicine Practice Act. The Board's current total active licensee population is approximately 18,500 licensees and registrants. The enforcement unit investigates complaints on veterinarians, registered veterinary technicians and the unlicensed practice of veterinary medicine; takes formal disciplinary action when appropriate; and inspects animal hospitals to ensure that minimum standards are maintained and sanitary conditions are met.

The Board estimates that the registration of veterinary assistants would add approximately 13,600 new permit holders under the Board's oversight. The Board anticipates half of these prospective 13,600 (6,800) applicants will apply for VACSP permits in FY 2015-16 and the remaining 6,800 applicants will apply in FY 2016-17.

Currently, the Board has filled all 23.8 authorized positions.

Staff Recommendation. Approve as requested.

Issue 3: Medical Marijuana Regulation and Trailer Bill

Overall Budget. The budget includes an initial loan of $5.4 million to the Medical Marijuana Regulation and Safety Act Fund, which will, in the future, be the repository for all fees collected by the licensing authority. In addition, the budget includes $12.8 million General Fund, $10.6 million Medical Marijuana Regulation and Safety Act Fund, $1.2 million special funds, and a proposed 126 positions to implement the regulations. To comply with the new requirements and standards set forth by the act, the budget includes several proposals across different departments, including:

- **Department of Fish and Wildlife.** The budget includes $7.7 million General Fund and 31 positions to make permanent the 2014 multi-agency task force.

- **State Water Resources Control Board.** The budget includes $5.7 million ($5.2 million General Fund and $472,000 Waste Discharge Permit Fund) and 35 positions in the budget year for the Board to develop and implement a program that addresses environmental impacts of cultivation, as well as protecting fish from possible water diversions related to cultivation.

- **Department of Food and Agriculture (CDFA).** The budget proposes $3.3 million in 2015- 16 and $3.4 million from the Medical Marijuana Regulation and Safety Act Fund, and 18 positions in the budget year, to provide administrative oversight for the Medical Cannabis Cultivation Program, establish regulations, issue medical marijuana cultivation licenses, and perform an Environmental Impact Report. Also, the CDFA will establish a "seed-to-sale" program to report the movement of products throughout the distribution chain.

- **Department of Consumer Affairs.** The budget includes $1.6 million in the current fiscal year and $3.8 million from the Medical Marijuana Regulation and Safety Act Fund, as well as 25 positions in the budget year, to create the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.

- **Department of Public Health.** For licensing and regulation of medical marijuana product manufacturers and testing laboratories, the budget includes $457,000 in 2015-16 and $3.4 million from the Medical Marijuana Regulation and Safety Act Fund, and 14 positions in the budget year.

- **Department of Pesticide Regulation.** To assist in the development of guidelines of pesticide use in medical marijuana cultivation, the budget proposes $700,000 to the Department of Pesticide Regulation.

DCA Budget. The department requests 9.7 positions and $10 million in the current year; $3.8 million in the budget year and 25 positions ongoing; $4.1 million in FY 2017-18; and $492,000 in 2018-19 and 2019-20 to fund the development and initial start-up of the Bureau of Medical Marijuana Regulation (Bureau), and the study as required by the Medical Marijuana Regulation and Safety Act. For the budget year, the department requests staffing in the following areas:

- **Bureau staff (13 positions)**

    - One bureau chief and one deputy chief to formulate, implement, and interpret Bureau operations, so that program areas comply with statutes.

- One enforcement program manager (effective January 1, 2017) to oversee investigations and prosecutions, including developing policy recommendation related to the governance of medical marijuana.
- One licensing program manager to oversee the operations of licensing (effective January 1, 2017).
- One information officer to serve as a liaison between the Bureau and the media (effective July 1, 2016).
- Establish a Legal Affairs Division, comprised of one attorney III, two attorneys, one senior legal analyst, one legal analyst, and one legal assistant position. (The anticipated start date for the senior legal analyst, legal analyst, and legal assistant is April 1, 2016.
- One assistant chief of policy and legislation to develop regulatory packages)and coordinate stakeholder meetings.
- One data processing manager III to serve as the primary IT liaison with other licensing entities and state departments (effective July 1, 2016).
- One AGPA and one management service technician to assist and provide other support.

- **Division of Investigation (4 positions)**
  - One supervising investigator II to serve as visible outreach to local law enforcement.
  - Two investigators (one Northern California, one Southern California; effective April 1, 2016) to serve as liaisons to regional law enforcement, legal affairs, and city and county enforcement needs.
  - One AGPA (effective April 1, 2016) to develop reports of a not-yet-developed matrix and maps of existing medical marijuana dispensaries, cultivation locations, and transportation operations.

- **Legislative and Regulatory Review.** One AGPA to review, analyze, and facilitate regulatory packages of the Bureau, and respond to constituent inquiries.

- **Office of Information Services.** One Data Processing Manager III to direct multiple state project managers and business analysts within DCA and within stakeholder agencies in all phases of project planning, executing, and closing activities of contract management, and support the project's Executive Steering Committee in the development and implementation of inter-agency governance polices.

- **DCA's Office of Human Resources and Budget Office.** Two Associate Personnel Analysts to assist the Bureau with the hiring, recruitment, compensation and performance management of personnel. One AGPA to serve as the single-point-of-contact for fiscal and accounting issues with the Bureau.

- **Business Services Office.** One AGPA to secure a lease, prepare service contracts and procure equipment in order to run day-to-day operations

- **Consultant contract (one)** to provide subject-expertise related to the medical marijuana industry.

- **Study with the Center.** Dr. Igor Grant, Head of the Center at the University of California, San Diego, provided the following breakdown of costs associated with developing and conducting the study as required by AB 266:

    - Building retrofit to accommodate the requirements of this study ($350,000)
    - Comprehensive study would be $1.476 million over three fiscal years ($492,000)

Total costs for this study are $1.8 million over four fiscal years, assuming the building retrofit occurs in 2016-17, and the study is conducted in 2017-18 through 2019-20.

Trailer Bill. At the time of this agenda, the posted trailer bill language is currently intent language and does not provide additional detail or possible clean-up related to the provisions of the Act. The department notes that trailer bill language is intended to "provide the Bureau with the necessary authority to hire a Deputy Bureau Chief and Assistant Chief Counsel."

Background. In June 2015, Governor Brown signed the Medical Marijuana Regulation and Safety Act, comprised of Assembly Bill 243 (Wood), Chapter 688, Statutes of 2015; Assembly Bill 266 (Bonta), Chapter 689, Statutes of 2015; and Senate Bill 643 (McGuire), Chapter 719, Statutes of 2015. Together, these bills established the oversight and regulatory framework for the cultivation, manufacture, transportation, storage, and distribution of medical marijuana in California.

LAO Comment. The LAO finds the "proposed approach [is] consistent with legislation, [and] ongoing oversight will be important." Although no major concerns were raised, the scope and complexity of new state-level activities are significant. Undertaking such activities requires considerable coordination among agencies and affects multiple areas of statewide importance—including public health, public safety, and environmental protection. Moreover, there remains uncertainty regarding the ultimate size of the regulated medical marijuana industry and other unknown factors, such as whether voters will opt to legalize recreational marijuana in the coming years. Given these potential challenges and uncertainties, close monitoring over the status, pace, and effectiveness of Act's implementation will be an important task for the Legislature in the coming years.

Staff Comment. The newly established Bureau of Medical Marijuana Regulations, along with other licensing entities, will be responsible for 17 different types of business licenses, including: cultivators, nurseries, processors, testing labs, dispensaries, and distributors. Regulations are required to be released by January 1, 2018. To meet this deadline, the department has already held meetings with other licensing entities, and has educated staff and the public about the new law, including: holding educational tours of cannabis businesses, and seeing demonstrations on the Track and Trace systems. DCA has also compiled a list of parties interested in participating in the regulatory process. However, as of January 2016, no formal stakeholder meetings have been held. Given the impending two-year deadline, and that there is no recent precedent for establishing an oversight and regulatory scheme of this magnitude, the Legislature may wish to consider: (1) how will DCA include and inform the

Legislature on the status of regulations; and, (2) ho will DCA coordinate across the different licensing entities to ensure regulations are developed on-time, and with appropriate and adequate staffing levels?

Since 1970, the federal Control Substances Act defines Schedule 1 drugs as those that have a high potential for abuse; have no currently accepted medical use in treatment; and possess a lack of accepted safety under medical supervision. Marijuana is considered a Schedule 1 drug, along with heroin, ecstasy, and LSD. States maintain a similar classification list, with the possibility that state and federal lists may conflict; however, in California, there is no such conflict. Given that both federal and state classifications consider marijuana a Schedule 1 substance, the Legislature may wish to consider how these long-held policies may influence, and may create tension, in how local cities, counties, or law enforcement view and enforce medical marijuana enterprises under the new regulations.

Staff Recommendation. Hold open for further consideration.

Issue 4: Medical Board – Staff Augmentation

Budget. The Board requests $113,000 (Contingent Fund of the Medical Board of California) the budget year, $105,000 (Contingent Fund of the Medical Board of California) ongoing, for one AGPA to address enforcement workload associated with legislative mandates related to the reporting of adverse events by accredited outpatient surgery settings and hospital reports of transfers by licensed midwives of planned out-of-hospital births.

Background. Senate Bill 304 (Lieu), Chapter 515, Statutes of 2013, requires an accredited outpatient surgery setting to report an adverse event to the Board no later than five days after the adverse event has been detected, or not later than 24 hours after the adverse event has been detected if the event is an ongoing urgent or emergent threat to the welfare, health, or safety of patients. Since January 2014, the Central Complaint Unit (CCU), an intake unit that handles complaints filed against physicians and certain allied health care professionals. has received 143 Adverse Event Reports from accredited outpatient surgery settings. Upon receipt of each report, CCU staff determines whether sufficient evidence reveals a violation of law by a physician.

The AGPA must also research and request additional information from the outpatient surgery setting reporting the adverse event to determine whether the outpatient surgery setting is accredited by the Board or licensed by the California Department of Public Health.

AB 1308 (Bonilla), Chapter 665, Statutes of 2013, requires hospitals to report to the Board each transfer to a hospital by a licensed midwife of a planned out-of-hospital birth. Since 2013, the CCU has received 171 reports of transfers of planned out-of-hospital births. Upon receipt of each, CCU staff seeks to determine whether the transfer resulted from negligent treatment provided by the midwife (e.g., requests summaries of treatment and patient medical records from midwives and facilities).

Currently, the Board has 160.1 authorized and currently six vacancies. 2013-14, there were 17.1 vacancies; and in 2014-15, there were 16 vacancies.

Staff Comment. Currently, it takes 144 days for one AGPA to process a complaint. In the current year, the enforcement program received 10,416 complaints and closed 5,820. The subcommittee may wish to ask the Board to explain the projected outcomes for how one additional position will assist in reducing the overall caseload per CCU analyst.

Staff Recommendation. Approve as requested.

Issue 5: State Board of Optometry and Trailer Bill

Budget. The Board requests 0.5 office technician - typing and a 0.6 special investigator (SI) to replace current services provided to the program by the Medical Board of California and Division of Investigation (DOI): Health Quality Investigation Unit (HQIU). The office technician will provide services, such as cashiering, receiving and mailing, and complaint processing. The special investigator will conducting desk investigations on complaints or other violations.

The Board is not requesting additional expenditure authority to support these positions.

This request includes an offsetting reduction in position authority of a 0.5 office technician and funding of $39,000 for the Medical Board, and a 0.6 SI and $62,000 for DOI: HQIU.

The budget also provides trailer bill language to implement the provision of transitioning the Registered Dispensing Optician (RDO) program from the Medical Board to the Board of Optometry.

Background. Assembly Bill (AB) 684 (Alejo, Chapter 405, Statutes of 2015) moves RDO from the Medical Board of California (MBC) to the State Board of Optometry (Board). AB 684 was a result of over a decade of litigation. In *National Association of Optometrists & Opticians v. Harris*, the plaintiffs argued that the laws restricting business arrangements between opticians and optometrists violate the dormant Commerce Clause of the United States Constitution, stating it was unfair that optometrists and ophthalmologists may set up a practice where patients may receive both eye examinations and prescription eyewear; but opticians may offer only the sale of eyewear. The Court upheld the California law as constitutional, stating the law did not place a burden on interstate commerce because it precludes a preferred, more profitable method of operating in a retail market.

The RDO program currently has a 0.9 Management Services Technician (MST) that serves as the programs licensing analyst. When the RDO moves, they will no longer receive these services from the Medical Board and will need to acquire the staffing resources to continue to carry out these duties. RDO's existing budget already includes appropriation for these services.

Additionally, AB 684 creates a Dispensing Optician Committee consisting of five members (two registered dispensing opticians, two public members, and one member from the Board). Costs associated with this committee will include daily per diem of $100 per member and travel expenses (airfare, lodging, and food) for members travelling from Southern California. Travel costs for the southern California members would be $665 per member, each meeting, for four meetings a year. This cost is estimated to be $7,320 ($1,830 x 4) annually. This cost will be absorbed by RDO.

Staff Comment. The Registered Dispensing Optician Fund is projected to become insolvent by fiscal year 2017-18, even without the additional costs created by AB 684. There is additional space in RDO's statutory fee caps to raise fees to $100 (from $75), but this will not be sufficient to address the current structural deficit of the RDO fund. The Board is in the process of contracting out for a fee analysis to determine the appropriate fee levels, as they were last raised in 1999. The subcommittee may wish to consider how the RDO program can support the committee’s travel and additional expenses, given its fund status. Further, the subcommittee may wish to consider a broader discussion of boards and bureaus’ fund health and status at a later hearing.

Staff Recommendation. Hold open to allow additional time for comments on trailer bill language.

Issue 6: Oversight: Board of Pharmacy – Controlled Substance Utilization, Review, and Evaluation System (CURES) Program

Background. CURES is California's prescription drug monitoring program, and is considered a critical part of the state's effort to stem prescription drug abuse by seeing patterns in prescription-shopping by patients and the over-prescription of pain medication by physicians. In 1998, CURES replaced the Triplicate Prescription Program (created in 1939 to capture Schedule II prescription information), and recorded Schedules II through IV. Senate Bill 809 (DeSaulnier and Steinberg), Chapter 400, Statutes of 2013, requires all California licensed prescribers authorized to prescribe scheduled drugs to register for access to CURES 2.0 by July 1, 2016, or upon issuance of a Drug Enforcement Administration Controlled Substance Registration Certificate, whichever occurs later, to register with the Department of Justice (DOJ) to be registered for CURES.

In July 2015, CURES 2.0 launched and requires Microsoft Internet Explorer version 11.0 or higher, or current versions of Mozilla Firefox, Google Chrome or Safari. Hospitals, such as Kaiser, Sutter and Dignity Health, reported the new database as incompatible with dated version of Internet Explorer, and in some circumstances, "the database will not work with their electronic health record systems."

According to the DOJ, of the 43,819 pharmacists currently licensed by the Board, over 10,000 have registered for CURES 2.0. Between January and February 2016, pharmacists ran 344,647 patient activity reports.

The Board has collaborated with DOJ to educate licensees about the new CURES system, as well as the mandatory registration by July 1, 2016. The Board intends to do a mass mailing to all pharmacists on May 2016.

Staff Comment. The item is informational. It is included as part of the subcommittee's oversight to determine how many more licensees need to be enrolled, and how the Board and DOJ are working with hospitals and providers for education and outreach.

Issue 7: Board of Pharmacy – Sterile Compounding Facilities (SB 294)

Budget. The Board of Pharmacy (Board) is requesting $1.1 million (Pharmacy Board Contingent Fund, Professions and Vocations Fund) to transition 5.5 existing three-year limited-term positions to permanent in 2016-17, and ongoing, to execute statutorily mandated inspections, investigations, process license and renewal applications, handle enforcement related workload and provide support for the resident and non-resident sterile injectable compounding facilities.

Background. SB 294 (Emmerson), Chapter 565, Statutes of 2013, requires resident and nonresident sterile compounding pharmacies to be licensed. In addition, the Board must conduct a mandatory inspection of all resident and non-resident sterile compounding pharmacies prior to licensure and upon renewal annually. As a result of SB 294, the Board has an additional 666 new sterile compounding pharmacy licensees. To date, in 2015-16, the Board has conducted 48 inspections of non-resident facilities and identified a total of 51 violations in 23 facilities. In 2015-16, the Board conducted 1,133 resident facility inspections and issued 922 corrections and 44 violations notices at 405 facilities.

To address the workload associated with the implementation of SB 294, the 2014 Budget Act provided seven three-year limited term positions: four pharmacy inspectors, one AGPA, one staff services analyst, and one office technician, effective July 1, 2014. The Board filled these positions between August 2014 and December 2014.

SB 294 was a Board-sponsored bill, and anticipates ongoing program costs to be $1.2 million ($1 million for salary and benefit costs and $242,000 for travel costs for in-state and out-of-state inspections). At the time of the original 2014 budget request, the investigation workload was not included; however the Board has seen an increase in the number of investigations of specialty pharmacies, which it is currently absorbing. The Board under-projected the impact of resident sterile compounding facilities. Specifically, it projected receiving only 700 applications and renewals; however, it received 991. In addition, the Board anticipated only conducting 700 resident inspections; however, it conducted 1,133 in 2014-15. The Board attributes this unanticipated impact of in-state facilities because any change, including a pharmacy remodel, requires an inspection.

The Board proposes to increase fees, in the 2017-18 year, from $780 to $1,645 for LSC applications; from $780 to $2,380 for NSC applications; from $780 to $1,325 for LSC renewals; and from $780 to $2,270 for NSC renewals.

Staff Comment. Historically, limited-term positions allow an individual to remain in a given position for up to two-years. In May 2015, the Administration submitted a letter to the Legislature, eliminating the use of limited-term positions to address short-term workload. Although the position authority is authorized until June 30, 2017, staff, under CalHR policy, would not be allowed to remain in the same position after two-years. As such, the Board is requesting to make permanent the positions to allow current staff to remain in their positions.

Given the Board's fee increase proposal, the subcommittee may wish to consider a broader discussion of boards and bureaus' fund health and status at a later hearing.

Staff Recommendation. Hold open.

Issue 8: Board of Pharmacy – Combatting Prescription Drug Abuse

Budget. The Board requests $1.3 million (Pharmacy Board Contingent Fund, Professions and Vocations Fund) to transition eight existing three-year limited-term positions to permanent in 2016-17, and ongoing, to address prescription drug abuse.

Background. All pharmacies and clinics must electronically report specified dispensing information to the CURES system on a weekly basis. Currently, more than 100 million prescriptions of controlled substances dispensed over a period of years are available from CURES. In the 2014 Budget Act, the Board was provided eight three-year limited term positions (1.0 Supervising Pharmacy Inspector, 5.0 Pharmacy Inspectors, 1.0 Research Program Specialist and 1.0 AGPA) in FY 2014/15 to create a specialized team focused on monitoring, initiating and investigating violations of existing statutes relating to Board licensees' failure to exercise corresponding responsibility.

Since they have been in their positions, the Research Program Specialist and the AGPA have focused their efforts on proactive data mining, compiling and analyzing the data received, reviewing CURES reports and reviewing Coroner's reports to identify trends in controlled substances dispensed in California. As a result of this data mining, the Board has identified 59 licensees that warrant additional investigation. Of the 90 inspections that the Prescription Drug Abuse team conducted, 62 sites were found to be violating pharmacy law, with a total of 201 violations and 62 corrections being ordered.

To date, the Board has spent 1,912 staff hours researching and analyzing data, for a cost of $49,677. The Board has spent $522,873 on enforcement activities through data mining. As a result of these efforts, the Board has opened an additional 115 cases from July 1, 2015, to February 22, 2016.

Staff Comment. In May 2015, the Administration submitted a letter to the Legislature, eliminating the use of limited-term positions to address short-term workload. Although the position authority is authorized until June 30, 2017, staff, under CalHR policy, would not be allowed to remain in the same position after two-years. As such, the Board is requesting to make the positions permanent, allowing current staff to remain in the position, once their limited-term appointment expires.

Although the Board does not have a legislative mandate to evaluate coroner's reports, it has done so proactively. The Board currently has focused its efforts in two counties to review 306 decedent's reports. Of the 16 citations the Board has issued, the Board has recovered only $3,740 of the imposed $15,400 amount in fines. In addition, the Board has 137 pending investigations.

Staff Recommendation. Hold open.

Issue 9: Naturopathic Medicine Committee

Budget. The committee requests $101,000 (Naturopathic Doctors Fund) in 2016-17 and ongoing to convert one associate governmental program analyst (AGPA) position from three-year limited term to permanent.

Background. The committee, which consists of two positions and currently, has no vacancies, was established January 1, 2004, and is housed within the Osteopathic Medical Board of California. To address the increasing licensee population, renewal workload, and to manage the enforcement program, the committee was authorized one three-year limited-term AGPA position in the Budget Act of 2014.

In May 2015, the Administration submitted a letter to the Legislature, eliminating the use of limited-term positions to address short-term workload. Following the implementation of California Department of Human Resources (CalHR)'s policy, the committee is requesting to retain current staff in the position, once their limited-term appointment expires.

Staff Recommendation. Hold open.

8955 CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

Overview. The California Department of Veterans Affairs (CalVet) serves nearly two million California veterans and their families, helping present claims for entitled state and federal benefits or direct low-cost loans to acquire farms and homes; and providing the veterans, who are aged or have disabilities, with residential and medical care in a home-like environment at the Veterans Homes.

The department facilities include eight veterans homes on 776 acres of land and 2.4 million gross square feet of building space; two state cemeteries (Igo, near Redding, and in Younville) with 19,000 gravesites on 74 acres; and two office buildings. A third cemetery is under construction in Seaside, Monterey County, and will contain an additional 5,000 gravesites on 17 acres.

Budget. The budget provides $454 million ($382.5 million General Fund, $2.6 million federal funds, and $68.9 million special funds) to support the department and its programs.

Issue 1: Oversight – Claims Representation in County Veteran Service Offices

Budget. The budget includes $5.6 million General Fund for local assistance to County Veteran Service Offices (CVSOs). CalVet provides funding to the CVSO, based on the number of workload units – a claim that has a reasonable chance of obtaining a monetary or medical benefit for a veteran, dependent, widow/widower, or survivor. Nearly all CVSOs receive $20,000 General Fund for administration and $12,000 for attending training programs three times a year.

Overview of County Veteran Service Offices. CVSOs serve as the "boots on the ground" access point, providing veterans the ability to access their benefits and services in counties where they reside. CVSO operations include: U.S. Department of Veterans Affairs (USDVA) benefit counseling, claims development, case management, outreach, and a variety of referrals and assistance with veteran services. CVSOs also regularly participate in outreach events to educate veterans on eligible benefits, provide assistance in obtaining these benefits and services, and coordinate referrals from agencies and organizations, such as the county's Department of Public Social Services when veterans and their families may apply for public assistance programs, or are in need of other services.

CalVet provides accreditation training, training conferences, individual training, and ongoing support to CVSO staff filing claims. CVSOs filing claims with CalVet's power of attorney are all sent to CalVet for an initial review prior to submission to the USDVA. CalVet will respond to the CVSO if anything is found to be missing, and provide additional training if there are consistent errors. If a veteran disagrees with the award or denial by the USDVA, CalVet also represents veterans in all appeal hearings to the Board of Veterans Appeals. CalVet's CVSO Auditor provides additional feedback and training to each CVSO twice per year on the quality of College Fee Waivers and workload units submitted by CVSOs.

CalVet also partners with CVSOs on a variety of other programs, such as the "Honoring Veterans" license plate program through the California Department of Motor Vehicles (DMV). The revenue from the sales of the license plates are distributed to CVSOs through the Veterans Service Office Fund that CalVet administers. In November 12, 2015, CalVet and DMV launched the Veteran Driver License Initiative. This initiative allows California Veterans to obtain a "Veteran" designation on their California driver license or identification card (DL/ID). One of the primary objectives for this initiative was to increase traffic through CVSOs, so while the veterans are in their offices, CVSO staff can also make them aware of other benefits and services to which they may be entitled. As of February 15, 2016, 15,719 veteran designation forms have been completed by CVSOs; and 1,728 claims for USDVA benefits subsequently filed.

Based on estimates for the 2015-16 fiscal year, some CVSOs appear to serve a low percentage of eligible USDVA veterans, based on the workload unit divided by the population of USDVA veterans. For example, although the Los Angeles County CVSO was provided $251,205 General Fund, only 2.2 percent of its eligible USDVA population was served (6,918 of 314,667 veterans); whereas, Solano County, which received $222,846 General Fund, reached nearly 18 percent (6,023 of 34,022 veterans) of its veteran population. In Riverside County, $345,082 General Fund was provided and only 7.2 percent (9,879 of 136,466 veterans) were served. According to the department, regardless of the county size, reasons for why some CVSOs may have stagnated are the inherent structure of CVSOs being "under the jurisdiction of the Board of Supervisors," turnover, or prolonged vacant positions. According to CalVet, "In an effort to mitigate CVSOs from stagnating, CalVet has proposed regulations to require CVSOs and their veterans service representatives to become accredited by CalVet for filing USDVA claims; this requirement establishes a baseline of knowledge for all CVSO representatives filing claims."

Staff Comment and Recommendation. This item is informational, and no action is needed at this time. In conversations and meetings with the department, staff notes the department's commitment and continued efforts to improve training and its partnership with CVSOs, creating incentives ($12,000 annually for attending trainings) and standardized training academy. The subcommittee may wish to consider, if not by the percentage of veterans served, what types of outcome measures are richer indicators to determine a CVSO's success in reaching veterans in the community.

Question

1. How has the department worked to address gaps in the percentage of veterans served to the funding amount provided to the CVSOs?

Issue 2: Oversight: Strike Teams and U.S. Department of Veterans Affairs Claims

Budget. The Governor's budget does not provide additional funding for strike teams. The funding for strike teams is set to expire June 30, 2016, but the positions were made permanent in the 2015 Budget Act.

Background. The Budget Act of 2013 included $3 million General Fund[1] and 36 limited-term positions, until 2015-16, to establish "strike teams" which would reduce the initial entitlement claims backlog at the USDVA, and ensure that claims from CVSOs are properly developed and had the documentation necessary for USDVA to rate. Strike teams consist of twelve staff and are co-located in each of USDVA's three regional offices – San Diego, Los Angeles, and Oakland. When strike teams were deployed in Fall of 2013, the national average for a veteran to receive benefits was nearly 349.6 days. Before the state established the teams, in July 2013, the average number of days to completion that California veterans were waiting for entitlement claims were: 590 days in Oakland, 616 in Los Angeles, and 348 in San Diego. As of January 28, 2016, the average days pending for CalVet entitlement claims in the fully developed claims program is down to 83 in Oakland, 112 days in Los Angeles, and 82 in San Diego. Strike teams have also helped reduce the first initial entitlement claims backlog at USDVA from about 70,000 to 7,000.

According to the January 28, 2016, *Joint Claims Initiative Progress Report*, "Compensation awarded through these efforts from September 2013 through January 2016 is $101,302,261 in lump sum payments (meaning retroactive payments based on the time the claim has been pending at the USDVA). Monthly award payments totaling $13,897,518 have been awarded. Annualized, that is $166,770,212 in payments going to California veterans every year for the rest of their lives."

Please see table below for the average number of days to completion California veterans waiting for new entitlement claims:

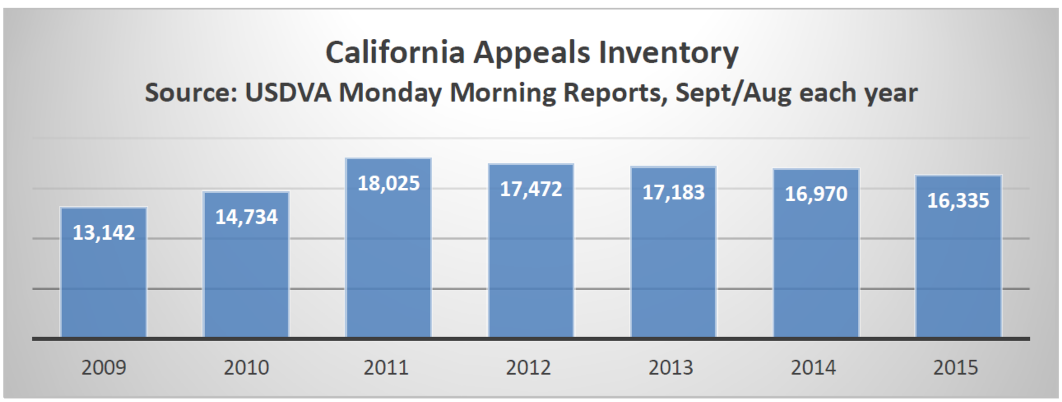
Region	June 2013	October 2015
Oakland	590	113
Los Angeles	616	136
San Diego	348	116

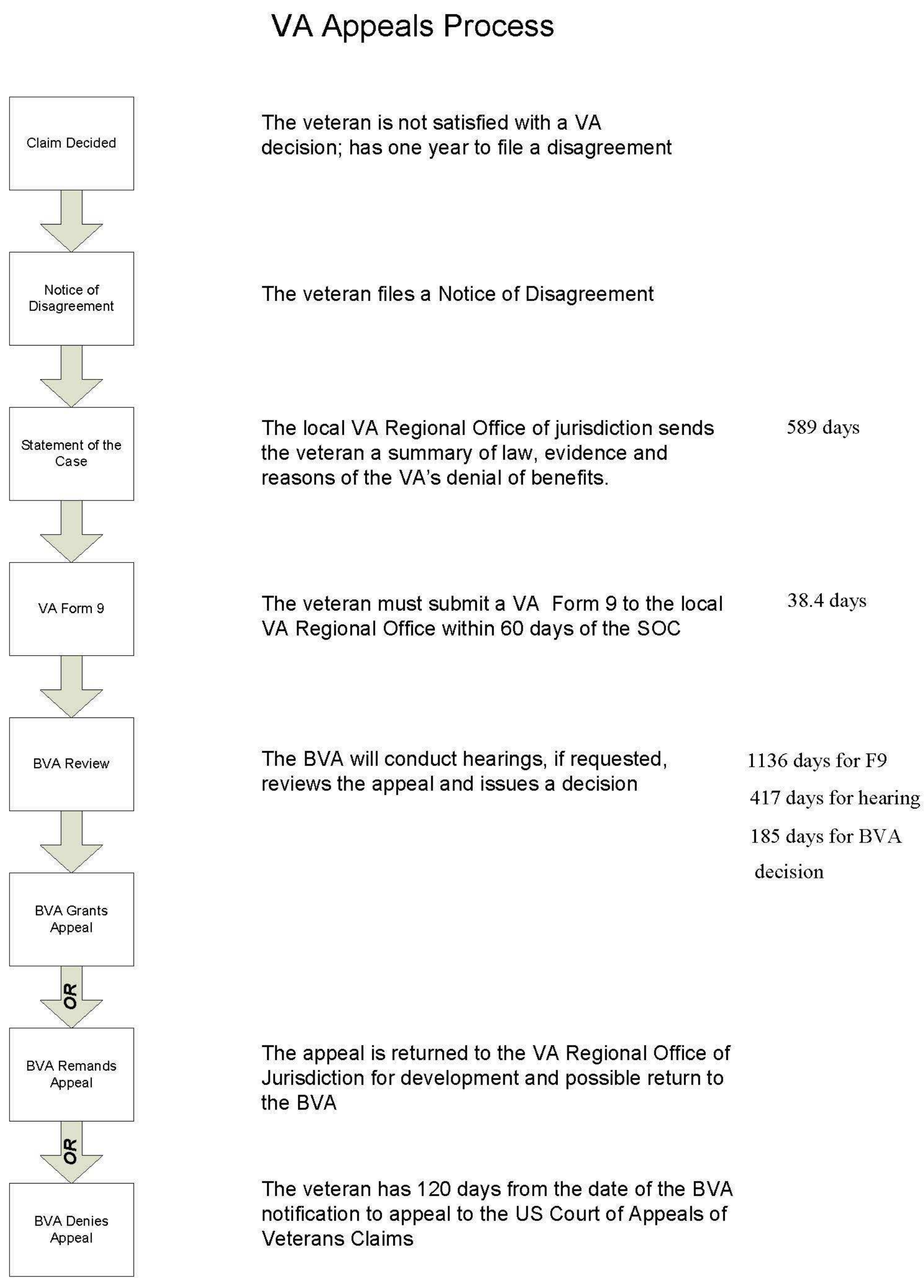
Current Backlog. As of January 23, 2016, the total number of claims older than 125 days (considered backlog) in California is 6,596.

[1] CalVet notes that the $3 million used to fund the strike reams ($9 million over three years), is different than the $3 million General Fund added to the local assistance budget for CVSOs in 2013-14 (bringing total General Fund for local assistance to CVSOs to $5.6 million). The $3 million for CVSOs was made permanent, beginning in 2015-16. This funding is for additional claims representatives and outreach at the CVSO district offices (different from the USDVA regional offices, where the strike teams are located).

Fully developed claims. Success as a result of the vast amount of training the CalVet District offices provide to CVSOs shows in the large increase in the number of Fully Developed Claims (FDC) submitted by CVSOs. The USDVA developed the FDC program in 2010 to reduce the wait time for receiving an award of federal benefits; but in order to do so, USDVA requires the veteran to submit all required documentation with their initial claim form in order to expedite the rating decision and award to the veteran. CalVet District Office staff provide training CVSOs to properly develop new incoming claims to leverage the FDC program and provide direct claims assistance to complete the claims to be ready for the USDVA to rate instead of resulting in a delayed claim.

Appeals process and timelines. If a veteran does not agree with the award the USDVA grants, they may appeal the decision. The CalVet staff represents and assists the veteran through the appeals process. The inventory for California veterans appeals has remained steady (see table below). According to the department, appeals currently take six to eight years, but range from 3-15 years from start to completion. CalVet anticipates the appeals inventory is expected to remain high and is projected to increase in the next few years.





source: 2014 BVA annual report; VA Appeals Monthly report

Staff Comment. This item is included for informational purposes. In the January 2016 *Joint Claims Initiative Progress Update*, the department notes, "In order to continue to minimize the backlog, the strike teams must keep up with the quality review of the approximately 59,000 new incoming claims each year from the CVSOs." Although the positions were made permanent in the 2015 Budget, the funding expires in June 30, 2016. The budget does not currently provide funding for future strike teams. Further, although the strike teams were first implemented to assist in reducing the initial claims backlog, the timeframe to resolve appeals (from three to 15 years) is significant.

Issue 3: Veterans Housing and Homeless Prevention Program

Budget. The department requests $406,000 (Housing for Veterans Funds) in the budget year, and $384,000 (Housing for Veterans Funds) ongoing, for four permanent positions to support the development, implementation, and monitoring of the Veterans Housing and Homeless Prevention Program.

Background. California is home to 1.8 million veterans, the largest veteran population in the nation. As of January 2015, 11,311 California veterans are homeless, representing nearly 24 percent of the nation's homeless veterans. Of California's extremely low-income veteran renter households, 79 percent have a severe cost burden, spending more than 50 percent of their income on housing.

In response to the high number of homeless veterans in California, AB 639 (Pérez), Chapter 727, Statutes of 2013, created the Veteran Housing and Homelessness Prevention Act of 2014 and authorized $600 million in general obligation bonds to support the Act. The Act requires the CalVet and the Department of Housing and Community Development (HCD) to collaborate with the California Housing Finance Agency to design, develop, and administer a veteran multifamily housing program. California voters approved Proposition 41 on June 3, 2014, and the departments promulgated the first program guidelines for Program in February 2015. The first Notice of Financial Award (NOFA) for $75 million was released that same month. 17 projects were awarded approximately $63.2 million from the first award. These 17 projects will construct more than 1,200 housing units with almost 600 of the units restricted to housing veterans. The table below lists the Round 1 awards by city and county, of each award.

Area	Funding Targets	Awards	Total Projects	Funding Awarded
Bay Area	14%	8%	1	$ 5.3 Million
Los Angeles County	31%	43%	8	$27.3 Million
Orange County / Inland Empire	8%	29%	4	$18.4 Million
San Diego County	7%	2%	1	$ 1.0 Million
Other Areas	16%	18%	3	$ 11.2 Million
Total			**17**	**$63.2 Million**

Staff Comment. Because VHHP is funded by bonds, it does not pay for the cost of supportive services. However, each project must submit a plan that explains how services will be provided to veterans. Supportive services funding is being provided from a wide variety of sources, including other VA programs, project operating income, and LA County Department of Health Services. Service providers may also providing in-kind services. It is anticipated that Round 2 funding awards will be made by Spring 2016.

Issue 4: Overview of Veterans Homes of California (VHC)

Overview. CalVet operates a system of long-term care, ranging from independent living to intermediate and skilled nursing care, through eight Veterans Homes – five of which have opened in the last six years. The VHCs provide comprehensive medical, dental, pharmacy, rehabilitation services, and social activities in a community environment. The VHCs are:

- **Yountville, Napa County.** Established in 1884, it is the largest geriatric facility in the nation. It has four levels of nursing and medical care, including a care unit for individuals diagnosed with Alzheimer's or dementia. Physical capacity is 1,184 beds, and budgeted capacity is 1,021 beds.

- **Barstow, San Bernardino County.** Established in 1996, it is the first home in Southern California. It provides three levels of care, and although licensed for 344 beds, is budgeted for 220 beds.

- **Chula Vista, San Diego County.** Established in 2000, the Chula Vista home provides three levels of care. Physical and licensed capacity is 400 beds, and 305 beds are budgeted for the 2016-17 year.

- **West Los Angeles, Los Angeles County (main Greater Los Angeles and Ventura Counties, or GLAVC, home).** The home admitted its first resident in October 2010. It has physical capacity for 561 beds, is licensed for 402 beds, and budgeted for 490 beds.

  The West L.A. home is the only one to offer a Transitional Housing Program (THP), a program that provides supportive services for veterans who have been chronically homeless or living in unstable housing. THP includes: room and board; meals; medical care and medications; limited transportation services to medical appointments and activities; limited banking services; resident activity programs; and housekeeping services. Below is additional information about THP.

Current census	60
Total discharges (since September 2013)	110
Received Veterans Affairs Supportive Housing/independent housing	74
Relapsed/Returned to VA Domiciliary	21
Current THP residents with jobs	20
Current THP residents receiving education/training	5

According to the department, "CalVet does not have plans to expand the THP to other homes at this time. However, we are reviewing future programmatic needs across all Homes."

- **Ventura, Ventura County (satellite of the GLAVC home).** Established in January 2010, the Ventura satellite has physical and licensed capacity for 60 beds and is budgeted for all 60 beds.

- **Lancaster, Los Angeles County (satellite of GLAVC).** Established in February 2010, the Lancaster satellite has physical and licensed capacity for 60 beds and is budgeted for all 60 beds.

- **Fresno, Fresno County.** Admitted its first resident in May 2014. The Fresno home has physical capacity for 300 beds, is licensed for 306 beds, and is budgeted for 296 beds.

- **Redding, Shasta County.** Admitted its first resident in June 2014. The Redding home has physical capacity for 150 beds, is licensed for 153 beds, and is budgeted for all 150 beds.

Last fiscal year, more than 3,000 aged veterans or veterans with disabilities received care. In total, the homes have physical capacity of 2,950 beds, are licensed for 2,789 (94.5 percent) and budgeted for 2,482 (84 percent of physical capacity).

Licensing and inspections. U.S. Department of Veterans Affairs (USDVA) certifies the homes. The California Department of Public Health (CDPH) licenses Skilled Nursing Facility (SNF) or Intermediate Care Facility (ICF) beds, and the California Department of Social Services licenses Residential Care for the Elderly (RCFE) beds .

Budget. The proposed budget for Veterans Homes, including the following budget proposals, is $308.8 million General Fund. The department estimates receiving $112 million in revenue generated by member fees ($24.8 million), federal per diem ($63.4 million), aid and attendance ($2.9 million), Medicare ($9.3 million), and Medi-Cal ($11 million).

Issue 5: Residential Nursing Care

Budget. The budget requests $2.9 million General Fund in the budget year, and $2.7 million General Fund ongoing, for 32 positions to address nursing care shortages in the Yountville ($1.8 million General Fund), Barstow ($369,000 General Fund), and Chula Vista ($686,000 General Fund) Veterans Homes. Specifically, the department would like to update its nursing relief factor from 1.7 to 1.77. The net impact of nursing staff by home is as follows:

Home	**CNA**	**LVN**	**RN**	**Total**
Yountville	11	3	5	19
Barstow	3	0	1	4
Chula Vista	7	2	0	9
Total	21	5	6	32

Background. Long-term care facilities use hours-per-patient-days to determine nursing staff ratios. However, due to fatigue and stress of the 24/7 operations on nursing staff, the department has high rates of medical-related leave under the Family and Medical Leave Act (FMLA) and worker's compensation claims. As a result, the department has mandated double-shifts to cover patients' needs. Further, the department cannot comply with the Department of Human Resources annual leave/vacation caps (640 hours/80 days) because there is insufficient staff to cover shifts. As a result, the average employee's vacation/annual leave balance have increased by 16 days between 2008 to 2012.

Nursing Staff Exceeding Cap								
	Barstow	Chula Vista	Fresno	Lancaster	Redding	Ventura	WLA	Yountville
Nurses with Excess Leave	8 CNAs 1 SRN 3 LVNs	2 DONs, 4 SRNs, 3 RNs, 4 LVNs, 17 CNAs	0	0	0	1 CNA	1 SRN, 1 RN	CNAs 18, LVNs 2, RNs 8

As of July 2015, CalVet has 76 nursing staff with approved FMLA, and 31 nursing staff on Worker's Compensation.

Nursing Staff with Approved FMLA

	Yountville	Barstow	Chula Vista
Nurses with Approved FMLA	35 CNAs, 4 LVNs, 13 RNs	3 CNAs, 2 RNs	11 CNAs, 2 LVNs

Workers' Compensation

	Yountville	Barstow	Chula Vista
Total Nurse WC Cases	6 CNAs, 1 LVN	2 CNAs	7 CNAs, 1 LVN, 1 RN

To address the staffing shortages, the Veterans Homes have used overtime or contracted for nurse registries. However, as CalVet mandates double shifts, overtime, and disapproves vacation requests, the department states, "Reliance on overtime on a regular basis for prolonged periods of time has resulted in medication errors, fatigue, injuries, and burnout to the point of refusal to work." In 2013, the Burea of State Audits found the lack of budgeted nursing staff caused the Veterans Homes to fall below its standardized nurse to member ratio target.

Staff Comment. The proposal attempts to address three of the contributing factors to nursing staff issues – (1) eliminating use of overtime and nurse registries with additional staff; (2) ongoing challenged caused by FMLA or worker's compensation claims; and (3) and the use of a more appropriate nursing relief factor.

There are ongoing conversations between the LAO and the Administration regarding the appropriate relief factor. Staff recommends holding open the proposal until more information is provided prior to the May Revision. Further, staff recommends the subcommittee consider requesting additional information during next year's hearing to determine if any other of the Veterans Homes staffing ratios need to be adjusted.

Staff Recommendation. Hold open**.**

Issue 6: VHC: West Los Angeles Memory Care Unit

Budget. The department requests $3.3 million General Fund and 32 positions in the budget year ($4 million General Fund ongoing and 40 positions in ongoing) to staff the last skilled nursing facility-memory care (SNF-MC) unit in the West Los Angeles home (VHC-WLA).

Background. The 2010 Budget Act provided funding for the VHC-West Los Angeles, including 84 RCFE beds, 252 SNF beds, and 30 SNF-MC beds. However, due to a miscalculation, funding for staffing the remaining 30 beds was omitted. Although this error was discovered after the 2010-11 appropriations, the department notes, “A decision was made not to commit further General Fund in advance of needing it to fill the unit.” Lack of funding for staffing this unit prevents the second SNF-MC unit from opening. In 2015-16, VHC-WLA received 122 applications to be admitted to the SNF-MC unit, and there is an 80-person waiting list.

Staff Comment. The proposal makes consistent the level of staff in this new SNF-MC unit to the 40 positions in the existing SNF-MC unit. CalVet anticipates filling the beds at eight veterans per month; and projects receiving nearly 172 applications in 2017-18 for the SNF-MC. Because the department has a related nursing relief factor proposal (see above) that impacts three of the eight homes, staff recommends holding this item open to ensure that the relief factor, whichever amount is determined, also applies to this proposal.

Staff Recommendation. Hold open.

Issue 7: VHC: Fresno and Redding Food Services

Budget. The budget includes $592,000 in the budget year, $585,000 ongoing, for nine cook specialist positions to address food service delivery changes in the Redding and Fresno homes. Specifically, the department requests 3.1 cook specialists and 6.2 cook specialists in Redding and Fresno, respectively.

Background. In addition to a large main kitchen, VHC-Redding (150 beds) and VHC-Fresno (300 beds) have satellite kitchens for each neighborhood, so that food could be cooked in the main kitchen but staged and reheated in the satellite kitchen. On March 19, 2015, the California Department of Public Health (CDPH) surveyed the VHC-Redding kitchen and noted the SNF kitchen must function independently of the RCFE kitchen, a change to the original design of the home and staffing plan; because in case of emergency, the satellite kitchen must serve as a standalone kitchen. In addition, CDPH requires CalVet to have dedicated staff to the SNF kitchen, instead of the staffing model where cooks in the main kitchen can cover both SNF and RCHFE kitchens.

Staff Comment. The VHC-Fresno has the same design (satellite kitchens) as VHC-Redding, but CDPH has not made the same request of VHC-Fresno. As such, the department anticipates similar staffing requirements for VHC-Fresno.

Staff Recommendation. Hold open.

Question

1. VHC-Redding and VHC-Fresno are recently built. Why were they constructed without consultation of CDPH survey requirements?

Issue 8: VHC: Yountville Kitchen Renovation

Budget. The budget requests a one-time $5.9 million General Fund in budget year to renovate Yountville's main kitchen. Specifically, the budget proposal would renovate:

- **Collapsed wood subfloors for walk-in refrigerators and freezers.** Because the refrigerators (33,600 sq. ft.) and freezers (1,000 sq. ft.) were built without any floor drains and with uneven ramps, the metal floor plates that sit on the wood framing, sag and make it difficult to maneuver the heavy food racks.

- **Condenser rack.** The 16-year-old rack is leaking freon, a hazardous material for kitchen staff and residents. Two large refrigerator units are currently non-operational.

- **Non-operational cook-chill kitchen.** The Home relies on prepared meals that are limited in selection, higher in salt content, and lower in nutritional value than fresh meals.

- **Poorly configured serving line and dessert area.** Currently, these areas do not allow for operational flow to provide food services, and equipment replacement parts are not available for repair.

- **HVAC systems.** The budget would include exhaust hoods for the grill, including exhaust duct and roof penetration repair.

- **Americans with Disabilities Act travel modifications.** The proposal would also resurface flooring with self-leveling resin flooring, and may include modifications to parking lots, sidewalk, and/or ramps to the building, entrances, and restrooms.

Background. VHC-Yountville's main kitchen equipment was last upgraded in 1998, making it approximately 17 years old. The average life expectancy of an industrial kitchen, but because VHC-Yountville produces over one million meals annually, it reduces equipment life to eight years. The replacement of current large kitchen pieces is not readily available for repair, because manufacturers shelf repair parts often for only ten year.

During periods of survey or review by CDPH, CMS, or federal VA, Yountville staff modifies their food preparation procedures, making immediate repairs to the building or providing short-term solutions to avoid licensing deficiencies or citations. For example, VHC-Yountville redirects food supervisor cooks and increases overtime for staff. Another short-term method the department employs is to rely on heat-and-serve items, which are not as healthy for residents.

Implementation Timeline. The department estimates kitchen renovation to take up to 24 months (four months for preliminary plans, five months for drawings, three to five months for bid and awards, and 10 months for construction). The construction includes a phase-in approach, so the kitchen will remain operational while renovations occur. The approach will comply with all licensing agency requirements and inspections by the State Fire Marshal and others. The Department of General Services will develop a formal project timeline if the request is approved.

Staff Comment. The Department of General Services (DGS) provided the department an itemized cost estimate for the project, including management and oversight activities. DGS estimates total construction costs at $4.3 million ($4 million for the contract, $278,000 for construction contingency), assuming a 10-month construction period. With additional architectural and engineering services ($847,200) and other project costs ($796,000), the total estimate project costs is $5.9 million – the amount requested in this proposal.

Staff Recommendation. Approve. Staff recommends approving the item as requested, and with the formal DGS project timeline to be submitted to the Legislature prior to the January 10, 2017, budget.

Issue 9: Cemetery Operations

Budget. The department requests $185,000 General Fund, $181,000 General Fund ongoing, to fund 2.5 positions (0.5 staff services analyst and two groundskeepers) to support operational requirements at the Northern California Veterans Cemetery. Specifically, the staff services analyst would process interment applications and establish eligibility. The groundskeepers would provide grounds keeping, burials, headstone installation, cemetery maintenance, and facility maintenance.

In addition, the budget proposes $15,000 General Fund to purchase a modular unit as a permanent office space, to replace an existing rental contract, at the Veterans Memorial Grove Cemetery.

Background on Northern California Veterans Cemetery. The Cemetery in Igo was dedicated on November 11, 2005, made possible through the USDVA State Cemetery Grant Program. California must meet National Cemetery Administration Shrine Standards and is responsible for maintenance and operations of the cemetery. The department has eight positions and current year budget of $828,000.

To maintain the cemetery, the state entered a MOU with Shasta County to provide five workers, five days a week through the county's work-release program. However, grounds keeping staff currently work 15-25 hours of overtime per month to install headstones. Even with overtime, the cemetery reach a 36.4 percent success rate, from April to July 2015, in achieving NCA's standard in installing headstones within 60 days of burial; this ranks 58th in the nation out of 73 state veterans cemeteries.

Background on Veterans Memorial Grove Cemetery. The cemetery in Yountville was established in 1884. Currently, the department has 1.5 groundskeepers and is renting a modular unit to complete administrative requirements at a cost of $252 per month.

Staff Comment. Although burials have increased from 442 per year in 2009-10, to 561 in 2014-15, the number of groundskeepers has not increased. Due to the lack of staff, many casketed burials are scheduled out for up to two weeks, and no burial services are provided on Wednesdays. Further, the department provides only an estimated five percent of workers sent to the cemetery stay more than one to two days. CalVet also reports, "On many occasions, equipment has been returned at the end of the day damaged, destroyed, or not returned at all." Given the perceived unpredictability of work hours provided by the work-release program, and additional supervision required of groundskeepers, the proposal appears appropriate. However, the lack of accountability with the work-release program appears problematic, given that the MOU is renewed annually, and given the state's investment in rehabilitation. The subcommittee may wish to consider how else the department will work with Shasta County to participate in the work-release program.

Staff Recommendation. Approve as requested.

8940 CALIFORNIA MILITARY DEPARTMENT

Overview. The California Military Department (CMD) is composed of four pillars: the California Army National Guard, the California Air National Guard, the California State Military Reserve, and the California Youth and Community Programs. More than 23,000 soldiers, airmen, and state military reservists are prepared to respond to state and federal emergencies.

Budget. The budget includes $177.8 million ($49.5 million General Fund, $121.7 million federal funds, $4.6 million reimbursements, and $2 million special funds) to support the department and its various programs. In addition to these funds, the department receives other federal funds, which are not deposited in the State Treasury, totaling $760.4 million for the Army – National Guard, Air – National Guard, and the Adjutant General.

Issue 1: Capital Outlay Proposals

Budget. The department proposes six capital outlay proposals, totaling $24.4 million ($15.6 million General Fund, $8.8 million federal funds). The proposals include:

- **Consolidated Headquarters Complex.** $6.9 million General Fund to develop the performance criteria and request for proposal package for a project, which will consolidate several of the department's facilities (the current Joint Force Headquarters in Sacramento, Old Placerville facility, the Mather Annex, the B Street Warehouse, and the San Luis Obispo offices) into one headquarters complex; provide a 25,000 square feet armory and 22,600 square feet in storage facilities; and house 1,189 employees. Last year, the budget included $8.8 million for the acquisition piece of this project. Total project costs are estimated to be $113.8 million.

- **San Diego Readiness Center Renovation.** $3.4 million ($1.7 million General Fund and $1.7 million federal funds) for the first phase of construction to renovate the San Diego Readiness Center. The renovation will include adding 4,400 square feet to the existing facility and modernizing lighting, electrical, HVAC, and plumbing. The San Diego Readiness Center hosts over 400 soldiers every drill weekend. According to the department, the San Diego Readiness Center is the most operationally critical armory in Sothern California and houses the Defense Support to Civil Authorities headquarters. Total project costs are estimated to be $11.6 million (41.7 million for design; $9.6 million for construction, and $224,000 for equipment)

- **Santa Cruz Armory Renovation.** $4 million ($2 million General Fund, $2 million matching federal funds) for the performance criteria and design-build phase for the Santa Cruz Armory renovation. The armory, which was built in 1955, sits on 1.3 acres. The renovation would allow 50 additional soldiers to train, and will include HVAC replacement and upgrades to electrical, energy, plumbing, and code-compliant doors. The department anticipates this renovation will alleviate pressure on Seaside and Gilroy armories. Total project costs are estimated to be $4 million ($302,000 for performance and $3.7 million for the design-build phase).

- **Escondido Armory Renovation.** $4.1 million ($2 million General fund, $2 million matching federal funds) for the performance criteria and design-build phase for the Santa Cruz Armory renovation. The armory, which was built in 1961, does not have the capacity to serve all the units currently assigned. Renovations would include upgrades to the HVAC, electrical, plumbing, security fencing; and will repurpose 1,450 square feet of space, originally intended as an indoor rifle range, for administrative and classroom space. With the renovation, the existing 133 soldiers and an additional 25 soldiers will be accommodated. Total project costs are estimated to be $4.1 million ($326,000 for performance and $3.8 million for the design-build phase).

- **Eureka Armory Renovation.** $5.6 million ($2.8 General Fund, $2.8 million matching federal funds) for the performance criteria and design-build phase for the Santa Cruz Armory renovation. The armory, which was built in 1956, sits on 4.4 acres. It is the only facility within a 100 mile radius and is deemed, by the department, to be a "critical asset" for the Northwest California region. Because the department is unable to expand the armory (the surrounding areas hold the field maintenance shop and secure parking lot for military vehicles and equipment), interior design renovations could be repurposed and used for administrative, storage, and vault space. It is estimated that an additional 17 soldiers can train at the site, following the HVAC, electrical, plumbing, security fencing, among other renovations. Total project costs are estimated to be $5.6 million ($390,000 for performance and $5.3 million for the design-build phase).

- **Advance Plan and Studies.** $300,000 ($150,000 General Fund, $150,000 matching federal funds) for design studies and programming charrettes for three armory renovation projects that will be proposed for funding next year. The federal Army Corps of Engineers manages some department capital outlay projects. Instead of a budget package, the Army Corps uses a design charrette. The cost of each charrette includes a three-to-five day user input session, detailed space analysis, and validation of the project's federal programming documents.

Background. The department maintains over 100 armories, 30 maintenance shops, four logistical support facilities, and four aviation facilities that serve over 16,000 soldiers.

Staff Recommendation. Approve as requested.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, March 10, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultant: Samantha Lui

OUTCOMES

PROPOSED FOR VOTE-ONLY

Item	Department
2100	**Department of Alcoholic Beverage Control**
Issue 1	Legislative – Senate Bill 796 Sunset Deletion Approve 4-0
1111	**Department of Consumer Affairs (DCA)**
Issue 1-3 and 5-17 were approved (4-0). Issue 4 was rejected (4-0).	
Issue 1	Board of Accountancy – Cashiering Staff Augmentation
Issue 2	Court Reporters Board – Occupational Analysis
Issue 3	Medical Board – Medical Expert Reviewer
Issue 4	Acupuncture Board –Curriculum Review and Licensing (SB 1246)
Issue 5	Board of Registered Nursing – Enforcement Audit (SB 466)
Issue 6	State Athletic Commission – Drug Testing (SB 469)
Issue 7	Department of Consumer Affairs/Bureau of Vocational Nursing and Psychiatric Technicians Administrative and Enforcement Program Monitor (AB 179)
Issue 8	Board of Behavioral Sciences – Increased Position Authority in Licensing and Examination Units
Issue 9	Bureau of Real Estate – Subdivision Workload
Issue 10	Bureau of Security and Investigative Services – Licensing and Enforcement Positions
Issue 11	Dental Board – Enforcement Support Staff
Issue 12	Board of Occupational Therapy – Licensing and Enforcement Staff Positions
Issue 13	Physical Therapy Board – Licensing Staff Augmentation
Issue 14	Speech Language Pathology and Audiology and Hearing Aid Dispensers Board – Licensing Staff Augmentation

Issue 15 Board of Professional Engineers, Land Surveyors, and Geologists – Exam Development Personnel Selection Consultant
Issue 16 Dental Hygiene Committee (DHCC) – Probation Monitoring Staff Augmentation
Issue 17 Board of Psychology – Program Technician

8940 California Military Department

Issue 1-3 were approved (4-0)

Issue 1 Search and Rescue
Issue 2 Cadet Uniform
Issue 3 Facilities Operations and Maintenance Activities

8955 California Department of Veterans Affairs

Issues 1, 3 were approved (4-0). Issue 2 was removed from vote-only to discussion (3-0, Nguyen not voting).

Issue 1 Northern California Veterans Cemetery Drought Mitigation
Issue 2 California Email System and Wide Area Network Fee Increase
Issue 3 Human Resources Division Staff

ISSUES PROPOSED FOR DISCUSSION/VOTE

2100 Department of Alcoholic Beverage Control

Issue 1 Staff Resources for Information Technology Approve 4-0

1111 Department of Consumer Affairs

Issue 1 Osteopathic Medical Board – Office Technicians and Rent Increase Approve 4-0
Issue 2 Veterinary Board Approve 4-0
Issue 3 Medical Marijuana Regulation and Trailer Bill Hold open
Issue 4 Medical Board – Staff Augmentation Approve 4-0
Issue 5 State Board of Optometry and Trailer Bill Hold open
Issue 6 Oversight: Board of Pharmacy – Controlled Substance Utilization, Review, and Evaluation System (CURES) Program Informational
Issue 7 Board of Pharmacy – Sterile Compounding Facilities (SB 294) Hold open
Issue 8 Board of Pharmacy – Combatting Prescription Drug Abuse Hold open
Issue 9 Naturopathic Medicine Committee Hold open

8955 California Department of Veterans Affairs

Issues 3, 8, 9 were approved (3-0, Nguyen not voting).

Issue 1 Oversight – Claims Representation in County Veteran Service Offices Informational
Issue 2 Oversight: Strike Teams and U.S. Department of Veterans Affairs Claims Informational
Issue 3 Veterans Housing and Homeless Prevention Program Approved (3-0, Nguyen not voting)
Issue 4 Overview of Veterans Homes of California (VHC) Informational
Issue 5 Residential Nursing Care Hold open
Issue 6 VHC: West Los Angeles Memory Care Unit Hold open

Issue 7 VHC: Fresno and Redding Food Services Hold open
Issue 8 VHC: Yountville Kitchen Renovation Approved (3-0, Nguyen not voting)
Issue 9 Cemetery Operations Approved (3-0, Nguyen not voting)

8940 California Military Department
Issue 1 Capital Outlay Proposals Approve (4-0)

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Wednesday, March 30, 2016
10:30 a.m.
State Capitol - Room 3191

Consultant: Mark Ibele

PART A

ITEMS PROPOSED FOR VOTE-ONLY

ITEMS FOR DISCUSSION AND VOTE

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

ISSUES PROPOSED FOR VOTE ONLY

0509 GOVERNOR' OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT

Issue 1: Zero Emission Vehicle Infrastructure Project

Governor's Proposal. The Governor's Office of Business and Economic Development (GO-Biz) is requesting to extend funding for one position and increase reimbursement authority by $150,000 in 2015-16 and $150,000 in 2016-17. This request provides resources for the Zero Emissions Vehicle (ZEV) Infrastructure Project Manager (IPM) position related to state efforts to meet the requirements of several federal and state air quality and emission reduction mandates. The limited-term position will assist projects in obtaining local and state permits and develop and oversee a high level stakeholder working group dedicated to developing ZEV fueling and charging stations throughout the state. The funding is provided through an interagency agreement between GO-Biz and the California Energy Commission (CEC).

Background. Legislation adopted in 2007 established three new programs intended to promote vehicle and fuel technology that reduce air pollution and greenhouse gas emissions statewide. Subsequent actions expanded California's clean air and clean vehicle incentive programs in order to meet clean air, public health, climate and economic development goals. This later legislation requires the CEC to fund the development of up to 100 hydrogen fueling stations from vehicle registration fee revenues in the total amount of up to $220 million over the next 10 years. Since 2009, 45 hydrogen fueling station projects have been funded by Alternative and Renewable Fuel and Vehicle Technology Program (ARFVTP) funds.

Prior to the funding of the IPM position, the construction of fueling stations had experienced delays due to issues related to siting, permitting, finances, California Environmental Quality Act (CEQA) requirements, and certification. Some auto manufacturers (Toyota, Mercedes-Benz/Daimler, Hyundai, Nissan, and GM) are planning to introduce fuel-cell hydrogen vehicles in California in the next few years; however, the existing seven-station network is not positioned to meet the demands of new customers. A shortage of hydrogen fueling stations could discourage the manufacture of hydrogen fueled vehicles, and potentially put at risk the timely attainment of air quality and emissions goals for the state. To further the development of the fueling infrastructure, the ZEV IPM was administratively established in 2013. In June 2015, the CEC Business Committee approved funding to GO-Biz to extend the position for two additional years.

Staff Comments. With the proposed extension of the ZEV IPM position, the continued staff responsibilities include working with: 1) individual communities and station developers, to expedite siting and permitting; and, 2) stakeholders, to ensure that the state is proceeding on developing a robust hydrogen fueling network.

Staff Recommendation. Approve as budgeted.

Vote.

0984 California Secure Choice Retirement Savings Investment Board

Issue 1: Reappropriation of Existing Funding

Governor's Proposal. The Administration proposes a reappropriation of the remainder of the balance of its fiscal year 2015-16 appropriation (estimated to be $200,000) and provisional language for additional expenditure authority upon Department of Finance (DOF) approval and notification to the Legislature. The funds will be used to conduct remaining legal analysis for the implementation of the California Secure Choice Retirement Saving Program (CSCRSP). As with the current year requirement, the additional spending authority proposed for 2016-17 is based upon the receipt of federal funds and donations through a non-profit or private entity.

Background. The California Secure Choice Retirement Savings Investment Board and the CSCRSP were established pursuant to SB 1234 (De León), Chapter 734, Statutes of 2012, for the purpose of creating a statewide savings plan for private-sector workers who lack access to an employer-sponsored retirement savings plan. The legislation requires that the board conduct a market analysis, financial feasibility study and legal analysis to determine whether the necessary conditions for implementation of the program can be met. The board was required to conduct the analyses only if funds were made available through a nonprofit or private entity, or from federal funding. Adequate funding was received for these purposes. The board can implement the program only if it determines, based on the market analysis, that the program will be self-sustaining; funds are made available through a nonprofit or other private entity, federal funding, or an annual budget act appropriation, in amounts sufficient to allow the board to implement the program until the California Secure Choice Retirement Savings Trust has sufficient funds to be self-sustaining; and an authorizing statute is enacted that expresses the approval of the Legislature for the program to be fully implemented. The board has entered into an agreement with a firm for market analysis, financial feasibility study, and program design work. In addition, the board entered into an agreement with a firm for legal services. The board expects both studies to be completed by spring 2016.

Staff Comments. Support for the program must come from donated funds. Staff has no concerns with the proposal.

Staff Recommendation. Approve as budgeted.

Vote.

ISSUES FOR DISCUSSION AND VOTE

BUDGETARY ROLE OF STATE RESERVE FUNDS

Presenters: Department of Finance
Legislative Analyst's Office

Background. The state has two reserve funds—the Special Fund for Economic Uncertainties (SFEU) and the Budget Stabilization Account (BSA).

- The SFEU is the state's general reserve used to provide resources for unexpected costs relating to one-time events such as legal decisions or program cost overruns. The SFEU is a discretionary reserve from which the Legislature may appropriate funds at any time and for any purpose.

- The BSA is a restricted account, with specific rules governing how and when the state must make deposits into or may make withdrawals from the fund. Withdrawals are limited to situations involving budgetary emergencies called by the Governor if financial resources fall short or natural disasters occur.

Proposition 2, adopted by the voters in 2014, tightened-up the existing BSA (and addressed debt payments) through constitutional requirements. The constitutional measure: requires the state to annually set aside of 1.5 percent of General Fund revenues plus capital gains-related taxes in excess of eight percent of General Fund revenues; directs one-half the set-aside funds to the BSA and one-half towards paying-off accumulated debts and liabilities; caps the BSA at an amount equal to 10 percent of General Fund Revenues (currently about $12 billion); restricts withdrawals from the account to hardship situations (defined as budget shortfalls or natural disasters); limits funds that would otherwise be deposited to the BSA to infrastructure investment, once the maximum level is reached. The language also requires that the estimate on required capital gains-related taxes deposits be 'trued-up' in the two subsequent years after the initial deposit to account for the difference between the estimates amount and actual revenues received.

In certain situations, 'excess' funds held in the SFEU could cause a reduction in revenues received from the sales and use tax. California has two statutes that trigger reductions in the state's sales tax rate if balances in the SFEU reach a certain threshold. The state's sales tax rate would automatically decline by one-quarter cent for one calendar year (currently equal to around $1.5 billion), if: 1) the Director of Finance projects the SFEU to exceed about four percent of General Fund revenues (currently, about $5 billion) in the prior and current year; or, 2) if both the General Fund reserves exceed about three percent of revenues (currently $4 billion) and actual General Fund revenues between May 1st and September 30th exceed the Administration's forecasted amounts.

Governor's Proposal. The 2016-17 budget includes total constitutionally-required deposits to the BSA of $2.6 billion ($1.0 billion true-up for 2015-16 and $1.6 billion initial deposit for 2016-17). In addition to these balances, the Governor proposes increasing reserves by $3.1 billion.

This amount includes an increase in the balance of the SFEU by $1.1 billion and an optional deposit of $2.0 billion into the BSA. Under this proposal, the SFEU balance would grow to $2.2 billion, and the BSA balance would grow to $8.0 billion. Under the Governor's plan, by the end of 2016-17 reserves would total $10.2 billion, assuming current fiscal projections.

The $2.0 billion optional BSA deposit would be subject to the rules of Proposition 2, in that this deposit would be accessible only in a budget emergency, and access would be limited to half of these funds in the first year of a budget emergency. The Governor also proposes that the Legislature use the $2.0 billion optional BSA deposit for meeting reserve requirements for 2015-16 and 2016-17 that exceed current estimates. That is, these funds would be available in the June 2015 budget plan or in future budgets to cover higher BSA deposit requirements. If future revisions and true ups are less than $2.0 billion, the Administration proposes that the outstanding funds remain in the BSA.

Legislative Analyst's Comments. The Legislative Analyst's Office (LAO) has raised a number of concerns with the Governor's proposal. The primary concern expressed by LAO is that the additional $2 billion discretionary deposit to the BSA would restrict the use of these funds to those purposes stipulated by the Constitution under Proposition 2. Absent this deposit, the Legislature could retain much more discretion over the use of these revenues—including retiring long-term liabilities, providing additional program funding, or providing advance-funding of General Obligation bond debt service. (The later policy would free-up an equivalent amount of cash in the future.) LAO also notes that the discretionary funds may not be allowable as 'pre-funding' of potential future required deposits to the BSA, as this designation may not be allowable under the Constitution. LAO has proposed some approaches to funding reserves the Legislature may want to consider.

Staff Comments. The issue state reserves raises vital questions regarding the most appropriate use of taxpayer funds and the adequate funding of state programs during periods of fiscal stress. In its consideration of these questions, the committee could weigh the risks of potential economic and budgetary downturns (and the need to protect against these) with putting public funds towards their highest and best use. Among issues for consideration by the committee, are the following:

- The most efficient use of 'one-time' revenues, including for reserves, program needs, capital investment and advanced payment of obligations.

- The appropriate magnitude of aggregate reserve funds, given fiscal risks and program demands.

- The most advantageous and flexible allocation of surplus revenues among the state reserve funds.

Staff Recommendation. Hold open.

PROPOSITION 2 DEBT PAYMENT PLAN

Presenters: Department of Finance
Legislative Analyst's Office

Background. Proposition 2, adopted by the voters in 2014, tightened reserve and debt payment requirements by obligating the state to annually set aside of 1.5 percent of General Fund revenues plus capital gains-related taxes in excess of eight percent of General Fund revenues. The Constitution requires that one-half of the set-aside funds be deposited to the BSA and one-half towards paying-off accumulated debts and liabilities. These minimum debt payments are mandatory through 2029-30, and optional after that time. (After 2019, payments not made toward debts would be required to be deposited in the BSA.)

The debts the state can pay out of the Proposition 2 designated funds include special fund loans, Proposition 98 'settle-up' payments, and unfunded pension and retiree health liabilities (including those of the University of California and California State University). Unlike the deposit to the BSA, which may be reduced or suspended in a budget emergency, the state may not reduce or suspend required debt payments. The state currently has substantial debts that would qualify under Proposition 2, as shown in the following table:

Proposal for Debt and Liabilities Payments
(Dollars in Millions)

Category	Amount Beginning of 2016-17	Payment in 2016-17
Budgetary Borrowing		
Special Fund Loans and Interest[1]	$1,806	$955
Proposition 98 Settle-Up Underfunding[1]	1,232	257
Transportation Loans (Pre-Proposition 42)[1]	879	173
Subtotal Debt	**3,917**	**1,385**
Retirement Liabilities		
State Retiree Health	71,773	-
State Employee Pensions	43,291	-
Teacher Pensions	72,718	-
Judges' Pensions	3,358	-
CalPERS Deferred Payment	570	
UC Employee Pensions[1,2]	10,786	171
UC Retiree Health[2]	17,270	-
Subtotal Liabilities	**219,766**	-
Grand Total	**$223,683**	**$1,556**

[1] Payment under Proposition 2.
[2] Not a state government liability.

The state has plans in place to address some debt—such as those obligations associated with California Public Employees Retirement System (CalPERS) and California State Teachers Retirement System (CalSTRS). Other debt has yet been addressed in a comprehensive fashion, including obligations associated with public employees' retiree health care, judges' pensions, and UC retirement debts. As noted by the Legislative Analyst's Office (LAO), the debt eligible for Proposition 2 funding carry various annual interest rates, ranging 7.5 percent for some retirement liabilities down to zero percent for 'settle-up' payments to schools. LAO also notes that payment of these debts can benefit very different groups and institutions.

Governor's Proposal. The Proposition 2 debt proposal for the budget focuses largely on special fund loans, which account for $1.1 billion of the $1.6 billion in resources available for debt payments. Interest on the budgetary loans is budgeted through Item 9620. Loan payments proposed in the budget are listed in the following table:

Governor's Proposal for Repayment of Special Fund Loans
(Dollars in Millions)

Fund Name	Amount
Unemployment Compensation Disability Fund	$308.2
Transportation Congestion Relief Fund	173.0
Off Highway Vehicle Trust Fund	112.0
Greenhouse Gas Reduction Fund	100.0
School Land Bank Fund	59.0
Harbors and Watercraft Revolving Fund	51.0
Hospital Building Fund	50.0
Oil Spill Response Trust Fund	40.0
Housing Rehabilitation Loan Fund	35.4
Accountancy Fund	21.0
State Corporations Fund	18.5
Tax Credit Allocation Fee Account	13.0
State Board of Barbering and Cosmetology Fund	11.0
Vehicle Inspection Repair Fund	10.0
Enhanced Fleet Modernization Subaccount	10.0
Psychology Fund	6.3
Behavioral Science Fund	6.3
Contingent Fund of the Medical Board of California	6.0
Firearms Safety and Enforcement Special Fund	4.9
Acupuncture Fund	4.0
Professional Engineers' and Land Surveyors' Fund	3.2
Private Postsecondary Education Administration Fund	3.0
Real Estate Appraisers Regulation Fund	3.0
Registry of Charitable Trust	2.7
Environmental Water Fund	2.4

Antiterrorism Fund	2.0
Drinking Water Operator Certification Special Account	1.6
Private Investigator Fund	1.5
Physician Assistant Fund	1.5
Osteopathic Medical Board of California Contingent Fund	1.4
California Water Fund	1.1
State Optometry Fund—Professions and Vocations	1.0
Total	**$1,064.0**

In addition to the pay-down of budgetary loans (constituting the overhang of debt from the prior Administration), the Governor proposes to pay $257 million towards the Proposition 98 'settle-up' owed to schools and $171 million payment towards UC retirement liabilities.

Legislative Analyst's Comments. In its review of the Governors' Proposition 2 debt pay-down proposal the LAO makes several observations regarding the focus and implication of the approach. LAO notes that the Governor's plan focuses on paying off budgetary debt to special funds, which carry low or no interest rates, as opposed to paying retirement liabilities, which carry much higher interest rates. The LAO notes that schools would benefit—in a relatively minor fashion—from the proposed plan, as well as potentially special fund fee payers. The implication of the plan is that taxpayers, in general, could be better off from a plan that focused on retiring high-interest loans rather than low-interest budgetary loans. LAO proposes an alternative approach which basically incorporates this notion. It also suggests that a long-term plan be adopted that addresses all the state outstanding debts in a comprehensive fashion.

Staff Comments. The Administration's efforts to retire budgetary debt to special funds are understandable. The repayment may put programs financed by these funds in a better fiscal position and potentially be more effective in fulfilling their responsibilities. In addition, given that these funds remain borrowable resources, to the extent that outstanding loans are repaid, the funds would be restored as resources for General Fund borrowing in the event of future fiscal stress. LAO's perspective regarding a repayment plan which focuses on paying off high interest debt first, is reasonable; however, it also raises a logical question as to why, using the same logic, the state should not 'play the spread' and borrow as much as available from special funds to pay down the retirement liabilities. Staff also notes that paying budgetary loans potentially retains these funds as borrowable resources; paying-down retirement-related liabilities is irreversible. The committee may want to consider the following related issues:

- The advantages and disadvantages of paying off special fund loans versus reducing retirement liabilities.
- The relative benefits to taxpayers at large and publicly-provided programs from different debt payment plans.
- The degree of state fiscal flexibility that may be restricted or enhanced through different debt payment plans.

- The extent to which the state should maximize the opportunity to borrow at interest rates lower than the rate on existing debt obligations.

Staff Recommendation. Hold open.

0509 GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT

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

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

- **California Business Investment Services** serves employers, corporate executives, business owners, and site location consultants which are considering California for business investment and expansion. This program works with local, state, and federal partners in an effort to attract, retain, and expand businesses. The Innovation Hub (iHub) initiative is an effort to improve the state's national and global competitiveness by stimulating partnerships, economic development, and job creation around specific research clusters.

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

- **California Film Commission (CFC)** provides significant financial assistance through its publically-funded tax credit program. The purpose of the CFC is to retain and increase motion picture production in the state. The CFC supports productions by issuing film permits for all state properties, administering the film and TV tax credit program, maintaining a location library, and offering production assistance on a wide variety of issues. CFC also works with cities and counties with the goal of creating 'film friendly" policies that are consistent state wide.

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

- **California Infrastructure and Economic Development Bank (IBank)** was created to finance public infrastructure and private development that promotes economic growth. IBank has a broad authority to issue tax-exempt and taxable revenue bonds, provide financing to public agencies, provide credit enhancements, acquire or lease facilities, and leverage state and federal funds. IBank's current programs include the infrastructure state revolving fund, 501(c)(3) tax-exempt and taxable revenue bond program, industrial development revenue bond program, exempt facility revenue bond program, governmental bond program and the Clean Energy Finance Center (CEFC) and the Statewide Energy Efficiency Program under the CEFC.

- **Small Business Loan Guarantee Program (SBLGP)** promotes local economic development by providing guarantees for loans issued to small businesses from financial institutions, typically banks, which otherwise would not approve such term loans or lines of credit. The loan guarantee serves as a credit enhancement and an incentive for financial institutions to make loans to small businesses that otherwise would not be eligible for such financing.

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

Budget Overview. The department has expanded modestly over the recent past, due both to program expansions (such as the California Competes program discussed below) and through the inclusion of other existing program (such as the IBank). The department’s budgets (and positions) for the prior, current and budget years are shown in the tables below.

Governor’s Office of Business and Economic Development
Program Expenditure
(dollars in thousands)

Program	Actual 2014-15	Estimated 2015-16	Proposed 2016-17
Go-Biz	$2,758	$4,626	$4,943
California Business Investment Services	1,782	1,731	1,832
Office of the Small Business Advocate	2,151	2,480	287
Infrastructure, Finance and Economic Development	25,602	17,013	38,167
Total Expenditures	**$32,293**	**$25,850**	**$45,229**

Governor's Office of Business and Economic Development
Position Authority
(actual positions)

Program	Actual 2014-15	Estimated 2015-16	Proposed 2016-17
Go-Biz	24.0	23.0	22.0
California Business Investment Services	11.0	9.4	9.0
Office of the Small Business Advocate	2.2	2.5	6.0
Infrastructure, Finance and Economic Development	34.2	31.4	45.4
Total Positions	**71.4**	**66.3**	**82.4**

Issue 1: California Competes Tax Credit Program – Oversight

Presenter: **Governor's Office of Business and Economic Development**
Legislative Analyst's Office

Background. The California Competes Tax Credit (CCTC) is a targeted tax credit program administered by GO-Biz and the Franchise Tax Board (FTB). In its administration of the CCTC, GO-Biz is responsible for a relatively new program that involves a sizeable commitment of state funds, in the form of revenues foregone, over several years. The funds 'flow' is based on negotiated contracts with private companies. The purpose of the CCTC is to attract, expand, and retain businesses in California. Business entities that apply for the credit are evaluated on the basis of number of employees; jobs created or retained; location of the company in the state; and magnitude of new investment. The tax credit packages are negotiated between the business and the Administration (GO-Biz) and then voted on by the GO-Biz committee, consisting of the director of GO-Biz, the director of the Department of Finance, the State Treasurer, and one appointee each from the Senate and the Assembly.

Taxpayers may receive a maximum of 20 percent of the total amount of credits available for a particular year. In addition, 25 percent of the available credits must be provided to small businesses (companies with gross receipts of $2 million or less). The amount of credits that is allocated is up to $30 million in 2013-14, $150 million in 2014-15 and $200 million for years 2015-16 through 2017-18. These amounts may be reduced in order to ensure the total amount of tax reductions resulting from the program and two other tax preference programs (sales and use tax exemption for certain capital investments and new hiring tax credit) is no greater than $750 million in a fiscal year.

The implementation of the program is defined based on the application process, evaluation process, negotiation process and committee process, as described below:

- **Application Process.** During this stage of the program, CCTC staff engages in in one-on-one contact with applicants and their designated representatives by providing assistance with computing and entering the required information. CCTC staff also confirms eligibility, explains regulations, recommends other resources and provides information about deadlines.

- **Evaluation Process.** The evaluation process is two-phased. The initial phase calculates the cost-benefit ratio from the state's perspective, based on the credit request, aggregate employee compensation, and aggregate investment. The most completive proposals move to the second evaluative phase. The second phase involves looking at specific selection criteria, including number of jobs, amount of investment, extent of unemployment and poverty in the project area, and opportunity for additional growth.[1]

- **Negotiation Process.** Contract negotiations require a significant amount of analysis and discussion between CCTC staff and the applicant. The intent is to reach specific agreements that create definitive milestones, explain agreement provisions, and tailor language specific to the project.

- **Committee Process.** At this stage, CCTC staff briefs committee members and presents the negotiated agreements for approval at a public hearing. It also informs the FTB of the approved items and conditions of the agreements and posts information on the awards to the website.

Go-Biz has also pursued significant economic development proposals outside of the AB 93 framework with mixed success, specifically: Lockheed Martin tax credit ($420 million over 15 years); Northrup Grumman tax credit (accompanying measure); film tax credit extension/expansion (more than $1.5 billion over five years); and the Tesla 'gigafactory'. The Administration deemed these agreements as too substantial to occur within the AB 93 parameters and pursued them as independent pieces of legislation. Nevertheless, the potential sizeable commitment of additional foregone General Fund resources was not contemplated as part of the AB 93 conversation.

Staff Comments: While programs similar to the CCTC are used in other states with varying degrees of success, this approach to business development and assistance is not one that California has used in the past. Given this new approach to awarding tax credits, it is important that the Legislature be vigilant in its oversight of the program, to ensure that it is implemented in as effective a manner possible. The committee may wish to have the GO-Biz provide an update on the development and implementation of the program.

One of the underlying problems associated with traditional open-ended tax incentives is that the majority of the tax benefit goes to businesses that would have engaged in the desired behavior irrespective of the incentive program. Put another way, only businesses operating 'on the

[1] The specific criteria are: a) the number of jobs created or retained in the state; b) the compensation paid to employees, including wages and fringe benefits; c) the amount of investment in the state; d) the extent of employment or poverty where the business is located; e) the incentives available to the business in the state; f) the incentives available to the business in other states; g) the duration of the business's proposed project and the duration the business commits to remain in this state; h) the overall economic impact; i) the strategic importance to the state, region or locality; the opportunity for growth and expansion; the extent to which the anticipated benefit to the state exceeds the projected benefit to the business from the tax credit.

margin' would engage in the desired behavior ***because*** of the incentive. The result is a significant loss in revenue with little or no associated impact on economic activity. The GO-Biz CCTC program attempts to eliminate or minimize this loss by targeting its incentives at companies on the margin; its ability to do this, however, is open to question (as it would be for any outside entity attempting to measure internal business investment decisions). One way to measure success in this regard would be to examine companies that met the cost-benefit threshold (initial evaluation phase) and were among the finalists in selected criteria (second evaluation phase), but for one reason or another, were not selected as credit recipient. Unfortunately, there are sizeable information and data gaps that would have to be overcome in order to use this method. Other alternative approaches to measuring effectiveness—including econometric studies—could be used, as well.

As noted above, some of the sizeable initiatives undertaken by GO-Biz have been outside of the parameters established in the legislation establishing the California Competes Tax Credit. In large part, the details surrounding these incentive efforts were provided to the Legislature deep into the legislative session under a compressed schedule, making thorough independent analysis and review very challenging. The committee may consider the value of regular quarterly or biannual meetings with GO-Biz staff, such that leadership is kept current on potential agreements. This could be of particular value for agreements with a significant budgetary impact that could affect the funding of the Legislature's own priorities.

The committee may want to consider the following issues with respect to CCTC, and pose relevant questions to GO-Biz and LAO:

- The need for additional legislative oversight of the CCTC activities with respect to the location of activities and the types of industries approved for support, through a regular institutionalized process.

- The degree to which GO-Biz has been able to channel investment into economically-challenged areas of the state and into activities that provide opportunities to regional residents.

- The extent to which Go-Biz is capable of assessing whether jobs and investment would either not be retained or not created absent the existence of the credit, or whether an independent study should be required.

- The benefits of a comprehensive analysis—by LAO or other independent entity—of the effectiveness of the program to assess what the state has realized in exchange for its investments, prior to any extension of the program.

Staff Recommendation. Informational item.

Issue 2: New Hiring Tax Credit – Oversight

Presenters: **Governor's Office of Business and Economic Development**
Department of Finance
Franchise Tax Board
Legislative Analyst's Office

Background. In 2013, the Legislature authorized the New Hiring Tax Credit (NHTC), which provides a tax credit to employers who: (1) Hire a qualified full-time employee; (2) pay qualified wages attributable to work performed by the qualified full-time employee in a Designated Geographic Area (DGA); (3) receive a Tentative Credit Reservation (TCR) from the Franchise Tax Board (FTB) for that qualified full-time employee, and (4) certify each qualified employee. The qualified employee must be unemployed, a veteran, a recipient of the federal earned income tax credit, or an ex-offender.

The credit is based on 35 percent of qualified wages or wages between 150 percent (or $10 for certain a pilot areas) and 350 percent of minimum wage. At the time the NHTC was chaptered the 2014 qualifying wage range, excluding pilot areas, was between $12 and $28 an hour. This increased to $13.50 and $31.50 with a July 1, 2014 increase in minimum wage. In order to generate an allowable credit, the qualified taxpayer must have a net increase in its total number of full-time employees working in California, when compared to its base year. The credit is available to employers for taxable years beginning on or after January 1, 2014, and before January 1, 2021.

The FTB had originally estimated that $22 million in credits would be claimed for fiscal year 2014-15. While $15 million in credit reservations were made, taxpayers have reported $3.9 million in credits claimed on 2014 tax year returns—well short of initial program estimates. The FTB indicates the following factors may be curtailing the use of NEC credits in the short term:

- **Learning Curve:** Any new program will have procedural requirements and filing processes that are unfamiliar to taxpayers: the reservation process is new to the hiring credit area and especially small businesses may not be aware of the requirement; new programs are often associated with more frequent taxpayer return errors; and taxpayers may not be aware of the program's existence despite outreach efforts.

- **Other Credit Usage.** The enterprise zone hiring credit was targeted to be replaced in part by the NHTC credit. Taxpayers who have both credits available to claim in a tax year will tend to claim the enterprise zone credits first as they will be phased out sooner.

- **No Credit Reservation.** Not all NHTC claimants all made reservations or met other requirements and thus were not qualified to take the credit.

- **Reservations Absent Claims**. Approximately $15 million in credit was reserved in 2014, significantly more than the amount claimed. One possible reason is that some taxpayers may have unexpectedly failed to fulfill the requirement that they increase total employment over the previous year.

Staff Comments. In a mandated report to the Legislature, FTB has identified program features where changes might encourage taxpayers to utilize the program above current levels: change geographic limitations by loosening the criteria; make the eligibility requirements less restrictive; change range of qualifying wages; discontinue or streamline the credit reservation requirement expand eligibility to additional business types; increase the credit percentage from 35 percent to some higher amount; and expand education and outreach.

FTB notes in its report, and staff concurs, that any loosening of the criteria can lead to undercutting the original intent of the legislation, which was to move away from the open ended style of the enterprise zone hiring credit. The enterprise zone hiring credit was available retroactively, required no net increase in jobs, and covered all types of businesses. In approving the NCTC, the legislature was cognizant of the benefits of tests and criteria that limit the amount of revenue losses that occur when tax benefits are awarded to taxpayers which would have engaged in stipulated activities even absent the special tax treatment. The committee may want to pursue issues related to the most beneficial (and least costly) means of expanding the usage of the credit.

Staff Recommendation. Informational item.

Issue 3: California Infrastructure and Economic Development Bank—California Lending for Energy and Environmental Needs Center

Governor's Proposal. As a component of the overall cap and trade proposal, the budget requests one-time funding of $20 million from the Greenhouse Gas Reduction Fund (GGRF) to California Infrastructure and Economic Development Bank (IBank) for use in its California Lending for Energy and Environmental Needs (CLEEN) Center greenhouse gas emission reduction programs. The entire $20 million would be used for the CLEEN Center programs that fund transactions for projects that reduce greenhouse gas emissions.

Background. The GGRF, funded by the Cap-and-Trade Program, was established for the purpose of funding measures that allow California to achieve its GHG reduction goals. In addition, SB 535 (de Leon) Chapter 830, Statutes of 2012, requires that twenty-five percent of GGRF funds be spent to benefit designated disadvantaged communities, with 10 percent spent directly within disadvantaged communities.

The IBank was created in 1994 to finance public infrastructure and private development that promote a healthy climate for jobs, contribute to a strong economy, and improve the quality of life in California communities. IBank is located within GO-Biz and is governed by a five-member board of directors. IBank recently established the CLEEN Center to encourage public and private investments and will use IBank's access to capital markets for clean energy and energy efficiency projects. The CLEEN Center at IBank is designed to focus on energy-related projects for the state and local governments in California through the Statewide Energy Efficiency Program (SWEEP). The funds that support these revolving fund programs are generated by, and leveraged with, the issuance of revenue bonds in the capital markets. To support its direct loan programs, in 2014, IBank issued a bond for $95,960,000 and in 2015 issued a bond for a little over $90,000,000.

The CLEEN Center Business Plan was presented to the IBank board in February 2015 as an integral part of protecting California's environment and natural resources by offering financing that helps achieve the state's GHG goals. In its efforts, IBank anticipates working with the California Energy Commission (CEC), whose loan portfolio consists primarily of its Energy Conservation Assistance Act (ECAA) program that provides loans to school districts and local government borrowers. The ECAA loans could be pledged to serve as a credit enhancement for IBank's CLEEN bonds for municipalities and public universities, schools and hospitals (MUSH) borrowers. CLEEN bonds also would be secured by new IBank clean energy financings, including energy efficiency financings to MUSH Borrowers. IBank would pledge the 2005A CEC Pledged Assets (CEC Portfolio) and the additional unpledged ECCA loans to the CLEEN bonds. CLEEN bond proceeds also could be used by IBank to fund larger and more complex clean energy projects for MUSH borrowers than existing programs

Staff Comments. The proposal is a part of the Governor’s cap and trade plan, most of which will be discussed in Senate Budget Subcommittee No. 2. Given that the discussions of the plan are still in process, action on this issue would be premature, and the issue can be taken up by the committee at a later date.

Staff Recommendation. Hold open.

Vote.

Issue 4: California Infrastructure and Economic Development Bank—Administrative Workload

Governor’s Proposal. The Governor's Office of Business and Economic Development (GO-Biz) requests increased reimbursement and corresponding expenditure authority from the California Infrastructure and Economic Development Bank Fund in the amount of $1.5 million in 2016-17 ($1.3 million in 2017-18 and ongoing). The new funding will allow the California Infrastructure and Economic Development Bank (IBank) to administer the Small Business Finance Center, bond programs, and loan programs. To ensure appropriate implementation and administration of the numerous existing, new, and expanding programs, IBank also requests the establishment of 11 permanent positions. The positions include staff programmer analysts, assistant trainee, associate government program analyst, attorney, senior loan officer and six staff loan officers.

Background. The IBank has broad authority to issue tax-exempt and taxable bonds, provide financing to public agencies, provide credit enhancements, acquire or lease facilities, and leverage state and federal funds. The IBank's current major programs include:

- **Direct Loan Unit.** This unit includes the Infrastructure State Revolving Fund (ISRF), providing low-cost financing to public agencies for a wide variety of infrastructure projects; Statewide Energy Efficiency Program (SWEEP), which provides low-cost financing to state and local governments for approved energy efficiency projects; and, California Lending for Energy and Environmental Needs (CLEEN) Center which encourages public and private investments.

- **Bond Unit.** This unit includes: 501(c)(3) Revenue Bond Program which provides tax-exempt financing to eligible nonprofit public benefit corporations for the acquisition and/or improvement of facilities and capital assets; Industrial Development Revenue Bond (IDBs) Program providing tax-exempt financing for qualified manufacturing and processing companies for the construction or acquisition of facilities and equipment; Exempt Facility Revenue Bond Program which provides tax-exempt financing for projects that are government-owned or consist of private improvements within publicly-owned facilities; and Governmental Bond Program which provides bond financing to provide financial support for various state entities and programs.

- **Small Business Finance Center.** The Small Business Finance Center has subcategories of programs including the State Small Business Loan Guarantee Program, the Export Financing Program, the Farm Loan Program, and the Disaster Relief for Small Business Program. These programs provide repayment guarantees to lenders for loans to small businesses experiencing difficulty securing financing on their own.

- **Additional Units.** The IBank also includes the Compliance Unit, Fiscal Unit, Legal and Legislative Unit and Technical Resource Support Center.

Staff Comments. The department has provided reasonable measures of workload increases and the requirements for additional staff. The proposal indicates that the additional resources will be sufficient to work down the existing backlog. If this occurs, then once the backlog is reduced, there would excess staff capacity, absent a steady increased demand for services. The extent to which these separate workloads mesh should be addressed by the department and the item held open pending receipt of this information.

Staff Recommendation: Hold open.

Vote.

Issue 5: Governor's Office of Business and Economic Development—Administrative Workload

Governor's Proposal. The budget includes a request for additional administrative resources for the Governor's Office of Business and Economic Development (GO-Biz). Specifically, The Governor requests ongoing budget authority for four positions and $309,000 in General Fund to provide administrative support services to the Human Resources, Business Services, Contracts and Procurement units. This proposal will provide funding for three positions (GO-Biz will absorb the cost of one position). The requested positions are: one staff services manager I (SSM

I) position and one management services technician for the Business Service Unit, and one staff services manager (SSM I) and one staff services analyst (SSA) for the Human Resources Unit.

Background. GO-Biz staffing issues have been addressed in previous Fiscal Integrity and State Manager's Accountability Act audits. In its most recent report, GO-Biz was noted for a lack of separation of duties, policies and procedures and adequate coverage for its administrative support functions. The department indicates that due to many of the programs within GO-Biz growing, additional resources are needed to support the additional workload being created in the areas of human resources, business services, contracts and procurement.

GO-Biz received four additional administrative support positions in 2014-15, but the department has expanded in terms of responsibilities and workload since that time. Four additional positions are being requested to provide additional support in the Human Resources, Business Services, Contracts and Procurement units. The contracting and procurement needs of the department have increased with the California Competes program, the Capital Infusion Grant Program, the changing needs of the infrastructure and Economic Development Bank and the Film Commission. The human resource needs of the department have also increased with new positions and program expansions. With the new positions and program expansions, no additional human resource staff was added. The current staffing consists of one senior personnel specialist received in a 2014-15 BCP, one redirected associate personnel analyst and the administrative manager. No new funding was received for the senior personnel specialist. The funds were redirected from the various programs within GO-Biz.

Staff Comments. Due to its growth and absorption of other activities, GO-Biz is somewhat administratively understaffed. Currently, GO-Biz has seven full-time administrative positions to cover information technology, human resources, facilities, business services, procurement, contracts, and budgets for the department of 98 authorized positions and seven temporary help positions. GO-Biz indicates the increased staffing will eliminate the backlog of work within the Human Resources Unit and the Business Services Unit. The additional assistance to the various programs within GO-Biz will go towards eliminate delays in response time to executive staff, managers, supervisors and control agencies.

Staff Recommendation. Approve as budgeted.

Vote.

California Credit and Debt Overview

Presenter: State Treasurer's Office
Public Finance Division

General Obligation Bonds and Debt Service. Expenditure of bond proceeds is reflected in the budgets of individual departments, with the payment of bond debt service consolidated in Item 9600 in the Governor's budget. It is the repayment of bond debt that is reflected as a General Fund expense. Some bond costs are offset by special funds or federal funds. Other bonds are 'self-liquidating,' or have their own dedicated revenue source. The Economic Recovery Bonds (ERBs), which were self-financed, received a quarter-cent of the sales tax as a component of the 'triple flip' enacted as part of the 2004 budget package. The ERBs have now been paid off, and sales tax resources dedicated to General Fund bond repayment are now flowing to local governments and the property tax backfill shifted back to K-14 education.

The Governor's budget includes $4.9 billion in General Fund costs for General Obligation (GO) bond debt service and related costs. In addition, about $1.2 billion in debt costs are scheduled to be funded from special funds. Finally, federal bond subsidies, through the Build America Bonds (BABs) program, will provide $326 million in 2016-17, allowing for a reduction in General Fund expenses. The Governor's proposed budget includes about $126 billion in General Fund available for debt service (including carry-over balances but excluding amounts to be transferred to the BSA). The net General Fun debt service for GO bonds as a percentage of General Fund resources is approximately four percent.

Governor's Budget for General Obligation Bond Debt
(Dollars in Millions)

Category	2014-15 Actual Cost	2015-16 Estimated Cost	2016-17 Forecasted Cost
General Fund Cost[1]	$4,737	$4,870	$4,913
Other Funds Cost	941	1,133	1,244
Federal Subsidy (Build America Bonds)	326	326	326
Total Debt Service	**$6,004**	**$6,329**	**$6,483**

[1] Includes variable rate bond and commercial paper expenses.

Debt service is expected to creep up in the budget year due to recent past bond sales and anticipated issuances. The State Treasurer's Office (STO) plan includes an assumption that $3.3 billion in General Obligation bonds will be sold (or have been sold) in 2015-16, and that $4.0 billion will be sold in 2016-17. In addition, the STO assumes that $6.6 billion in bonds will be retired over the same period. In recent years, the state's GO Bond debt service cost per borrowed dollar has generally declined. This has occurred not only because of the general decline in interest rates, but also the state's improved credit rating. In 2010, the spread between California's 30-year borrowing costs was 150 basis points (1.5 percent) higher than term-comparable AAA rated paper; while the current spread is closer to 25 basis points. The STO has taken advantage of this dynamic and maintained an active refinancing program.

Budget and Bonds. Paying GO bond debt is a significant General Fund expense. State and federal tax exemptions for interest income received by investors ensure that GO bond debt is a low-cost financing alternative. To the extent bond costs do not exceed a government's long-term ability to fund other commitments, bonds typically allow the public to enjoy the benefits of infrastructure investment more quickly than would otherwise be the case. The LAO indicates that the state's gross debt service requirements for infrastructure for bonds already sold will remain around six percent of General Fund revenues over the next several years, and cost roughly $6 billion annually over the same time period. (This does not include the full costs of Proposition 1 water bond sales, which are slated to occur over a number of years.)

Voters approved over $40 billion in new bonds on the 2006 ballot, just prior to the national recession. During difficult budget times, such as the recent great recession, bonds enable the state to invest in infrastructure while the need for economic stimulus is most acute, borrowing costs are low, and construction procurement is favorable. Despite the benefits of bonds, they come with the cost of many years of debt service. Assuming that a bond carries an interest rate of five percent, the cost of paying it off with level payments over 30 years is close to $2 for each dollar borrowed—$1 for repaying the amount borrowed and close to $1 for interest. This cost, however, spread over a 30-year period, after adjusting for inflation is considerably less—about $1.30 for each $1 borrowed. The Legislature can increase or limit bond funding through the budget process as overall expenditures are prioritized.

Despite the interest costs associated with debt, the decision to issue bonds comes with numerous advantages, as outlined above. In addition to these benefits, the current interest rate environment, which continues to display very low long-term rates, presents unique advantages for the issuance of long-term debt for the state. For AA rated twenty-year paper, the average yield continues to be under three percent.[2] These low rates have persisted, despite the relatively strong US economy which would ordinarily place upward pressure on interest rates.

The Administration proposes maintaining its current market level of bond issuance and to pay for substantial capital improvement through cash outlays. While this is not an unreasonable use of cash, an alternative process to consider would involve borrowing during the current, low-interest rate environment and retaining the cash for use during a future period when higher interest rates prevail.

Bond Management. When the state's cash situation deteriorated during the recession, the Administration changed the methodology for managing bond cash. Prior to the recession, reserve cash funded project costs in advance of bond sales, and then bond sales replenished cash reserves. When reserve cash declined, the state had to instead sell bonds in advance of expenditures. Due to project expenditures occurring slower than anticipated at the time of bond sales, large bond cash balances developed—about $9.7 billion as of December 2011. As a result, the Administration implemented a plan to utilize commercial paper to aid cash flow, thus reducing the need to carry large bond cash balances. As part of this effort, the Administration requires GO bond programs to demonstrate an immediate need for additional bond proceeds

[2] California's current long-term General Obligation bond ratings from the three major services are: Moody's-Aa3; Standard & Poor's-AA-; Fitch-A+.

prior to issuing new bonds. Progress has been made to reduce bond cash, and cash reserves have dropped to just under $1.4 billion by the end of December 2015. At budget hearings, the Administration could be asked to discuss their management of bond proceeds, forecasts of project expenditures, and the optimal level of cash balances.

Staff Recommendation: Informational issue.

0950 State Treasurer's Office

Department Overview. The State Treasurer's Office (STO), a constitutionally-established office, provides banking services for state government with goals to minimize interest and service costs and to maximize 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 or checks drawn by the State Controller and other state agencies. In addition, the Treasurer sits on numerous boards and commissions that deal with state, programs, investments and financing.

Budget Overview. The STO receives the great majority of its funding—roughly 75 percent—from reimbursements. The General Fund contribution to the office is roughly 14 percent of the total. As shown in the table below, position authority has remained relatively stable.

State Treasurer's Office
Program Expenditure
(dollars in thousands)

Program	Actual 2014-15	Estimated 2015-16	Proposed 2016-17
Investment Services	$3,644	$3,481	$3,489
Centralized Treasury & Securities Management	12,644	13,528	13,731
Public Finance	9,949	11,251	9,874
Administration	13,967	15,770	15,728
Distributed Administration	-11,079	-9,965	-9,926
Total Expenditures	**$29,125**	**$34,095**	**$32,896**

State Treasurer's Office
Position Authority
(actual positions)

Program	Actual 2014-15	Estimated 2015-16	Proposed 2016-17
Investment Services	13.0	18.0	18.0
Centralized Treasury & Securities Management	62.5	63.5	65.5
Public Finance	56.1	53.3	50.3
Administration	84.9	90.9	92.9
Total Positions	**216.5**	**225.7**	**226.7**

Issue 1: Debt Management System

Presenter: State Treasurer's Office

Background. Last year the State Treasurer's Office (STO) received continued funding for the replacement of the departments' debt management system. The $1.4 million (reimbursements) consisted of $302,000 for a project management support vendor, $200,000 for Department of Technology (CalTech) procurement assistance, $97,000 for the procurement assistance vendor, $140,000 for independent verification and validation services, $113,000 for CalTech project oversight, and $530,000 of continued funding for positions (data processing manager, senior programmer analyst, system software specialist, and treasury program manager.

In conjunction with this funding, the STO changed the procurement strategy for the DMS II Project from what was as previously submitted in SPR1, based on vendor feedback provided to the STO from the pre-solicitation RFP and resulting analysis. Subsequent to the submission of the May Revision request, staff was notified of requested change in the procurement strategy. In 2013, the STO had determined that replacing the existing debt management system with a solution-based procurement using a systems integrator was in the state's best interest, due to available expertise staffing. However, STO subsequently determined, based on potential vendor feedback, that it would be very difficult to completely satisfy business requirements at an acceptable cost and/or within a reasonable timeframe. Following more in depth vendor conversations, STO explored alternative procurement strategies and models and determined the debt management system replacement could be better addressed by using the existing debt management system and expert-level technicians rather than STO staff. CalTech agreed with this decision. The STO's funding request of $1.4 million remains unchanged.

The STO received funding for this project in 2013-14 and 2014-15. The new system is necessary for debt administration, including duties associated with trustee, registrar and paying agent responsibilities, payment of debt service, disclosure and analysis of debt issuances. Given the increased legal and financial complexities in the debt markets, the STO indicates a need for a new system to administer outstanding debt, track and pay debt service and fees on outstanding debt, and track and validate the issuance of new debt. The existing system dates to 2004.

Staff Comments. The debt management system is an essential component for the STO to follow-through on its essential services. The STO has adjusted its procurement plan in response to concerns raised through the interested parties' process, as well as a result of concerns voiced by the Legislature, including this committee. The efforts of the STO's Debt Management System should continue to be monitored by the committee in order to help ensure that the project is delivered in a satisfactory manner.

State Recommendation. Informational issue.

0968 CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

Issue 1: Compliance Monitoring Staff Augmentation

Governor's Proposal. The proposed budget includes a request for four permanent full-time associate government program analyst (AGPA) permanent full-time positions in the compliance section of the California Tax Credit Allocation Committee (TCAC). The additional positions would perform Internal Revenue Service (IRS) Code compliance monitoring services for the current inventory of affordable rental housing. TCAC indicates that its current staffing levels are insufficient to carry out the compliance monitoring mandated by Federal Internal Revenue Code (IRC). The requested resources are to be funded by special funds. The state Health and Safety Code, Section 50199.9(d), allows TCAC to establish and collect fees for the purpose of paying the costs of monitoring projects with allocations of tax credits for compliance with federal and state law.

Background. TCAC administers both federal and state low-income housing tax credit programs. Both programs encourage private investment in rental housing development for low and very low-income families and individuals. Congress created the federal Low-Income Housing Tax Credit (LIHTC) as part of the 1986 Tax Reform Act, and it was made permanent in 1993. The program helps private developers/owners create and preserve affordable housing and raises project equity through the sale of tax benefits to investors who hold an ownership interest in the property. The LIHTC Program has become the primary funding source for developing affordable rental housing throughout the country. State housing tax credits, authorized in 1987, provide further investor tax benefits, as well as supplement the federal tax credit.

TCAC has helped fund the construction of over 272,630 total units since its inception, including more than 10,000 last year. Developers rely on federal, state, and local funding sources to build affordable housing as evidenced by the receipt of over 300 applications annually. To assure federal compliance and properly maintained properties, TCAC must perform federally-mandated compliance monitoring functions. In 1992, Congress amended the IRC to include a provision specifying that a state's plan for allocating credit will not be deemed qualified unless it contains a procedure that the state will follow in monitoring compliance with the code's provisions.

Regulations require that the states conduct physical inspections of each property every three years and also imposed a more rigorous physical inspection standard than formerly. Property inspections must include a physical inspection of all building exteriors and common spaces, and physical inspections of at least 20 percent of the units in each of the properties. TCAC must also review at least 20 percent of the tenant files for income and rent eligibility. Additionally, an initial inspection of all projects is required to be completed by the end of the second calendar year following the year that the last building is placed in service.

TCAC contracted with an outside consulting firm in 2007 to produce a workload analysis of all compliance functions and staffing requirements. The study concluded that TCAC would needed one additional manager and two staff positions in 2008, with an additional staff person needed each year going forward. Additional demands for inspection occurred in 2008, when the federal

Housing and Economic Recovery Act of 2008 (HERA), included changes that affected the recertification requirements for properties, determined that rents and income requirements would be treated differently, added additional student verification requirements, and created an entirely new program requirement in the collection of tenant demographic data. Also in 2008, the IRS released updated utility allowance regulations which implemented new protocols for all monitoring agencies to verify sub-metering and energy efficiency standards at properties in their portfolio. Finally, In January of 2009, President Obama enacted the American Recovery Re-investment Act, which created two new programs to be monitored by TCAC—the Tax Credit Exchange Program (TCAP) and Section 1602 Funding.

TCAC's property portfolio currently contains over 3,300 active properties (excluding 507 in the preliminary reservation stage), with over 272,630 tax credit units statewide, resulting in housing over 517,000 tenants in tax credit properties. Of these, 2,475 properties have received an allocation of tax credits within the last fifteen years and 905 are in the extended use portfolio (after year 15). With increased portfolios, the amount of monitoring continues to increase. Currently, TCAC adds about 220-240 projects per year, which constitutes a 6.27 percent growth rate in the portfolio yearly. The department's re-syndication activates and pilot programs impose additional demands on staff. Current workload projections show that in calendar year 2015, TCAC has a deficit of 4.19 PY's. This deficit will grow over time as the department's portfolio grows.

Staff Comments. Staff has no concerns with this proposal. The compliance activities conducted by the department are essential to the integrity of the program and federally-mandated. The department has amply demonstrated additional resource needs through its workload analysis.

Staff Recommendation. Approve as budgeted.

Vote.

Issue 2: Development Section Staff Augmentation

Governor's Proposal. The budget includes a request for three associate governmental program analyst (AGPA) positions for the development section of the California Tax Credit Allocation Committee (TCAC). These positions would to carry out core functions and administer federal and state mandates of the Low-Income Housing Tax Credit (LIHTC) program. This request will not impact the General Fund, and would be funded out of program fees established by the department to pay necessary administrative costs.

Background. TCAC is responsible for administering the allocation of federal and state low-income housing tax credits (LIHTCs) for the development of low-income housing. The amount of federal LIHTCs allocated by the Internal Revenue Service (IRS) is based on the product of a per capita factor and the state's population. Annual increases in the per capita factor and state population continues to increase the amount of annual federal LIHTCs from $63.8 million in 2004 to $89.3 million in 2015 (40 percent increase) available for allocation to develop low income housing projects. In addition, available state tax credits have continued to increase—from approximately $74 million in 2004 to $93.8 million in 2015 (27 percent increase).

Applications for the program are reviewed by TCAC staff. Continuing changes to the project requirements, such as sustainability and accessibility, has resulted in more complex reviews and additional technical assistance from staff. TCAC is required by federal law to conduct three reviews of the applications through the entire development process. Due to the increase in the volume and complexity of applications, workload has increased at each stage of the reviews significantly. Specifically, the review of applications at the placed in service (PIS) stage has a large backlog due to the increased number of applications and the added complexity due to project requirements. The PIS review culminates in the issuance of the IRS tax forms to the developer and the investor. The timely issuance of the tax forms is critical for investors to filing tax returns and claiming the tax credits for that year. Adverse impacts of the backlog and delay of the tax forms can result in amended tax returns, increased fees, and delayed equity pay-in schedules that are not being met. Subsequent federally-required subsequent reviews assure the state that the project development is moving along as anticipated. The increased application volume creates an amplified workload for Development Section staff. With the current staff levels, TCAC risks missing federally-mandated reviews.

As the state allocating agency, TCAC must respond to changes that occur in the LIHTC program. An example of changes are cost monitoring and study to keep project costs down, and modifications to the competitive scoring due to the diminished public resources availability. The increased workload associated with ongoing changes and issues include different forms of data analyses, surveying project data, and stakeholder consultation. TCAC is responsible for providing data annually, in the form of increasingly detailed and extensive surveys, to the Department of Housing and Urban Development (HUD) and the National Council of State Housing Agencies (NCSHA).

There have also been a number of other expansions of TCAC responsibilities, including:

- The number of existing TCAC projects re-syndicating and applying for new credits has increased over 100 percent since 2011. Re-syndications require additional review both at the initial stage as well as the final stage, which requires additional staff time and is accounted for in the workload analysis chart.

- In 2014, TCAC added a new apportionment within the rural set-aside, titled the Native American apportionment, for applications proposing projects on an Indian reservation, whether the land is owned in fee or in trust. There have been challenges associated with the new apportionment that has resulted in more staff time research and technical assistance relating to development on these sites.

- In 2010, federal regulations permitted housing credit agencies to conduct subsidy layering reviews while following the same guidelines as HUD. This policy change accompanied federal policy to more readily provide federal funding along with tax credits. TCAC now performs subsidy layering reviews because HUD could not complete the reviews and enable

TCAC to meet required federal deadlines. TCAC has been conducting these reviews since 2010.

- In 2013, HUD launched its Rental Assistance Demonstration (RAD) to preserve and enhance affordable units by allowing public and assisted housing to convert to more stable funding. The introduction of RAD has increased the number of projects requiring subsidy layering reviews as well as added more complexity to the reviews. In 2014, the number of complex subsidy layering reviews increased to more than 50 annually.

- In 2011 federal legislation made significant changes to the Section 811 program. The primary purpose of this program is to use LIHTCs to provide housing for extremely low-income persons with disabilities while also making available appropriate support and services. This demonstration program continues to involve TCAC, along with other state agencies, administering the allocation of additional resources resulting in additional workload. This also signals a federal trend toward greater reliance upon tax credits to develop special needs housing.

- In 2015, the STO emphasized the increase in production of affordable units by utilizing noncompetitive four percent federal low-income housing tax credits. TCAC conducted listening sessions with the stakeholder community to discuss possible changes to the regulations to promote the increase in applications. In July, TCAC proposed regulations changes that is expected to increase the number of applications requesting noncompetitive four percent federal low-income housing tax credits.

Staff Comments. The department indicates that TCAC Development Section staff worked over 400 overtime hours in the last fiscal year and is on track for a similar pattern for this fiscal year. With the ongoing increase in the workload, there has been one additional position increase for the Development Section of TCAC in at least the last 10 years. TCAC has explored other options to eliminate the backlog, which includes re-evaluating the review process, streamlining submittal requirements, and updating checklists. The department has provided a reasonable case of the need for additional resources

Staff Recommendation. Approve as budgeted.

Vote.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Wednesday, March 30, 2016
10:30 a.m.
State Capitol - Room 3191

Consultant: Mark Ibele

PART A

ITEMS PROPOSED FOR VOTE-ONLY

ITEMS FOR DISCUSSION AND VOTE

Item	**Department**	**Page**
	California Credit and Debt Overview	**21**
0950	**State Treasurer's Office**	**24**
Issue 1	Debt Information System Update – Oversight	25
0968	**California Tax Credit Allocation Committee**	**26**
Issue 1	Compliance Monitoring Staff Augmentation **AAB, 4-0**	26
Issue 2	Development Section Staff Augmentation **AAB, 4-0**	27
	Public Comment	

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Wednesday, March 30, 2016
10:30 a.m.
State Capitol - Room 3191

Consultant: Samantha Lui

PART B

PROPOSED FOR VOTE-ONLY

PROPOSED FOR DISCUSSION

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

ISSUES PROPOSED FOR VOTE-ONLY

0845 DEPARTMENT OF INSURANCE

Issue 1: Principle-Based Reserving (SB 696) and Budget Bill Language

Budget. The department requests $925,000 (Insurance Fund) in the budget year, and $894,000 (Insurance Fund) ongoing, for five positions to implement workload related to Principle-Based Reserving (PBR). The five positions include:

- One senior life actuary to design the audit plan and oversee audit schedules and timelines.
- One statistical models analyst III to review PBR modeling programs.
- One chief systems actuary.
- One senior programmer analyst to evaluate the software scripts.
- One software systems specialist III to lead actuaries in evaluating data structure, relevance, and organization.

The department also proposes budget bill language, which provides that resources, previously approved for PBR implementation ($41.4 million and nine positions), will be reconsidered if, by June 30, 2017, a super-majority of states that represents 75 percent of the total U.S. premium do not adopt PBR. In addition, the proposed language requires the department to update the Department of Finance and the Legislature on the status of national adoption.

Background. PBR is a stochastic model that requires forecast-based mathematical models, which rely on credible past company experience. The PBR methodology is beneficial to insurers and industry because it allows life insurers to set and hold insurance liabilities reflective of their life insurance past experience. PBR introduces the use of actuarial judgment in allowing insurers to determine life insurance reserves. The stochastic reserve is based on net cash flows projected under multiple economic scenarios based on randomly generated future interest rates and equity return assumptions.

Senate Bill 696 (Roth), Chapter 658, Statutes of 2015, conforms California law to the Standard Valuation Law, adopted by the National Association of Insurance Commissioners (NAIC), and replaces the current method of calculating reserves for most life insurance products with a new method known as PBR applicable to specified contracts.

During the 2014-15 budget, the department received conditional approval to prepare for the implementation of the PBR and was authorized $463,000 in 2015-16, for four new positions (one senior life actuary and three analysts). Currently, none of the four positions are filled. These resources were based on initial estimates and are intended to cover the workload associated with preparing the department to act.

PBR will become operative on January 1 of the year after 42 states that represent at least 75 percent of total U.S. premium adopt the policy. Policies issued prior to the adoption of PBR, or not covered by PBR, will still be covered by the current standard valuation laws.

Staff Comment. Once PBR is operative, the NAIC Valuation Manual allows up to a three-year transition to give insurers time to implement PBR for future sales. This implementation period provides the department additional time to create policies and procedures, recruit and train the necessary staff on insurance stochastic modeling. However, the department notes that it is possible the initial PBR submissions will arrive in March 2017.

As November 13, 2015, 39 states and six territories have adopted PBR, representing an amount just short of the 75 percent required. The department is currently tracking seven other states that are likely to approve PBR by June 30, 2016.

The department may wish to clarify how previously approved resources, if PBR is not adopted by the required number of states, will be "reconsidered."

Staff Recommendation. Approve as requested, including the budget bill language in draft form.

Issue 2: Life and Disability Policies (AB 387)

Budget. The department requests $430,000 (Insurance Fund) in the budget year, and $270,000 (Insurance Fund) ongoing, for two attorney positions to comply with associated workload implementing Assembly Bill 387 (McCarty), Chapter 691, Statutes of 2015.

Background. AB 387 (McCarty) contains the following provisions:

- Extends the period of time for the Insurance Commissioner to review disability insurance policies from 30 to 120 days.
- Requires the Commissioner to request a study comparing California insurance standards with those developed by the Interstate Insurance Product Regulation Compact, and prohibits the use of General Fund or Insurance Fund for the report. The study must be completed by January 1, 2017.
- Authorizes the Commissioner to publish checklists and guidelines for policy form requirements.

Disability and life insurance policies are subject to statutory standards. For some types of insurance, the Insurance Commissioner must affirmatively approve the forms before the insurer issues contracts based on those forms. For other types of insurance, the insurer must submit the form but may issue policies after a waiting period without affirmative approval. In either case, the insurer must stop issuing policies based on that form if the Commissioner subsequently disapproves the form.

Insurers must file forms for disability insurance. If the Commissioner notifies the insurer that the form does not comply with required standards, the insurer must fix the form and get approval before issuing policies. If the Commissioner affirmatively approves the form, or 30 days passes without notice, the insurer may issue policies under that form. Traditionally, the statute has been read so that the Commissioner would have discretion to review a policy or not. The California Court of Appeal, in *Ellena v. Department of Insurance* (2014), held that the Commissioner has a mandatory duty to review each disability insurance policy. That decision has created a substantial new workload in the department's policy review process. AB 387 bill addresses the additional workload by extending the review period to 120 days.

Staff Comment. While this increases the number of days for review, CDI needs additional resources to comply because the department had previously not interpreted the 30 days as a "real" deemer date. The department notes it has "no control over how many filings come in each month and has no control over the size and complexity of those filings, and accordingly, does not have sufficient resources to comply with the new 120 days." During the period of April 1, 2014, to April 1, 2015, the department received an average of 115 new filings each month. Some filings consist of one, three-page document, while others consist of 15, 30-page documents.

Staff Recommendation. Approve as requested.

Issue 3: CDI Menu Modernization Project (CMMP) – Year 3

Budget. The department requests a one-time increase of $2.7 million ($1.8 million Insurance Fund, $962,000 General Fund) in the budget year for four positions and 2.5 temporary help position authority positions. The positions will help complete the third year of implementation of a five-year project to replace the department's legacy Menu and Integrated Database (IDB). Specifically, the requests includes $1.8 million for external contracts for software, project management, and project oversight and $962,000 to support positions.

Background. The CDI Menu Project is a gateway or portal (user interface) that was developed in 1992 using an Oracle Forms and Reports platform. The core of the CDI Menu is the IDB database, the backend database which includes the majority of the CDI Menu's rules and database triggers. Built over 20 years ago, the technology supporting the current IDB is outdated and the vendor will no longer provide support for this technology after June 2017. The CDI Menu provides access to over 90 different functions, reports, studies, and views. For example, the Fraud Integrated Database (FIDB) System provides on-line access, permitting input and/or retrieval of data such as case activity notes, timekeeping, case contacts, suspects, witnesses, case review, case assignment, investigative plans, and management reports. The system's aging technology has created several functionality issues and challenges

To date, the CMMP has received total resources of $4,106,000. The department is requesting year three resources of $2,749,000 to continue the project, which will include the completion of the reengineering of the Fraud Integrated Database (FIDB) system; completion of upgrading systems for Licensing Services Division and Financial Management Division; and begins work for the Rate Regulation Branch (RRB) and Financial Surveillance Branch (FSB) systems.

Staff Comment. The CMMP is a five-year project and this proposal requests funding for year three only. CDI's estimated future resource requirements will be addressed during the annual budget process as seen in the chart below.

Resources	FY 2017-18	FY 2018-19
Positions	5.5	0
Funding	$1.85 million	$278,000

Staff Recommendation. Approve as requested.

Issue 4: Network Switch Replacement

Budget. The department requests a one-time $1.7 million (Insurance Fund) augmentation to replace 95 IT network switches.

Background. CDI's existing IT infrastructure has been in place for over ten years, with the existing switches purchased in 2008, and has been partially replaced and incrementally upgraded based on security risks, technology needs, and available funding. A central component of CDI's network are 95 IT network switches that serve as an access point to a private cloud that connects the entire organization to the Internet. In July 2016, the 95 IT network switches will reach the end of their life as earmarked by the manufacturer. As the end-of-life approaches for these network switches, the failure rate increases to approximately 25 percent.

The $1.7 million costs include a three-year maintenance and support plan. The switches have a useful life of about six years; therefore, CDI anticipates requesting additional funding in 2019-20 of approximately $325,000 to purchase three more years of maintenance and support.

Staff Comment. The current network switches will reach end-of-life in July 2016 and absent replacing all 95 switches at the same time, CDI may incur more expensive costs as switches are replaced on an emergency basis. Currently, the department's technology refresh allocation is $700,000 – an amount reserved to refresh the department's end-of-life desktop and notebook PCs, not to support an entire infrastructure refresh.

Staff Recommendation. Approve as requested.

Issue 5: Resource Redirection

Budget. The department requests to shift $808,000 in the budget year and ongoing from the General Fund Tax Collection and Compliance Program to address workload demands for the following two programs: (1) Regulation of Insurance Companies and Insurance Producers ($461,000), and (2) administration ($347,000).

Background. In 2014-15, the Financial Surveillance Branch (FSB) restructured its Premium Tax Audit Bureau (PTAB) and found inefficiencies with the existing processes, including duplication of work by PTAB's two-level review audit process, lack of coordination of on-site examinations, and not billing companies to recover program costs. When FSB streamlined its review process, staffing needs in PTAB were reduced from 12 to five positions. CDI identified resource needs in its Rate Regulation Branch (RRB) and Administration & Licensing Services Branch - Human Resources Management Division (HRMD).

Staff Comment. The department does not anticipate the reduction of resources for the FSB will impact the department's tax collection activities, which results in approximately $2.4 billion in taxes collected annually for the General Fund. The request does not adversely impact the department's Insurance Fund.

Staff Recommendation. Approve as requested.

0890 SECRETARY OF STATE

Issue 1: Help America Vote Act (HAVA) Spending Plan

Budget. The Secretary of State (SOS) requests $54.1 million (Federal Trust Fund), including reauthorization of funds not used in prior fiscal years, in the budget year to continue implementing statewide mandates of the Help America Vote Act of 2002 (HAVA) (P.L. 107-252). The request amends a spending plan, which was created to distribute federal grant funds to implement HAVA.

Background. On October 29, 2002, President Bush signed the Help America Vote Act (HAVA), which provides federal funding to the states to implement mandated elections changes, such as uniform and nondiscriminatory election technology and administration requirements, and requirements to ensure that voters receive information about voting rights, provisional voting, and how to use new voting equipment. To date, the state has received $391.3 million in federal funds to implement these mandates; including interest earned, total funds equal $435.9 million. The requirements of HAVA include statewide modernization or replacement of voting equipment, education and training programs for election officials and poll workers, and a statewide voter registration database (VoteCal to be discussed in the next item).

The HAVA Spending Plan for 2016-17 includes the following activities:

September 10, 2015 HAVA Spending Plan for FY 2016-17

Activity	Amount	HAVA Citation
HAVA Activities		
EAID Grants – State Support ($50K)	$ 50,000	HAVA Required – Section 261
Voting System Testing & Approval – Support	$ 380,000	HAVA Required – Section 301
Section 301 – Voting Systems AVVPAT	$ 51,000,000	HAVA Required – Section 301
Interim Solution – Support	$ 450,000	HAVA Required – Section 303
Administration – Support	$ 1,605,000	HAVA Allowable – Sections 101, 251 & 261
Performance Measures – Support	$ 100,000	HAVA Allowable – Section 254
HAVA Activities Total [1]	**$ 3,085,000**	

[1] Funds for the VoteCal project will be secured through a separate BCP

To date, including all rounds of contracts, counties have submitted, and SOS had paid or projected claims in the amount of $144 million, leaving an anticipated unexpended balance of $51 million. Therefore, SOS requests a shift in expenditure authority in 2015-16 in an amount not to exceed $51 million. Allocations previously provided to counties have not been fully expended for a variety of reasons, including:

- Some counties used a phased approach, deploying compliant equipment on an interim basis with the intent to "upgrade" or replace that equipment at a future date.
- Some counties planned on purchasing additional equipment or replacement equipment as systems become more reliable.

- Some counties held funds in "reserve" because of policy changes and potential policy changes at the state and/or federal level that may have affected the continued viability of voting systems as they were configured at the time.

Staff Comment. After implementation of VoteCal in the budget year (see next item), the unexpended HAVA Fund balance, allocated to counties but unspent, is estimated to be $38,893,337. The unexpended balance may be used to support ongoing costs of complying with the federal mandates including maintenance and operation of the VoteCal system and voter registration list maintenance. It cannot be expended without budgetary authorization, and can be used solely for HAVA-related needs.

Staff Recommendation. Approve as requested.

Issue 2: HAVA VoteCal

Budget. The SOS requests $5.3 million (Federal Trust Fund) in spending authority for the budget year to cover the first year of maintenance and operations (M&O) costs of VoteCal, California's new statewide voter registration database. The M&O project costs are as noted in the Special Project Report (SPR) No. 5, which was approved on January 10, 2013, to cover the first year M&O after the implementation of VoteCal.

Background. Section 303 of the Help America Vote Act (HAVA) of 2002 (Public Law 107-22, 107th Congress) mandates that each state implement a uniform, centralized, interactive, computerized voter registration database that is defined, maintained, and administered at the state level. This federal law requires the SOS to deploy a statewide voter registration database (VoteCal System) that is the official statewide voter registration list for all federal elections. This database must contain the name and registration information of every legally-registered active or inactive voter in the state. Each of the 58 counties has a voter registration system, including procedures and practices, that has evolved over decades of use independently of other counties, and generally independent of the state.

The VoteCal Project continues to be executed within the schedule and cost allocation outlined in SPR No. 5 and is anticipated to be the federally-mandated, HAVA compliant, single statewide and centralized voter registration system of record by June 30, 2016. The first year of M&O will begin July 1, 2016, and continue through June 30, 2017. The project is successfully executing completion of the testing activities, pilot rollout activities, training activities, organizational change management, and solution implementation. The request does not include an anticipated $5.3 million ongoing cost.

VoteCal M&O project costs

Categories	
Continuing IT Project Costs	
Staff (Salaries & Benefits)	$1,252,799.00
Hardware Lease/Maintenance	$549,933.00
Software Maintenance/Licenses	$1,246,739.00
Telecommunications	$690,804.00
Contract Services	$307,047.00
Data Center Services	
Agency Facilities	
OE&E	$137,550.00
ICRP & SWCAP	$776,735.00
Other - Training	
Other External Agency Interface Maintenance	$376,457.00
Total Continuing IT Costs	**$5,338,064.00**

Below is a table for VoteCal project milestones:

ACTIVITY/TASKS	FY	ESTIMATED COMPLETION	COMMENTS
Revise spending plan and FSR	05-06	Apr/May 06	Complete
FSR to Leg. and Leg. approval		May/Jun 06	Complete
Hire system contract manager	06-07	July 2006	Complete
Redirected IT staff to maintain existing CalVoter system and interim solutions with counties, DMV, SSA, CCR, DPH		Ongoing	
Bid/Award oversight consultant, project manager, IV&V consultants		Aug 2006	Complete
Bid/Award for consultant to assist SOS with VoteCal bid proposal		Oct 2006	Complete
Begin procurement/develop/issue RFP and bid for integration contractor	07-08	Oct 2007	Complete
Evaluate bids for integration contractor	08-09	May 2009	Complete
Submit SPR for review		June 2009	Complete
Issue contracts for system integrator and other contract services	09-10	Aug/Sept 2009	Complete
Contract with original system integrator terminated May 2010, submit new SPR, develop and issue new RFP	10-11	Aug 2010	Complete
Complete evaluation and selection process for the new system integration contractor	12-13	Oct 12, 2012	Complete
Submit SPR for control agencies review and approval	12-13	Oct 19, 2012	Complete
SPR approved by control agencies	12-13	Jan 10, 2013	Complete
System Integrator contract awarded	12-13	Mar 06, 2013	Complete
EMS Remediation contracts awarded	12-13	April 19, 2013	Complete
Project Kick-Off	12-13	April 19, 2013	Complete
Project Planning	13-14	October 2013	Complete
Design Activities	14-15	Sept 2014	Complete
Development Activities	14-15	June 2015	Complete
Testing Activities	15-16	August 2015	In Progress
VoteCal Pilot	15-16	October 2015	In Progress
VoteCal Deployment	15-16	June 2016	In Progress
VoteCal Maintenance and Operations	16-17	June 2017	In Progress

Staff Comment. The projected launch date for VoteCal is June 30, 2016. As of March 11, 2016, the SOS notes that 58 counties have VoteCal.

Staff Recommendation. Approve as requested.

Issue 3: Secretary of State Headquarters Building Security Improvements

Budget. The SOS requests $226,000 ($172,000 Business Fees Fund and $54,000 General Fund) in the budget year, and $216,000 ($164,000 Business Fees Fund and $52,000 General Fund) ongoing, to fund the following two positions that will coordinate and administer security improvements at the Secretary of State and State Archives Building Complex, based on assessments performed by the Department of General Services (DGS) and the California Highway Patrol (CHP):

- One associate governmental program analyst (AGPA) to assist the Business Operations manager and the Health and Safety Officer with system maintenance and reevaluations, and to develop and maintain emergency protocols and threat mitigation plan.

- One associate information systems analysts (AISA), with CCure 9000 User and Technical certification, to administer, manage, program, configure, operate, and troubleshoot the closed circuit television computer system.

Background. In January 2015, a SOS employee brought a loaded gun, several rounds of ammunition, and two knives (with blades over four inches) to work in a backpack. According to the department, had the employee decided to use the weaponry against co-workers or the public, the employee would have wide access to move throughout the building undetected, undeterred by security cameras or badge card readers. In April 2015, the DGS conducted a Security Assessment Report, which proposes a four-phase project, with a total estimated cost of $2,431,000.

For Phase 1:
- Space planning evaluation $ 13,000
- Card key access $255,623
- Main entry improvements (will add four turnstiles at the main lobby entrance and, voice, and data lines added to the main lobby guard station) $ 96,877

For Phase 2:
- Video camera upgrades $924,100
- Distress call improvements (guard station monitors will be switched to the camera location of the security event) $260,500

For Phase 3: New security doors $127,700
For Phase 4: Physical barriers at public counters $754,000

Staff Comment. In 2014-15, the SOS deposited $2.6 million in its Architectural Revolving Fund (ARF) account. The ARF funding will cover the estimated cost of the four projects above and leave a balance of $168,200. The SOS anticipates making a future funding request for this work once the scope of work and cost estimates are completed.

Staff Recommendation. Approve as requested.

Issue 4: Placement Agent Lobby Registration Workload (AB 1473)

Budget. The SOS requests $79,000 (General Fund), and $74,000 (General Fund) ongoing, for one program technician III to assist with increased lobbying registration workload related to Assembly Bill 1743 (Hernandez), Chapter 668, Statutes of 2010.

Background. Placement agents facilitate investment "partnerships" between public retirement systems and private investors, but are not employees of the private investment firm, investment portfolio managers, or parties to the investment deal. Prompted by public reports about activities of a former California Public Employee Retirement System (CalPERS) board member, who became a placement agent and, reportedly, earned $59 million in placement agent fees, concerns were raised about the role of placement agents in the investment practices of public retirement systems. The investigation led to federal charges that resulted in a guilty plea by the CalPERS CEO to bribery and fraud charges and indictment of the former CalPERS member. In response, AB 1743 was enacted. Among other provisions, AB 1473 requires placement agents to register as lobbyists.

During the three legislative sessions prior to enactment of AB 1743, an average of 1,254 lobbyists and 275 employers registered with the SOS. However, following enactment of AB 1743, an average of 2,237 lobbyists and 659 employers were registered. The SOS attributes this change directly to the enactment of AB 1743. For the 2015-16 legislative session, 1,042 placement agents have registered as lobbyists. Because placement agents have different characteristics and business practices than traditional lobbyists, placement agents' registration processes are more labor-intensive.

Since 2010, the SOS has experienced a "near doubling of lobbying and tripling of employer registrations, [causing] a persistent backlog in the registration function." To manage the backlog, SOS has re-directed six different staff members, representing 2,184 hours, adversely impacting other mandated duties, including maintaining the lobbying change log, reviewing campaign and lobbying statements, processing fines for late filing of reports, and monitoring lobbyist participation in mandated ethics courses.

SOS staff project lobbyist and employer registrations to level off in the future, based on the average number of placement agent registrations experienced over three legislative sessions.

Staff Comment. When AB 1473 was first implemented, the department had no statistical information to anticipate future workload. This budget request does not expand or add any new functionality to the program. The Elections Program is authorized for 28 positions, 26.5 of which are filled.

Staff Recommendation. Approve as requested.

Issue 5: Ballot on Demand Systems: Electronic Poll Books (SB 439)

Budget. The SOS requests $93,000 (General Fund) for the budget year and ongoing for one assistant information systems analysis to test and certify of electronic poll books, as required by Senate Bill 439 (Allen), Chapter 734, Statutes of 2015.

Background. An electronic poll book (ePB) is an electronic version of the traditional paper poll book, which contains a list of the registered voters in each precinct or district. An electronic poll book may be on a tablet or laptop computer. Currently, the SOS does not review or approve electronic poll books in California.

SB 439 authorizes county elections officials to use new technology to check-in voters at polling places and other voting sites, and sets up processes and procedures for the review and approval of ePBs for use in California elections. In addition, SB 439 requires the SOS to adopt and publish ePB standards and regulations, and prohibits the use of an uncertified electronic poll book.

Staff Comment. Current SOS staff is unable to absorb additional workload. In the first two months of 2016, the SOS' Office of Voting Systems Technology Assessment, which has two staff, has worked over 100 hours of overtime combined. Further, the requested position cannot be funded with HAVA funds. The federal Election Assistance Commission (EAC), the entity that oversees the administration of HAVA funds, stated in a funding advisory opinion to California, that the certification of ePBs are ineligible for funding to meet Title III compliance.

Staff Recommendation. Approve as requested.

Issue 6: Vote by Mail Ballot Drop-off Location Regulations (SB 365)

Budget. The department requests a one-time $55,000 (General Fund) augmentation for temporary help to assist in promulgating regulations for security measures and procedures related to the security of vote-by-mail ballot drop boxes, such as chain of custody, pick-up times, and proper labeling, that a county elections official may use, if the county elections official establishes one or more vote-by-mail ballot drop-off locations.

Background. As required under Senate Bill 365 (Pavley), Chapter 733, Statutes of 2015, the Secretary of State must promulgate regulations related to vote-by-mail drop boxes by January 1, 2017. The Secretary of State will need to work with county elections officials to identify best practices for security measures. The regulatory process (drafting the regulations and reviewing with agency staff and stakeholders; public notice and publishing of the draft regulations; conducting public hearings; considering comments and drafting potential amendments to the regulations; and final adoption of the regulations) takes approximately six to twelve months. Although SOS has received anecdotal evidence of counties turning to vote-by-mail drop boxes "as a means of providing additional ballot drop-off opportunities," it does not have any specific information as to which counties or how many counties currently offer this option.

Staff Comment. SOS attorneys estimate approximately 650 hours are required to complete regulations. The estimated $55,000 is based on using an hourly rate of $85.27 for 650 work hours ($55,425.50). Although existing staff will be available to assist and review throughout the process, the department provides that staff time must "remain focused on the conduct of the 2016 presidential election."

Staff Recommendation. Approve as requested.

1701 DEPARTMENT OF BUSINESS OVERSIGHT

Overview. The department regulates a variety of financial services, products and professionals, and oversees the operations of state-licensed financial institutions, including: banks, credit unions, money transmitters, issuers of payment instruments and traveler's checks, and premium finance companies. In addition, the department regulates the offer and sale of securities, franchises and off-exchange commodities.

In 2012, Governor Brown released Government Reorganization Plan No. 2 (GRP 2), which sought to streamline and reorganize state government for efficiency, to the Little Hoover Commission. Effective July 1, 2013, the Department of Corporations (DOC) and the Department of Financial Institutions (DFI) merged to form the Department of Business Oversight, which reports to the Business, Consumer Services and Housing Agency. The former DOC and DFI operate as divisions within the department. All applications, examinations and reports continue to be processed by the attorneys and staff who work for the former departments.

The former DCO (now a division) licenses and regulates securities brokers and dealers, investment advisers and financial planners, consumer and commercial lenders including mortgage lenders, deferred deposit or payday lenders, escrow companies, and certain other fiduciaries. The DOC also regulates the offer and sales of securities, franchises and off-exchange commodities. The former DFI (now a division) oversees the operations of state-licensed financial institutions, including banks, credit unions, and money transmitters.

Budget. The budget includes $92.8 million ($51.9 million State Corporations Fund, $29.1 million Financial Institutions Fund, $10.1 million Credit Union Fund, and other funds) and 571.5 positions to support the department and its services.

Issue 1: Department of Corporations Quality Network System Support

Budget. The budget requests $1.1 million (State Corporations Fund) for the budget year and 2017-18 for seven permanent positions (two staff information systems analyst, one senior information systems analyst, one system software specialist II, one associate programmer analyst, and senior programmer analyst, and one system software specialist I) to provide the time for the knowledge transfer from the contractor to internal staff.

Background. In 2009, the Department of Corporations was approved to develop and implement the Department of Corporations Quality Network (DOCQNET) system. According to the department, due to an administration change, the project was initiated in 2012 with a Special Project Report (SPR 2180-14) and approved Budget Change Proposal (BCP 2180-2); the DOCQNET system was implemented in June 2014. With DOCQNET, the department conducts its regulatory functions, such as revenue collection, enforcement actions, and licensee examinations and licensing. Approximately 99 percent, or 51,165 of the 51,771 licensees, are tracked and managed within DOCQNET.

In July 2013, when DFI and DOC merged to form the Department of Business Oversight (DBO), the information technology workload increased, attempting to consolidate two networks and infrastructures into one. To handle the workload, seven limited-term positions were approved but expired at the end of the 2014-15 fiscal year. Due to the loss of the seven positions, DOCQNET's development contractor continues to absorb nearly 95 percent of all DOCQNET help support, along with efficiency and improvement request activities.

The DOCQNET project originally encompassed only the DOC, not DFI systems. In addition, DOCQNET was not originally designed with the Department of Technology’s updated privacy and security standards, which include guidelines for data encryption and privacy notifications. The Division of Financial Institutions' (DFI) legacy systems encompasses over three dozen databases, spreadsheets, and outdated web systems, including systems for processing applications and licenses, and managing financial institution examinations.

Total cost of the DOCQNET system, to date

2012-13 Actual	***2013-14 Actual***	***2014-15 Actual***	***2015-16 Estimated***	***Total***
223,821	2,094,259	2,355,931	1,636,000	6,310,011

* The DOCQNET project was initiated in 2012-13. Work was not performed until 2013-14.

Justification. The development contractor's service contract expires at the end of fiscal year 2017-18. According to the department, the requested positions will receive training in Microsoft's Dynamic Customer Relations Management (CRM) and SharePoint software solutions. In addition, the permanent positions will allow the DBO to integrate DFI legacy systems into DOCQNET and bring the security of the system up to the latest Department of Technology standards.

Staff Comment. Although the IT workload appears to be ongoing, the request is for two-year funding. The department clarifies that the intent of the proposal is to fund the knowledge transfer from the contractor, Trinity Technology Group, to the state staff. The department currently has the flexibility to fund the permanent staff on an ongoing basis. The department is special-funded through licensing fees and assessments, and the DOCQNET system is both utilized and funded by the State Corporations Fund. There is no impact to the General Fund. No additional fees to the stakeholders are required or are requested with this proposal.

Staff Recommendation. Approve as requested.

Issue 2: Internal Auditing Unit

Budget. The department requests $334,000 ($196,000 in State Corporations Fund, $106,000 in Financial Institutions Fund, $30,000 in Credit Union Fund, and $2,000 in Local Agency Deposit Security Fund), and $321,000 ($188,000 in State Corporations Fund, $102,000 in Financial Institutions Fund, $29,000 in Credit Union Fund, and $2,000 in Local Agency Deposit Security Fund) ongoing, for one senior management auditor and one associate management auditor, to establish an internal auditing unit. This unit will provide ongoing, independent, evaluation, and assessments of internal controls.

Background. Senate Bill 1452 (Speier), Chapter 452, Statutes of 2006, requires state and local agencies that spend an aggregate of $50 million or more annually to consider establishing an ongoing audit function. Prior to GRP 2, the Department of Corporations and Department of Financial Institutions' annual appropriation was less than $50 million. However, following GRP 2, the department now exceeds the $50 million threshold. Since 2013, the department has attempted to meet this audit requirement by moving vertically through the management process, if any issues arise.

The proposed unit will assess: (1) the consolidation efforts following GRP 2; (2) the implementation of its strategic plan (currently under development by a departmental task force); and (3) internal controls of each division.

Staff Comment. The request to establish an internal audit unit complies with existing law and best practices. As a nascent department, the request for two additional staff appears adequate to cover the department's needs at this time. The internal audit will follow the International Standards for the Professional Practice of Internal Auditing and Generally Accepted Government Auditing Standards.

Staff Recommendation. Approve as requested.

PROPOSED FOR DISCUSSION/VOTE

0845 DEPARTMENT OF INSURANCE

Overview. The California Department of Insurance (CDI) was created in 1868 as part of a national system of state-based insurance regulation. The state's publicly-elected Insurance Commissioner regulates the sixth largest insurance economy in the world, collecting more than $259 billion in premium annually. CDE licenses approximately 1,300 insurance companies and more than 385,000 insurance agents, brokers, adjusters, and bail agents.

Annually, the department receives and investigates around 250,000 complaints, performs examinations to ensure the financial solvency of companies, and receives approximately 33,000 suspected fraudulent claim referrals annually.

Budget. The budget includes $269.4 million ($262.4 million Insurance Fund, $5.6 million General Fund, $1.1 million Federal Trust Fund, and $250,000 in reimbursements) and 1,266.8 positions to support the department and its programs.

In addition, the department requests three budget proposals related to legislative implementation and two pertaining to automation functions.

Issue 1: Outpatient Prescription Drugs (AB 339)

Budget. The department requests $242,000 (Insurance Fund) in the budget year, and $235,000 (Insurance Fund) ongoing, to implement Assembly Bill 339 (Gordon), Chapter 619, Statutes of 2015. Specifically, the request includes funding for:

- One attorney position to provide legal guidance in market conduct examinations and to annually review compliance.

- A contract with a pharmacist ($100,000 in budget year and ongoing) to confirm review formularies and advise the Health Policy Approval Bureau (HPAB) attorneys regarding insurer formularies, how to formulate appropriate legal objections, and assist with negotiations for insure compliance.

Background. Assembly Bill 339 requires health plans and health insurers that provide coverage for outpatient prescription drugs to have formularies that do not discourage the enrollment of individuals with certain health conditions. Among many provisions, the bill requires, commencing January 1, 2017, a plan or insurer to maintain a pharmacy and therapeutics (P&T) committee to develop, maintain, and oversee any drug formulary list, and establish requirements associated with the P&T committee that are substantially similar to federal regulations. In addition, the Commissioner, as part of the market conduct examination, must review the performance of an insurer that provides prescription drug benefits.

The HPAB must confirm that formularies are accessible and searchable on an insurer's website. These formularies will also need to be reviewed for compliance and non-discriminatory practices. According to the department, current legal staff does not have the medical expertise to review the formularies or understand the various medical conditions treated by prescription drugs. Further, the HPAB needs to promulgate regulations to define, interpret, and develop specific requirements for formulary design, formulary submission requirements.

Staff Comment. According to the Senate Appropriations Committee analysis, AB 339 was estimated to incur one-time costs of about $750,000 (Insurance Fund), and ongoing costs of about $400,000 per year, for the department to adopt policies and regulations, review plan filings, and enforce the requirements of this bill.

Staff Recommendation. Approve as requested.

0890 SECRETARY OF STATE

Overview. The Secretary of State (SOS) is the chief elections officer and administers and enforces election laws. The SOS also administers and enforces laws related to corporations, limited liability companies, partnerships, limited partnerships, unincorporated associations, and bonds and perfecting security agreements. The Secretary is the filing officer for lobbying and campaign documents under the Political Reform Act, and operates the Safe At Home program.

Budget. The budget includes $140.6 million ($59.4 million Federal Trust Fund, $50.5 million Secretary of State Business Fees Fund, $29 million General Fund, and $1.7 million other special funds) and 495.9 positions.

Issue 1: Business Programs Division Filings Processing

Budget. The SOS requests $5.5 million (Business Fees Fund) for the budget year and 2017-18, for 52 temporary help positions (appointments of retired annuitants, permanent intermittent, seasonal) to assist in processing business filings and statements of information until California Business Connect (CalBusiness Connect) is implemented in 2020.

Overview of CalBusiness Connect. The CalBusiness Connect project is envisioned to automate paper-based processes, allowing business to file and request copies of records online and to process fee payments within one business day. Currently, the Uniform Commercial Code and Statement of Information filings are on paper, manually sorted, tracked on different automation systems, including a system on three inch by five inch index cards. The SOS received its feasibility study report (FSR) approval for the project on April 1, 2011; and a contract was awarded on January 10, 2014. On April 10, 2015, the SOS and its system integrator, Bodhtree Solutions Inc., mutually terminated the contract for $8.9 million.

On December 28, 2015, the SOS submitted a Special Project Report (SPR) to the California Technology Department (CalTech) which proposed: (1) changing the project scope to focus on the largest annual volume filings and reducing the complexity of the project; (2) changing the schedule to a phased implementation approach; and (3) changing the project's budget. At the time of this publication, the SPR is still under review. The department shared the following projected milestones:

Item	Estimated timeframe
Planning	Present until January 1, 2017
Procurement for vendor	Until August 2018
Award contract	September 2018
Phase 1 (LLCs, limited partnerships)	August 2019
Phase 2 (Corporations)	February/March 2020
Phase 3 (Uniform Corporations Code)	August/September 2020
Phase 4 (Trademarks)	January/February 2021
Maintenance and Operations (one-year)	2022

The department acknowledges certain lessons learned from the previous contract, including improving initial requirements, improving vendor procurement processes, and to have a focus on the code rather than plans.

Background on SOS filings. The Budget Act of 2013 provided $7.8 million in combined funding and 56 limited-term positions to reduce processing times to an average of five business days. The five business day average was achieved in October 2013. In 2014-15 and the current year, the spending authority was reduced to an annual allocation of $6.2 million and 54 limited-term positions to maintain the average five business day turnaround times for both business formations and statements of information. Below is a table that demonstrates the historical backlogs for both business formations and statements of information.

Backlog History

Fiscal Year	Year-End **Formations** in Process	**Formations** Processing Times during FY (low and high)	Year-End **Statements of Information** in Process	**Statements of Information** Processing Times during FY (low and high)
FY 2010-11	11,681	21-45 days	120,288	48-84 days
FY 2011-12	5,631	19-53 days	100,279	71-95 days
FY 2012-13	7,788	9-45 days	67,221	30-74 days
FY 2013-14	2,848	4-13 days	10,164	3-38 days
FY 2014-15	3,982	4-5 days	10,878	3-5 days

	1/31/2016 **Formations** in Process	**Formations** Processing Times during 1/2016 (low and high)	1/31/2016 **Statements of Information** in Process	**Statements of Information** Processing Times during 1/2016 (low and high)
End of 1/2016*	4,329	5-7 days	12,905	5-8 days

*These numbers reflect the documents in process at the end of January 2016. January is a peak processing month; therefore, January work in process is higher than is typical at fiscal year-end in June.

Workload History

Workload Measure	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16*
Documents Processed**	1,738,908	1,933,954	2,089,718	2,150,622	2,214,796	2,200,000
Name Reservations	41,860	43,075	44,623	35,784	34,910	34,000
Telephone Calls	352,415	376,563	318,473	303,607	330,649	330,000
Copies Issued	391,427	332,972	405,447	552,137	628,966	628,000
Certificates Issued	446,629	451,246	473,403	476,199	496,495	496,000
Annual Volume	2,971,239	3,137,810	3,331,264	3,518,349	3,705,816	3,688,000

*Projected; ** Includes corporation, limited liability company, limited partnership, statement of information, regional office, UCC, trademark and special filing documents.

Currently, the SOS is authorized for 326.8 positions in this division and has 19 vacancies.

Staff Comment. There are no statutorily required timelines for processing business filings or statements of information. However, Assembly Bill 113 (Committee on Budget), Chapter 3, Statutes of 2013, increased the Secretary of State appropriation by $1.6 million to reduce processing time for business formations and statements of information. According to the SOS, the SOS and the Legislature agreed the reduction sought would be to reach an average five business day turnaround for both business formation filings and statements of information.

At the time of this publication, the SPR is not available for public review, as it is still under review with CalTech. Staff notes that these 52 temporary help position requests are intended to maintain the current processing turnaround for business filings and statements of information – processes that were intended to be automated by the suspended CalBusiness Connect project. A general estimate is that the project's first phase (limited liability corporations and limited partnerships) will not be launched until 2019. The subcommittee may wish to ask how the department intends to use temporary help for an ongoing need while CalBusiness Connect is being phased-in.

Staff Recommendation. Hold open.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Wednesday, March 30, 2016
10:30 a.m.
State Capitol - Room 3191

Consultant: Samantha Lui

PART B

PROPOSED FOR VOTE-ONLY

OUTCOMES

Item	Department	Vote
0845	**Department of Insurance**	
	Issue 1: Principle-Based Reserving (SB 696) and Budget Bill Language	4-0
	Issue 2: Life and Disability Policies (AB 387)	4-0
	Issue 3: CDI Menu Modernization Project (CMMP) – Year 3	4-0
	Issue 4: Network Switch Replacement	4-0
	Issue 5: Resource Redirection	4-0
0890	**Secretary of State**	
	Issue 1: Help America Vote Act (HAVA) Spending Plan	4-0
	Issue 2: HAVA VoteCal	4-0
	Issue 3: Secretary of State Headquarters Building Security Improvements	4-0
	Issue 4: Placement Agent Lobby Registration Workload (AB 1473)	4-0
	Issue 5: Ballot on Demand Systems: Electronic Poll Books (SB 439)	3-1 (Roth, Glazer, Pan - aye; Nguyen - voting no)
	Issue 6: Vote by Mail Ballot Drop-off Location Regulations (SB 365)	3-0 (Roth, Glazer, Pan - aye; Nguyen - not voting)

Item	Department	Vote
1701	**Department of Business Oversight**	
Issue 1: Department of Corporations Quality Network System Support		4-0
Issue 2: Internal Auditing Unit		4-0

PROPOSED FOR DISCUSSION

Item	Department	Vote
0845	**Department of Insurance** Error! Bookmark not defined.	
Issue 1: Outpatient Prescription Drugs (AB 339)		3-1 (Roth, Glazer, Pan - aye; Nguyen - voting no)
0890	**Secretary of State**	
Issue 1: Business Programs Division Filings Processing		Hold open.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, April 7, 2016
9:30 a.m. or Upon Adjournment of Session
State Capitol - Rose Ann Vuich Hearing Room 2040

Consultant: Mark Ibele

PART A

ITEMS PROPOSED FOR VOTE-ONLY

ITEMS FOR DISCUSSION AND VOTE

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance from the Senate Rules Committee, 1020 N Street, Suite 255, Sacramento, California 95814, or by calling (916) 651-1505. Requests should be made one week in advance when possible.

ISSUES PROPOSED FOR VOTE ONLY

0840 STATE CONTROLLER'S OFFICE

Issue 1: Sustained Accounting Workload (BCP 013)

Governor's Proposal. The State Controller's Office (SCO) requests $221,000 ($126,000 General Fund) in 2016-17 and ongoing for two positions (extending current expiring positions) to enable the SCO Division of Accounting and Reporting's (DAR) Cash Management Bureau to continue state-wide cash management services.

Background. Prior to July of 2008, the SCO had been able to effectively manage the state's cash with five staff in the Cash Management Forecasting and Reconciliation Section (CMS). In response to the increased workload resulting from the downturn in the California and national economies, the workload associated with managing the state's cash and ensuring timely payment of the state's obligations increased significantly. In 2008-09, CMS received one additional permanent position; however, as the state's cash crisis continued through 2011-12, excessive hours of overtime were required to complete mandatory cash management activities. In addition, as a result of the increased focus in monitoring cash during this time, several accounting and reconciling activities experienced backlogs. To address the overtime and the backlogs caused by the increased cash management activities, the SCO received funding for two limited-term positions approved for 2010-11, 2012-13, and 2014-15, which temporarily increased the CMS's resources to eight positions through 2015-16. These resources have been deployed to automate processes, update procedures and train staff on critical functions.

Staff Comment. The requested resources will ensure that CMS is able to continue performing effective analyses of payment obligations, borrowable resources and cash flow forecasting. Making these positions permanent instead of relying on limited-term resources will reduce the turnover and retain the knowledge necessary to provide important information to decision-makers and improve necessary cash management measures into the next recession. Retaining these positions is a prudent means of assuring adequate resources for potential future periods of fiscal stress and cash shortfalls.

Staff Recommendation. Approve as budgeted.

Vote.

Issue 2: Personnel and Payroll Transactions Workload (BCP 008)

Governor's Proposal. In the Governor's budget, the State Controller's Office (SCO) requests $325,000 ($186,000 General Fund) in 2016-17 and $287,000 ($164,000 General Fund) in 2017-18, and ongoing, for four positions to improve the current 46 percent call center answer rate, and dedicate additional staff time to the completion of production work.

Background. The Personnel and Payroll Services Division (PPSD) administers the state's Uniform State Payroll System (USPS) and audits and processes all personnel and payroll transactions for state civil service and exempt employees and the California State University (CSU) system. The PPSD provides information required to manage the personnel resources of the state, accounts for salary and wage expenditures, and provides data to the retirement systems necessary for calculation of employee retirement benefits. PPSD personnel are responsible for providing answers to department and CSU human resource offices, as well as other interested parties, and for processing transactions to ensure employees are paid correctly. Various state offices contact the department seeking clarification or instruction on how to process personnel or payroll transactions and/or properly fill-out documents required for SCO processing. The majority of calls are made to a single telephone number and then routed by an automatic call distribution system to specific business areas. Staff in each business area split the workload of processing transactions, answering phone calls and responding to email inquiries. Errors can result in either time lags and/or incorrect pay for employees. Existing staff resources are insufficient with the majority of calls being routed to voicemail or being abandoned entirely. From 2012-13 through 2014-15, only 46 percent of calls were answered, 38 percent went to voicemail and 16 percent were abandoned. Unaddressed calls and queries can lead to errors, inefficiencies and more costly intervention at a later date.

Staff Comments. The SCO notes that because department and CSU human resources offices may not receive the appropriate level of assistance, they often escalate calls that they feel require immediate attention and lead to overall increases in staffing costs. The requested resources are expected to improve responses to department and CSU human resource office inquiries, such that up to 64 percent of initial calls will be answered, instead of the current rate of 46 percent. Staff will also be available for work on processing documents, decreasing the turn-around time for payroll and personnel transactions.

Staff Recommendation. Approve as budgeted.

Vote.

Issue 3: Personnel and Payroll Services Division Systems Support (BCP 018)

Governor's Proposal. The proposed budget includes State Controller's Office (SCO) requests for $1.1 million (General Fund) in 2016-17, and $1.0 million (General Fund) 2017-18 and 2018-19 for 7.9 positions to support payroll and personnel mainframe-based systems known as the Uniform State Payroll System (USPS). The positions will be assigned primarily to application development (4.9 positions) with one position each for database management, information security administration and project management.

Background. Until 2012-13, the SCO was in the process of developing a new integrated payroll system, referred to as the 21st Century Project, to replace existing legacy systems. During the development phases of the project, many new laws affecting the payroll system were handled through short term alternative workarounds. System enhancements that would increase the efficiency of the Personnel and Payroll Services Division (PPSD) business processes were also suspended. In February 2012, the 21st Century Project was suspended, requiring the SCO to revert to its existing mainframe systems. Upon reversion to the legacy systems, information systems division (ISD) staff began developing and implementing several deferred maintenance service requests. Currently, PPSD has identified and prioritized approximately 30 requests that are considered backlogged mandated work. ISD has completed a high-level analysis of these backlogged requests and identified 28 requests requiring application development work. The desired outcome is that ISD will support the maintenance and operations needs of the PPSD and their mainframe-based application systems, as well as reduce the service request backlog.

Staff Comment. The SCO notes that ISD staffing on mainframe development resources is at a historical low, and is further declining due to an aging workforce. A lack of skilled, knowledgeable resources can impact critical software upgrades, system testing, disaster recovery, operational support and security management, resulting in instability and vulnerability of the USPS. ISD is also faced with conflicting responsibilities of needing to work on maintenance and operations activities, the service request backlogs, as well as other high priority requests. The termination of the 21st Century Project is largely the catalyst for the request to backfill delayed maintenance and improvements in the legacy systems.

Staff Recommendation. Approve as budgeted.

Vote.

ITEMS FOR DISCUSSION AND VOTE

0840 STATE CONTROLLER'S OFFICE

Presenter: Betty Yee, California State Controller

Department Overview. The State Controller's Office (SCO) is principally responsible for transparency and accountability of the state's financial resources and ensures the appropriate disbursement and tracking of taxpayer dollars. The Controller serves on various boards, commissions, and committees with duties that include administrative oversight of public pension funds, protection of state lands and coastlines, and modernization and financing of state infrastructure. The SCO offers fiscal guidance to local governments and has independent auditing authority over government agencies that spend state funds. The Controller's primary objectives are to: account for and control disbursement of all state funds; issue warrants in payment of the state's bills; determine legality and accuracy of financial claims against the state; audit state and local government programs; safeguard various assets until claimed by the rightful owners in accordance with the Unclaimed Property Law; inform the public of the state's financial condition and financial transactions of city, county, and other local governments; administer the Uniform State Payroll System; and, audit and process all personnel and payroll transactions for state civil service, state exempt employees, state university employees, and college system employees.

Budget Overview. The department receives about 32 percent of its annual budget from reimbursements, 25 percent from the General Fund, 21 percent from the Unclaimed Property Fund, about 13 percent from the Central Service Cost Recovery Fund, and the remainder from various special funds. The funding structure is based on the SCO's statewide responsibilities that cut across all funds and programs.

State Controller's Office
Program Expenditure
(dollars in thousands)

Program	Actual 2014-15	Estimated 2015-16	Proposed 2016-17
Accounting and Reporting	$39,392	$43,693	$44,905
Audits	44,955	44,078	48,674
Personnel and Payroll	50,140	51,417	42,352
Unclaimed Property	38,496	38,312	38,690
Disbursements	27,222	28,153	25,616
Net Other	397	669	277
Total Expenditures	**$200,602**	**$206,322**	**$200,514**

State Controller's Office
Position Authority
(actual positions)

Program	**Actual 2014-15**	**Estimated 2015-16**	**Proposed 2016-17**
Accounting and Reporting	280.4	252.0	264.7
Audits	312.5	297.9	302.2
Personnel and Payroll	220.6	209.0	216.5
Unclaimed Property	244.2	261.4	261.4
Disbursements	84.3	95.8	95.8
Administration	282.2	282.7	299.8
Total Positions	**1,424.2**	**1,398.8**	**1,440.4**

Issue 1: 21st Century Project Legal Efforts (BCP 001, BCP 019, CS 25.25, BBL and TBL)

Governor's Proposal. The Governor's proposal regarding this item includes a budget resource request, budget bill language (BBL) and trailer bill language (TBL). The State Controller's Office (SCO) requests $4.8 million ($3.8 million special funds and $1.0 million reimbursements) in 2016-17 for one-year limited-term funding to support eight positions for six months for on-going legal activities stemming from the 21st Century Project. In addition, maintenance of the MyCalPAYS (MCP) payroll system is required to pursue the state's legal claim for the losses incurred, and that will be incurred due to the vendor's abandonment of its contractual obligation to produce the MCP system.

The BBL in Provision 14 of Item 0840 addresses the ability of the Department of Finance (DOF) to augment amounts in Control Section (CS) 25.25, where the budget appropriation is contained. The ability of DOF to augment is without a specified amount and requires 30 day notification be provided to the Chair of the Joint Legislative Budget Committee. The proposed TBL extends the authorization for the 21st Century Project by one year, from June 30, 2016 to June 30, 2017.

Background. This item addresses the legal costs associated with the termination of the contract associated with the implementation of the 21st Century Project. The termination of the contract occurred after numerous apparent failures by the contractor SAP to perform under contract and the failure of the mediation process. After it became clear that the mediation process was at an impasse, the contract was terminated and the SCO filed a lawsuit against SAP for breach of contract. SAP subsequently countersued. The state has not achieved the benefits envisioned of the new system and has reverted to using its legacy systems. The value of the investment and whether any aspects of the project can be used in the future are uncertain. The SCO indicates that as result of SAP's breaches of the contract, the state has suffered losses of the amount already paid to SAP, as well as expenses incurred in addressing state needs in the absence of the system SAP was to deliver.

In order to address its costs, the SCO received eight positions through the 2015 Budget Act to fund legal and related activities. This funding will expire on June 30, 2016, but it is anticipated that continued support will be required into 2016-17. Continued legal cost increases are due to the following (attributable primarily to SAP): extended deposition schedule; expanded scope of deponents to other state officials and third parties; increased number of depositions; rise in costs of preparing for and taking depositions; expanded public records act (PRA) discovery; increased document volumes; and, delayed delivery of critical documentation. The legal team is focused on deposing SAP personnel and defending depositions of state staff involved with the project as well as reviewing project artifacts and SAP documents not provided to the SCO during the project. From October 2015 through May 2016, the legal team will prepare the case for trial, which is scheduled for May 23, 2016.

Staff Comments. The legal proceedings with SCO and SAP are at the final stage, and additional resources to protect the state's financial interest in the concluding proceedings are warranted. Should the state not pursue its remedies, including recovery of the amounts due under the contract, SAP may prevail in its countersuit against the state by claiming the state's contract termination was for convenience instead of cause. A termination for convenience is not justified given SAP's actions and would potentially cost the state tens of millions of dollars under the contract. Should the state prevail, the contract provides the state with the ability to recover up to 1.5 times the contract amount, or up to approximately $156 million. The time extension given in the TBL will allow the legal process to continue. The BBL is unnecessary given that the legal phase is expected to terminate by the end of calendar year 2016. In addition, if unanticipated costs arise, there are alternative means available for augmenting legal expenses, under Item 9840.

Staff Recommendation. Approve the budget request as proposed and adopt the TBL extending the project date. Reject the provisional BBL.

Vote.

Issue 2: Statewide Personnel and Payroll Training (BCP 006, BCP 007)

Governor's Proposal. In the Governor's budget, the State Controller's Office (SCO) requests $307,000 ($175,000 General Fund) in 2016-17 and $235,000 ($134,000 General Fund) in 2017-18 to support 2.1 positions; and $769,000 ($380,000 General Fund) in 2016-17 and $763,000 ($377,000 General Fund) in 2017-18 and ongoing to support 7.4 positions to continue to meet ongoing needs for statewide personnel and payroll training. The remainder of the cost is borne by the Central Service Cost Recovery Fund (CSCRF) or reimbursements.

Background. The Personnel and Payroll Services Division (PPSD) of the SCO is responsible for issuing pay to employees of the state civil service, California State University (CSU) and Judicial Council utilizing the State Controller's Uniform State Payroll System (USPS). Currently over 150 departments and 24 CSU campuses serve the State of California. The state workforce is comprised of approximately 284,000 employees, represented by 21 state civil service bargaining units and 13 CSU bargaining units. Employees are located throughout California and in other states, and range from elected officials, managers and supervisors, and higher education faculty, to rank and file workers in various occupations.

The Statewide Training Unit (STU) within PPSD was created with the goal of providing personnel/payroll training to human resources staff in all civil service state departments at no-cost for those receiving training. The training courses are intended to provide human resources staff with the essential knowledge, skills and abilities to accurately process personnel/payroll transactions (e.g. appointments, separations, overtime, pay differentials) and generate accurate and timely payroll using the USPS. The demand for statewide training classes has exceeded the number of classes that can be offered with existing resources. While the proportion of training needs served has increased, the SCO is still short of the necessary resources to address the demand. The percent of training needs met (based on requests fulfilled) has grown from around 40 percent in 2013 and 2014 to 50.8 percent in 2015. The requested resources and positions will allow this to increase to address about two-thirds of training requests by 2017. Training approaches undertaken by the department includes classroom training, eTraining, and Train-the-Trainer.

Staff Comments. The department has adequately documented the workload associated with training requests. In addition, it has provided examples of costs incurred by the state when adequate training has not been provided. For example, in the *State Auditor's High Risk Update Report* (2014), the auditor noted 197,000 hours of unearned leave was inaccurately credited to employees at a state cost of $6.4 million. While it is not apparent that additional training would have corrected any malfeasance associated with this over-crediting, certainly it could have mitigated any losses due to inadvertent actions. The committee may wish to request department to explain the long-term training requirements and how these will be addressed with the end of the limited-term funding.

Staff Recommendation. Approve as budgeted.

Vote.

Issue 3: ACA and PEPRA Legislation Workload (BCP 005)

Governor's Proposal. The Governor's budget proposes additional resources to comply with two major pieces of legislation - the Federal Patient Protection and Affordable Care Act (ACA) and the California Public Employees' Pension Reform Act (PEPRA). The State Controller's Office (SCO) requests $1.0 million ($548,000 General Fund) in 2016-17, and $927,000 ($528,000 General Fund) in 2017-18, for 8.4 positions (3.2 continuing and 5.2 new) to support the continuing impact of major changes to the SCO's Uniform State Payroll System (USPS), the Affordable Care Act Database System (ACAS), and associated business processes as a result of requirements mandated by state and federal legislation.

Background. In 2012, California enacted pension reform legislation known as PEPRA. The Department of Human Resources (CalHR) issued a formal request to the SCO to implement the PEPRA requirements for employee retirement contribution rate changes, beginning July 1, 2013. Due to the multifaceted nature of the PEPRA legislation, the California Public Employees Retirement System (CalPERS) has not been able to determine or publish comprehensive guidelines on the full impact of PEPRA to date and, as a result, analyzes and interprets PEPRA's impact on a flow basis through the issuance of circular letters. As CalPERS determines the full impacts of PEPRA, the SCO (among other entities) must conduct analyses to determine what impact these changes have on the programs within their scope of responsibility. The SCO indicates that implementing the system changes to support PEPRA are complex and time-consuming, requiring SCO staff to analyze and identify impacts to current processes and programs and coordinate those changes with the USPS and other downstream programs and processes. Continuous monitoring of the technology systems and frequent dissemination and communication is required to ensure ongoing system accuracy and minimal impact to payroll and employment status operations.

In 2014-15, the SCO received 1.5 two-year limited-term positions to support PEPRA workloads. Along with the 1.5 positions, PPSD redirected four positions in 2014-15 and made significant business process and system changes to the USPS as the result of PEPRA, including instituting new retirement account codes, eliminating the employer paid monthly contribution for certain bargaining units, implementing a pensionable compensation cap for PEPRA employees with a manual process to refund/adjust retirement contributions, developing processes to track reciprocity for PEPRA employees and to identify PEPRA members for the California Teachers Retirement System (CalSTRS), placing prohibitions on replacement benefit plans for new PEPRA members, and creating new processes for determining reportable compensation and other activities.

The ACA, signed into law in March 2010, also represents a challenge in implementation and administration. Initially complex as proposed, several sections of the law were amended in subsequent years, complicating matters further. In June 2012, the U.S. Supreme Court upheld the law and made the reporting requirements optional for all employers in the 2012 tax year with portions of the mandated requirements starting in the 2013 tax year. In July 2013, the federal government issued a notice acknowledging the complexity of the legislation and its role in various delays, including establishing regulations for the implementation employer and insurer reporting requirements for all medium and large employers, such as the state. Such rules are necessary to determine any tax penalties imposed if such employers do not offer and document affordable health coverage to employees. Implementation of the employer mandate provisions were extended to January 1, 2015, and the mandated reporting requirements until January 1, 2016.

The reporting requirements that are scheduled to be implemented as of January 1, 2016 will be used by the federal government as a means of ensuring that employers comply with the ACA requirements for offering health coverage. SCO will play the primary role in generating and providing reports for the state, as an employer. Failure to report in a timely and accurate manner may result in additional financial penalties to the state. To implement the employer shared responsibility provisions of the ACA and provide the required reporting, the SCO determined that the state needs to collect data that was not currently available in the USPS or other automated systems. The SCO initiated efforts to collect the required data beginning January 1, 2015. In 2014-15, the SCO received 1.5 two-year limited-term positions to support these ACA workloads. Along with the 1.5 positions, PPSD redirected 11.6 positions in 2014-15 and designed and implemented a data collection and reporting system currently being used by 1,661 users statewide.

The workload generated by PEPRA will continue in 2015-16, and beyond. The SCO anticipates making the following significant business process and/or system changes to the USPS beginning in 2015-16, and continuing into future years. These changes are either new as the result of PEPRA or are now more complex due to PEPRA, and include: continuing to analyze and make coding changes to reflect decisions made regarding pensionable compensation; creating new retirement account codes to identify mew PEPRA members; moving PEPRA employees to new account codes once they are created; analyzing, designing, building, testing and implementing a process to automate the identification of employees as new PEPRA or existing members; analyzing, designing, building, testing and implementing a process to automate contribution limits to cap the employer and employee share of retirement contributions.

The greater than previously anticipated workload generated by the ACA will continue in 2015-16, and beyond. SCO now has both a support and maintenance responsibility for the ACAS, as well as a project analysis, development and implementation responsibility related to new ACA provisions and reporting requirements. Therefore, the SCO is required to expend increased resources to support both of these functions simultaneously. Currently, the SCO has the following broad responsibilities in relation to the ACA: maintaining the ACAS and providing customer support to the 1,661 statewide ACAS users; implementing the ACA compliance program in conjunction with CalHR; implementing the monthly process to receive ACA data from the 53 entitles that are not in the USPS; assisting CalHR with calculating and monitoring the monthly and annual ACA "safe harbor" by developing monthly and annual reports to monitor and mitigate potential financial penalties; developing and implementing the annual IRS reports and employee statements as well as the monthly correction reports to the IRS to reflect changes and/or retroactive transactions processed by departments/campuses; and beginning analysis on the impacts of the ACA provisions regarding the "Cadillac tax" to the state and its health plans to identify changes to the USPS, the ACAS, business processes and reports.

To achieve these responsibilities, the SCO anticipates making several significant business process and system changes to the ACAS, the USPS and related business processes as the result of ACA in 2015-16 and in future years. The affected units must complete work in each of the following key areas:

- Business process development and review.
- Business requirements for system modifications and updates.
- System support and testing.
- Customer service support.
- Training.
- Project analysis and support.

Staff Comments: The SCO indicates that noncompliance with the ACA risks the imposition of substantial federal penalties, potentially in the range of $350-$450 million annually. As the budget request notes, PEPRA and the ACA are complex pieces of legislation with significant multi-year impacts on the state. In many cases, different aspects of the legislation are phased in over time, leading to multi-year impacts to SCO's workload. To date, the SCO has received 3.2

two-year limited-term positions for 2014-15 and 2015-16 to address the PEPRA and ACA workload; however, to meet legally-mandated requirements and timelines, the SCO had to expend 18.6 position resources in 2014-15, which exceeded the resources received. The proposal would address that shortfall.

Staff Recommendation. Approve as budgeted.

Vote.

Issue 4: Financial Information System for California System Support (BCP 016)

Governor's Proposal. The Governor's budget includes a request from the State Controller's Office (SCO) for $1.7 million ($968,000 General Fund) in 2016-17, and $1.6 ($911,000 General Fund) in 2017-18 and 2018-19 for 13.0 positions to support new workload resulting from the FI$Cal project. The requested resources are intended to provide for the SCO's continued efforts to fulfill its obligations and statutory responsibilities related to fiscal management, state reporting and auditing of payments during transition and use of the FI$Cal system. The positions will be directed to governance risk and compliance (eight positions), business analysis (two positions), information security (one position), production operations (one position), application development (four positions).

Background. The SCO in partnership with Department of Finance, State Treasurer's Office and the Department of General Services are engaged in a collaborative effort to develop, implement, utilize and maintain an integrated financial management system, known as the FI$Cal project. As described elsewhere in this agenda, the FI$Cal system is a statewide enterprise solution, which will re-engineer the state's business processes and encompass the management of resources and dollars in the areas of budgeting, accounting, procurement, cash management, financial management, financial reporting, cost accounting, asset management, project accounting, grant management and human resources management.

Within these areas, each partner agency maintains 'ownership' of its respective business processes as it relates to their constitutional and/or statutory responsibilities. The FI$Cal system is a custom, off-the-shelf enterprise resource planning tool to be implemented in waves (and recently re-designated as 'releases'). Currently, the Fi$Cal project has deployed Waves 1 and 2, with the most recent deployment occurring in December 2015. The workload and associated resources requested within this BCP are based upon a revised project timeline for the Releases 3 and 4 as identified within the FI$Cal Project SPR 6. It is expected that SCO control agency functionality in Release 3 will not be deployed until July 2017. It is also expected that Release 4 will not be released until July 2018. While previous waves have introduced new workloads within the Information Systems Division (ISD), the next releases are expected to have a critical bearing and significant impact in ISD's ability to not only maintain and support the existing financial systems, but also create the need to develop, build and implement the required functionality to support the FI$Cal system on an interim basis until it is fully deployed.

Additionally, there are approximately 18 agencies slated as deferred or exempt from the FI$Cal system. Until an implementation plan is provided by the FI$Cal project for these agencies, the existing financial systems will need to remain operational and the decommissioning timeline cannot be determined. At this time, the FI$Cal project has not identified all of the financial sub-systems which are not migrating to the new FI$Cal system. These actions are necessary to ensure both the SCO financial systems and the new FI$Cal system provide the same services, data, and security for those departments not migrating to the FI$Cal system. These responsibilities directly affect the existing and new systems, with respect to availability, security, performance, data integrity, and capacity, as well as various upstream and downstream components. In addition, the SCO has critical responsibilities to support home divisions as it relates to statewide interfaces, security and governance risk and compliance in the near term.

Staff Comments. The positions in this request appear to be necessary to support required activities for the SCO in the areas of security, compliance, analysis and ISD support. These resources will be integrated into existing SCO divisions and report to SCO management. The workload and resources requested are in direct support of both the SCO and FI$Cal, and will demonstrate a commitment to the success of the FI$Cal project beyond implementation. Given that direct requests related to the FI$Cal project and department have not yet been acted upon by the committee, the item should be held open, pending final action on those items.

Staff Recommendation. Hold open.

Vote.

Issue 5: Unclaimed Property Fraudulent Claims Prevention and Detection Program (BCP 004)

Governor's Proposal. The State Controller's Office (SCO) requests $1.0 million (Unclaimed Property Fund) in 2016-17 through 2018-19 for nine positions, and $1.4 million (Unclaimed Property Fund) in permanent funding for eight positions in 2016-17, and ongoing. The resources will allow for the continued support of the SCO's unclaimed property fraudulent claims prevention and detection program. Approval of these resources will allow the SCO to continue the program that was initiated three years ago.

Background. The SCO is responsible for safeguarding unclaimed property until it is returned to its rightful owner. The Unclaimed Property Division (UPD) of the SCO reunites owners with their lost or abandoned property when the owner files a paper claim following a search for property on the SCO's website or after calling the UPD call center to request a claim form. Claims are also generated from owners receiving a notice from the UPD. In each case, the claimant must fill out and return a claim form with documentation of their identity and other validation that he/she is the rightful owner of the property. Claims may be filed by various individuals, including the purported owner of the property reported by the holder, the heir of the owner reported by the holder, or an agent filing on behalf of a business reported by the holder. When information reported by holders on properties is incomplete, staff is required to contact the holder to obtain additional information. In some instances, holders (often banks or other financial institutions) have purged information due to the age of accounts.

The SCO is requesting resources to continue the work of preventing fraudulent unclaimed property claims from being paid. For 2012-13, the SCO received 17.9 positions for the fraud program on a two-year limited-term basis to address the increase in fraudulent claims received by the UPD. To continue the SCO's efforts in mitigating fraudulent claims, the Legislature authorized 16.0 positions in 2014-15 for the fraud program for another two-year limited-term. In the budget, the SCO is requesting resources to continue the current level of work in the fraud program. The current request would, for the three-year period, allow a steady number of claims to be reviewed (about 16,000 annually) representing a dollar value of about $24 million

Since the start of the fraud program, the UPD has identified over $28 million in fraudulent claims. The fraud unit has reviewed 39,878 claims, of which 1,606 were identified as fraudulent, with payment prevented an average of $9.3 million in fraudulent claims per year. With continued resources and the ability to maintain system enhancements, the UPD will be able to prevent more fraud from being paid and possibly impede future fraudulent attempts. The SCO indicates that UPD will continue to track results and work toward identifying more system enhancements and other methods to improve the program. A review, audit, and analysis of prior year paid claims was conducted by the UPD in the most recent fiscal year in order to enhance processes and procedures and provide updated training to claims evaluators on ways to mitigate future fraud. This process also has allowed the UPD to add identifying criteria from fraudulently paid claims.

Staff Comment. The proposal would allow the SCO to continue the current level of fraud detection and prevention activity and result in estimated General Fund avoided costs of almost $8.0 million annually. While there is a significant drop in fraud detection and prevention activity after the temporary funding expires in 2019-20, the program resources can be reviewed for sufficiency prior to that time to determine whether additional resources would be warranted.

Staff Recommendation: Approve as budgeted.

Vote.

Issue 6: Unclaimed Property Holder Compliance Initiative (BCP 003)

Governor’s Proposal. The State Controller's Office (SCO) requests $1.2 million from 2016-17 through 2018-19 for 11.0 positions, and $1.5 million permanent funding for 12.1 positions from 2016-17, and ongoing, from the Unclaimed Property Fund. The resources will be employed for the purposes of reuniting owners with their lost and abandoned property by continuing the holder outreach and compliance program. The program identifies and contacts non-reporters or inconsistent reporters of unclaimed property, and attempts to bring them into compliance with the Unclaimed Property Law (UPL). This proposal is estimated to return to California residents an estimated $80.4 million in property. For 2016-17 through 2018-19, 16 positions will be assigned to audit activity, six positions to unclaimed property and one to administration. The current proposal will allow for the program to continue its current level of activity through 2018-

19, after which the cessation of the limited-term funding will reduce the number of audit staff to 6.1 positions and eliminate the administrative position.

Background. The California UPL was enacted to assure that property is returned to its rightful owners or their heirs and to prevent holders of unclaimed property from writing-off the property. This law gives the state an opportunity to return the property and provides California citizens with a single source, the SCO, to check for unclaimed property that may be reported by holders from around the nation. By law, holders of unclaimed property must report and remit unclaimed property to the SCO after a specified period of time.

Under the program, holders are required to proceed through a series of steps before remitting property to the SCO. A holder notice report submitted by the holder is used by the SCO to send out pre-escheat notices to rightful owners or their heirs, advising owners to contact holders directly to retrieve the reported property, giving the owners the opportunity to reestablish contact with the holders, or have their property sent directly to them. After filing a holder notice report, holders are required to provide the SCO with a holder remit report containing the information on any remaining properties that were not reclaimed by the rightful owners or their heirs. At the time the holder remit report is filed, holders are required to remit the property to the SCO.

The 2011-12 budget included funding of 23.6 three-year limited-term positions and $2.4 million to develop and implement the program. Of the 23.6 positions, the SCO's Division of Audits received 16.5 positions to perform audits of unclaimed property holders, 6.0 positions were allocated to the UPD for the outreach and compliance unit, and the remaining 1.1 positions were for administration support. Through a 2014-15 budget proposal, these resources were basically continued, as the SCO received 23.0 two-year limited-term positions and $2.5 million to continue the program. The SCO audits received 16.0 positions to continue audits of unclaimed property holders, 6.0 positions were allocated to the UPD to continue outreach and compliance efforts, and the remaining 1.0 position was for administration support.

Staff Comments. The continued commitment of resources makes sense given the continued level of activity associated with unclaimed property. As with the accompanying budget request related to fraud detection and prevention of fraud related to unclaimed property, the years after 2018-19 are somewhat of an open question in terms of necessary resources to maintain the program; however, this issue can be revisited at a future time.

Staff Recommendation: Approve as budgeted.

Vote.

8860 DEPARTMENT OF FINANCE

Department Overview. The Director of Finance serves as the Governor's chief fiscal policy advisor and the primary functions of the Department of Finance (DOF) are to: prepare, explain, and administer the annual financial plan for the state; establish fiscal policies for all state departments; analyze proposed legislation for fiscal and policy impacts; monitor and audit expenditures by state departments to ensure compliance with the law, approved standards, and policies; and analyze the fiscal impact of information technology projects. The Office of State Audits and Evaluations (OSAE) supports DOF in supervising the state's financial and business policies through independent audits, evaluations, and related services.

Issue 1: Audit of Tax Compliance and Enforcement Programs

Budget Proposal. An audit evaluation of the Board of Equalization's (BOE's) audit and collections activities related to the sales and use tax would provide important information regarding the most effective deployment of budgeted resources and help ensure the efficient use of taxpayer dollars. The administration has indicated that an effective evaluation would require an augmentation to DOF of $400,000 in one-time funding if conducted by OSAE. Proposed provisional language governing this report is as follows:

> *XXX. Of the amount appropriated in Schedule (3), $400,000 shall be available for the Office of State Audits and Evaluations to perform an evaluation of the Board of Equalization's Sales and Use Tax Department's activities, including, but not limited to, audits, collections, compliance enforcement, and outreach. The scope and objectives of the evaluation shall be defined by the Department of Finance in consultation with the Legislature. A report shall be provided to the Chairs of the Fiscal Committees of each house of the Legislature and the Chair of the Joint Legislative Budget Committee by March 31, 2017.*

Background. The Board of Equalization (BOE) is responsible for administering the sales and use tax for the state, local governments and various special funds. Sales and use tax revenues are expected to total about $26 billion for the General Fund in 2016-17, representing about 21 percent of total revenues to the fund. While taxpayer compliance with the sales and use tax law is high, effective enforcement and compliance efforts are a necessary component of every modern tax system. The BOE has several programs that focus on compliance and enforcement, largely in the areas of education, audit and collections.

The 2002 Budget Act requires an annual supplemental report to be provided by the BOE to the Legislature regarding sales and use tax audits and collections. Subsequent refinements to this reporting include requirements to: analyze outcomes of audit system improvements; incorporate of average and marginal benefit to cost ratios; and assess the Statewide Compliance and Outreach Program. The supplemental report provides a useful tool for the Legislature to assess the effectiveness of the existing audit and compliance efforts, as well as means by which to measure whether the level and design of current efforts are appropriate.

Existing budget bill language set forth in Provision 1 of Item 0860 stipulates, in part, that "The State Board of Equalization shall not reduce expenditures or redirect funding or personnel resources away from direct auditing or collection activities without prior approval of the Director of Finance. The director shall not approve any such reduction or redirection sooner than 30 days after providing notification to the Joint Legislative Budget Committee." The language further states that: "Furthermore, the board shall expeditiously fill budgeted positions consistent with the funding provided in this act."

As part of the state's efforts to work toward efficient and fair tax administration, similar reporting language and provisional budget language are in effect for the state's other tax administration and collection agency, the Franchise Tax Board, which is responsible for personal income taxes and corporation taxes.

Staff Comment. Fair and consistent revenue collection is vital for providing funding for government programs and services, as well as to ensure compliance such that all taxpayers remit tax liabilities owed under the law. Existing reporting requirements and provisional language have helped provide for the effectiveness of the agency's enforcement and compliance activities. In addition, given changes in technology, audit techniques and taxpayer behavior, an outside examination of how valuable state resources are being deployed in this area is warranted. Given DOF's fiscal role and the charge given to OSAE, it is appropriate that these entities conduct this evaluation. Committee staff has coordinated with the Administration on this issue and the DOF is generally supportive of the proposal; however, it does not constitute an Administration proposal.

Staff Recommendation. Approve the proposed budget augmentation of $400,000 one-time and BBL.

Vote.

8880 FINANCIAL INFORMATION SYSTEM FOR CALIFORNIA

Project Overview. Over the last several years, the Administration has been engaged in the process of putting in place a new information technology (IT) system for the state. This has involved the design, development and implementation of the Financial Information System for California (FI$Cal), which will eventually replace the state's current decentralized system for budget, accounting, cash management and procurement. The project is being implemented to integrate and significantly re-engineer the statewide business processes related to budgeting, accounting, cash management, and procurement, and it will embed more standardization, transparency, discipline, effectiveness, and efficiency in these crucial business processes.

The state's legacy systems were built in the 1970s and 1980s and have exceeded their useful lives. The systems generally do not communicate with each other, and business operations often rely on separate downstream databases. These databases must also be maintained and often contain duplicative or inconsistent data. Because of the decentralized and antiquated nature of the state's business operating systems, the state's financial operations have become highly inefficient, costly to operate and maintain, and challenging to manage. When fully implemented, FI$Cal is expected to eliminate hundreds of independent legacy systems and department-specific applications that now support internal business process operations of the state. Project costs are expected to total $910 million, of which $494 million is General Fund.

FI$Cal is a complex undertaking, and the technical complexities are coupled with a somewhat complex and multi-tiered governance structure. The state's four fiscal control entities—Department of Finance (DOF), the State Controller's Office (SCO), State Treasurer's Office (STO), and Department of General Services (DGS)—all are represented on the governance entities. Representatives of these entities participate on the Project Steering Committee and the Project Directorate. This structure is necessitated by the balkanized statutory and constitutional assignment of the various fiscal responsibilities and duties that will be components of FI$Cal. In addition, the Project Leadership Team is headed by an executive, who works with California Department of Technology (CalTech), and state and vendor staff on the operations of the FI$Cal Service Center (FSC) which is the entity working directly on project implementation.

Issue 1: Funding for Special Project Report 6 - Project (BCP 001)

Governor's Proposal. The budget includes a request from FI$Cal for $45.1 million to support the changes identified in SPR 6. This brings the total 2016-17 budget to $135 million ($96.2 million General Fund, $18.3 million Central Service Cost Recovery Fund (CSCRF) and $20.5 million special funds). This request has been broken into two separate requests to identify the project costs and the establishment of the Department of FI$Cal (discussed below). The 2016-17 project costs requested are $92.4 million ($71.9 million General Fund and $20.5 million various special funds) and the departmental costs requested are $42.6 million ($24.3 million General Fund and $18.3 million CSCRF).

During the development of Special Project Report (SPR) 6, FI$Cal re-baselined its budget, evaluated and redirected existing resources to project or department activities, and identified additional costs. The change in project costs compared to SPR 5 are related to: system integrator costs (Accenture); project management and independent verification & validation (IV&V) contracts; additional project related contracts; and staff costs (FI$Cal positions for technology staff, re-direction of existing resources; and, hardware/software related to SPR 6).

Background. FI$Cal is an ambitious and complex project, and in reflection of this, the project has undergone numerous changes in scope, schedule and cost. These various changes have been incorporated and documented in SPRs with the project currently working under the rubric of SPR 5. The Governor's budget proposals are based on SPR 6, just released. SPR 6 incorporates intentional delays in the implementation of the project in order to increase the probability of success. The Legislative Analyst's Office (LAO) notes that project changes to date have led to schedule extensions and cost increases, but have also have led to modifications that have mitigated project risk and made project objectives more attainable.

Under SPR 5, a series of waves were to be set in motion, with each wave consisting of additional departments and system functionality. LAO notes that there were some 'early successes' in this process, but later some difficulties and delays occurred. Specifically, Wave 1 experienced technical difficulties which caused deferral of some functions to a series of deployments; departments required more technical support than anticipated; various unexpected challenges caused the deferral of some departments and functionalities to later waves. In Wave 2, concurrent and competing priorities created schedule delays; testing delays and requested enhancements required splitting up of waves. These delays and development resulted in delays in Wave 3 and Wave 4. This pushed additional functionality and departments back to the final Wave 4, increasing the risk to the project.

Under the changes proposed, the project would transition from implementing "waves' to "releases', allowing departments that are not ready to implement on the scheduled date to come on line at a later time. The amended approach establishes new programs to assist departments' transition to the project, and revises the implementation schedule for remaining releases. These changes result in increased costs for the project and an increase in the overall timeline for the project of two years. This extension includes one year of knowledge transfer that will facilitate state staff take-over of the project.

The State Auditor has expressed concerns about the project in its Letter Report, dated January 7, 2016. In this report, the high level concerns noted by the auditor include the following:

- The project has experienced significant deviations in its system implementation schedule and scope such that it is required to develop a new implementation plan through a sixth SPR.

- The project has not adequately responded to its oversight entities' concerns and recommendations, many of which have been outstanding for over a year.

- The project continues to report an overly optimistic percentage of completion in its monthly status reports, which are available on the California Department of Technology's website.

- The project experienced widespread turnover in its executive management team during 2015, and its staff vacancy rate remains stagnant.

LAO Comments. In its recent analysis of the FI$Cal project, the LAO noted that the release approach is more realistic going forward and views the revision as improving the flexibility for the implementation. They view the addition of the knowledge transfer to the scope of the project favorably, but indicate that some additional time may be required for final project completion. Finally, the office notes the cost is still dependent on contract negotiations with the vendor.

Staff Comments. The FI$Cal project is vital to the modernization of the state's fiscal management and control structure. While there have been delays and cost increases, as is typical for most IT projects with this degree of complexity, generally the project is on a positive course. It is essential that the project continue to be given adequate resources and support to ensure its success. Staff is supportive of the budget request, but continues to have some reservations regarding the timeline. It is likely that given the magnitude of the work that has been pushed to the back end of the project date, that an additional SPR will be required, even without additional unexpected complications or developments. Nevertheless, after discussions with the project and DOF staff, the current timeline currently seems to be a reasonable structure under which to conduct the next phases of the project. The department should address for the committee, the issues raised in the January Letter Report of the State Auditor, especially regarding any remedies of the concerns of the oversight entities. In addition, because of the crucial nature of next year's July release, with 50 departments and all functionality (save public transparency website) scheduled to be live, staff recommends that this committee or appropriate policy committee hold an oversight hearing on the project in mid-course of this year and require an report from the project at that time. Ordinarily staff would recommend committee approval of this issue at this time; however, the project proposal contours may be affected by the departmental proposal discussed in the following issue.

Staff Recommendation. Hold open.

Vote.

Issue 2: Funding for Special Project Report 6 - Department (BCP 002 and Trailer Bill Language)

Governor's Proposal. The budget includes a request from FI$Cal for $45.1 million to support the changes identified in SPR 6. This brings the total 2016-17 budget to $135 million ($96.2 million General Fund, $18.3 million Central Service Cost Recovery Fund (CSCRF) and $20.5 million special funds). This request has been broken into two separate requests to identify the project costs and the establishment of the Department of FI$Cal. The FY 2016/17 departmental costs requested are $42.6 million ($24.3 million General Fund and $18.3 million CSCRF). The project costs requested of $92.4 million ($71.9 million GF and $20.5 million various special funds) are being submitted in a companion BCP.

The cost of operating the Department of FI$Cal would be funded 57 percent from the General Fund and 43 percent from the CSCRF. The CSCRF portion would be paid for by allocating the operational cost to departments based on their share of use. The annual cost of operating the department will increase in future years as new functions and departments come onto the FI$Cal system. The cost of operating the department is expected to level off in 2019–20, at which point the annual ongoing cost is expected to be $70.4 million ($40 million General Fund).

The proposed department would include 122 positions (99 of which would shifted from the project to the department) to support the FI$Cal maintenance and operations. This position total will grow over time as the FI$Cal system becomes more mature and as other staff working on design, development and implementation activities and finishing up the implementation work for the project, shift to ongoing activities. By 2019–20, it is estimated that the department will be comprised of 274 ongoing positions, primarily dedicated to maintenance and operations of the FI$Cal System.

The accompanying trailer bill language establishes the Department of Fiscal effective July 1, 2016; establishes the director of the Department of FI$Cal, to be appointed by the Governor, who will oversee the day-to-day functions of the Department of FI$Cal and the implementation of the FI$Cal project documents; change the interim cost allocation plan to fund the FI$Cal project and Department of FI$Cal; make all automated accounting systems referred to in Government Code Section 13000 inoperative after required data and departments using the system have transitioned to the FISCal System

Background. To date, FI$Cal has been a statewide Information Technology (IT) project, approved through a Department of Finance (DOF) Feasibility Study Report in 2005. Since then, it has gradually transitioned away from the DOF, becoming its own entity, with increasingly more authority, effectively transitioning to a fully functioning state department. Total project costs included departmental functions such as human resources, accounting, budgeting, contracts and procurement, business services. During the development of SPR 6, existing positions and costs were re-evaluated and redirected to align with project or departmental functions. Additional resources are needed to fully staff the units where existing staff could not be redirected.

LAO Comments. The LAO noted in its report that there may be alternative options to creating a new department at this time, including maintaining the current FI$Cal Service Center (FSC) or delegating responsibility for the project to one of the four participating state offices. The analysis indicates issues and potential difficulties with each of the three options. The analysis notes that accountability may continue to be a problem under the Governor’s proposal and recommends additional steps to improve this regardless of the particular organizational structure chosen. It addition, LAO points out two potential solutions for accountability: (1) shift the role of the control agencies to one of advisory rather than formal decision-making and (2) elevate the project leader to the steering committee.

Staff Comments. Given the number of state entities responsible for fiscal and other control functions in the state, the design of the administrative structure with responsibility for FI$Cal is not likely to resemble that of a typical state department. The trick here is to design an organizational structure that maximizes the positives associated with the different control agencies and attempts to minimize the potential drawbacks associated with multiple lines of authority and responsibilities. It is not apparent that establishing a stand-alone department at this time is warranted, or if so, it should be based on the particular design proposed. The committee may wish to ask the LAO to describe its concerns with the proposal and suggestions for alternative structures that may be suitable. The design of the particular organization best suited for the FI$Cal project may well benefit from further discussions and analysis.

Staff Recommendation. Hold open.

Vote.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, April 7, 2016
9:30 a.m. or Upon Adjournment of Session
State Capitol - Rose Ann Vuich Hearing Room 2040

Consultant: Mark Ibele

OUTCOMES

PART A

ITEMS PROPOSED FOR VOTE-ONLY

ITEMS FOR DISCUSSION AND VOTE

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance from the Senate Rules Committee, 1020 N Street, Suite 255, Sacramento, California 95814, or by calling (916) 651-1505. Requests should be made one week in advance when possible.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, April 7, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultant: Samantha Lui

PART B

PROPOSED FOR VOTE-ONLY

PROPOSED FOR DISCUSSION/VOTE

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

ISSUES PROPOSED FOR VOTE-ONLY

7760 DEPARTMENT OF GENERAL SERVICES

Issue 1: Equipment Maintenance Management Insurance Program

Budget. The department requests a permanent augmentation of $231,000 in Service Revolving Fund authority, and to make permanent two existing assistant risk analyst positions to sustain and expand the Equipment Maintenance Management Insurance Program (EMMP).

Background. Businesses, including most state agencies, purchase equipment maintenance service contracts for equipment, such as copiers or telephone systems, which extends beyond a manufacturer's warranty period. In 2010, the Department of General Services (DGS) piloted an insurance program designed to replace expensive equipment maintenance service contracts. EMMP replaces an organization's multiple service contracts with a comprehensive program that consolidates the cost of equipment maintenance and repair. Once the existing warranty expires, the equipment is eligible for enrollment in the EMMP program.

EMMP guarantees the insurance premium paid by an organization will only be 75 percent of what it previously paid in maintenance service contracts. Participating departments are guaranteed to save at least 25 percent of what they had spent on prior equipment maintenance service contracts.

The Budget Act of 2014 included Service Revolving Fund expenditure authority to fund two positions on a two-year limited-term basis to expand the EMMP. The limited-term expenditure authority and two positions will expire on June 30, 2016. In order to maintain current service levels and continue to expand EMMP to other departments interested in participating, DGS proposes to permanently establish the positions.

Staff Comment. The program now includes 28 departments, with more than 30,000 pieces of equipment covered by the program. Since the program's inception, the state's annual savings has risen from $261,280 in 2010-11, to $3,374,801 in June 2014, for a total savings of $9,836,692 to date. The department indicates that service rates will not be impacted.

Staff Recommendation. Approve as requested.

Issue 2: Human Resources Modernization, Workforce Planning, and Customer Satisfaction

Budget. The department requests $511,000 ($413,000 Service Revolving Fund, $83,000 Public School Planning, Design and Construction Review Revolving Fund, $13,000 from Disability Access Account, and $2,000 Disability Access and Education Revolving Fund) for four positions in the budget year, and ongoing. The positions are:

- Two associate governmental program analysts (AGPA).
- One senior personnel specialist to work on reducing employee accounts receivable.
- One personnel supervisor to manage the Disability Transactions Unit, which assesses accounts receivable.

Background. This request addresses four major issues:

- **Large amount of accounts receivable (AR).** An AR is created when an employee is overpaid for reasons such as charging the wrong leave, issues arising from a disability claim, or supervisors approving a time sheet late; and, money is owed to the state. When employees change their benefits with an eligible event, the forms for the new deductions must be processed by SCO before the deductions begin appearing on the employee's warrant. Even if the deductions have not yet begun, the benefit is still active on the effective date. Once SCO processes the deduction forms, an AR is issued to pay for the gap of time. SCO recently announced their current backlog on processing these forms is approximately six months, which causes substantial ARs for DGS employees.

- **No supervisor for transactions unit.** Currently, there is no supervisor for the unit that processes state disability insurance (SDI), non-industrial disability insurance, and enhanced industrial disability leave claims. The supervisor would reduce errors and assist in working ARs related to disability claims.

- **DGS University.** The department requests one AGPA to address anticipated increased workload due to a self-initiated mandatory training for all DGS programs, approximately 1,600 additional students.

- **Recruitment.** The department requests one AGPA to serve as the department-wide recruiter to reduce high turnover and difficult-filled specified classifications.

Staff Comment. Pursuant to the State Administrative Manual, payroll deductions to repay overpayments do not exceed 25 percent of the employee's net monthly or semi-monthly salary, except from separating employees. The department works with employees who have an outstanding AR, so as to prevent a significant adverse financial impact to the employee. To prevent future AR cases, the department is currently providing training for personnel specialists and employees, and HR staff is conducting three-year leave audits on all employees.

Staff Recommendation. Approve as requested.

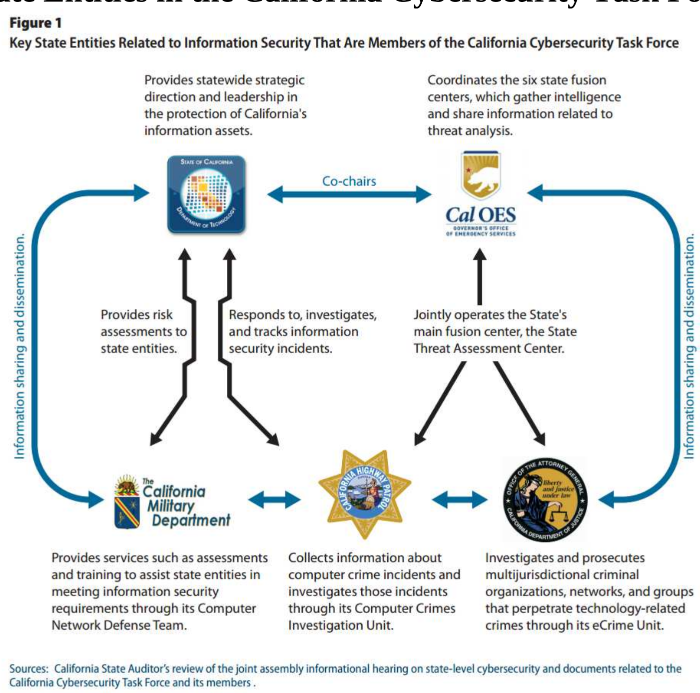
ISSUES PROPOSED FOR DISCUSSION/VOTE

7502 CALIFORNIA DEPARTMENT OF TECHNOLOGY
8940 MILITARY DEPARTMENT

The following section provides context for how the subcommittee may wish to evaluate and consider two proposals related to cybersecurity.

Background on cybersecurity. Cybersecurity protects computers, networks, programs, and data from unintended or unauthorized access or changes.[1] In 2012, according to the Attorney General's *2014 Data Breach Report*, 17 percent of the nation's recorded data breaches occurred in California. In 2014 and 2015, Target, Home Depot, JP Morgan Chase, Wells Fargo, Sony, the University of California, and Los Angeles Health all experienced significant cyberattacks. Because California administers a variety of programs, employs over 220,000 people, and its various state entities house sensitive client information (such as medical records, Social Security numbers, tax filings, location of oil resources, and defense or law enforcement information), the Governor established the California Cybersecurity Task Force, comprised of stakeholders, subject matter experts, and cybersecurity professionals, to enhance the state's digital information. The figure below, created by the State Auditor's Office, shows the interaction of several state entities on the Task Force.

State Entities in the California Cybersecurity Task Force



[1] "Cyber Security Primer," University of Maryland, University College, http://www.umuc.edu/cybersecurity/about/cybersecurity-basics.cfm, (January 10, 2016)

Over time, as domestic and international networks and interconnections have grown, failure to respond and protect state assets could have severe ramifications on public safety and the state's economy. The increase in cyber threats and limited statutory protections governing electronic information[2] prompted Governor Brown, in August 2015, to sign Executive Order B-34-15.

California Cybersecurity Integration Center (CSIC). Executive Order B-34-15 requires the Office of Emergency Services (OES) to establish and lead the California Cybersecurity Integration Center (CSIC). CSIC will be the centralized hub of the state government's cybersecurity efforts and, among other activities, will coordinate information sharing for at least 15 specified organizations.[3] In addition, the Executive Order specifies the Integration Center's other mandated activities:

- Operate with the U.S. Department of Homeland Security – National Cybersecurity and Communications Integration Center.
- Develop a statewide cybersecurity strategy, as informed by recommendations by the California Task Force on Cybersecurity, which will improve how cyber threats are identified, understood, and shared.
- Establish a Cyber Incident Response Team, the state's primary unit to lead cyber threat detection and coordinate public and private responses with law enforcement agencies.

Although beginning coordination efforts have been underway, to date, OES has not yet signed a formal MOU with any of the identified stakeholders, discussed below.

Department of Technology (CDT). CDT is responsible for ensuring that nearly 114 state entities maintain the confidentiality, integrity, and availability of their information systems. As part of its efforts to protect information assets, the department requires entities to comply with the State Administrative Manual (SAM)'s IT security and privacy policies, standards, and procedures.[4]

Military Department's Cybersecurity Network Defense Team. The Budget Act of 2014 provided six permanent positions to the California Military Department's Cybersecurity Network Defense Team (CNDT), which provides network health assessments, website vulnerability scans, and continuous network monitoring. From 2012 to 2014, CNDT, which was funded for $500,000

---

[2] Most state laws that make cyberattacks a crime are related to unauthorized computer use and access (Penal Code §502); credit card fraud (Penal Code §484(e)); identity theft (Penal Code §530.5); anti-phishing (Business and Professions Code §22948); cyber-bullying (Penal Code §653.2 and Education Codes §32261,32265,32270, 489000); and notification for breach of computerized data (Civil Codes §1798.29 and 1798.82).

[3] Office of Emergency Services; Department of Technology; California State Threat Assessment Center; California Highway Patrol; California Military Department; Office of the Attorney General; Health and Human Services Agency; California Utilities Emergency Association; California State University; University of California; California Community Colleges; U.S. Department of Homeland Security; U.S. Federal Bureau of Investigation; U.S. Secret Services; U.S. Coast Guard; and other members as designated by the Director of OES.

[4] The standards include 64 different compliance sections; set forth minimum IT security control requirements pursuant to the National Institute of Standards and Technology *Special Publication 800-53* and the *Federal Information Processing Standards*; and reference the *Statewide Information Management Manual*.

per year from the Assembly Speaker's Office, provided assessments to state agencies at no cost to the state agency. Following the termination of the funding in 2015, the CNDT began providing assessments services to agencies on a fee-for-service basis. Agencies request the CNDT assessment and reimburse the Military Department for the associated costs. Typically, assessments ranged from $10,000 to $50,000, and are calculated based on the services requested and the size of the agency.

According to the Military Department, CNDT uses federal cybersecurity training, paid for by the Department of Defense, to assist state agencies through its access to classified federal cyber intrusion information. In addition, members of the CNDT retain certifications in a wide variety of core commercially-recognized cybersecurity competencies, and have reportedly demonstrated their rapid response capabilities and sensitivity for preserving agency confidentiality on multiple occasions.

Attorney General's eCrime Unit. In addition to cyber threat prevention, California has taken several steps to investigate and prosecute technology crime, including the establishment of the eCrime Unit in August 2011. The nine-person unit investigates large-scale identity theft and crimes with losses in excess of $50,000. Since August 2011, the unit has filed 111 cases, with 51 cases related to identity theft, 11 of which directly relate to electronic intrusion or hacking. The cases include *People v. Charlie Evens*[5], in which the accused was determined to have compromised 317 Gmail accounts wherein account holders were tricked into providing a recovery code for their Gmail account. Another example occurred in May 2015, when the former IT Director of Consolidated Tribal Health Project, Inc., in Mendocino County and others were involved in illegally accessing a secure computer system that led to $65,000 of damages and loss of confidential information from the Consolidated Tribal Health Project. The budget includes $2 million for the eCrime Unit in the 2016-17 year.

Other IT policies. Assembly Bill 670 (Irwin), Chapter 518, Statutes of 2015, requires that 35 agencies receive external cyber security assessments. The Department of Technology and OES are identifying the 35 agencies in a priority order, with CDT finalizing the assessment methodology. Once the list and assessment are finalized, the Military Department's CNDT will begin the assessments. AB 670 specifies that agencies pay for the assessments within their existing budgets.

State Auditor Findings. A September 2013 State Auditor Report found CDT's cybersecurity oversight to be a high-risk issue because two of the audited entities (California Department of Corrections and Rehabilitation and the Employment Development Department) inappropriately self-certified to CDT their compliance with the security standards despite outdated security policies and insufficient risk management programs. The Department of Corrections and Rehabilitation's weaknesses were "deemed too sensitive to release publicly," so the Auditor instead issued a confidential management letter.

In August 2015, the State Auditor released another report, *High Risk Update—Information Security,* which again raised questions about CDT's oversight abilities, specifically:

[5] People of the State of California v. Charlie Robert Evens, Case No. 2486390 (Criminal Complaint, 10 June 2015), https://oag.ca.gov/system/files/attachments/press_releases/complaint%20filed.pdf

- **CDT provided inadequate oversight or guidance.** To determine whether entities have met security standards, the department relies on a self-certification form. The report found, "Until the audit, (CDT) was unaware that 37 of the 41 entities that self-certified compliance with security standards in 2014, indicated in the State Auditor's survey that they had not actually achieved full compliance in 2014."

- **CDT did not ensure that entities comply with the state's information security standards.** The State Auditor found 73 of the 77 entities that participated in the survey report had "yet to achieve full compliance with the security standards." Because of the nature of its self-certification process, the technology department was unaware of vulnerabilities in these reporting entities' information security controls; thus, it did nothing to help remediate those deficiencies.

- **Constitutional offices and entities in the judicial branch are not subject to CDT's security standards or oversight.** State law does not require certain state entities, like the judicial branch, constitutional offices, or executive branch entities that are not under the direct control of the Governor, to comply with security standards. Often, these entities maintain some of the most critical services to the state.[6] For example, the State Auditor, in December 2013, reported that the Administrative Office of the Courts' information security documents were "either nonexistent or, in one case, had not been updated since 1997."

Recent developments. Below is a chart of the number of IT incidents across state government and the associated financial loss per fiscal year. Incidents include unplanned events that cause interruption or outage in service, loss of data, malware infections, risks to personal data, or security breaches.

Incident Chart

	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
Number of incidents	1,211	1,778	1,655	1,893	1,762	2,121	2,471
Reported estimate of financial loss associated with incidents	$1,623,890	$2,065,056	$735,810	$1,725,777	$2,566,953	$217,590 (position was vacant – SIMM 5340-B (g) Total Cost of Incident was not recorded for all Incidents)	$615,195 (position was vacant – SIMM 5340-B (g) Total Cost of Incident was not recorded for all Incidents)

OIS incident report tracking statistics based on incidents reported by state agencies.

On February 22, 2016, the Assembly Privacy and Consumer Protection Committee and Assembly Select Committee on Cybersecurity held a joint oversight hearing to assess the implementation of the Governor's Executive Order. Last month, the Director of the Department of Technology and Chief Information Security Officer resigned.

[6] The State Treasurer's Office finances public works, like schools and higher education facilities. The Department of Justice represents Californians in civil and criminal matters.

Issue 1: CDT - Security Audit

Budget. The department requests an increase of $1.6 million General Fund in the budget year, and ongoing, for 11 permanent positions (six new positions and five limited-term positions to become permanent) in a permanent audit unit within the Department of Technology's Office of Information Security. The department assumes 15 audits to be completed by 2017, with 23 entities to be audited in 2017-18, and ongoing, for a three-year auditing cycle for all noncompliant entities.

Issue 2: Military Department - Cyber Network Defense Team

Budget. The budget proposes an increase in reimbursement authority from $774,000 to $1.4 million, for eight permanent positions (six existing positions and two new permanent positions) for the department's Cyber Network Defense Team (CNDT) to implement provisions of AB 670. If necessary, the department could also expand to include eight National Guard (part-time) security experts to immediately respond to a cyber-incident. The proposal will also fund hardware and software needs to conduct the assessments for 35 state agencies. The department will be reimbursed through CDT through an existing Memorandum of Agreement.

Staff Comment. The CDT audit team proposal will review departments' compliance with mandated state and federal IT policies; whereas CNDT assessments assess network vulnerabilities. In both proposals, the audited or assessed entity must pay for the audit or assessment.

The subcommittee may wish to consider how CDT and the Military Department are collaborating to ensure an intentional and effective sequencing of an audit versus and assessment. More broadly, the subcommittee may wish to discuss how the various approaches (policy evaluation, network examinations, or other) effectuate effective oversight, and how the state can better protect its assets proactively.

Staff Recommendation. Hold open both proposals.

7502 CALIFORNIA DEPARTMENT OF TECHNOLOGY

Overview. The department approves and oversees statewide IT projects, IT professional development, and provides centralized IT services to state and local governments and non-governmental entities. Between 2013 and 2016, of 34 reportable IT projects, the department implemented 25, terminated four[7], suspended two[8], and withdrew three[9]. In total, this represents an estimated $243.2 million in amounts approved for terminated projects, and $378.4 million in amounts approved for suspended projects.

Budget. The budget includes $316 million and 919 positions to support the department and its services.

Issue 1: Statewide Information Technology Project Workload

Budget. The department requests $1.7 million (Technology Services Revolving Fund) for twelve full-time permanent positions that will provide project oversight for reportable IT projects and extended procurement support. The positions would be located in:

- **Statewide Technology Procurement Division (STPD)**, which acquires IT goods and services with market research and develops mid-level requirements earlier in the project approval lifecycle (PAL) of an IT project.

- **Information Technology Project Oversight Division (ITPOD)** provides independent project oversight to keep projects on budget and implemented on time.

Background. PAL includes four stages: (1) business analysis, (2) alternatives analysis, (3) solution development, and (4) project readiness and approval. Each medium- and high-criticality IT projects has independent oversight at the beginning of Stage 2.

Currently, ITPOD evaluates the state and stage of each medium- or high-complexity project and assigns oversight staff on that basis. According to the department, it is difficult to determine how many resources may be needed for projects. For example, CDT may have one staff handling three projects, and in other cases, need two or three resources for other projects. Further, ITPOD resources are funded through a cost-recovery model of $9,380 per month for each medium- and high-criticality project on an average of two to five years.

According to the department, STPD does not have "sufficient staff to address all the new PAL pre-solicitation and procurement specific functions for current and approved procurements. The

[7] Department of Transportation's Construction Management System; Peace Officer Standards and Training Commission's Exam System Project; Department of Education's Standardized Account Code Structure System Replacement; and Department of Motor Vehicles' Information Technology Modernization.
[8] State Controller's 21st Century Project; Department of Social Services' County Expense Claim Reporting Information System.
[9] Department of Toxic Services' Hazardous Waste Tracking System; Department of Consumer Affairs' Bureau of Automotive Repair California Vehicle Inspection System; and Department of Public Health's CalHEART.

number of complex system integration projects is increasing, based on approved project workload projections."

Additional resources are needed to address the incoming procurement workload related to procurements that have already been approved to go through PAL. These additional positions are needed to ensure the successful development and implementation of pre-solicitation and procurement-related functions for approved projects. This will result in better procurements and contracts for IT project and telecommunication solutions.

Staff Comment. The department has a total of 51 reportable projects (37 medium-criticality and 14 high-criticality). The department acknowledges that some departments are concerned about paying the $9,340 per month charge, which has been steady since its implementation in July 2014. However, absent these positions, the department notes that vendor oversight is not as effective because it cannot require the remediation of project risks.

Staff Recommendation. Hold open.

Issue 2: Position Authority for Permanent Employees

Budget. The department requests shifting 50 employees from the temporary help blanket to permanent positions with no increase to the General Fund. The positions are:

- One office technician (typing);
- Six staff information systems analysts;
- One senior personnel specialist;
- Five senior information systems analyst supervisors;
- 12 system software specialist technicians;
- One office assistant;
- Eight department managers of varying levels;
- Five associate information systems analyst specialists;
- One associate systems software specialist;
- One business services assistant and one officer;
- Two staff services manager and one analyst;
- Four associate governmental program analysts; and,
- One associate personnel analyst.

Background. The temporary help positions were created on July 1, 2012, in response to Budget Letter 12-03 (March 2012), which required departments to eliminate budgeted salary savings and rebase funding for state operations. Overall, BL 12-03 reduced the department's permanent positions by 96, but did not reduce the overall state operations budget authority. Instead, the budget letter merely reallocated it to temporary help.

Staff Comment. The temporary help blanket was utilized to maintain service levels and ensure program continuity. Over time, employees were moved from temporary positions as permanent positions became available. At the same time, managers who lost the vacant, permanent positions were then given the flexibility to hire into the temporary help blanket. This rotation of positions is paperwork intensive and time consuming.

The budget request appears consistent with CalHR policy to provide departments the flexibility to manage personnel decisions with funding. Further, the department is providing staffing transparency that these are positions which, though funded out of the temporary help blanket, perform permanent services.

Staff Recommendation. Approve.

1111 DEPARTMENT OF CONSUMER AFFAIRS

Issue 1: Oversight – BreEZe

Background. The Department of Consumer Affairs (DCA) licenses more than 2.5 million licensees in more than 100 business and 200 professional categories, including doctors, dentists, contractors, cosmetologists, and automotive repair facilities. Annually, the DCA processes more than 350,000 applications for professional licensure and an estimated 1.2 million license renewals.

BreEZe is the department's online licensing and enforcement system. In 2011, after receiving approval from the California Department of Technology (CDT), the department entered into a nine-year contract, overseen and approved by DGS, with a systems integrator vendor. BreEZe was originally scheduled to be completed by 2014; however, the automation project ran into implementation and oversight challenges, which resulted in entities on Release 3 being suspended from the rollout of BreEZe. In total, DCA executed three contracts with the vendor, Accenture, LLP, totaling $45.7 million and executed contracts with other entities for other services and expertise (such as contracting with private companies to obtain database consulting services and system testing manager), which totaled another $6.3 million.

The board and bureau, by release, along with the number of licensees impacted, are below.

IMPLEMENTED		IMPLEMENTATION PLANNED		IMPLEMENTATION UNKNOWN	
PHASE 1		PHASE 2		PHASE 3 *	
RELEASE DATE: OCTOBER 2013	NUMBER OF LICENSEES	RELEASE DATE: MARCH 2016 (PLANNED)	NUMBER OF LICENSEES	RELEASE DATE: UNKNOWN	NUMBER OF LICENSEES
Board of Barbering and Cosmetology	484,420	Board of Optometry	26,500	Acupuncture Board	15,490
Board of Behavioral Sciences	90,600	Board of Vocational Nursing and Psychiatric Technicians	141,800	Board of Accountancy	134,670
Board of Podiatric Medicine	2,650	Bureau of Security and Investigative Services	1,290,960	Board of Chiropractic Examiners	46,430
Board of Psychology	20,950	California Board of Occupational Therapy	17,680	Board of Guide Dogs for the Blind	110
Board of Registered Nursing	514,640	Dental Board of California	178,420	Board of Pharmacy	257,810
Medical Board of California	153,820	Dental Hygiene Committee of California	28,970	Board for Professional Engineers, Land Surveyors, and Geologists	236,050
Naturopathic Medicine Committee	540	Physical Therapy Board of California	46,200	Bureau of Automotive Repair	149,530
Osteopathic Medical Board of California	7,890	Veterinary Medical Board	33,800	Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation	137,710
Physician Assistant Board	9,900			Bureau for Private Postsecondary Education	2,150
Respiratory Care Board	20,430			California Architects Board	47,540
				California Athletic Commission	2,780
				Cemetery and Funeral Bureau	35,330
				Contractors State License Board	286,620
				Court Reporters Board	13,030
				Landscape Architect Technical Committee	5,270
				Professional Fiduciaries Bureau	800
				Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	32,720
				Structural Pest Control Board	118,240
				Telephone Medical Advice Services Bureau	60
Totals	1,305,840		1,764,330		1,522,340

Source: State Auditor’s Report, 2015.

As of February 22, 2016, BreEZe had almost 1,000,000 registered users, and has processed almost $200,000,000 in on-line transactions. Since the Release 2 go-live on January 19, 2016, over 14,000 new licenses have been issued, and over 90,000 licenses have been renewed using BreEZe.

Findings by the State Auditor. In 2015, the State Auditor made several key findings about the project:

- The estimated costs for the BreEZe project drastically outpaced initial projections and its anticipated use has decreased. In 2009 the project was estimated to cost about $28 million while current estimates are closer to $96 million, and implementation will include only half of the regulatory entities that originally planned to use it.

- Department of Technology (CDT) did not ensure oversight for BreEZe until more than one year after the project’s commencement, and despite being aware of the significant problems with the project, it continued to approve additional funding and allowed the project to press forward without intervening to ensure DCA took corrective action.

Release 2 of the BreEZe Project successfully went live on January 19, 2016. User acceptance testing was conducted between September and December of 2015 wherein the Release 2 programs successfully executed 1,744 test scripts across their 68 license types. With the implementation of Release 2,429 new on-line transactions have been added, increasing the total number of BreEZe on-line transactions to 549 across all Release 1 and Release 2 programs.

The department continues to struggle with filling the 34 BreEZe positions. As of the end of January 2016, only 10 of the 34 positions have been filled. The department is procuring contractor staff augmentation to make up for the shortfall in order to provide a minimally acceptable level of maintenance services to all BreEZe programs.

Next steps. According to the department, DCA is currently working with the Administration and CDT to work through strategic concepts of Release 3 entities. The pathways will consider the most effective way to address the Bureau of State Audit's (BSA) recommendation to perform a cost-benefit analysis before investing more in BreEZe implementation.

Staff Comment. The subcommittee may wish to clarify the percentage impact of BreEZe rollout into existing boards and bureaus' current fee levels and identify the department's next steps to plan Phase 3 of the boards and bureaus.

Staff Recommendation. No action is necessary.

7760 DEPARTMENT OF GENERAL SERVICES

Overview. The Department of General Services (DGS) provides a variety of services to state departments, such as procurement, management of state-owned and leased real estate, management of the state's vehicle fleet, printing, administrative hearings, legal services, development of building standards, and oversight over school construction. The department generally funds its operations through fees charged to client departments.

Budget. The Governor's budget proposes $1.1 billion from various funds for support of DGS in 2016-17. This is an increase of $19 million, or about two percent, from current-year estimated expenditures.

Issue 1: Cap-and-Trade Expenditure Plan – Energy Efficiency for Public Buildings

Budget. The department requests a one-time augmentation of $30 million (Greenhouse Gas Reduction Fund), and $952,000 (Greenhouse Gas Reduction Fund) ongoing, for five permanent positions, beginning in the budget year, and to accelerate and expand the Statewide Energy Retrofit Program to reduce greenhouse gas (GHG) emissions.

Of the $30 million, $1.9 million will be used for staffing and administration of contracts, and $28.1 million will be transferred to the Energy Efficiency Retrofit State Revolving Fund to fund projects in bond-funded facilities, including:

- $8 million to the California Department of Corrections and Rehabilitation (CDCR) for two retrofit projects:
    - California Institute for Women, Chino ($6.5 million to replace the existing steam system and related equipment)
    - California Men's Colony, San Luis Obispo ($1.5 million) to replace dorm water heaters, deaerator tank, and economizers/controls.
- Junipero Serra Building, Los Angeles ($5 million)
- Attorney General's building, Sacramento ($5 million)
- Veteran's Homes, Chula Vista and Barstow ($7.1 million)
- State special schools, Riverside ($3 million)

Background. The Statewide Energy Retrofit Program is one of three statewide programs related to the California Global Warming Solutions Act of 2006 (AB 32) and the Governor's Executive Order B-18-12, which requires state agencies to reduce overall water use at state-facilities by 10 percent by 2015, and by 20 percent by 2020 and to reduce grid-based electricity purchases by 20 percent by 2018.

DGS has developed an energy efficiency program using Energy Service Companies (ESCOs) for existing state-owned facilities that reduces energy consumption. The contract delivery vehicle is through an Energy Savings Performance Contract that guarantees the energy savings. The projects are currently funded via one of three loan programs: the DGS-managed Energy Efficiency State Property Revolving Fund (Revolving Loan Fund), the DGS-managed GS $Mart, and the Investor Owned Utilities' (lOU) On-Bill Financing.

The Statewide Energy Retrofit Program was designed to assist state departments and agencies in budget-challenged times to implement energy efficiency measures without requiring any upfront capital investment. The Statewide Energy Retrofit Program is designed to implement a comprehensive bundle of energy efficiency measures that are suitable, appropriate, and economically feasible for the facility. Measures typically considered and implemented include, lighting upgrades (interior and exterior), lighting controls, HVAC upgrades (chillers, cooling towers, rooftop packaged units, boilers, heat exchangers, pumps), HVAC controls upgrades, data center optimizations, motor upgrades, envelope, retro-commissioning, water efficiency measures, and transformer upgrades.

Staff Comment. Other components of the cap-and-trade plan are discussed in Senate Budget and Fiscal Review Subcommittee No. 2 on Resources and Environmental Protection.

Staff Recommendation. Hold open.

Issue 2: Mercury Cleaners Site Remediation

Budget. The department requests a one-time $2.1 million General Fund to continue the remediation efforts (testing, cleanup, and monitoring is necessitated by the detection of contaminant dry cleaning solvents in soil, soil vapor, groundwater, and indoor air samples caused by historical discharge of hazardous wastes and products associated with previous businesses) at the former Mercury Cleaners site located in downtown Sacramento.

Funding will include activities to (a) confer with the Central Valley Regional Water Quality Control Board (RWQCB); (b) conduct indoor air quality studies; (c) conduct investigation and treatment of the groundwater; (d) conduct onsite and offsite studies and monitoring near the Mercury Cleaners property as requested by the RWQCB; and (e) continue soil vapor extraction testing and treatment to remediate hazardous materials.

Background. Since 1967, the state has owned the site, which has been used by commercial dry cleaning businesses since 1947. From 1942 to 1950, an auto repair shop occupied a portion of the site.

In July 2013, DGS submitted a "Request for Agency Oversight of a Brownfield Site" application, and in August 2013, the RWQCB was designated as the lead regulatory oversight agency related to the cleanup of contamination at the site. DGS is undertaking the cleanup in a "voluntary" compliance mode, but if the state does not meet the expectations of the RWQCB, as it relates to abatement of the condition of the site, the state could be in violation of the Porter-Cologne Water Quality Control Act and multiple Water Code provisions, resulting in citations and fines, including civil liability that could incur fees up to $15,000 per day for each day the violation occurs; or the RWQCB could undertake the cleanup and bill the cost to the state.

DGS received $3.7 million one-time General Fund authority in 2014-15, and $9.3 million one-time General Fund authority in 2015-16 for site investigation and assessment work. Funding is required in the budget year to continue testing, cleanup, and monitoring activities as directed by the RWQCB. No insurance policies have been identified to cover all or part of the remediation costs. DGS receives no revenue from the operation of the site.

Staff Comment. The total cost for full remediation is unclear, until the full extent of the plume is defined,. The department has not investigated other sites and is unable to answer with certainty whether other remediation sites may exist. In addition, it is unknown whether demolition, hazardous materials abatement, or relocation of neighboring tenants will need to occur. In regards to whether the site will generate revenue, at this time, there is no established long-term use defined for the site. The Capitol Area Plan designates this site as residential. The department will continue to finance the remediation through the budget process, as the state has the obligation to remediate state-owned land.

Staff Recommendation. Approve as requested.

Issue 3: Procurement Cost Savings for FI$Cal

Budget. The department requests an augmentation of $670,000 in expenditure authority and four positions in the budget year, and $1.26 million and eight positions in 2017-18 and ongoing, from the Service Revolving Fund. The positions, by year, are as follows:

CLASS TITLE	FY 2016-17	FY 2017-18
Associate Procurement Engineer to develop and review contract specifications.	1.0	1.0
Senior Electronic Data Processing Acquisition Specialist (Sup) to supervise the assignment of technical acquisition projects.		1.0
Senior Electronic Data Processing Acquisition Specialist (Tech) to act as lead in negotiations with state agency personnel on difficult procurements.		2.0
Staff Electronic Data Processing Acquisition Specialist to lead agency staff and vendor representatives to purchase electronic hardware, software and associated services through statewide contracts, and bidding processes.	3.0	2.0
Staff Services Analyst (General) to review, collect, and present data related to technology procurements.		2.0

DGS-Procurement Division (DGS-PD) will recover the cost of the positions without any increase to its billable hourly rate or the acquisition surcharge.

Background. FI$Cal is a single integrated financial management system for the state that is envisioned to, among other things, track purchase volumes and costs by vendor, commodity and/or service code, to increase sourcing opportunities, reduce purchase prices, and capture total state spending data. FI$Cal is a technology business transformation project that will enable the state to combine its accounting, budgeting, cash management, and procurement operations into a single, integrated financial management system.

In October 2011, The Hackett Group benchmarked that the new FI$Cal system will provide improved purchasing compliance functionality and opportunity assessments for new statewide contracts and leveraged procurement agreements. The Hackett Group estimates a minimum projected annual cost avoidance of $213.4 million, achieved through the ability to increase strategic sourcing.

DGS-PD is a fee-for-service entity and recovers its costs through a billable hourly rate and an acquisition surcharge. According to the department, the positions requested are expected to generate $200 million in leveraged procurement agreement savings and the entire cost of the positions will be recovered without any increase to the billable hourly rate or the acquisition surcharge. Therefore, there is no negative impact to the state.

The additional staff will analyze departmental contract spending data through the FI$Cal system, identify where the state is making numerous purchases of "like" products and combine all of those purchases into a single, statewide contract. Utilizing larger volume purchases will achieve greater savings for the state. For example, if 50 departments are currently buying 1,000 widgets at an average of $100.00 each, DGS-PD can consolidate the departmental purchases together and negotiate one contract at a lower per-unit cost (e.g., $80.00 each) saving the state a significant amount of money.

Currently, DGS-PD has fully deployed all current personnel, and although there are currently 15.2 vacancies, all those positions are in the process of being filled. Currently, DGS-PD is at full capacity and cannot redirect existing staff to the new workload.

Staff Comment. It is still unclear the savings to be realized through the implementation of FI$Cal. As the budget is an annual process, staff recommends amending the proposal to allow further deliberation and monitoring the success of the staff, proposed for this year, to implement the savings.

Staff Recommendation. Amend proposal and approve $670,000 in expenditure authority and four positions in the budget year from the Service Revolving Fund.

Issue 4 + Oversight: Procurement Workload Increase

Budget. The department requests six permanent positions to be funded by redirecting $520,000 in operating expenses and equipment. The department notes there will be no fee increases to cover expenditures.

- **Certification and Compliance Unit.** The Certification and Compliance Unit, which certifies entities to compete and participate in annual state contracting, includes 25,649 entries of SBs/DVBEs. The department requests two associate program governmental analysts to evaluate small business (SB) and disabled veteran business enterprise (DVBE) certification applications.

- **Communication and Outreach Section.** The section must provide advocate training to over 125 department advocates and assist state agencies that have failed to meet the contract goals. The department requests one staff services analyst and one office technician for SB/DVBE for outreach, training, education services, and creating an advocate database.

- **Contract and Logistics Response Unit.** The unit must develop contracts, agreements, and missions for commonly procured items needed during an emergency or prior to an emergency, in compliance with the State Emergency Plan. The department requests one staff services manager and one associate materials analyst to develop, maintain, and administer statewide contracts for use prior to and during a catastrophic disaster.

Background. DGS is the state's lead agency in promoting small business (SB) and disabled veteran business enterprise (DVBE) access to state contracts. To ensure the state meets its participation goals of 25 percent for SBs and three percent for DVBEs,[10] DGS participates in statewide outreach events, including certification workshops, training, and government contracting panels. Executive Order S-02-06 requires the department to partner with the State Small Business Advocate at the Governor's Office of Business and Economic Development (GO-Biz) to conduct a minimum of five regional workshops.

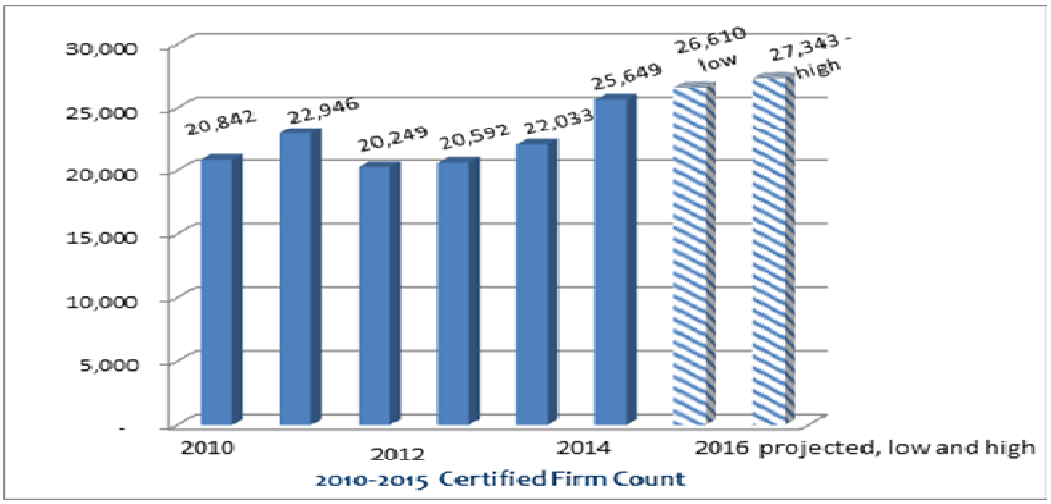
Over the last two fiscal years, the SB goal of 25 percent was met and exceeded statewide. The DVBE goal of three percent was met and exceeded for the past six years. However, the department reports that 20 state departments missed the SB 25% goal; 29 state departments missed the DVBE 3% goal; and 12 of the above missed both goals. DGS assists departments' contracting participation goals by providing training.

[10] Public Contract Code §10111 outlines the reporting requirements for State Departments. Military and Veteran's Code §991.1 establishes that a minimum of three percent of total contract value should be awarded to DVBE entities, and EO S-02-06 and D-37-01establish the 25 percent participation benchmark for SBs.

SB / DVBE	Total Number of SB / DVBE Firm Contracted				
Certified Firms	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	Proj 2015-16
SB	3704	3327	1732	3378	3143
DVBE	17	11	7	17	16

Source: SCPRS 2011, 2012, 2013, 2014, 2015 available at: http://www.dgs.ca.gov/pd/Programs/caleprocure/SCPRSData.aspx

In 2013, the State Auditor recommended the Legislature enact legislation aimed to increase the number of DVBEs that contract with the state. For 2016, the department projects an increase in the number of certified firm (SBs and DVBEs) ranging between 26,610 and 27,340.



In 2012, the department's certification staff reviewed approximately 6,300 paper applications and conducted 440 SB/DVBE compliance reviews. In 2014, the department granted two-year certification extensions to 17,500 firms in anticipation of increased workload due to FI$Cal implementation in July 2015. OSDS will grant additional extensions (based on the maximum statutory extension allowed) to 7,800 certified firms expiring in the first six months of 2016 to accommodate the FI$Cal project. On average, 1,050 certifications (including extensions) will expire every month starting in July 2016.

Staff Recommendation. Approve as requested.

Issue 5: TBL – Energy Service Contracts

Budget. The department proposes the following trailer bill provisions:

- Expands the authorized list of services to include energy efficiency and water conservation services, for which a state agency may enter into an energy savings contract with a qualified energy service company (ESCO).

- Authorizes the department or any other state agency to establish a pool of qualified energy service companies, based on qualifications, experience, pricing, or other factors.

- Defines "energy retrofit project" as a project for which the state works with a qualified energy service company to identify, develop, design, and implement energy conservation measures in existing facilities to reduce energy use or make energy efficient.

- Prohibits the erection or installation of a power generating system, power purchase, or project utilizing a site license or lease agreement to be considered, as an energy retrofit project.

Background. An ESCO is a single firm that manages and coordinates all phases of an energy project and provides many types of services. Typically, ESCOs provide energy audits, project financing, construction management services, and equipment maintenance and servicing.

Currently, only three ESCOs actively bid on types of processes. In the last three years, the department has released twenty requests for responses/proposals (RFPs). With the proposed language, the department would like to establish a pre-qualified pool of ESCOs, who would meet specified criteria, and could be ready to be assigned to a project.

Each energy savings company must be re-qualified every two years.

Staff Comment. The department hopes to provide a more expedient process at awarding projects, including 40 projects in the next six months.

Staff Recommendation. Hold open to allow additional time for language review.

Issue 6: Capital Outlay – Central Plant, Capitol Irrigation Project

Budget. The department requests $1.7 million in existing lease-revenue bond funds, sold in 2009, to provide a reclaimed water system to reuse cooling tower water from the Sacramento Downtown Central Plant as irrigation water for the Capitol Park. The project will include piping, piping modifications, underground water storage tanks, chemical treatment, and signage.

Background. The Central Plant provides chilled water and steam to cool and heat various state buildings in downtown Sacramento. In 2003-04, the Legislature approved $214 million in lease revenue bond funds to replace the state's 1960s-era Central Plant in Sacramento with a larger, more modern, and more efficient facility. The project also included the construction of a new thermal energy storage tank, new cooling towers, and a new steam turbine distributed generation system. The project is now essentially complete, and the Administration estimates that there will be an estimated project savings of $2.7 million.

Currently, the Central Plant cooling tower blow down water is reclaimed and utilized on the Central Plant site for irrigation, toilets, urinals and a water feature. The remaining cooling tower blow down water is discharged to the city's sewer system and sent to the county's water treatment facility. The department anticipates the Plant could supply over 5.6 million gallons of reclaimed water, saving the purchase of potable water from the City of Sacramento and treating Sacrament County sewer water for the Capitol Park. However, there is no infrastructure that connects the Central Plant and Capitol Park for irrigation water at this time, nor is there any source for reclaimed water within the state's downtown 23 buildings (or 4.5 million square feet). The department anticipates future projects to include tapping into the piping to use reclaimed water for toilets and urinals. The department projects a net savings of $5,750 per year based upon current usage and rates.

LAO Comment and Recommendation.

- **Project does not appear cost-effective, either by number of gallons of water saved by dollar invested or the number of years the project must be in operation to repay costs of the project.**

  DGS estimates that the proposed project would result in annual savings of about three gallons of water per dollar invested,based on the current operations of the Central Plant. In contrast, an audit of Los Angeles Department of Water and Power (LADWP)'s water conservation programs found that its residential turf removal program will save 34 gallons of water per dollar invested per year.

  In addition, based on information provided by the department, the project is expected to result in annual net savings of just over $10,000 given current operations of the Central Plant. These net savings account for savings from (1) purchasing less water to irrigate Capitol Park, and (2) lower fees associated with discharging less water from the Central Plant into the sewer system, offset by increased operational costs associated with treating and pumping water from the Central Plant to Capitol Park. When compared to the

$1.7 million cost of the project, DGS estimates that the payback period for the proposed project would be 166 years, which is an unusually long repayment period. (The payback period would fall to an estimated 88 years if the Central Plant were used at its maximum capacity.) By contrast, recently funded water savings projects at state buildings have payback periods that average about 30 years.

- **Recommends rejecting the Governor's proposal.**

Staff Comment. The subcommittee may wish to clarify why the length of the payback period (or when the project will "break even") is 166 years. In addition, the subcommittee may wish to ask about the sequencing of this project, given another large infrastructure proposal to be discussed below, and determine the department's prioritization of this project above other possibly more cost-effective water-saving projects, such as water fixture replacements and turf removal.

Staff Recommendation. Hold open.

Issue 7: BCP and TBL – State Office Infrastructure Plan

Budget. The state's fiscal health and robust revenues over the past two years have provided the Administration the opportunity to propose a major capital outlay programs for state buildings in Sacramento. The Governor's budget proposes to transfer $1.5 billion from the General Fund to be used for improvement or replacement of three state office buildings in the capital. The resources would be transferred to the State Office Infrastructure Fund (SOIF), with monies in the fund subject to continuous appropriation. The $1.5 billion is intended to provide pay-as-you-go funding to replace the Natural Resources Building, Food and Agriculture Annex, and State Capitol Annex. Of the total, about $10 million is required for 2016-17 to begin study and design activities for the proposed projects. The projects are as follows:

- **Natural Resources Building.** The proposal calls for the state to contract for a privately-constructed lease-to-purchase building or complex at a cost of $530 million and completed by 2020.

- **O Street Office Building.** The proposal calls for the demolition of the currently vacant Department of Food and Agriculture Annex and the construction of a new facility at a cost of $226 million.

- **Capitol Annex.** The proposal calls for either the renovation of the existing 1950s era building, or its demolition and the construction of new office space for elected officials and staff at an unknown cost.

The proposed trailer language would establish the SOIF, authorize the transfer of $1.5 billion to the SOIF, and continuously appropriate those monies to the Department of General Services (DGS) to be used for the planning, acquisition, construction, and maintenance of state buildings and property.

Background. In July, DGS released a study that provided information regarding the condition of state office buildings and office space in the Sacramento region. Based on the analysis, the report ranked 29 buildings, identifying nine in poor condition, four in fair condition, and 16 in good condition. The structures ranked in the worst condition (and with the highest ratio of estimated repair cost to replacement value) were the Natural Resources building, Personnel Building and the Bonderson Building. (The Capitol Annex was not included in the assessment due to its specialized nature atypical of most office pace.)

The proposal indicates that the project has several advantages to traditional means of paying for state buildings. The Administration notes that the state would avoid interest and administrative costs associated with long-term debt financing, eliminate risk associated with bond compliance and disclosure, ensure flexibility in future build-associated contracts and agreements, allow for project timing flexibility, and allow greater opportunities for mixed use structures. Most state infrastructure is financed over time. The state last used a cash-funded approach for a building was in 2000, when the Office of Emergency Services had a building constructed at Mather. The last time DGS paid cash for a building was for a relatively small project almost 30 years ago, when the Legislative Garage was constructed.

Legislative Analyst's Comments. In its analysis of the Governor's proposal, the Legislative Analyst's Office (LAO) raises a number of concerns. The LAO indicated that although the chosen project components appear to address reasonable needs, its analysis noted the paucity of detail in the projects, especially with regard to scope, cost by project phase, and timeline. LAO staff also noted the lack of project sequencing (the Administration subsequently provided additional detail on this issue) and the absence of information on how future projects would be funded. LAO also expressed concerns regarding the continuous appropriation language and noted the 'weak rationale' for bypassing the traditional budget process.

Staff Comments. There are benefits and drawbacks to pursing a cash, pay-as you-go approach to capital investment. While the approach would allow the state would avoid the interest costs of financing such infrastructure with long-term debt, this benefit must be weighed against other considerations. Current interest rates are at a generational low, with yields on 20- to 30-year municipal paper hovering at around three percent. It may be wise to consider retaining some or all cash and use it for needed investment during periods of prevailing higher rates. In this way, a retained capital reserve account could function for capital outlay project in a manner similar to the role the Budget Stabilization Account's (BSA) plays in state operating expenses. Financing also has the advantage of attributing the costs of capital projects with long useful lives across time. The costs of capital investment can then be allocated over the entire population that benefits from such investment, thus promoting intergenerational equity. The committee may want the DOF and LAO to comment of the relative costs and benefits of the Administration's approach.

Regardless of the financing approach, LAO's concerns regarding the continuous appropriation are well-considered. There appears to be no convincing need for continuous appropriation, and certainly not at this time. Instead, the committee may want to consider an appropriation for the preliminary initial studies for the project for the budget year – an amount of approximately $10 million. Should the timing for the project pose a constraint relative to the timing of the annual state budget, there would be an opportunity to develop approval structures that would allow for project continuity while retaining the Legislature's ability to exercise its constitutional appropriation authority. The granting of continuous appropriation bears close scrutiny under any circumstances; to consider it for a proposal still in the process of formulation is particularly problematic.

Staff Recommendation. Hold open.

CONTROL SECTION 6.10

Issue 1: Funding for Deferred Maintenance Projects

Budget. Budget Control Section 6.10 gives the Department of Finance the authority to allocate $500 million General Fund in the amounts identified below for deferred maintenance projects for the following state entities:

Department of Water Resources	100,000,000
Department of State Hospitals	64,000,000
Judicial Branch	60,000,000
Department of Parks and Recreation	60,000,000
Department of Corrections and Rehabilitation	55,000,000
California State University	35,000,000
University of California	35,000,000
Department of Developmental Services—Porterville Facility	18,000,000
Department of Fish and Wildlife	15,000,000
California Military Department	15,000,000
Department of General Services	12,000,000
Department of Veterans Affairs	8,000,000
Department of Forestry and Fire Protection	8,000,000
State Special Schools	4,000,000
Network of California Fairs	4,000,000
California Science Center	3,000,000
Hastings College of the Law	2,000,000
Office of Emergency Services	800,000
California Conservation Corps	700,000
Department of Food and Agriculture	300,000
San Joaquin River Conservancy	200,000

In addition, the control section allows for DOF to allocate $18 million from the Motor Vehicle Account for deferred maintenance projects for the California Highway Patrol and Department of Motor Vehicles.

Under this proposal, departments would provide DOF a list of deferred maintenance projects for which the funding would be allocated. The DOF would review and provide the approved list to the Chairperson of the Joint Legislative Budget Committee (JLBC) 30 days prior to allocating any funds. The amounts specified above would be available for encumbrance or expenditure until June 30, 2018. If a department made a change to the approved list after the funds have been allocated, DOF's approval is required and the JLBC would be notified 30 days prior to the change being approved.

Background. The proposed control section is virtually identical (except for the amounts and departments) to that proposed last year as part of the Governor's budget. Outside of this program, most deferred maintenance is funded through the baseline support budget provided to individual departments. Departments have some discretion to use these funds for maintenance projects or other higher priority needs within the department.

The Legislative Analyst Office (LAO) continues to express concern regarding the Legislature's abrogation of its authority for capital outlay and deferred maintenance and recommends steps that would reinsert the legislative perspective in this process. For the current deferred maintenance proposal, the LAO recommends: (1) requiring lists of proposed projects to be funded by each department by April; (2) requiring individual departments to report at budget hearings regarding the projects; (3) modifying departments' funding levels based on project reviews; and (4) requiring that funded projects be listed in a Supplemental Report to the 2016 Budget Act.

Staff Comments. Given the similarity of the proposal to last year's, staff concerns are equally similar. The Governor's proposal to provide funding for deferred maintenance is a positive step toward addressing the problem. However, the proposed process for the allocation of the $500 million (which in some cases could be for projects costing tens of millions of dollars) is not likely to provide for adequate Legislative oversight. The process proposed for allocation of the $500 million would not provide the Legislature with an understanding of how each department prioritized projects. Neither would the proposed process allow the Legislature an opportunity to provide its input on other projects that it considers a high priority. Finally, this process would not allow the Legislature to consider other potentially appropriate funding sources for deferred maintenance projects, such as using bond funds or user fees, rather than state General Fund. Given these considerations, the Legislature may want to develop an alternative approach to allocating some of the funding proposed for deferred maintenance projects. Last year, the department provided lists of deferred maintenance projects to be funded in conjunction with the budget discussions.

Staff Recommendation. Hold open.

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, April 7, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultant: Samantha Lui

PART B

PROPOSED FOR VOTE-ONLY

OUTCOMES

Item Department
7760 Department of General Services
Issue 1: Equipment Maintenance Management Insurance Program (4-0)

Issue 2: Human Resources Modernization, Workforce Planning, and Customer Satisfaction (4-0)

PROPOSED FOR DISCUSSION/VOTE

7502 California Department of Technology (CDT)
8940 Military Department
Issue 1: CDT - Security Audit Hold open.
Issue 2: Military Department - Cyber Network Defense Team Hold open.

7502 California Department of Technology
Issue 1: Statewide Information Technology Project Workload Hold open.
Issue 2: Position Authority for Permanent Employees 4-0

1111 Department of Consumer Affairs
Issue 1: Oversight – BreEZe Informational

7760 Department of General Services
Issue 1: Cap-and-Trade Expenditure Plan – Energy Efficiency for Public Buildings Hold open.
Issue 2: Mercury Cleaners Site Remediation (2-0, Glazer and Nguyen not voting)
Issue 3: Procurement Cost Savings for FI$Cal (2-0, Glazer and Nguyen not voting)
Issue 4: Procurement Workload Increase (2-0, Glazer and Nguyen not voting)
Issue 5: TBL – Energy Service Contracts Hold open.
Issue 6: Capital Outlay – Central Plant, Capitol Irrigation Project Hold open.
Issue 7: BCP and TBL – State Office Infrastructure Plan Hold open.

Control Section 6.10
Issue 1: Funding for Deferred Maintenance Projects Hold open.

ELECTIONS COMMITTEE
JOEL ANDERSON
LONI HANCOCK
ROBERT M. HERTZBERG
CAROL LIU

COMMITTEE STAFF
DARREN CHESIN

(916) 651-4106

CALIFORNIA STATE SENATE

SUBCOMMITTEE MEMBERS
STEVEN M. GLAZER
JANET NGUYEN
RICHARD PAN

SUBCOMMITTEE STAFF
MARK IBELE
SAMANTHA LUI

(916) 651-4103

Joint Informational Hearing

Elections and Constitutional Amendments Committee
and
Senate Budget Subcommittee No. 4 on State Administration and General Government

Benjamin Allen and Richard D. Roth, Chairs

April 14, 2016

Upon Adjournment of Session

State Capitol
Rose Ann Vuich Hearing Room 2040

Agenda

2016 Elections: Procedures and Costs

I. Opening Remarks

II. Overview of California's Elections

- Nick Schroeder, Senior Fiscal & Policy Analyst, Legislative Analyst's Office

III. Proposal

- Secretary of State Alex Padilla
- Amy Costa, Chief Deputy Director, Department of Finance
- Nick Schroeder, Senior Fiscal & Policy Analyst, Legislative Analyst's Office

IV. Local Perspectives

- Dean C. Logan, Los Angeles County Registrar-Recorder/County Clerk
- Supervisor Erin Hannigan, Solano County, District 1

V. Public Comment

VI. Closing Remarks

Background Paper
Thursday, April 14, 2016

2016 Elections: Costs and Procedures

SUMMARY

The purpose of this joint informational hearing of the Senate Budget and Fiscal Review Committee, Subcommittee No. 4 on State Administration and General Government and the Senate Committee on Elections and Constitutional Amendments is understand state and local county relationships in funding election costs and procedures. Within this context, the committees will assess whether counties are adequately prepared for the 2016 elections, specifically the June 7 Primary Election, given the magnitude of statewide initiative petitions, and the higher than anticipated voter turnout in a presidential election year. The committees will also review the Secretary of State's budget augmentation request for unanticipated 2016 election costs.

OVERVIEW

The Secretary of State (SOS) is the chief elections officer and administers and enforces election laws. Generally, existing law requires counties to fund all expenses, authorized and incurred in the preparation for, and conduct of, elections. When a city council or other local jurisdiction calls an election, the jurisdiction must pay the expenses. Counties supervise voter registration, process the verification of signatures on statewide initiative petitions to qualify for a ballot, establish precinct boundaries, and equip polling places on election-day.

The state funds some elections costs, including the printing of the state voter information guide (VIG). The VIG includes an impartial analysis and estimated cost of measure, as prepared by the Legislative Analyst's Office, that has qualified for a statewide ballot; arguments in support and opposition of the measure; and other information. The June 2012 VIG cost $2.6 million General Fund, and the November 2012 VIG cost $8 million General Fund. The Secretary of State must use the Office of State Publishing (OSP) for this work, unless the OSP specifies it cannot perform the work due to competing priorities.

As of April 11, 2016, one ballot measure, Proposition 50, has qualified for the June ballot. One legislative ballot measure, six initiative measures,[1] and one referendum[2] have qualified for

[1] An initiative is a proposal that qualifies and goes directly on the ballot after meeting specified requirements, including being certified by the SOS on the 131st day of a statewide general election and meeting the total number of signatures required (365,880). For an initiative constitutional amendment, the number of signatures required is 585,407.
[2] A referendum, which seeks to approve or reject statutes, or parts of statutes, qualifies for statewide ballot up to 31 days before an election. A proponent has 90 days from the date of the enactment of a bill to request and receive a title and summary from the Attorney General; print petitions; gather required signatures; and file the petition with the county elections officials. As of November 4, 2014, the number of signatures for a referendum is 365,880.

November's ballot.[3] In addition to the qualified measures, another 12 initiative measures, intended for the November ballot, are in circulation; although proponents may abandon those measures prior to submitting their petitions to elections officials.

An unusually competitive presidential primary election in California is expected to result in a commensurate increase in anticipated voter participation. At the same time that counties will be preparing for and managing the June primary election, they will also be required to verify signatures on initiative petitions. (County staff compares the signatures on the petition with signatures on voter registration cards to validate signatures). Due to the potentially large number of initiatives that may be eligible for the November ballot, counties may have to assign staff, who would normally be assigned to other tasks, to signature verification and possibly, staff overtime.

GOVERNOR'S BUDGET

The Governor's January budget includes $140.6 million ($59.4 million Federal Trust Fund, $50.5 million Secretary of State Business Fees Fund, $29 million General Fund, and $1.7 million other special funds) and 495.9 positions to support the department.

SECRETARY OF STATE PROPOSAL

In an April 4, 2016 letter to the Governor, the SOS requested funding assistance for county elections officials to verify signatures on initiative petitions for the November election, as well as higher printing costs for additional voter information guides. The SOS proposes approximately $32.3 million General Fund for the following two components:

- Approximately $13.0 million for SOS's office, largely for printing and publishing the VIG, voter preference letters, and voter education outreach.

- Between $13.0 million and $19.4 million for county costs associated with processing and administration.

Secretary of State
The SOS estimates approximately $8.8 million General Fund for costs of a larger than usual state VIG, and $3.4 million General Fund for a possible supplemental VIG – although, at this point, it is unclear if a supplemental VIG is necessary. One copy of the VIG must be mailed to each household at which one or more voters are registered. The size of a VIG is determined by the number of qualified statewide ballot measures for a given election.

County Elections Offices
The SOS is also requesting between $12.9 million and $19.3 million to assist county election departments with the costs associated with verifying voter signatures on the petitions for the pending initiative measures. It is assumed that most of these petitions will be submitted to the

---

[3] Proponents have until June 30 to withdraw their initiatives from the ballot. One initiative is expected to be withdrawn.

counties at the same time when counties are preparing for the June 7 election. Initiative measures intended for the November ballot must qualify no later than June 30.

ISSUES TO CONSIDER

Impact of signature verification. The SOS and representatives of the California Association of Clerks and Election Officials (CACEO) note the additional workload required by the number of initiative petitions needing verification will have a significant impact on counties' ability to adequately prepare for the June election. While the SOS has provided an estimate of costs associated with the verification process, broken down by small, medium, and large counties, it is unclear which specific counties will be impacted, the extent of that impact, and the actual costs borne by counties.

The members of the committees may wish to discuss the following: (1) the extent to which county governing boards should be responsible for some or all of the unanticipated costs; and, (2) the best mechanism by which the state may reimburse counties for a portion of these costs, if the Legislature chooses to do so.

Printing costs. It appears that the June VIG will be printed in color, in an attempt to stand out from junk mail, be more user-friendly, and increase voter participation. The SOS estimates VIG costs for June 2016 to be $5.7 million General Fund, and November 2016 to be $14.5 million General Fund (an 81.25 percent increase in costs compared to the November 2012 VIG). Because state law specifies the text size in the VIG and the size of margins, the state has, in the past, attempted to manage costs by reducing paper quality and printing in black and white. For example, Senate Bill 1070 (Budget and Fiscal Review), Chapter 133, Statutes of 2008 approved and allocated the Governor's $3.5 million General Fund budget-balancing reduction in part by reducing printing and mailing costs associated with the VIG. Given the SOS' estimate of a 208 page VIG for the November 2016 election, the committees may wish to consider whether spending $2 million on color printing will have a direct impact on voter turnout, or whether $2 million may be spent more effectively, such as in direct voter outreach.

A comprehensive solution? The number of required precincts is based on registration figures as of March 11, 2016, and are therefore, unaffected by any increase in registration after that date. Increases in registration, as well as interest in the races to be voted upon, may impact the number of ballots required to be printed. However, none of the SOS' requested funds are for additional ballots, poll workers, or precinct supplies – items that may be directly affected by increased voter turnout. The subcommittees may wish to discuss how counties may be impacted and will prepare for the increased voter turnout.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 and 5

Senator Loni Hancock
Senator Joel Anderson
Senator Jim Beall

Senator Richard D. Roth,
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, April 21, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultants: Samantha Lui and Julie Salley-Gray

PART A

INFORMATIONAL HEARING

"Programs for Victims of Crime"

I. Department Overview

- **Gina Buccieri-Harrington, Assistant Director, Grants Management, Office of Emergency Services**
- **Valinda Roberts, Administrative Deputy, California Victim Compensation and Government Claims Board**

II. Perspectives

- **Anita Lee, Legislative Analyst's Office**
- **Christine Ward, Crime Victims Assistance Network Foundation**

California funds services to victims of crimes through 47 separate programs, administered by different entities, including: the Victim Compensation and Government Claims Board (VCGCB), the Governor's Office of Emergency Services (OES), the Department of Justice (DOJ), and the California Department of Corrections and Rehabilitation (CDCR). The purpose of the informational hearing is to present the various roles of the departments that, directly or indirectly, provide services to victims of crime; examine how departments can improve coordination; and assess whether outcomes are being appropriately measured or delivered in an intentional manner.

GOVERNOR'S BUDGET

Victim Compensation and Government Claims Board (VCGCB). The budget proposes $125 million for VCGCB in 2016-17. Of that amount, $111 million would be dedicated to victim compensation, $89 million for direct services at the local level, and $36 million for state administrative operations. The budget also assumes that $2.9 million will be available from Proposition 47 for the expansion of trauma recovery centers. Similar to the 2015 proposed budget, the Governor's budget proposes shifting the Government Claims Program to the Department of General Services, effective July 1, 2016. This would result in a shift of nine positions and approximately $1.2 million in funding to support the positions. This proposal will be discussed further in Part B of today's hearing.

Office of Emergency Services. The Governor's budget proposes $8.3 million ($1.3 million General Fund) for state operations costs associated with administering the victim services programs housed at OES, and proposes $169 million for local assistance for victims services projects.

BACKGROUND

Office of Emergency Services

The Office of Emergency Services (OES) is the Governor's lead response agency during disasters and emergencies. In 2004-05, when the Office of Criminal Justice Planning (OCJP) was eliminated, OES absorbed many of the state's victim grant programs; despite, according to the LAO, OES not having expertise in these program areas at that time. The OES largely serves as a pass-through entity, and provides state and federal funding to the majority of the state's victim services grant programs.

How does OES distribute funds? In 2014-15, OES provided over $105.8 million ($21.5 million General Fund, $65.7 federal funds, and $18.7 special funds) to various victim programs.[1] According to OES, allocation amounts are based on "historical funding levels and historical reversion rates in determining funding ranges for specified programs. Individual project allocations are [based on] service area population, population and crime statistics, as well as recommendations of advisory groups." If funds for victim services are unused at the end of the

[1] Governor's Office of Emergency Services Grant Management, Criminal Justice and Victim Services Division, *Joint Legislative Budget Committee Report* (January 2015), http://www.caloes.ca.gov/GrantsManagementSite/Documents/2015%20JLBC%20Report.pdf

grant period, funds revert back to the state, or federal government for federal awards. It is unclear the amount of state or federal reversion that occurs.

Monitoring performance. The OES provides the Joint Legislative Budget Committee (JLBC) an annual report detailing statistical and funding data for its criminal justice and victim service grant activities. The report evaluates quantitative outputs, such as the number of services provided for sub-recipients, as opposed to qualitative outcomes that indicate if an activity has the intended impact to improve a victim's safety or emotional wellbeing. In addition, OES conducts programmatic site visits at least once every three years, as well as state and federal financial and compliance reviews. The OES also indicates it conducts audits "when deemed necessary," but no additional specificity was provided as to what circumstances would trigger an audit.

Funding requirements. Federal and state requirements often govern the use of funding for victim grant programs. However, these requirements are typically broad and provide the state a significant degree of flexibility in determining the number and type of victim programs the state administers. For example, federal funding sources specify minimum amounts to be spent on various types of programs, such as requiring that a minimum of 30 percent of federal Violence Against Women Act (VAWA) funds be spent on direct services to victims.

Federal funds conditions do not require the state to fund specific programs or a number of programs. For programs that receive state funds, OES has significant flexibility to determine allocation amounts because funding for these programs is generally appropriated in aggregate in the annual departmental budget, without allocated amounts for each program. Along with the discretion to determine funding levels for programs, OES also can establish new programs, and does so based on the recommendations of its advisory task forces.

Victim-Related Task Forces. The OES administers five victim-related task forces, which collect and disseminate information on victim needs and best practices for programs serving victims. These task forces can recommend the creation of new grant programs, or changes to existing programs, as well as recommend how to allocate funding associated with its various victim programs. The five task forces are:

- Domestic Violence Advisory Council.
- State Advisory Committee on Sexual Assault.
- Children's Justice Act Task Force.
- Child Abduction Task Force.
- Violence Against Women Act Implementation Committee.

Stakeholders. Representation on each task force is primarily based on statutory or funding requirements. According to OES, if representation is not dictated, OES consults with current stakeholders to select who will represent victim groups previously prioritized by OES. The stakeholder selection and identification process begins with a formal solicitation for members, applicant scoring, and selection based on highest combined score. The OES director makes the final approval in the selection process.

Victim Witness Assistance Program. The OES administers the Victim Witness Assistance Program, which provides grants to 58 counties and the City of Los Angeles for victim witness assistance centers. These centers serve approximately 150,000 victims each year, and primarily focus on assisting victims through the justice system and accessing other victim programs through the help of a victim advocate. For example, advocates at the centers accompany victims to court and assist them in applying for compensation from the California Victim Compensation Program (CalVCP) within the VCGCB (discussed below). Assistance centers are located statewide, with 51 victim witness assistance centers based in district attorney's offices; three in county probation departments; three in community-based organizations; one in a county sheriff's department; and one in the Los Angeles City Attorney's Office. In 2013-14 and 2014-15, approximately $10.8 million was provided to the program. For 2013-14, around 55,000 crisis intervention services were provided to victims of crime, and 144,600 new victims of crime were served.[2]

Various Other Victim Grant Programs. The OES administers 39 additional grant programs that fund local agencies and community-based organizations, such as rape crisis centers that provide counseling services, self-defense training, and staff who can accompany victims to hospitals or other appointments. Some programs also provide training and other assistance to law enforcement, first-responders, and community-based providers in developing effective approaches to assisting victims.

California Victims Compensation Government Claims Board

The VCGCB is a three-member board comprised of the Secretary of the Government Operations Agency, the State Controller, and a gubernatorial appointee. It administers four victim programs: the CalVCP, trauma recovery center (TRC) grants, the Good Samaritan Program, and the Missing Children Reward Program. The board also administers the Government Claims Program, which processes claims for money or damages against the state, and a program that pays claims to wrongfully imprisoned individuals.

The CalVCP, which is responsible for providing compensation to victims of crimes who have been injured, or face the threat of injury, is the largest of VCGCB's programs. CalVCP provides an array of services, including mental health and medical services, which a victim's insurance policy may not cover. The Restitution Fund is the primary source of funding for CalVCP, with the majority of this funds revenue stemming from restitution fines, diversion fees, and orders and penalties paid by criminal offenders. For example, when a defendant is found guilty of a crime, as part of the court's ruling, a defendant may be ordered by the court to pay a series of fines and penalties. The collected money is divided among several parties, in accordance with state law. Depending on the situation, the compensation can be provided directly to the victim, or to the provider of services. A portion of the money collected by defendants is deposited directly into

[2] Pursuant to the federal VOCA statistical requirements, the number of victims served and number of services are counted once, so figures may be underrepresented.
http://www.caloes.ca.gov/GrantsManagementSite/Documents/VW%20done.pdf

the Restitution Fund. Restitution Fund revenues are used as a match to draw down federal funds under federal Victims of Crime Act (VOCA) grant program. The CalVCP receives 60 cents in matching federal VOCA grant funding for each dollar spent to provide victims with services.

Application to VCGCB. Individuals can submit an application directly to VCGCB themselves, or with the assistance of others, such as private attorneys or victim advocates. Victim advocates are individuals who are trained to assist victims and work for locally-run victim witness assistance centers. Because applicants must submit additional information after the initial application, such as a copy of the crime report to verify eligibility for the program, an advocate typically assists in these subsequent steps.

Trauma Recovery Centers. The VCGCB also administers a grant program that funds trauma recovery centers (TRCs), which provided services such as: cooperation of victims with law enforcement; mental health treatments; community-based outreach; and referrals to other state and community services. There are currently six TRCs across the state. Currently, VCGCB provides a total of $2 million (Restitution Fund) over the next two years in grants to three TRCs:

- **Children's Nurturing Project (CNP)**, located in Fairfield, will receive $426,341 in grant funds from CalVCP. It is partnering with LIFT3 Support Group to provide trauma-informed mental health treatment, case management, and community outreach.

- Fathers and Families of San Joaquin, a community-based organization (CBO) that has been serving at-risk populations and trauma victims since 2003, is receiving an award of $716,932 to open the **Stockton Trauma Recovery Center (STRC)**. It is partnering with San Joaquin Behavioral Health Services to provide comprehensive mental health and recovery services to victims of crime.

- **Special Service for Groups (SSG)**, a community-based organization that serves south Los Angeles, will receive $856,727 this year. The SSG TRC provides mental health services to underserved crime victims through a partnership with the Homeless Outreach Program Integrated Care System (HOPICS), local service providers, and the District Attorney's Victim Assistance Center.

Any portion of funding not used within the specified grant period will revert to the Restitution Fund. Last year's awardees, the Downtown Women's Center in Los Angeles and California State University, Long Beach, will be receiving funding through the end of fiscal year 2015-2016.

The tables below reflect the various grants awarded and recipients during the last three TRC grant cycles.

Fiscal Year	Agency	Amount Awarded	Contract Length	Contract Start	Contract End
2013-14	CSU Long Beach TRC	$534,579	12 Months	4/7/2014	4/6/2015
	Special Services for Groups (Los Angeles)	$611,392	16 Months	3/1/2014	6/30/2015
	UC San Francisco	$854,029	24 Months	7/1/2014	6/30/2016
	Total Awards	$2,000,000			
2014-15	CSU Long Beach TRC	$1,330,403	24 Months	4/7/2015	4/6/2017
	Downtown Women's Center (City Los Angeles)	$669,597	24 Months	3/1/2015	2/28/2017
	Total Awards	$2,000,000			
2015-16	Special Services for Groups (Los Angeles)	$856,727	24 Months	7/1/2015	6/30/2017
	Stockton TRC	$716,932	24 Months	7/1/2015	6/30/2017
	Solano County TRC (Fairfield)	$426,341	24 Months	7/1/2015	6/30/2017
	Total Awards	$2,000,000			

Beginning in 2016-17, funding for TRCs will increase as a result of Proposition 47 (November 2014). Proposition 47, which reduced the penalties for certain crimes and reduced the number of inmates in state prisons, will provide state savings (discussed below in "Issues to Consider." Under the measure, these savings will be deposited into a special fund with 10 percent of the funds provided to VCGCB for TRCs.

Other Programs for Victims

CDCR Programs. Although the majority of CDCR's workload relates to supervising offenders in state prison and on parole, the department also offers certain services to victims. For example, CDCR collects the criminal fines and fees owed by inmates in its facilities, such as: (1) restitution orders (payments owed directly to victims), and (2) restitution fines (paid into the Restitution Fund). Typically, when CDCR collects fines and fees owed by offenders, it transfers them out of inmate accounts (accounts, similar to bank accounts, maintained for inmates). When CDCR is collecting restitution orders for victims, the department transfers the funds from an inmate's account to VCGCB, who then provides the funds to the victim. In addition, when requested, CDCR will notify victims of certain changes in an inmate's status, such as if an inmate is eligible for parole, or escapes from prison. The CDCR also administers a program that provides a limited amount of funding to assist victims with the cost of travel if they choose to attend a parole hearing.

DOJ Programs. The department provides victim assistance in cases directly prosecuted by DOJ or when DOJ is seeking to uphold a conviction on appeal. These services are similar to those provided by victim witness assistance centers, and primarily involve assisting the victim through the justice system. DOJ notifies victims on the status of all cases that are appealed.

Where are we now?

2015-16 Context. Last year, the Administration proposed shifting the Government Claims Program to the Department of General Services (DGS), while keeping the administration of VCGCB's remaining programs, primarily victims programs, with the board. According to the Administration, the Government Claims Program is better aligned with the mission of DGS to provide services to departments statewide.

In response to, and during the consideration of the proposed reorganization, the Legislature adopted supplemental reporting language (SRL) as part of the 2015 Budget Act, with a report due to the Legislature on January 10, 2016. The SRL directed the Administration (VCGCB and OES) to outline a plan "to reorganize the administration of the state's victim programs to bring all of the state's victim programs under the same administering entity." The SRL required the report to "include a proposed timeline for the new administering agency to develop a comprehensive strategy for victim programs that, at a minimum: (a) evaluates and recommends changes to the number, scope, and priority of state victim programs, and (b) ensures that the state receives all eligible federal funds for victim programs."[3]

Report to the Legislature. On January 8, 2016, the Administration submitted a two page report that, aside from providing background on VCGCB and OES and their existing collaborative efforts (e.g., regional trainings, outreach materials), concludes: "[T]he Administration does not believe that a consolidation of victim programs is warranted at this time," noting that "existing programs are working together to ensure that victims are well-served and able to easily access the programs available to them."

Legislative Analyst's Office Comments and Recommendations

A March 2015 LAO report[4] found significant weaknesses in the state's programs for victims, specifically: (1) programs lack coordination; (2) the state is possibly missing opportunities for federal VOCA grants; (3) many programs are small and appear duplicative; (4) narrowly targeted grant programs undermine prioritization; and (5) limiting advocates to victim witness assistance centers limits access to CalVCP. To address these weaknesses, the LAO recommended to, among other recommendations:

- **Restructure and Shift All Major Victim Programs to the Restructured VCGCB.** Shift all non-victim programs out of VCGCB to allow the board to focus solely on administering victim programs. In order to facilitate the restructured responsibilities of VCGCB, change the board's membership to add specific expertise in victim issues. The restructured board could administer all of the state's major victim programs. As such, shift all of the victim programs administered by OES to VCGCB.

[3] The SRL can be accessed on page 32 of the document, http://lao.ca.gov/reports/2015/supplemental/2015-16-supplemental-report.pdf
[4] *The 2015-16 Budget: Improving State Programs for Crime Victims*

- **Utilize Proposition 47 Funds to Improve Program Access**. Beginning in 2016–17, the state will begin providing additional grants to trauma recovery centers (TRCs), as required by Proposition 47 (approved by voters in 2014). Ensure these funds are used to improve access to victim services, such as expanding TRCs to additional regions of the state and allowing them to have victim advocates.

ISSUES TO CONSIDER

No Administration-Generated Plan for Reorganization. The SRL required the Administration provide the Legislature with a plan to reorganize the administration of victim programs under one entity, as well as a proposed timeline for that new entity to develop a comprehensive strategy for victim programs. However, the report the Administration provided failed to do so; instead it provided information about its existing practices and noted the, “Administration does not believe a consolidation is warranted.” The Administration attributed the shortcomings of the report to a lack of funding and staff resources.

What is the Legislature’s role to empower departments? In early conversations with the Administration, there appears a willingness to have thoughtful discussions about an impartial evaluation, which incorporates direct feedback from the community, is conducted in a manner that is respectful of departments’ and community-based organizations current expertise, and does not disrupt, or jeopardize, federal or state grants. The subcommittees may wish to: (1) re-submit an identical reporting requirement that outlines specific workgroup topics and deadlines and requires legislative staff participation; (2) require the LAO to write a follow-up report to its 2015 release; or, (3) empower the departments (OES, VCGCB, CDCR, and DOJ) to identify and fund an entity to assess the state’s victims services programs and provide recommendations.

Re-thinking Outcomes and Competitive Grants. When OCJP was eliminated in 2004-05, OES, with its expertise in federal grants management and despite some concerns that it may not be the “right home,” assumed responsibility for victims services program. Nearly twelve years later, the Legislature is considering how the state can better coordinate victim services in a manner that is client-centered. However, it appears some of the same issues that plagued the OCJP persist today. In 1998-99, the LAO recommended eliminating the OCJP’s Evaluation Branch because, although it had a $2 million ongoing consulting contract to fund studies on whether measure can be developed to assess OCJP programs, “the branch has no plans to evaluate the effectiveness of the OCJP program.” Instead, OCJP reviewed agency compliance with grant requirements and regulation, similar to OES’ current quantitative compliance review. As such, the subcommittees may wish to consider working with OES to define metrics that are more qualitative and informative and can be provided back to the state in a streamlined manner. Further, the subcommittees may wish to consider whether the current competitive grant structure inadvertently encourages organizations, that serve similar populations of victims, to be less collaborative; and whether it is fair for organizations that are well-resourced to compete with smaller organizations.

Show Me the Money. On December 17, 2015, OES notified the Joint Legislative Budget Committee (JLBC) that it was awarded an additional $233 million from the federal Victims of

Crime Act (VOCA) Formula Grant Program. The letter indicated that OES intended to allocate these funds to eight existing programs and eight new programs under the expenditure authority provided to OES in the 2015 Budget Act. The OES reportedly received notification of this influx of federal funds as early as 2014, yet the Legislature was not notified until December 2015.

When questioned by the JLBC regarding the budget authority that would allow the department to expend $233 million in unanticipated federal funding without legislative approval, the department noted it has approximately $1 billion in excess budget authority for the allocation of federal funding. However, this funding authority was included to allow for the receipt of federal funds related to disaster assistance, not for victims-related funding.

In light of OES's interpretation of budget authority and its grant award process, the subcommittees may wish to consider the following:

- Is it appropriate for the federal budget authority line item to include both disaster and victims-related service funding?

- How can the Legislature statutorily ensure that providers, local governments (cities, counties, etc.), legislative members, community organizations, and advocates are included in a transparent and public stakeholder process?

The subcommittees may wish to require OES, in its budget display, to split funding -- those intended, and allocated for, disaster-response and those related to victims services.

Mission-tasked. OES is primarily responsible for the state's readiness, response, and recovery from natural disasters and man-made emergencies. In response to California's wildfires, the department appropriately redirected staff and resources to the emergency. It appears potentially problematic for the state's victim services programs to be administered by the same entity whose mission requires the dispatching of personnel across the state in response to emergencies, possibly disrupting services for and diverting resources from victims of crime. The subcommittees may wish to ask the department how it ensures that victim services programs are uninterrupted during state emergencies.

Creating a Focused Entity to Assist Victims of Crimes. The LAO report and recommendations make clear the lack of collaboration among the various entities that serve to assist victims of crimes. As such, the subcommittees may wish to consider how it should restructure and broaden membership of the VCGCB to include representatives of victims services providers, the district attorneys, and trauma recovery centers; and whether creating a single entity within a more appropriate agency, such as the Health and Human Services Agency, which is accustomed to leading multiple different departments in providing federal and state benefits to vulnerable or at-risk populations, or a different division, may allow OES to focus its existing strengths in victims services.

Investment in Trauma Recovery Centers. Initial Department of Finance estimates suggest that the amount of savings due to Proposition 47 is much less than originally anticipated. Rather than the $10 million to $20 million range in new funding for TRCs suggested by the LAO, the budget includes less than $3 million for TRC expansion. Penalties in a determinate sentencing system like California's have been informed greatly by victim advocates. In addition, victim compensation has developed as an important response to crime, which is rooted in a growing awareness of the impact of crime on victims. The TRC model focuses on healing harm. Although some community-based advocates are concerned about expanding TRCs, arguing instead to enhance current programs, like victim witness, rape crisis centers, or domestic violence programs, the subcommittee may wish to consider how TRCs and organizations that service specific victims populations may be better equipped to work cohesively, so that one does not undermine the other.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, April 21, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultant: Samantha Lui

PART B

PROPOSED FOR VOTE-ONLY

ISSUES PROPOSED FOR DISCUSSION/VOTE

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

ISSUES PROPOSED FOR VOTE-ONLY

8260 ARTS COUNCIL

Issue 1: Spring Finance Letter – Reimbursements

Budget. The California Arts Council (CAC) requests an ongoing and permanent $2 million increase in reimbursement authority in order to continue to operate the Arts-in-Corrections program at CDCR facilities. The reimbursements, which are received through an interagency agreement with the Department of Corrections and Rehabilitation (CDCR), provide support for arts instructions to inmates in the prison system.

Background. The Arts-in-Corrections program, which is as a pilot program between CAC and CDCR, allows professional artists to provide direct instruction and guidance to over 2,000 participants in correctional settings for the creation of, and participation in, visual, performing, literary, or media arts. In 2013-14, $1 million was provided; in 2014-15, $1.8 million was provided. In 2015-16, funding was increased to $3.5 million. With the certainty of a multi-year interagency agreement, the CAC no longer needs to have reimbursements unscheduled.

Resource History
(Dollars in thousands)

Program Budget	PY - 3	PY - 2	PY - 1	PY	CY
Authorized Expenditures	0	0	1,000	1,816	3,500
Actual Expenditures	0	0	1,000	1,500	3,500

Workload Measure	PY - 3	PY - 2	PY - 1	PY	CY
Facilities with Arts-in-Corrections Programming	0	0	16	19	20
Contracts awarded to Arts-in-Corrections Providers*	0	0	8	10	Pending

*Some AiC Providers are able to provide programming in multiple facilities based off of one awarded contract.

Staff Comment. The Arts-in-Corrections program was discussed as an oversight item during the Senate Subcommittee No. 5 on Corrections, Public Safety and the Judiciary hearing on April 7, 2016. The CAC will utilize a request for proposal (RFP) to select contractors to implement the Arts-in-Corrections program at the following CDCR facilities:

- Kern Valley State Prison, Facility B
- High Desert State Prison, Facility C
- Salinas Valley State Prison, Facility B
- Pleasant Valley State Prison, Facility C
- California State Prison, Corcoran, Facility B
- California Substance Abuse Treatment Facility, State Prison, Facility E
- Valley State Prison
- Pelican Bay State Prison

- San Quentin State Prison
- California State Prison-Solano Analysis of Problem
- California State Prison-Sacramento
- Mule Creek State Prison
- California Institution for Women
- California Rehabilitation Center
- California Institution for Men
- Richard J Donovan Correctional Facility
- Centinela State Prison
- Ironwood State Prison
- Sierra Conservation Center
- California State Prison-Lancaster

Staff Recommendation. Approve as requested.

7760 DEPARTMENT OF GENERAL SERVICES

The following items were discussed during the subcommittee's April 7, 2016, hearing.

Issue 1: Mercury Cleaners Site Remediation

Budget. The department requests a one-time $2.1 million General Fund appropriation to continue the remediation efforts at the former Mercury Cleaners site located in downtown Sacramento. Testing, clean-up, and monitoring is necessitated by the detection of contaminant dry cleaning solvents in soil, soil vapor, groundwater, and indoor air samples caused by historical discharge of hazardous wastes and products associated with previous businesses. Funding will include activities to (a) confer with the Central Valley Regional Water Quality Control Board (RWQCB); (b) conduct indoor air quality studies; (c) conduct investigation and treatment of the groundwater; (d) conduct onsite and offsite studies and monitoring near the Mercury Cleaners property as requested by the RWQCB; and (e) continue soil vapor extraction testing and treatment to remediate hazardous materials

Staff Comment. The total cost for full remediation is unclear, until the full extent of the plume is defined. The department has not investigated other sites and is unable to answer with certainty whether other remediation sites may exist. In addition, it is unknown whether demolition, hazardous materials abatement, or relocation of neighboring tenants will need to occur. In regards to whether the site will generate revenue, at this time, there is no established long-term use defined for the site. The Capitol Area Plan designates this site as residential. The department will continue to finance the remediation through the budget process, as the state has the obligation to remediate state-owned land.

Staff Recommendation. Approve as requested.

Issue 2: Procurement Cost Savings for FI$Cal

Budget. The department requests an augmentation of $670,000 in expenditure authority and four positions in the budget year, and $1.26 million and eight positions in 2017-18 and ongoing, from the Service Revolving Fund. DGS-Procurement Division (DGS-PD) will recover the cost of the positions without any increase to its billable hourly rate or the acquisition surcharge. The positions, by year, are as follows:

CLASS TITLE	FY 2016-17	FY 2017-18
Associate Procurement Engineer to develop and review contract specifications.	1.0	1.0
Senior Electronic Data Processing Acquisition Specialist (Sup) to supervise the assignment of technical acquisition projects.		1.0
Senior Electronic Data Processing Acquisition Specialist (Tech) to act as lead in negotiations with state agency personnel on difficult procurements.		2.0
Staff Electronic Data Processing Acquisition Specialist to lead agency staff and vendor representatives to purchase electronic hardware, software and associated services through statewide contracts, and bidding processes.	3.0	2.0
Staff Services Analyst (General) to review, collect, and present data related to technology procurements.		2.0

Staff Comment. It is still unclear what savings will be realized through the implementation of FI$Cal. As the budget is an annual process, staff recommends amending the proposal to allow further deliberation and monitoring the success of the staff, proposed for this year, to implement the savings.

Staff Recommendation. Amend proposal. Approve budget year request of $670,000 in expenditure authority and four positions from the Service Revolving Fund. Reject out-year request for $1.26 million and eight positions in 2017-18 and ongoing, from the Service Revolving Fund.

Issue 3: Procurement Workload Increase

Budget. The department requests six permanent positions to be funded by redirecting $520,000 in operating expenses and equipment. The department notes there will be no fee increases to cover expenditures.

- Certification and Compliance Unit. The Certification and Compliance Unit, which certifies entities to compete and participate in annual state contracting, includes 25,649 entries of small business (SB) and disabled veteran business enterprise (DVBE) certification applications. The department requests two associate program governmental analysts to evaluate SB/DVBE certification applications.

- Communication and Outreach Section. The section must provide advocate training to over 125 department advocates and assist state agencies that have failed to meet the contract goals. The department requests one staff services analyst and one office technician for outreach, training, education services, and creating an advocate database.

- Contract and Logistics Response Unit. The unit must develop contracts, agreements, and missions for commonly procured items needed during an emergency, or prior to an emergency, in compliance with the State Emergency Plan. The department requests one staff services manager and one associate materials analyst to develop, maintain, and administer statewide contracts for use prior to and during a catastrophic disaster.

Staff Recommendation. Approve as requested.

Issue 4: TBL – Energy Services Contracts

Budget. The department proposes the following trailer bill provisions:

- Expands the authorized list of services to include energy efficiency and water conservation services, for which a state agency may enter into an energy savings contract with a qualified energy service company (ESCO).

- Authorizes the department or any other state agency to establish a pool of qualified energy service companies, based on qualifications, experience, pricing, or other factors.

- Defines “energy retrofit project” as a project for which the state works with a qualified energy service company to identify, develop, design, and implement energy conservation measures in existing facilities to reduce energy use or make energy efficient.

- Prohibits the erection or installation of a power generating system, power purchase, or project utilizing a site license or lease agreement to be considered, as an energy retrofit project.

Staff Comment. An ESCO is a single firm that manages and coordinates all phases of an energy project and provides many types of services. Typically, ESCOs provide energy audits, project financing, construction management services, and equipment maintenance and servicing. Currently, only three ESCOs actively bid on types of processes. In the last three years, the department has released twenty requests for responses/proposals (RFPs).

With the proposed language, the department would establish a pre-qualified pool of ESCOs, who would meet specified criteria, and could be ready to be assigned to a project. Each energy savings company must be re-qualified every two years. The department hopes to provide a more expedient process for awarding projects, including 40 projects in the next six months.

Staff Recommendation. Approve placeholder trailer bill language, subject to technical changes that may arise in drafting process but consistent with proposed policy change.

7502 DEPARTMENT OF TECHNOLOGY
0690 OFFICE OF EMERGENCY SERVICES

Issue 1: Transfer of Public Safety Communications, Public Safety Communications Permanent Positions

Budget. The budget includes two related proposals that complete the final transfer of public safety communications administration.

- Department of Technology (CDT). The budget requests the transfer of one accounting officer and $83,000 (Technology Services Revolving Fund) to the Office of Emergency Services (OES).

- Office of Emergency Services. The budget requests one accounting officer and $83,000 (Public Safety Communications Revolving Fund) ongoing to be transferred from CDT; creation of a new Public Safety Communications Revolving Fund; and transfer existing authority from the Technology Services Revolving Fund (TSRF). The budget also includes one-time provisional language to allow borrowing General Fund dollars for cash flow purposes, as it starts up the program (discussed below). The borrowed funds must be repaid by October 31, 2017. The budget also proposes 28 positions for the Public Safety Communications section.

Corresponding trailer bill language establishes the new Public Safety Communications Fund; specifies what monies may be included in the fund; and requires any balance, which exceeds 25 percent of the current fiscal year's budget for PSC, to be used to reduce billing service rates during the following fiscal year.

Background. Public safety communications (PSC) ensure that incident-based communication systems, used by law enforcement, fire services, and state public safety agencies, remain operational during times of wildfires, law enforcement coordination, and emergency response. Originally under the Governor's 2009 IT Reorganization Plan (2009 IT GRP), PSC was aligned with CDT. However, the Governor's Reorganization Plan No. 2 of 2012 (GRP 2) realigned the PSC the OES. CDT has maintained one accounting officer to update accounts receivable, transfer funds through the State Controller's Office, deposit payments made outside of the transfer process, monitor and manage the monthly reconciliation of cash and coordinate the annual reconciliation of retained earnings in federal compliance.

374 PSC staff were transitioned from CDT to OES over two years. During the recession, and prior to the transfer of the office to OES, CDT eliminated 28 PSC positions. However, OES has been filling the workload with temporary help. Both departments agreed that one accounting position from PSC would remain with CDT, until now, to maintain collection activities and accounting services.

Staff Comment. Cal OES and CDT worked collaboratively to interview, hire, train, and redirect the accounting officer.

PSC historical billing trends established that a backlog accrues around June of each fiscal year. Cash from prior year transactions is typically not received until three months (July/August/September) into the next fiscal year. According to CDT, based on historical data, OES will face a cash deficit to fund PSC beginning July 1, 2016.

As TSRF is financially responsible for PSC's 2015-16 prior year expenditures, CDT will hold approximately $6 million of PSC's cash to cover accrued expenditures. CDT will redirect the majority of PSC's cash to OES in October of 2016. CDT will hold $500,000 of PSC funds following this redirection to cover PY expenditures that arrive after October 2016. In order to ensure a smooth transition, CDT and OES will reconvene on a yearly basis in September/October to finalize the close-out methodology. Revenue deposits and funds within the TSRF are separately accounted, so the PSC portion of funds can be easily identified and transferred to the new fund.

Staff Recommendation. Approve transfer of funding authority from CDT to OES. Approve shifting one permanent position from CDT to OES. Adopt placeholder provisional budget bill language and placeholder trailer bill language, subject to technical changes that may arise in drafting process but consistent with proposed policy change. Approve establishing 28 permanent positions, with no additional funding, to OES.

ISSUES PROPOSED FOR DISCUSSION/VOTE

7870 VICTIMS COMPENSATION GOVERNMENT CLAIMS BOARD

Issue 1: Increase Local Assistance Funding

Budget. The budget requests permanent increase of $707,000 (Restitution Fund) to the local assistance portion of the Victim Compensation and Government Claims Boards (VCGCB) budget due to increases in contracted staff and county employee wages, benefits, and operating costs. Local assistance supports the California Victim Compensation Program (CalVCP) Joint powers (JPs) contracts and the Criminal Restitution Compact (CRCs) contracts. Joint powers contracts would be increased by $578,451 and the CRC contracts would be increased by $128,549 annually.

Background. CalVCP helps victims of crime pay for funerals, medical bills, mental health treatment and relocation costs, and income, if applicable, for individuals who were disabled as a result of a crime. CalVCP is primarily funded by the Restitution Fund, which consists of revenue from restitution fines and orders, fees, and penalty assessments levied on persons convicted of crimes in the state; and (2) an annual grant from the federal Crime Victims Fund, which reimburses sixty cents to the state's dollar for amounts paid to reimburse victims of crime for losses incurred as a result of violent crime.

In 2011-12, to prevent insolvency of the Restitution Fund, the VCGCB reduced victim compensation claim payment rates and implemented a five percent reduction in local assistance payments. The five percent reduction in local assistance line item affected contracts with:

- 20 county governments to operate 21 local offices that process victim compensation applications and bills within county victim assistance centers. These are informally referred to as JP contracts. According to the department, JP office staff process nearly 75 percent of the applications and 66 percent of payments.

- 24 counties and one city to support positions within district attorney's offices to help impose restitution orders in criminal cases on behalf of the board. These are informally referred to as CRC contracts.

As a service-delivery model, the VCGCB contracts with locals to provide victim compensation and impose restitution fines and orders. Since 2009-10, positions supported by JP contracts have fallen from 155 to 136 (a 12 percent decrease), and the number of positions supported by the CRC contracts has fallen from 42 to 38 (a nine percent decrease).

There has been a slow decline in the number of applications made to CalVCP, from 55,620 applications in 2010-11 to 49,997 in 2014-15. Because of the reduced compensation provided to victims of crime each year, federal reimbursements, and federal funds available for administrative purposes have also declined. The department argues that $707,000 will allow the board to sustain current staffing levels and prevent any reduction in JP budgets that may be connected to reductions in federal funding.

Staff Comment. Most JP staff and all of the CRC staff are county employees, whose wages and benefit levels are governed by county civil service systems. According to the board, county budget problems have resulted in a reduction of support to JPs, so contract funds have been devoted to operating expenses, such as rent and utilities, not staff. In addition, due to increases in operating costs, JPs and CRCs have not been able to fill positions when vacancies occurs. The board is concerned that if the funding for JP contracts is not increased, processing time of applications could be affected.

The 2011 budget request to prevent insolvency of the Restitution Fund proposed the reduction of JP claims processing and restitution specialist contracts by a like amount, $707,000. The budget request appears to use the identical figure.

Staff Recommendation. Hold open.

Questions

1. Has the board experienced any delays in processing applications? What is the average length of time to process a CalVCP application?

7760 DEPARTMENT OF GENERAL SERVICES
7870 VICTIM'S COMPENSATION GOVERNMENT CLAIMS BOARD

Issue 1: BCP + TBL - Transfer of the Government Claims Program to DGS

Budget. The budget proposes to shift the Government Claims Program (GCP) from the Victims Compensation Government Claims Board (VCGCB) to the Department of General Services (DGS). As part of this shift, the budget transfers nine permanent positions and $1.2 million (Service Revolving Fund) ongoing to DGS. The Administration also proposes trailer bill language to make conforming statutory changes related to moving the program to DGS.

The budget proposes to retain the existing $25 filing fee—which generates about $90,000 annually—but to eliminate the charge on departments of up to 15 percent of approved claims.

In addition, the budget proposes trailer bill language to effectuate the above changes.

Background. The VCGCB is a three-member board comprised of the Secretary of the Government Operations Agency, the State Controller, and a gubernatorial appointee. The board administers the (1) California Victim Compensation Program (CalVCP), which provides compensation for victims of violent crime or reimbursement for many crime-related expensive; and (2) the Government Claims Program (GCP), which processes claims for money or damages against the state. Generally, anyone who wishes to file a lawsuit against the state or its employees must first go through the process administered under this program. In these cases, litigation against the state can only move forward to the courts if the board denies a claim. This process was established to allow the state to avoid litigation costs. In recent years, the program has processed roughly 7,000 claims annually.

As part of the Budget Act of 2004, the Legislature authorized a $25 filing fee to the individual or company submitting each claim against the state and charging state departments for all claims that the board approves by applying a charge of up to 15 percent of the dollar value on all approved claims. The practice of charging departments for claims was established to push departments to better manage their contracts and avoid having disputes handled by the GCP. The revenues resulting from the filing fee and departmental charges are used to fund the staff who administer the GCP.

LAO Comment and Recommendation.

- **Program shift to DGS is reasonable.** The GCP is consistent with other types of services that DGS provides to departments, so it is reasonable for the department to undertake these additional activities. Additionally, the shift of GCP responsibilities to DGS will allow VCGCB to focus on the core mission of serving victims.

- **Reject proposed funding structure.** The LAO finds the existing funding structure—including both the filing fee and the charges on departments—to be effective at limiting the number of claims by providing departments an incentive to improve their operations.

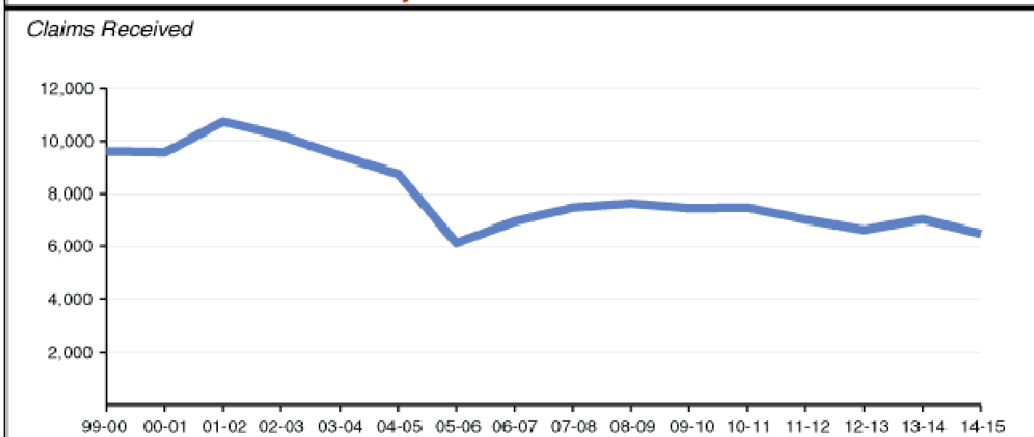
The LAO recommends a funding structure that utilizes charges to departments and filing fees, and is supplemented by the DGS statewide surcharge, as necessary.

Staff Comment. The Administration proposes to retain the $25 fee because it has deterred individuals from filing claims without merit. However, the Administration proposes to eliminate the 15 percent charge on departments because it is administratively burdensome, and the intended purpose of the charge – to improve departments' practices (e.g., contracts) to reduce the number of claims against them – is accomplished through the $25 filing fee alone. The Administration believes that the timing of the charge is so far removed from the contracting process that it may not inform change in behavior.

However, staff notes the evident success in the reduction of claims (see below). It is unclear whether claims decreased due to the $25 filing fee or the 15 percent charge on departments; but, both incentives, in tandem, suggest the existing structure provides departments an incentive to adopt practices to reduce the number of claims against them.

Figure 1

Number of Claims Received by the VCGCB



VCGCB = Victim Compensation and Government Claims Board

Source: Legislative Analyst's Office, 2016.

More broadly, the history of the VCGCB is one that includes supervising business affairs of state departments, prisons, and boards. This oversight role ended in 1927, and in 1967, the VCGCB began to administer the CalVCP. Current board responsibilities are varied (bid protests, handling claims of erroneously convicted felons, administering the California State Employees Charitable Campaign, setting rates for travel expenses for elected state officials and the judiciary, establishing per diem rates for members of the Legislature, and administering both the Good Samaritan Act and the Missing Children Reward Program). Given the breadth and variety of activities handled and the shift of Government Claims (a non-victims service related program), the subcommittee may wish to ask whether there has there been further discussion about relieving VCGCB of other non-victim related responsibilities and shifting them to other departments.

Staff Recommendation. Hold open.

7760 OFFICE OF EMERGENCY SERVICES

Issue 1: Emergency Operations and Critical Support

Budget. The budget requests $35.2 million General Fund in state operations authority in the budget year, and $14.8 million General Fund in state operations authority in 2017-18 and ongoing; 77 permanent positions, and a permanent decrease of $3.9 million Federal Trust Fund state operations authority. The chart below describes the proposal's 16 various components.

Governor's Proposed Positions and General Fund for Emergency Operations and Critical Infrastructure Support

Program	Ongoing Positions	2016-17	2017-18
Fire Response			
Fire apparatus fleet replacement and augmentation	—	$20,000,000	—
Fire and Rescue Branch staffing	12	2,528,000	$2,368,000
Automated Vehicle Location	—	342,000	177,000
Fire apparatus operating costs and maintenance	—	102,000	224,000
Disaster Coordination			
Statewide disaster programs	2	4,987,000	4,987,000
Regional response and readiness	13	1,951,000	1,951,000
Law Enforcement Branch staffing	6	1,661,000	1,533,000
Disaster Logistics Program	3	421,000	421,000
Facilities			
Regional Coordination center	—	700,000	700,000
Fire Maintenance Shop lease	—	94,000	94,000
Technology			
Information technology	—	1,030,000	1,030,000
Cal EOC support	3	495,000	495,000
Other			
Federal Emergency Management Program	—	700,000	700,000
Emergency Operations Incident Support Training	—	169,000	169,000
Public Safety Communications	28	—	—
Administrative support	10	—	—
Totals	**77**	**$35,180,000**	**$14,849,000**

LAO Comment and Recommendation. Overall, the LAO finds the proposal provides few details, but portions of the proposal raise no concerns; some are justified in concept but require technical modifications; others or are poorly substantiated. The LAO recommends modifying the proposal and approving $3.1 million and 35.5 positions (chart below).

Governor's Proposal and LAO Recommendations for 2016-17

	Governor's Proposal		LAO Recommendations	
Program	Positions	Funding	Positions	General Fund
Fire Response				
Fire apparatus fleet replacement and augmentation	—	$20,000,000	—	—
Fire and Rescue Branch staffing	12	2,528,000	0.0	—
Automated Vehicle Location	—	342,000	—	$193,000[a]
Fire apparatus operating costs and maintenance	—	102,000	—	—
Disaster Coordination				
Statewide disaster programs	2	4,987,000	0.0	188,000
Regional response and readiness	13	1,951,000	0.0	—
Law Enforcement Branch staffing	6	1,661,000	0.0	—
Disaster Logistics Program	3	421,000	3.0	421,000
Facilities				
Regional Coordination center	—	700,000	—	700,000[b]
Fire Maintenance Shop lease	—	94,000	—	94,000
Technology				
Information technology	—	1,030,000	—	1,030,000
Cal EOC support	3	495,000	3.0	495,000
Other				
Federal Emergency Management Program	—	700,000	—	—
Emergency Operations Incident Support Training	—	169,000	—	—
Public Safety Communications	28	—	28.0	—
Administrative support	10	—	1.5	—[c]
Totals	**77**	**$35,180,000**	**35.5**	**$3,121,000**

[a]Recommend adjusting funding for Automated Vehicle Location to reflect number of fire apparatus in operation.

[b]Recommend reducing funding in 2017-18 to $500,000, since one-time moving costs will not be incurred in 2017-18. Recommend adjusting subsequent years' funding levels to reflect anticipated changes in rent and amortization of tenant improvements.

[c]Recommend adjusting Administrative Support augmentation to reflect reduced number of positions that are recommended for funding (not including Public Safety Communications positions, which are supported by existing staff).

Staff Comment. The following items (pages 18 – 26) are components of this larger proposal and are broken up for clarity and discussion purposes.

Issue 1A: Fire Engine Fleet Replacement and Augmentation

Budget. The department requests one-time $20 million General Fund to purchase 62 wildland fire engines ($10 million GF for replacement apparatus [27 replacement apparatus] and $10 million GF for new apparatus), increasing it from 141 to 203.

Background. On November 2, 2003, Governors Davis and Schwarzenegger established the Blue Ribbon Fire Commission, which reviewed the impact of 2003 Southern California wildfires and made recommendations to improve a fire-safe environment in the wildland urban interface environment. This 2004 report, with the most recent version validated in 2007, recommended OES acquire an additional 150 fire engines for fire suppression needs. Since the report, OES has acquired 44 apparatus, such as support vehicles or engines. Currently, the department owns and maintains a fleet of 141 fire apparatus placed throughout the state through agreements with local agencies. OES can use these fire apparatus for emergency response. The department has a $1.8 million budget to replace these apparatus. Historically, this level of funding has allowed OES to replace apparatus on a 15-year cycle, which is the industry-standard.

LAO Recommendation. The LAO recommends rejecting the proposal because: (1) recommendations from the 2004 report may be outdated, and (2) the department has not justified its need for the proposed fire apparatus. There was no gap analysis conducted; nor was there an analysis of where these new apparatus should be located to meet the state's needs. Local agencies can maintain their own fire apparatus, which the state can access through the mutual aid system.

In addition, the LAO is concerned with the department's previous practice to use its replacement apparatus budget to purchase new apparatus. In 2012-13, the department purchase seven Type III fire engines for $1.8 million General Fund and $300,000 federal funds; and in 2013-14, the department purchase 18 Type I engines for $1.8 million General Fund and $3.4 million federal funds. The LAO notes, "This redirection of funds, which occurred without formal legislative approval, resulted in the department deferring the replacement of the department's existing apparatus. The department is now requesting that the Legislature backfill the funds that it redirected, so that it can replace existing apparatus."

Staff Comment. The request reflects the replacement of 25 apparatus and purchase of new apparatus to meet 2004 report recommendations. The department funds the replacement of the fleet in a 15-year replacement cycle, with an estimated 7 new fire engines purchased each year. The department opted to augment the fleet by 25 fire engines over two fiscal years, rather than replace 7 fire engines each year.

At this time, it is unknown where the engines will be located, despite there being some consideration to place engines in the most at-risk areas. The department acknowledges its placement of apparatus, as a mutual aid responsibility, is affected by locals' ability to maintain and staff them, which may not be the case in remote areas of the state. The subcommittee may wish to consider a phase-in approach for the proposal.

Staff Recommendation. Hold open.

Issue 1B: Fire Engine Operating Costs and Maintenance

Budget. With the addition of 65 new engines to the fleet (previous proposal), the department projects operating and maintenance costs of $102,000 for the 25 new engines in 2016-17, and ongoing costs of $224,000 once Cal CES receives and assigns all 65 engines by 2017-18.

Background. OES will incur additional operating costs for fuel, maintenance, and repairs. During 2014-15, fleet costs were $573,000 for the 141 fire engines, or a per-engine cost of $4,100.

Staff Recommendation. Hold open. Conform operating costs to action associated with the fire engine fleet replacement and augmentation request.

Issue 1C: Fire and Rescue Branch Staffing

Budget. The budget requests $2.5 million General Fund in the budget year, and $2.4 million General Fund in 2017-18 and ongoing, and 12 permanent positions (six coordinators, two heavy equipment mechanics, one associate governmental program analyst, two staff services analysts, and one management services technician) to expand capabilities for the Fire and Rescue Mutual Aid System by providing supervision of assigned Cal CES fleet assets within the six fire and rescue mutual aid regions. Duties include: agency representation at major fires and other major natural and man-made disasters, coordination of mission-tasked resources, and ensuring timely reimbursement of fire and rescue mutual aid providers.

Background. The Fire and Rescue Branch performs various maintenance activities on fire apparatus and coordinates fire-related mutual aid requests. The branch currently has $5.7 million (primarily General Fund) and 34 existing positions. The Governor's proposal provides an additional 12 permanent positions and $2.5 million annually from the General Fund.

LAO Comment. The LAO recommends rejecting the proposal because the proposed staff would be used to support various fire apparatus maintenance and coordination activities associated with the 62 additional fire apparatus as well as the existing fleet. Since the LAO did not recommend funding the additional apparatus, the additional staffing related to these new fire apparatus would not be necessary. Further, OES did not provide information to state that its current staffing levels would be inadequate and thus, exacerbated with the purchase of the 62 new apparatus.

Staff Recommendation. Hold open and conform final action to fire apparatus fleet replacement and augmentation proposal.

Issue 1D: Automated Vehicle Location

Budget. The budget requests $342,000 General Fund in 2016-17, and $177,000 General Fund in 2017-18 and ongoing, to implement the use of Automated Vehicle Location (AVL) on 250 CES fire fleet vehicles.

Background. Currently, the OES fire fleet does not have AVL, which is a system that provides real-time information on vehicle location and condition and provides for alerts if vehicles leave a specified area or are in an accident.

LAO Comment and Recommendation. The LAO recommends modifying the request, reducing the request from $342,000 General Fund to $193,000 General Fund in 2016-17, and from $177,000 General Fund to $100,000 General Fund, to reflect adding AVL to OES' existing 141 fleet, not the expanded 250 vehicles.

Staff Recommendation. Hold open and conform final action with fire apparatus fleet replacement and augmentation proposal.

Issue 1E: Statewide Disaster Programs

Budget. The department requests an increase of $5.0 million General Fund and two permanent positions (program manager and staff services manager), and a decrease of $3.9 million federal authority to support statewide disaster programs. The proposal seeks to realign the pre-disaster and flood mitigation program to 75 percent federal funds and 25 percent General Fund. In addition, the proposal includes $562,000 for operating costs over three years to close out state-only disaster workload.

Background. When a local government or eligible private non-profit is impacted by an emergency or disaster that is beyond their capabilities, OES provides services and funding assistance under the provisions of the California Disaster Assistance Act (CDAA) for recovery. Many events are considered "state-only events" meaning they do not receive any federal funding because they do not meet the threshold for a Presidential Disaster Declaration. State-only events are funded exclusively by the General Fund through the CDAA.

Prior to 2008, the OES was able to receive 75 percent Federal Emergency Management Agency (FEMA) reimbursement for the public assistance program until the last project was closed. In the past, OES was able to manage its funding with approximately 50 percent federal funds and 50 percent General Fund. However, in March 2008, FEMA's new reimbursement process required all reimbursement requests be made within eight years, and the amount the state can receive for administrative costs is capped.

Due to the limited time period to receive reimbursement, OES' public assistance program is operating at 23 percent federal funds and 77 percent General Funds. OES uses General Fund to cover the workload and administrative costs needed to effectively close out the 7 of 14 open federal disasters.

LAO Comment and Recommendation. The LAO recommends modifying the proposal by approving $188,000 of the $5 million General Fund requested. The LAO requested additional information to justify the two positions and justify that the amount of state funding appropriately addresses state-only workload.

Staff Recommendation. Hold open.

Issue 1F: Regional Response and Readiness

Budget. The department requests $2.0 million and 13 permanent positions (one project manager and 12 emergency services coordinators) to support regional operations, emergency preparedness, and response capabilities.

Background. The department supports counties and tribal governments, divided in to three regions (inland, coastal, and southern) during emergency management. Emergency service coordinators must be physically present in their respective areas to facilitate multi-jurisdiction and multi-hazard planning and exercises. They are also expected to deploy when any emergency occurs in one of their assigned operational areas. If a shift goes beyond 12 hours, additional staff is deployed to cover additional shifts.

The department cites increases in domestic and international terrorist activity, ongoing drought conditions, tree mortality, wildfire activity, and mudslide risks as reasons for the need for increased emergency response personnel

LAO Comment and Recommendation. The LAO recommends rejecting the proposal because the department has not demonstrated why existing resources are insufficient for responding to disasters. Further, OES not provided adequate evidence to support the magnitude of increasing natural disaster activity or domestic and international terrorist activity.

Staff Comment. The department acknowledges that there are cyclical times of the year, such as wildfire season, which create surges in demands for emergency response. The subcommittee may wish to ask the department how it calculated its staffing needs relative to the threat of domestic or international terrorism or other natural disasters.

Staff Recommendation. Hold open.

Issue 1G: Law Enforcement and Homeland Security Branch Staffing

Budget. The department requests $1.7 million General Fund in the budget year, and $1.5 million General Fund in 2017-18 and ongoing, and 6 permanent positions (senior coordinator, law enforcement) in the Law Enforcement and Homeland Security (LEHS) Branch.

Background. The LEHS Branch is the state's law enforcement mutual aid and intelligence information sharing and oversees the state's designated primary fusion center. This request is for staff to work directly with the regional emergency management and fusion centers to provide a unity of effort directly between the state and the fusion centers. The Assistant Chiefs will collaborate with all levels of government and provide increased information sharing for the Cal CES Regions and other programs with emergency management responsibilities. This request will also assist with enhancing the project oversight and technical assistance to these centers, which receive homeland security funding.

LAO Comment and Recommendation. The LAO recommends rejecting the proposal because the department has not demonstrated its existing resources are insufficient. While OES has provided anecdotal evidence of increasing threats, it has not provided data to support the amount of these increasing threats.

Staff Recommendation. Hold open.

Issue 1H: Disaster Logistics Program

Budget. The department requests $421,000 General Fund and three permanent positions (one program manager and two emergency services coordinators) to address gaps identified in the 2012 Logistics Capability Assessment Tool.

Background. The department supports various emergency planning and response activities, including those related to logistics. For example, the department develops facility use agreements, in coordination with the Department of General Services, to ensure that the necessary locations are available for use during emergency events. The OES reports that the department does not have any existing staff dedicated to disaster logistics, and this function has been covered by existing staff.

Staff Comment. Approve as requested.

Issue 1I: Regional Coordination Center

Budget. The department requests $782,000 ($700,000 General Fund, $82,000 Public Safety Communications Revolving Fund) in the budget year and ongoing to combine the Inland Region, Coastal Region, and a public safety communications office into one site near Fairfield or Vacaville. This new site will expand current regional emergency management capabilities and capacity, and create a Regional Coordination Center. The three existing sites currently occupy 7,601 square feet and will be combined into one site with 14,566 useable square feet. The additional costs of approximately

LAO Comment and Recommendation. The LAO finds the proposal reasonable, given the department's operational needs and deficiencies at existing facilities. The LAO recommends a technical modification, reducing the request from $700,000 General Fund to $500,000 General Fund in 2017-18, since one-time and short-term costs associated with the office moves and tenant improvements will not be on an ongoing basis. (This funding amount should be further reduced beginning in 2020-21 to account for reduced costs associated with tenant improvements.)

Staff Recommendation. Modify proposal and reduce out-year budget expenditure authority to $500,000 General Fund.

Issue 1J: Fire Maintenance Shop Lease

Budget. The department requests an additional $94,000 General Fund for a new lease on the fire branch maintenance shop and storage warehouse.

Background. Currently, the OES leases its maintenance shop facility from the Sacramento Metro Fire District for approximately $40,000 annually. The department also leases, for $50,000 annually, a warehouse space at McClellan Business Park. Sacramento Metro Fire District asked the department to vacate the facility by December 2015.

Staff Comment. The department is negotiating a lease of $184,000 annually, for a new facility to replace the Sacramento Metro Fire District location and warehouse space. The department estimates additional cost to lease the new facility at approximately $94,000 annually. The subcommittee may wish to ask the department for an update on its new lease space.

Staff Recommendation. Hold open.

Issue 1K: Information Technology

Budget. The department requests $1.0 million General Fund in budget year, and ongoing, to update hardware on a five-year cycle ($660,000) and for Geographic Information System (GIS) software ($370,000).

Background. The department operates and maintains critical information technology infrastructure services for emergency notifications and business needs. The GIS software creates maps for use in its disaster response activities. The department shares that its existing GIS software were funding with one-time General Fund, and its hardware, which is now in need of replacement, was purchased with one-time federal funds.

Staff Recommendation. Hold open.

Question

1. Does the department receive GIS software upgrades for free? Or, is a new software license required for each update?

Issue 1L: CalEOC support

Budget. The department requests $495,000 General Fund in the budget year, and ongoing, for three permanent positions to support its communications tool. The positions are:

- One emergency management coordinator/instructor to document business practices and standardize and facilitate training.
- Two staff analyst programmers for IT support.

Currently, two employees are assigned to manage CalEOC. The department is requesting civil service staff, instead of relying on a contractor.

Background. CalEOC is the department's new emergency response system, which all OES personnel, staff from 58 county emergency management agencies, state agencies with emergency response roles (such as the National Guard), federal emergency partners, and private sector and non-profit partners can accessed. CalEOC provides tools to manage real-time crisis information and emergency response to authorized users.

Staff Comment. Hold open.

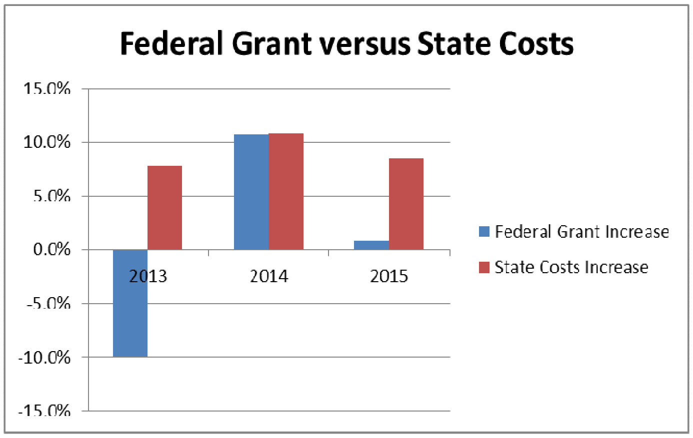
Question

1. How much has been spent in contracting for Cal EOC support needs?

Issue 1M: Federal Emergency Management Program

Budget. The department requests $700,000 General Fund to match the federal Emergency Management Performance Grant (EMPG) from the Federal Emergency Management Agency (FEMA). The annual grant funds emergency management needs, regional response operations, training, and preparedness.

Background. The annual EMPG grant is about $28 million, of which the state retains about $12 million and provides around $16 million to local governments. The grant requires a 50 percent cost share, which can be met with state funds or in-kind contributions. In recent years, the state has provided about half of the match through cash and half through in-kind contributions, such as staff time, property, services, or equipment. As EMPG grant funding levels has not kept up with increased staff and operating cost needs, the department requests $700,000 General Fund to match eligible federal funds.



This request allows the department to match federal funds for CalEOC (its automated disaster information management system), maintenance and ongoing costs, mobile command vehicle maintenance, and geographic information system software costs.

LAO Comment and Recommendation. The LAO recommends rejecting the proposal because the department will likely receive the full amount of potential federal funds for this program, and because additional state dollars requested would not result in the state receiving additional federal funds. Instead, additional funds allow the state to meet its federal match, with a greater share of cash relative to in-kind contributions.

Staff Comment. In subsequent conversations, the department clarifies the request is not about matching or drawing down additional federal funds, but is instead increasing the amount of cash match and reducing the in-kind contribution. Instead, the department argues that if it has the cash match, it can provide more services and fund more projects, since the in-kind match, which are non-cash contributions, are not actual dollars to spend.

Staff Recommendation. Hold open.

Issue 1N: Emergency Operations Incident Support Training

Budget. The department requests $169,000 General Fund to support costs associated with the department's California Specialized Training Institute (CSTI, which cannot be recovered by reimbursement.

Background. The CSTI provides training to OES staff: three incident support teams (18 members available on rotating months to be first responders to support emergencies) and other employees, who are on operational readiness teams. The internal training is funded by a variety of sources, such as federal funds, General Fund, and anti-terrorism funds.

LAO Comment and Recommendation. The LAO recommends rejecting the funding request, because the department has not articulated what additional specialized training would be provided with the requested funds, how it differs from existing training, or what additional benefits the training would provide.

Staff Recommendation. Hold open.

Issue 1O: Administrative Support

Budget. The department requests 10 permanent administrative support positions, with no additional funding, to handle the increased workload in functions such as accounting, budgets, human resources, IT, and legal that are associated with the overall budget request.

LAO Comment and Recommendation. The LAO recommends reducing the request from 10 positions to 1.5 positions to reflect a reduction in support staff, commensurate with their previous recommendations.

Staff Recommendation. Hold open.

Issue 2: Drought Funding

Budget. The department requests $26.7 million General Fund ($4.5 million General Fund in state operations, $22.2 million General Fund in local assistance for the California Disaster Assistance Act [CDAA] program) for the budget year to support ongoing drought operations (long-term activation of the State Operations Center and Regional Operations Centers, responses to local assistance centers, the public information office's drought campaigns and public awareness, and the temporary tank program). The department cannot identify the specific number of positions because staff is rotated into emergency response positions temporarily.

Background. On January 17, 2014, Governor Brown proclaimed a drought state of emergency. On September 19, 2014, Governor Brown required the OES to provide local governments' assistance with temporary water supplies to households without water for drinking and sanitation purposes under the authority of the CDAA. The department provided CDAA funding for emergency water supplies to households without water for drinking and/or sanitation purposes to the following counties: Fresno, Kern, Madera, Mariposa, Merced, Stanislaus, Tulare, and Tuolumne. CDAA can provide funding to cities, counties, special districts, school districts, community colleges, and certain private non-profits for emergency distribution of water to households. Eligible costs may include: temporary connections to public water lines; emergency water supplies for sanitation, such as providing portable toilets, portable showers or laundry services in a centralized location; and installation and removal of temporary water tanks.

In 2015-16, the department received $22.2 million in drought local assistance, which has been primarily used for the temporary tank (TT) program. As of December 9, 2015, there are 2,588 reported dry wells impacting 12,940 residents statewide. The TT program has installed and/or serviced 868 tanks.

LAO Comment. Thirteen stage agencies have received funding specifically for drought-related activities. Nearly all drought-related activities proposed in the budget year are continuations of earlier initiatives. The LAO finds that funding continued drought response is prudent and finds the Governor's proposals (the remainder are discussed in Senate Budget Subcommittee No. 2 on Resources, Environmental Protection, Energy, and Transportation) focused on human and environmental drought-related needs appropriate.

Staff Comment. The basis of the proposal have significant merit, however, the proposal itself, lacks the specificity, such as number of positions affected, which is included in a typical budget proposal. Given the state's ongoing vulnerability to upcoming wildfires and the ongoing drought response and impact to jobs, environment, and communities, this proposal covers ongoing state operations costs and local assistance.

Updated CDAA guidelines for TT program make eligible households that rent eligible for the program. As drought conditions persist, the department projects affected households will double in the budget year. The subcommittee may wish to ask the department about its future plans for the TT program.

Staff Recommendation. Hold open.
Questions

1. How much of the $22.2 million GF for drought-related local assistance through the CDAA program has been spent?
2. Will the state apply for federal funds, given the ongoing drought?
3. How many more individual households will be eligible to participate in TT with the updated CDAA guidelines?

Issue 3: California Sexual Violence Victim Services Fund – Local Assistance

Budget. The Office of Emergency Services (OES) requests $250,000 in local assistance authority to administer the California Sexual Violence Victim Services Fund, which was established by Senate Bill 782 (DeSaulnier), Chapter 366, Statutes of 2014.

Background. Existing law allows taxpayers to contribute to one or more of 20 voluntary contribution funds, known as check-offs, by checking a box on their state income tax return. Check-off contributions must be made from taxpayers' own resources, not from their tax liability. Check-off amounts may be claimed as charitable contributions on taxpayers' tax returns in the subsequent year. With a few exceptions, check-offs remain on the return until they either are repealed by a sunset date or fail to meet a minimum contribution amount, usually $250,000, beginning in the fund's second year.

Senate Bill 782 added the "California Sexual Violence Victim Services Fund" on the tax form for voluntary contributions. Contributions received through the fund would be distributed to support rape crisis programs for victims of rape and sexual assault. The Franchise Tax Board (FTB) and the State Controller may be reimbursed for administration of the fund, but OES is prohibited from using any charitable contributions for its administrative costs.

OES plans to begin awarding grants to rape crisis centers by July 2016. Staff requested additional information about the number of eligible rape crisis centers but did not receive information to include in time of print.

Staff Comment. According to data from the FTB, the current contribution fund balance from June 2015 to March 2016 is $115,598. It is unclear whether this fund will reach the $250,000 minimum contribution for 2016. In addition, because the FTB does not charge administrative costs in the first year, it will likely retain the lesser amount of three percent of contributions or $6,000 to cover administrative costs this year. The subcommittee may wish to: (1) clarify the amount currently in the fund and align the budget proposal to the appropriate amount, and (2) discuss how allocation to the rape crisis centers will be allocated.

Staff Recommendation. Amend proposal to adopt placeholder provisional budget bill language that authorizes the local assistance amount aligned with the amount in the fund's current contribution fund balance.

Issue 4: Proposition 1B Adjustment

Budget. The budget requests a reduction of $20 million in the budget year, and a reduction of $80 million in 2017-18, of the Proposition 1B bond funding local assistance appropriation to balance administrative costs and to close out the program.

Background. On November 2006, California votes approved Proposition 1B, known as the "Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006," which authorizes the issuance of $19.9 billion general obligation bonds over the course of ten years for purposes including: grants for transit system safety, security, and disaster response projects. The department administers the Proposition 1B program and draws funding from the Transit System Safety, Security, and Disaster Response Account (TSSSDRA) and allocates $100 million each year over the course of 10 years.

Existing law prohibits administrative costs (e.g., audit and program oversight costs for agencies, commission, or departments) recoverable by bond funds from exceeding three percent of the program's cost ($30 million). Currently, four staff (three associate governmental program analysts and one staff services manager) oversee the Proposition 1B program; and support staff from the Accounting Branch, Financial Accountability and Compliance Division, and the Grants Processing Unit are also included in the administrative costs.

The 2016-17 budget year is the final fiscal year for the department to allocate funding for the program. With one year to encumber the funds[1] and two years to liquidate,[2] the department has three years left (until 2018-19) to administer the program, conduct program oversight, and manage the program. The department estimates only $20 million of the allowable $30 million is needed to manage the program. $20 million includes the amounts needed to reimburse the Department of Finance and the Office of State Audits and Evaluations for program audits. The expected outcome is to ensure compliance of all Proposition 1B grant-funded activity and allow for staff to fully close out projects that fulfill the program requirements.

Staff Comment. As the administrative agency, the department must oversee project activities, expenditures, and outcomes. Grant recipients provide semi-annual project progress reports, report all project expenditures, interest accrued (if applicable), and equipment received. This information is compiled and reported to the Department of Transportation and posted on the Bond Accountability website.

Staff Recommendation. Approve as requested.

[1] Last day to encumber 2016-17 Proposition 1B program funds is June 30, 2017.
[2] Last day to liquidate 2016-17 Proposition 1B program funds is June 30, 2019.

Issue 5: Cap Outlay – Southern Region Emergency Operations Center Replacement, Los Alamitos

Budget. This budget requests $1.4 million General Fund for the working drawing phase of the project to replace the two existing modular buildings totaling approximately 7,200 square feet, and construct a new Southern Region Emergency Operations Center at the Joint Forces Training Base in Los Alamitos. The total estimated project cost is $24.6 million General Fund.[3] The budget request provides provisional budget bill language, below:

Item 0690-301-0001

Provisions:

> 1. Notwithstanding any other provision of law, the Office of Emergency Services is authorized to acquire a long-term leasehold interest in real property for the project authorized in Schedule (3) and is further authorized to execute any and all easements, agreements, or leases to secure the necessary real estate rights. Any such acquisition shall be subject to the Property Acquisition Law. Any easement, agreement, or lease made pursuant to this provision shall not require the approval of the Director of General Services.
>
> 2. Notwithstanding any other provision of law, the Military Department is authorized to manage and deliver the project authorized in Schedule (3) on — 47 — Ch. 10/11 Item Amount behalf of the Office of Emergency Services and to execute any and all contracts, agreements, leases, or other documents necessary to complete the preliminary plans for that project, provided however that the project is subject to State Public Works Board oversight pursuant to Section 13332.11 of the Government Code. 3. The funds appropriated for the preliminary plans phase of the project authorized in Schedule (3) shall be available for encumbrance after the Office of Emergency Services has acquired the necessary long-term, real estate rights through a lease that is compatible with lease-revenue bond financing, as determined by the Department of Finance. This provision shall not be construed as a commitment by the Legislature to appropriate lease revenue bond financing for future phases of this project.

Background. The department's Southern Region Emergency Operations Center (SREOC), located at the California Military Department's Joint Forces Training Base (JFTB) in Los Alamitos, serves as a central point for mobilizing assets in Southern California, provides disaster intelligence to the State Operations Center in Sacramento, and serves as liaison with local agencies, and interfaces with the media. The two existing modular facilities have been in use since 1991, were built as a result of the legislation that requires the department to establish an interim state operations office in Southern California for earthquake response coordination. The current facility does not meet the Essential Services Act for Seismic Safety (ESASS) requirements.

[3] The cost estimate is based on CES obtaining a long-term lease on the real property necessary for the project and the Military Department managing the project to build the proposed facility.

In November 2005, the Department of General Services (DGS) conducted a study, which was later validated in a 2014 feasibility study, identifying the need for an additional 30,000 sq. ft. The new facility must include: adequate staffing space, an expandable information technology infrastructure, and space for an alternate State Operations Center and State Warning Center in the event the headquarters facility would become inoperable.

Construction is expected to start by July 2017 and completed by April 2019.

Staff Comment. Moving to the new facility will incur a $60,000 one-time cost, with around $540,000 General Fund in ongoing operating costs, such as utilities, maintenance, and staff.

Staff Recommendation. Hold open.

Question

1. Although the project requires a long-term lease of the project site from the Unites States Army, a lease has not yet been secured. Please provide an update on efforts to secure this lease.

Issue 6: Cap Outlay – Relocation of Red Mountain Communications Site, Del Norte County

Budget. The Office of Emergency Services requests $1.26 million General Fund reappropriation of the 2015-16 working drawings appropriation for the relocation of the Red Mountain communications site to allow completion of the working drawings phase.

Background. Due the U.S. Forest Service's forced closure, by December 31, 2022, of the existing Red Mountain site in Del Norte County, this project will construct public safety communications towers and vaults on three hilltops, providing services for seven state agencies and five local/federal agencies. The expansion to three sites is necessary to provide comparable radio communications coverage achieved by the current communications tower because of line of sight challenges associated with northern California's steep terrain and dense foliage. The department will use agency funds to purchase and install radio equipment after the construction of the radio towers and appurtenant radio vaults, including solar power and back-up natural gas power generators to operate the radio equipment.

Staff Comment. Due to delays during the preliminary plans phase (securing an architectural and engineering contract and pursuing long-term leases for two of the three new sites), the working drawings phase swill now start later than expected. The total project cost is expected to be $20 million General Fund, with contract award approval by October 2018 and project completion by April 2021.

Staff Recommendation. Approve as requested.

Issue 7: Spring Finance Letter (SFL) – Headquarters Complex, Rancho Cordova: Public Safety Communications Network

Budget. The department requests to re-appropriate $609,000 General Fund of the $1.5 million General Fund 2015-16 preliminary plans appropriation to complete the preliminary plans phase. In addition, the department requests to include $92,000 General Fund for the bidding process to begin at the end of fiscal year 2016-17. The total cost of the project has increased by $1.9 million, from $4.3 million to $6.2 million.

Background. On July 1, 2015, the performance criteria/preliminary plans phase started. The project, which will construct a new public safety communications network operations center at the department's headquarters in Rancho Cordova, includes a new microwave path, a 120-foot communications tower, and testing and installing microwave circuit monitoring devices in various locations around the Sacramento area.

The department attributes project delays to DGS Division of the State Architect (DSA) and the Department of Technology's Statewide Technology Procurement Division (STPD)'s procedures. Specifically, DSA extended the timeline for the review period and now, must use independent contractors for architecture and engineering (A&E) on communications tower projects. Hiring an A&E person/firm requires approximately four to six months. In addition, the STPD requires its staff to provide project management/oversight. In the past, this project was not considered an information technology project.

Staff Comment. The total cost of the project increased by $1.9 million, from $4.3 million to $6.2 million. The increase in the construction contract estimate is based on a current bid for a similar tower and knowledge of current market conditions. Also, CDT oversight costs of approximately $200,000 were not known at the time of the original estimate. The subcommittee may wish to discuss how the department plans to remedy the delayed project schedule and prevent further increases in project costs.

Staff Recommendation. Approve as requested.

Issue 8: Spring Finance Letter (SFL) Provisional Language: Victim Assistance Discretionary Grant Training Program

Budget. The department requests provisional language to authorize the use of $2.7 million in local assistance federal funds to provide training for the Victims of Crime Act (VOCA) Victim Assistance Discretionary Grant (VADG) Training Program. The proposed provisional language is as follows:

Item 0690-101-0890

Provisions:

2. Of the amount appropriated in this item, $2,719,000 is to be used for the Victim Assistance Discretionary Grant Training Program, which provides training and technical assistance to victim assistance service providers and others who work with crime victims.

Background. In 1984, VOCA established the Crime Victims Fund in the federal U.S. Treasury and authorized this fund to receive deposits of fines and penalties levied against criminals convicted of federal crimes. The Office for Victims of Crime (OVC) distributes victim assistance and compensation funds to states and United States territories, in accordance with VOCA. In 2015, the department applied for and received the VADG, which is a program that provides training and technical assistance to VOCA victim assistance service providers who work with victims of crime. Examples of activities include: statewide training initiatives, crime victim-related conferences, and scholarships to providers and others who work with victims of crime. This funding will allow for the improvement of services for victims through the proposed creation of six new training programs under the VADG Training Program.

The Victim Services Division convened the VOCA Steering Committee (VSC), consisting of several stakeholders who represent a statewide perspective, to identify the needs of victim service providers in California. The VSC discussed the level of funding required to accomplish the goals of a statewide training initiative and prioritized the top six training needs:

- Victims and Criminal Justice System, which provides victims' rights in the criminal justice system.
- Cultural Awareness, which focuses on building cultural awareness of at least five marginalized communities[4].
- Human Trafficking, which is curriculum-based and focuses on identifying and responding to the needs of human trafficking victims.
- Trauma-Informed Care.
- Innovative Proposal, which will be determined through the competitive bid process.

[4] The proposal did not specify the five communities.

- Tribal Trauma-Informed Care, which provides trauma-informed care for victims and service provider trauma.

Staff Comment. As discussed during Part A, the department received federal VOCA funds and identified new programs to fund, without legislative consideration. In providing this spring finance letter, the department provides a transparent process for review.

Staff Recommendation. Hold open.

Questions

1. Please describe the stakeholder process that identified and informed the decision to create six new training programs. Please describe the training programs, such as the human trafficking program

2. How quickly can funds be effectively distributed to the community organizations? Have organizations already applied for these federal training funds?

3. How much is allocated to the each proposed training program?

Issue 10: Oversight - Emergency Earthquake Preparedness

Budget. The Governor’s budget does not provide funding for a state emergency earthquake early warning system, which detects seismic waves as an earthquake happens, calculates the maximum expected shaking, and sends alerts to surrounding communities before damaging shaking arrives.

Background. Senate Bill 135 (Padilla), Chapter 342, Statutes of 2013, requires the Office of Emergency Services, in collaboration with the California Institute of Technology (CalTech), the California Geological Survey (CGS), the University of California (UC Berkeley), the United States Geological Survey (USGS), the California Seismic Safety Commission, and other stakeholders, to develop a comprehensive statewide earthquake early warning system in California through a public/private partnership.

Senate Bill 494 (Hill), Chapter 799, Statutes of 2015, added to this requirement that the development of this comprehensive statewide earthquake early warning system is contingent on the department identifying funding for the system, using federal funds, revenue bonds, local funds, and/or private dollars. Existing law prohibits the use of General Fund dollars to create the system. However, if by July 1, 2016, funding is not identified, the OES must file that finding with the Secretary of State. The law also provides an automatic repeal of the requirement to develop an earthquake warning system, if funding is not identified.

Staff Comment. In 2014, USGS estimated capital investment costs for a West Coast early earthquake warning system to be $38.3 million and annual maintenance and operations of $16.1 million, in addition to existing earthquake monitoring expenditures. According to OES, USGS estimated construction and operations costs for a California-only system were $12 million annually. The department notes its ability to build on existing earthquake monitoring; however, the state’s fault zones, infrequent large events, limited sensor density, false and missed alerts pose limitations.

The department’s progress on identifying and securing a funding stream for early earthquake warning system is unclear. The subcommittee may wish to ask the OES for an update on identifying funds to implement SB 135.

Staff Recommendation. This item is included for oversight and informational purposes. No action is required.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, April 21, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultant: Samantha Lui

PART B

PROPOSED FOR VOTE-ONLY

Outcomes

All issues held open.

Item **Department** **Page**

ISSUES PROPOSED FOR DISCUSSION/VOTE

All issues held open, except Issue 9, which was an informational item.

CALIFORNIA STATE SENATE

INSURANCE COMMITTEE
TED GAINES
TOM BERRYHILL
STEVEN M. GLAZER
ISADORE HALL
ED HERNANDEZ
CAROL LIU
HOLLY J. MITCHELL
BOB WIECKOWSKI

COMMITTEE STAFF
ERIN RYAN
HUGH SLAYDEN
INEZ TAYLOR

(916) 651-4110

SUBCOMMITTEE MEMBERS
STEVEN M. GLAZER
JANET NGUYEN
RICHARD PAN

SUBCOMMITTEE STAFF
MARK IBELE
SAMANTHA LUI

(916) 651-4103

Joint Oversight Hearing

Senate Committee on Insurance
and
Senate Budget Subcommittee No. 4 on State Administration and General Government

Richard D. Roth, Chair

Subject: Legislation, Regulation, and Litigation: Enforcement of the Unfair Practices Act

April 27, 2016

1:30 p.m. - State Capitol Room 112

I. Introduction and Welcoming Remarks
Senator Richard Roth, Chair

II. California Department of Insurance
Dave Jones, Insurance Commissioner

III. Public Comment

CALIFORNIA STATE SENATE

Oversight Hearing

Legislation, Regulation, and Litigation: Enforcement of the Unfair Practices Act

Senate Committee on Insurance
and
Senate Budget Subcommittee No. 4 on State Administration and General Government

Richard D. Roth, Chair

April 27, 2016

The Unfair Practices Act establishes a basic code conduct for insurers to ensure that policyholders and claimants are treated fairly. Over the last decade or so, the insurance industry and the Department of Insurance have engaged in several legal skirmishes over regulations adopted pursuant to UPA. Some of the recent decisions and rulings have raised concerns about the enforceability of those regulations, as well as costs. One case is pending in front of the Supreme Court and may fundamentally alter the way the Commissioner uses that rulemaking authority. This hearing will examine that history and status of these cases and potential legislative solutions.

I. THE POWERS OF THE INSURANCE COMMISSIONER

Insurance plays a critical role in nearly every aspect of our lives. We have insurance on our cars, homes, business, wages, and lives. California consumers spend about $259 billion on insurance premiums annually. CDI, led by the Insurance Commissioner ("Commissioner"), enforces California's insurance laws and is charged with the task of making sure an insurer can keep its promises and treats consumers fairly. The Insurance Commissioner, a statewide elected official, has extensive authority on a variety of matters and executes enacted statutes, sets rules by adopting regulations (as authorized by those statutes), and adjudicates administrative disputes. As a statutory position, the Insurance Commissioner may only exercise those powers granted by statute.

Due process demands a careful balancing of administrative efficiency and separation of powers. The roles played by a state agency become critical elements in the due process analysis. Some agencies serve as either prosecutor or judge and pose little to no risk of an unconstitutional consolidation of power. In agencies like CDI, where the Commissioner serves as rulemaker, prosecutor and judge, the risks of potential due process violations increase significantly, such as those involving improper ex parte contact or pro-agency bias by the decision-maker or hearing officer.

In order to protect due process rights, agencies must internally separate the executive, quasi-judicial, and quasi-legislative functions. The Administrative Procedure Act (APA) provides some critical process protections when an agency adopts rules and when the agency enforces them.

Most regulations must be properly adopted pursuant to the APA which requires a public hearing and approval by the Office of Administrative Law (OAL). Regulations remain subject to court review.

When CDI commences an enforcement action against a licensee, the APA is intended to provide for a fair hearing. Usually these hearings must be presided over by an administrative law judge (ALJ) employed by the Office of Administrative Hearings (OAH). The ALJ will take the evidence, rule on motions, and propose a decision to the Commissioner, who may accept or reject it. The Commissioner has the ultimate authority to adopt or reject proposed decisions and may adopt a final decision of his or her own (even when CDI's own regulations are challenged or respondent alleges misconduct). Because the Commissioner also oversees the unit that prosecutes these cases, the ALJ plays a critical role in making sure that due process is respected.

II. THE UNFAIR PRACTICES ACT

The Unfair Practices Acts (UPA), sometimes known as the Unfair Insurance Practices Act, prohibits practices that generally involve blatantly unfair or deceptive conduct, or breaches of an insurer's obligation of good faith and fair dealing. UPA recognizes two types of unfair acts or practices; those listed and defined in Insurance Code Section 790.03 and those determined to be wrongful under a special process established in Section 790.06 (the "omnibus" provision).[1]

These two procedures may be read to establish an "either/or" situation. The Commissioner may proceed directly to disciplinary proceedings against an insurer for committing a defined act listed in Section 790.03. But whenever the Commissioner believes the insurer is engaging in an undefined unfair practice, he may proceed under Section 790.06. The Legislature also added Section 790.10 granting the Commissioner rulemaking authority, but the scope of that authority is the subject of much litigation.

[1] All subsequent references are to the Insurance Code unless otherwise noted.

A. Defined and Determined Unfair Practices

Section 790.03 lists prohibited practices divided into two categories. "Unfair trade practices" include practices such as issuing false or misleading statements, colluding to restrain competition, and unfairly discriminating against individual of the same life insurance class. "Unfair claims settlement practices" are found only in subdivision (h) and include practices such as misrepresenting pertinent facts or policy provisions relative to a claim, lowballing a claim value, failing to confirm or deny coverage within a reasonable time, and advising a claimant not to hire an attorney. An individual act itself does not constitute a practice; these acts are not penalized unless the insurer is "knowingly committing or performing with such frequency as to indicate a general business practice[.]"

If, after an evidentiary hearing, the Commissioner finds that a licensee has violated Section 790.03, the Commissioner may issue a cease and desist order with a civil penalty, pursuant to Section 790.035, up to $5,000 for unintentional conduct or up to $10,000 for "willful" conduct.[2]

Whenever the Commissioner believes that a licensee is engaging in an unfair practice not listed under Section 790.03, he or she may issue an order to show cause (OSC) and hold a hearing to determine if the act is unfair or deceptive. The Commissioner will issue a report if insurer is found to be acting unfairly. If the insurer continues to act in that way, the Commissioner may seek an injunction in the Superior Court. Only if the insurer violates an injunction may the Commissioner order a civil penalty under Section 790.07.

B. Regulations

Section 790.10 requires the Commissioner to "promulgate reasonable rules and regulations, and amendments and additions thereto, as are necessary to administer this article. But Govt. Code Section 11342.2 invalidates any regulation in conflict or inconsistent with the underlying statute. Those who view Sections 790.03 and 790.06 as a complete system in dealing with all unfair practices, see no room for regulations to add new unfair practices. Others view Section 790.10 as an additional means of adopting new unfair practices.

In 1993, CDI adopted a new set of regulations known as the Fair Claims Settlement Practice Regulations (FCSPR). Those regulations are a subset of UPA regulation tied specifically to the unfair claims settlement practices listed Section 790.03(h). The FCSPR specify time deadlines within which insurers must acknowledge, evaluate, and pay claims; restrict the information that can be demanded from a claimant; require a denial of a claim to be in writing; and require notice to the claimant that if the claimant believes the claim to have been wrongfully denied, the matter may be reviewed by CDI. The FCSPR also include sections dedicated to classes of insurance imposing special duties based on the type of insurance.

[2] The default penalties violations of the Insurance Code are provided Section 704 and 704.7. Section 704 gives the Commissioner the authority to suspend an insurer's certificate of authority; Section 704.7 gives the Commissioner the ability to offer a fine not to exceed $55,000 in lieu of suspension.

III. LEGISLATIVE HISTORY

The Legislature enacted UPA in 1959 based on the Unfair Trade Practices Model Act adopted by the National Association of Insurance Commissioners (NAIC). The model act took inspiration from omnibus provision from federal law governing the Federal Trade Commission (FTC), although the federal act has no equivalent to Section 790.03. Neither the original California statute nor the model act contained rulemaking provisions.

In the 1970s, the NAIC examined the model and considered several changes. Stakeholders and commissioners alike viewed the omnibus provision as too burdensome and removed it. At the same time, the NAIC added a rulemaking provision. California, however, kept the omnibus and enacted AB 1353 (Fenton), Chapter 975, Statutes of 1971, which codified the Commissioner's rulemaking authority in Section 790.10.

While the Legislature was considering AB 1353, the NAIC was also examining proposals for adding rulemaking authority under UPA. In June 1971, the NAIC Industry Advisory Committee presented its report on a New Hampshire bill that "would give the Commissioner the power to define unfair trade practices by rule or regulation." The committee objected to that part of the bill because it felt that only the Legislature should define the scope of acts constituting unfair trade practices due to the serious and penal nature of a violation. Instead the committee recommended authority to issue regulations that identify specific acts but not extend or enlarge the statute.

AB 1353 passed out of both houses on the consent calendar and CDI adopted its first set of regulations under Section 790.10 the following year.

IV. REGULATIONS AND LITIGATION

UPA regulations remained unchallenged until the early 2000s. Since then, the legal challenges have grown in frequency and intensity. Several of these challenges hinge on the view that Section 790.03 establishes an exclusive list of defined practices and preclude additions through rulemaking. Another theory holds that UPA is written broadly and not intended to serve as an exclusive list of prohibited practices.

This dispute gives rise to two basic questions that surface throughout the several cases. A legal question of whether the Commissioner may establish new unfair practices outside of Section 790.06 and factual a question of whether a regulation simply makes an existing regulation more specific.

Several cases involve direct attacks against the validity of UPA regulations. These challenges originate in court and must show that the regulation is invalid on its face. In *ACIC v. Jones*, the Superior Court declared one section related to replacement estimates for residential properties to be invalid and Court of Appeal agreed. CDI appealed the case and it is currently pending in the Supreme Court (all references to the "Supreme Court" are to the California Supreme Court). In *PIFC v. Garamendi*, the court enjoined CDI from enforcing several provisions covering multiple subjects related to property insurance. *ACLHIC v. Poizner*, the court declared invalid two regulations related to post-claims underwriting in disability policies.

Three more cases arise out of disciplinary actions where insurers attacked the validity of regulations in their own defense. In *Western General* and *Torchmark Matters*, the ALJ determined that he could not enforce CDI's regulations as pleaded because, in part, they exceeded the scope of the statute and ordered CDI to amend the pleading. Neither matter has received an evidentiary hearing.[3] In the *PacifiCare Matter*, a hearing was held and the Commissioner found many UPA violations. The insurer requested review by the court which, in the first of three phases of the review, declared invalid three FCSPR provisions.

ACIC v. Jones and the *PacifiCare Matter* are the two most significant cases because they significantly impact the Commissioner's rulemaking authority. These two cases are addressed in detail, but summaries of all of the above-mentioned cases are provided as an appendix.

A. ACIC v. Jones: CDI's "Interpretative" Authority

Insurance Code Section 790.03(a) generally prohibits licensees from making misleading statements. CDI adopted a regulation that requires insurers to provide estimated replacement values of residential properties in a very specific manner. (Accurate estimates are essential in measuring the amount of insurance needed to replace a home after a total loss.) Any estimate provided that does not follow the formula prescribed by the regulation and include specified "ingredients," would be deemed "misleading" under Section 790.03. The regulation also requires the estimate to be provided in writing and itemized, and that certain assumptions be explained, although the regulation does not treat a failure to follow those rules as inherently misleading.

Insurers sought declaratory relief seeking to invalidate the regulations. CDI defends the regulation on the theory that it is merely interpretative of the concepts of false, misleading, or deceptive practices and that it establishes a uniform definition of the term "estimate of replacement costs." In effect, the regulation only makes an existing unlawful act more specific. The insurers respond that because the regulation might capture lawful conduct, such as an accurate estimate that does not follow the regulation's formula, it actually adds new acts and enlarges the scope of the statute.[4]

CDI relies heavily on *Ford Dealers Association. v. Department of Motor Vehicles* that held that the Department of Motor Vehicles (DMV) has the discretion to decide what statements are inherently misleading based on supporting evidence. In that case, DMV issued a regulation requiring auto dealers to disclose the fact that a vehicle had previously served as a rental car and

[3] A second ALJ has recently been assigned in the *Torchmark Matter*. All reference to the ALJ in the Torchmark Matter are to the original ALJ that granted the Motion to Strike with Leave to Amend unless otherwise noted.

[4] Although not pointed out in court, PIFC submitted comments during the rulemaking process that manufactured homes are not reconstructed but replaced following a total loss and that the reconstruction value estimation process is significantly different than site-built homes. Those values do not include those required under the regulation including cost of foundation, architects' plans and engineering reports, whether the structure is located on a slope, the type of frame, or nonstandard wall heights.

requiring dealers to strike itemized charges on invoices if those charges were to be paid by a franchisor. The dealers argued, in part, that the rules also captured innocent conduct. The *Ford* Court explained further that "the statute affords protection against the probability of likelihood as well as the actuality of deception."

CDI lost at the Superior Court and appealed. A unanimous Court of Appeal agreed with lower court's decision and rejected the Commissioner's authority for "filling in the details" of the statutory scheme viewing Section 790.06 as the exclusive means to penalize unfair acts not defined in Section 790.03. The Court stated "We infer that these omissions were deliberate, and that under the guise of 'filling in the details,' the Commissioner therefor could not do what the Legislature has chosen not to do." That court distinguished *Ford* because the underlying statute in *Ford* has no equivalent to Section 790.06.

CDI petitioned for review and depublication. The Supreme Court granted review and the case is currently pending.

B. PacifiCare: Burden of Production

PacifiCare is the first UPA case litigated to a decision. As a result of market conduct exams that occurred in 2006 and 2007, CDI alleged numerous violations of UPA related to the merger of UnitedHealth Group and PacifiCare Life and Health Insurance Company. The Commissioner issued an OSC in January 2012. In August 2013, after about 237 days of hearing, the ALJ issued a decision recommending a $11.5 million fine (the largest ever recommended under that statute). Commissioner Dave Jones rejected the proposed decision and issued his own 220 page decision in June 2014. He found about 900,000 incidents of unfair practices and assessed a $173.6 million fine. In that decision, the Commissioner articulates and affirms the validity of his own regulations. He then designated the decision as precedential, meaning that ALJs would be bound by the decision. The insurer filed for review by the Superior Court.

In September of 2015, the court issued an order granting a Motion for Judgment on the Pleadings, declaring three provisions of the FCSPR invalid including two provisions related to CDI's burden to produce evidence when alleging unfair claims settlement practices.

<u>The Single Incident Trigger</u>. Unlike an unfair trade practice, as addressed in *ACIC v. Jones*, unfair claims settlement practices involve a separate evidentiary requirement. Section 790.03(h) prohibits an insurer from "[k]nowingly committing or performing with such frequency as to indicate a general business practice" a list of specified claims settlement practices.

The Preamble to the FCSPR, adopted in the early 1990s, declares that the insurer commits an unfair claims settlement practice "when either knowingly committed on a single occasion, or performed with such frequency as to indicate a general business practice" engages in the practices listed in Section 790.03. This interpretation is often referred to as the "single trigger." In his adopted decision in the *PacifiCare Matter*, the Commissioner argues the following:

> The ordinary and proper meaning of the word "or" is well-settled. It has a disjunctive meaning. That is, the function of "or" is to mark an alternative such

as "either this or that." As such, there can be no ambiguity that the Legislature intends to punish single acts knowingly committed *or* acts performed with such frequency that they demonstrated a general business practice.

On review of the *PacifiCare* decision, the Superior Court ruled otherwise consistent with similar conclusions in *PIFC v. Garamendi*, *Western General*, *Torchmark* and *ACLHIC v. Poizner*.

<u>"Knowingly"</u> UPA does not define "knowingly committed," but the FCSPR defines it as "performed with actual, implied or constructive knowledge, including, but not limited to, that which is implied by operation of law." According to the Commissioner, "knowingly committed" does not require actual knowledge even of the underlying facts. In his decision in the *PacifiCare Matter*, he cites California Civil Code Section 19 that states "every person who has actual notice of circumstances sufficient to put a prudent man upon inquiry as to a particular fact, has constructive notice of the fact itself in all cases in which, by prosecuting such inquiry, he might have learned such fact." He also argues that facts "known to one part of a corporation place those facts within the constructive knowledge of the corporation as a whole."

But some commentators have suggested that the FCSPR definition is so broad that it potentially creates a strict liability standard. The ALJ in Torchmark explains that under that definition, an "actionable violation of section 790.03 subdivision (h) can occur through a single act of inadvertence due to the exceedingly broad constructive and applied knowledge definition of 'knowingly committed.'"

The reviewing court in *PacifiCare* declared CDI's definition of "knowingly committed" to be invalid.

C. *Torchmark* and *ALHIC v. Poizner*: Defining New Acts through Rulemaking

In his decision in the *PacifiCare Matter*, the Commissioner rejects that position, at least for unfair claims practices, and argues 790.03(h) was "written broadly and is not intended to serve as the exclusive definition of all unfair claims settlement practices." Section 2695.1(a)(1) of the FCSPR Preamble declares that violating a provision of those regulations shall constitute an unfair claims settlement practice within the meaning of Insurance Code Section 790.03(h).

The ALJ in *Torchmark* disagrees and refer to Section 2695.1 as a "bridging mechanism" and in regards to CDI's practice of pleading violations of the FCSPR regulations without explaining how that provision fit within the statute. The ALJ in *Torchmark Matter* ruled that several provisions were not supported by the statute, but rather by the bridging mechanism found. (See the Commissioner's comments in *PacifiCare* that 790.03(h) was "written broadly and is not intended to serve as the exclusive definition of all unfair claims settlement practices.") The ALJ ruled that regulations that rely on the bridging mechanism "as a bridge between alleged violations of the newly engrafted duties, requirements, and responsibilities of insurers … constitutes an impermissible extension of the Department's authority" and fails as a matter of law.

A similar issue arises when CDI cites an unrelated statute as authority for adopting regulations under UPA. This permits CDI to lend Section 790.10 to other statutes and applies UPA's more severe penalties. However, courts have recognized boundaries drawn by Section 790.03 and 790.06. The court in *ACLHIC v. Poizner* invalidated two regulatory provisions relating to post-claims underwriting (canceling a policy for a reason discovered after the insured files a claim). The court explained that the Commissioner lacked authority to adopt regulations related to post-claims underwriting since post-claims underwriting is regulated under a different section that does not grant any rulemaking authority.

For examples of instances where the Legislature expressly links UPA with other code sections, see Insurance Code Sections 394, 676.10, 758.5, 10089.16, 10112.27(e), and others.

D. *PIFC v. Garamendi*: Regulations that Alter Contractual Obligations

Because insurance contract law and regulatory law are closely intermingled, a provision that purports to regulate insurers may impermissibly impact the civil obligations of a contract. In 2003, an insurance trade association applied for a preliminary injunction to restrain the Commissioner from enforcing regulations that would have established standards for the adjustment and settlement of property claims, and more specifically, would have prohibited insurers from depreciating the expense of labor necessary to repair or replace the damaged property. That year, the court granted an injunction while the matter was pending. The court ruled that the regulations mandated coverage benefits without statutory authorization; imposed duties and dictated valuation methodologies inconsistent with California law; and imposed standards on insurers that are unreasonably burdensome without a showing of substantial evidence that the regulations are necessary. For example, the regulations would have required insurers to pay all the reasonable vehicle towing and storage charges incurred by the insured and would have required insurers that did not cover those costs to alter the policy language. The court also found that a regulation unlawfully held insurers to a strict liability standard when using information derived from third-party software to value an insured's claim, but the statute applies a "good faith" standard. The court found that these and other regulations amounted to improper legislation of policy benefits. Pending review, the insurers and CDI resolved all of the issues by settlement but one. The case was finally resolved in 2006 when the court ruled in favor of CDI because the regulation addressing labor depreciation was consistent with the Supreme Court's reading of the insurer's contractual duties.

V. LITIGATION EXPENSES

The following chart provides a cumulative estimate of CDI's expenses related to the discussed cases. These estimates do not include costs to insurers which are likely much higher. For example, CDI will typically use its own attorneys or those employed by the California Department of Justice (DOJ). The DOJ currently charges $170 an hour for attorney services. Insurers will likely pay four or five times that depending on the experience of the attorney.

	CDI Attorney*	DOJ Attorney	Appointed Counsel	OAH Hearing	Estimated Total Cost
Western General	$81,796				**$81,796**
ACLHIC	$49,787	$71,456			**$121,243**
Torchmark	$265,843	$7,438		$48,195	**$321,476**
ACIC	$146,071	$416,455			**$562,526**
PacifiCare	$980,376	$63,942	$9,589,829	$358,829	**$10,992,718**

Additionally, CDI submitted estimates for prior and current efforts to amend the anti-steering and the labor rate survey regulations discussed below.

VI. PROPOSED REGULATIONS

CDI recently began formal rulemaking proceedings for two sets of amendments to the FCSPR. The first set would amend the "anti-steering regulations" that prohibit an insurer from coercing insureds to use a particular body shop. The second set of proposed amendments amend the regulations related to "labor rate surveys" used by insurers to establish a basis for calculating how much they will pay a body shop for labor.

A. Anti-Steering Regulations

Auto insurers establish contracts with some auto body shops to perform repairs covered under the policy as part of a "direct repair program" (DRP). Participating DRP shops agree to certain conditions in return for being placed on a referral list. Typical conditions include a negotiated labor rate (usually below what the shop normally charges) and a promise to guarantee the work performed.

Insurance Code Section 758.5 prohibits insurers from requiring claimants to use a specific body shop. It also restricts the insurer from suggesting a body shop unless the claimant requests the referral or the claimant is informed in writing of his or her right to choose a shop. But Section 785.5 also permits insurers to provide claimants with specific truthful information regarding the services and benefits available for using DRP shops, including information about the repair warranties offered, the type of replacement parts to be used, the anticipated time to repair the damaged vehicle, and the quality of the workmanship available to the claimant. This section also expressly grants the Commissioner UPA enforcement powers.

Existing regulations restate the statutory prohibitions, as well as prohibiting insurers from requiring a claimant to travel an unreasonable distance to have a vehicle inspected or obtain a repair estimate. CDI's proposed amendments would make the following changes.

- Deem "misleading" any statement that a body shop chosen by the claimant has a poor record of service or other negative allegation solely on the basis of the shop's participation or nonparticipation in a labor rate survey or without having clear documentation to support the claim.

- Prohibit insurers from requiring a claimant to wait an unreasonable period of time for the insurer to inspect a replacement automobile or conduct an inspection of the claimant's auto. Reasonable periods of time include six weeks to inspect, three days to request an estimate of repairs from the claimant in lieu of physical inspection, and six business days following receipt of the estimate to inspect after receiving an estimate of repairs.

- Sets the maximum number of miles an insurer may require a claimant to travel from where the vehicle is located to have a vehicle inspected or obtain a repair estimate. Insurer would not be able to require a claimant to travel more than 10 miles in urban areas with population of 100,000 or more than 25 miles anywhere else in the state.

- Prohibit insurers from having the vehicle inspected by a DRP shop, or any other shop, once the claimant has chosen an automobile repair shop.

CDI previously considered similar anti-steering regulations, but those regulations were preempted by AB 1200 (Hyashi, 2009), Chapter 387, Statutes of 2009, that explicitly granted the insurer the ability to provide truthful information about the use of the DRP**.** Concerns have been expressed that the new regulations may be inconsistent with that statute and may pose an unconstitutional restriction on commercial free speech if it inhibits truthful information.

Additionally, by declaring it unreasonable to require an insured to travel more than 10 or 25 miles to have a vehicle inspected or obtain an estimate, CDI's regulation would establish a standard dissimilar to Insurance Code Section 11580.17 which prohibits an insurer from requiring an applicant to travel more than 20 miles to have a vehicle inspected for the purpose of issuing collision and comprehensive coverage.

A public hearing on these propose amendments was held on April 22, 2016. CDI projects total costs to adopt the 2016 amendments at $38,374. CDI did not provide an estimate of the costs related to the 2009 proposed amendments.

B. Labor Rate Survey Regulations

An insurer must return a covered vehicle to its pre-loss condition up to the limit of the policy. Insurers use labor rate surveys to establish what they consider to be a reasonable rate to pay for auto body repairs.

Insurance Code Section 758(c) requires any insurer that conducts a labor rate survey to submit it to CDI so that CDI may make it available upon request. That section states that the survey information shall include the names and addresses of the auto body repair shops and the total number of shops surveyed.

Existing regulations provide definitions, outline what basic information should be included in surveys conducted by insurers, and provides a procedure for submitting the surveys to CDI. In addition to the statutory reporting requirements, the regulation requires the insurer to report a description of the formula and method used to calculate the geographic area excluding any confidential information.

The proposed amendments would make two significant changes to the current process. First, they would establish an optional method for preparing a labor rate survey called a "standardized labor rate survey" recommended by Commissioner. The use of a standardized survey would establish a rebuttable presumption that the insurer has attempted in good faith to establish the labor rate component of a claim or to adjust the labor rate component of a non-DRP shop. CDI projects $1.15 million in benefits will be passed on to auto body shops and policy holders (households).

Secondly, the proposed amendments would alter the requirements for all surveys by requiring insurers to submit survey data in a standard electronic form, upon CDI's request, for publication on the CDI website; and requiring insurers to submit data not intended for public consumption, including a copy of the survey questionnaire, the name of any shops excluded from the survey, and any information that an insurer obtains indicating that the shop does not meet applicable standards. The new rules would also require the insurer to give CDI access to the underlying data of the survey even if provided by a third party.

In 2007, OAL disapproved a set similar of amendments on the grounds that the administrative record did not support the use of Section 790.03 as an authority because, in part, UPA contains no provisions related to labor rate surveys or to automobile insurance claims.[5] The OAL decision notes "Here the Department has taken [Ins. Code § 758] saying little more than 'if an insurer does a survey, it must report the results to the Department and produced an extensive and prescriptive set of requirements for what is permitted and what is required in a survey." Commissioner Poizner did not contest OAL's decision.

While the 2007 proposed regulations cited the UPA as authority, the new set does not. However, the proposed regulations are placed within the FCSPR which the Preamble explains is purposed to indicate what acts "shall constitute an unfair claims settlement practice" under Section 790.03. The Commissioner anticipates OAL approval this time because the new package will include additional documentation to including a study by the California State University, Sacramento; documented complaints of labor rate violations; class action lawsuits; enforcement actions; and an economic impact statement. CDI also intends to add greater details as to why each provision is reasonably necessary to effectuate the purpose of the statute. Additionally, the 2007 regulations would have established mandatory standards for labor rate surveys, the current regulations only recommend a standard form.

A public hearing on these amendments was held on April 21, 2016. CDI projects total costs to adopt the 2016 amendments at $332,501, the costs to propose the 2006 proposed at $112,656, and the costs to adopt the 2002 amendments at less than $100,000.

VII. CONCLUSION

Except perhaps the Governor, the Insurance Commissioner holds significant quasi-legislative and quasi-judicial authority, as well as prosecutorial discretion, and yet is subject to

[5] In contrast, Section 4.N of the NAIC's Unfair Claims Settlement Practices Model Act considers it an unfair practice for an insurer to fail to "adopt and implement reasonable standards that the repairs of a vehicle owned by or required to be used by the insurer are performed in a workmanlike manner."

few formal checks and balances. Unlike a board or commission, the position vests all authority in one person not subject to appointment and confirmation. The Commissioner directs attorneys, sworn police officers, and administrative law judges; adjudicates administrative matters; and adopts and amends an extensive set of rules and regulations. The only substantive oversight comes from Legislature and the courts.

Typically, the Legislature avoids involvement in ongoing litigation. However, the costs and scope of the litigation (with little end in sight), the drafting problems in UPA, and other factors, may persuade the Legislature to act sooner rather than later. To the extent that confusion about UPA undermines the predictability and enforceability of the law, clarifying UPA could provide clear rules for the regulator and the regulated.

For example, the Legislature could eliminate the omnibus provision in Section 790.06. Research indicates that the procedure has only been used twice and has never been used to establish a new unfair practice. At the same time, the Legislature might clarify whether it wishes to reserve for itself the authority to adopt new unfair practices or give the Commissioner authority to do so via rulemaking. Compare, for example, language granting the FTC explicit authority to adopt "rules which define with specificity acts or practices which are unfair or deceptive acts or practices in or affecting commerce."

Regarding the FCSPR, the *PacifiCare* ruling places a high burden on the Commissioner to prove unfair claims practices. The regulations almost impose a contrary, strict liability standard. The Legislature may wish to consider NAIC model language that recognizes an unfair claims settlement practice when an act is committed (1) flagrantly and in conscious disregard of the law or (2) with such frequency as to indicate a general business practice acts. Additionally, the NAIC model only places "knowingly" in front of one defined act, misrepresenting relevant facts or policy provisions relating to coverage issues.

On the other hand, the Legislature may wish to wait. The Supreme Court should decide *ACIC* in the coming months and that decision may determine whether legislation is needed at all.

SUMMARY OF THE CASES

<u>PIFC v. Garamendi</u>. In 2003, an insurer trade association applied for a preliminary injunction to restrain the Commissioner from enforcing regulations that would have established standards for the adjustment and settlement of property claims, including a regulation that prohibits insurers from depreciating the expense of labor necessary to repair or replace the damaged property. The court granted an injunction while the matter was pending finding that the petitioners were likely to succeed on the merits because the challenged regulations amounted to improper legislation of policy benefits. Pending review, the insurers and CDI resolved all of the issues but one. The case was finally resolved in 2006 when it ruled in favor of CDI because the regulation addressing labor depreciation was consistent with the California Supreme Court's reading of the insurer's contractual duties.

<u>ACLHIC v. Poizner</u>. In 2010, the court declared two regulatory provisions invalid relating to post-claims underwriting. The court ruled that Commissioner lacked authority to adopt regulations since Section 790.10 grants authority to administer UPA, but post-claims underwriting is regulated under a different section. The court upheld one provision which clarified the term "reasonably promptly" or "reasonable time" by setting precise timelines by which an insurer must conduct a cancelation investigation because UPA already imposes on an insurer the duty to investigate and process claims reasonably and promptly in communicating with insured regarding the investigation of a claim.

<u>In the Matter of Western General Ins.</u> In 2010, an ALJ made a tentative ruling granting a motion to strike most of CDI's allegations, with leave to amend its pleading to charge a violation of the statute rather than the regulation. That case did not proceed and settled for a penalty of $85,000. That case was the first time CDI had trouble enforcing the regulations since historically these matters were settled beforehand.

<u>In the Matters of Globe Life et al ("Torchmark")</u>. (This matter is referred to as "Torchmark" because the several companies involved belong to the Torchmark holding company.) As a result of a market conduct examination that started in 2005, CDI issued an OSC in 2011 alleging numerous unfair or deceptive acts or practices. In 2012, before taking any evidence in that case, the ALJ granted a motion to strike most of the allegations, with leave to amend, on the grounds that many of CDI's regulations were unenforceable. The ALJ intended to treat the regulations as guidance for best practices. Relying, in part, on the *ACLHIC v. Poizner* and the *Western General Matter*, he issued a 51 page order explaining how the regulations rewrote the statute, diluted CDI's burden of proof, and added unfair practices without regard to Section 790.06. The ALJ reasoned that CDI could only plead a violation of the regulation and not the statute, and therefore was adding to the list of unfair practices by circumventing Section 790.06. Two years later, in 2014, the Commissioner issued a decision in the *PacifiCare Matter* affirming the validity of his own regulations and deemed that decision precedential. CDI filed an amended OSC re-alleging the stricken motions and claiming that the precedential *PacifiCare* decision applied. The insurers filed two writ petitions in Superior Court. The first contended that the ALJs decision was final by operation of law (a state agency has 100 days to adopt or reject proposed decisions). The other made a facial challenge against the FCPRS, (that action has not proceeded). The court ruled that an ALJs interim order would not be reviewed before a final decision has been issued. The case was remanded back to OAH and a new ALJ was

assigned. During a hearing with the second ALJ, CDI admitted that it purposefully delayed reinitiating the *Torchmark Matter* until after the *PacifiCare* decision was issued. CDI attempted to reassert the original OSC based on the *PacifiCare* ruling. The ALJ determined that *PacifiCare* did not excuse CDI from amending its OSC to comply with the 2012 order. Her January 8, 2016 order required CDI to file an amended OSC or risk a motion to dismiss the entire proceeding. In February 2016, two years after the ALJ's order, CDI filed an amended OSC.

In the Matter of PacifiCare. As a result of market conduct exam that occurred in 2006 and 2007 that alleged a large number of claims-handling violations resulting from the merger between UnitedHealth Group and PacifiCare Life and Health Insurance Company, the Commissioner issued an OSC in January 2012. In August 2013, after about 237 days of hearing, the ALJ proposed a decision recommending an $11.5 million fine (the largest ever recommended for that statute) which the Commissioner refused to adopt. (This is the first UPA case litigated to a decision.) In June 2014, the Commissioner issued a 220 page decision against UnitdHealth finding 900,000 incidents of unfair claims settlement practices prohibited by UPA and the FCSP regulations and assessed a $173.6 million fine. In his decision, the Commissioner articulates and affirms the validity of his own regulations and designated the decision as precedential. The insurer filed for review by the Superior Court. In September of 2015, the court issued an order granting a Motion for Judgment on the Pleadings, declaring three subdivisions of the FCSPR invalid relating to whether CDI must prove a pattern of unfair claims settlement practices, as well as the definitions of the term "knowingly" and "willfully." Other issues were reserved for later phases of the case. The court has not yet applied the facts in the record to the final decision. A status conference is scheduled for June 22, 2016. If the court's order becomes the judgment, the court will order that the Commissioner's Decision be vacated and remand the case to the Commissioner for reconsideration consistent with the ruling.

ACIC v. Jones. Insurance Code Section 790.03(a) generally prohibits licensees from making misleading statements. CDI adopted a regulation that requires insurers to provide estimated replacement values for residential property used to determine insurance coverage maximum levels. The regulations deem "misleading" any estimate provided that does not follow the form and formula, including specific "ingredients" that CDI claims is essential when preparing an estimate to replace a home after a total loss. The regulation also requires the estimate to be provided in writing and itemized, and that certain assumptions be explained, although the regulation does not treat a failure to follow those rules as inherently misleading. (It is not clear as to what authority CDI relies to adopt those portions of the regulations.)

Insurers sought declaratory relief that the regulation is invalid. The Court of Appeal rejected the Commissioner's authority of "filling in the details" of the statutory scheme viewing Section 790.06 as the exclusive means to penalize unfair acts not defined in Section 790.03.

The California Supreme Court granted review. Responses to amicus briefs are due on May 11, 2016.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, April 28, 2016
9:30 a.m. or Upon Adjournment of Session
State Capitol - Rose Ann Vuich Hearing Room 2040

Part A

Consultant: Mark Ibele

ITEMS PROPOSED FOR VOTE-ONLY

ITEMS FOR DISCUSSION AND VOTE

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255, Sacramento, California 95814, or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

ISSUES PROPOSED FOR VOTE ONLY

7730 FRANCHISE TAX BOARD

Issue 1: E-Commerce Infrastructure Refresh (BCP 002)

Governor's Proposal. The Franchise Tax Board (FTB) requests $3.4 million General Fund and $149,000 special funds in 2016-17, $1.8 million General Fund and $81,000 special funds in 2017-18, and $163,000 General Fund and $7,000 special funds in 2018-19 and ongoing to refresh and expand the internet network infrastructure, which is reaching end of life (EOL) beginning February 2017.

Background. The E-Commerce Portal Infrastructure (EPI) initiative was developed and approved by the Department of Finance (DOF) in 2007, to provide internet network infrastructure and tools to effectively and efficiently manage, maintain and expand FTB's internet network platform. FTB programs rely heavily on this infrastructure to connect all California taxpayers, as well as FTB staff, to taxpayer information on its systems. Currently, 84 percent of taxpayers e-file tax returns, with the volume and associated data expected to continually increase. FTB received 15.1 million electronic returns and processed 4.4 million electronic payments in 2014. This is an increase of seven percent and 10 percent, respectively, over the prior year. FTB currently offers public accessible web applications, which allow FTB's external customers (taxpayers, tax professionals, business entities, and non-tax debtors), access to services using the web. Applications include the following:

- CalFile
- e-file
- My FTB interface
- WebPay
- Direct deposit of refund
- K-1 Filing
- Business entity direct deposit of refund
- Credit cards payments
- Electronic funds transfer

FTB's internet network infrastructure ensures bank deposits are transmitted effectively and expeditiously to the General Fund, to maximize interest earned on timely deposits. The same is true for the timely deposit of refunds electronically transmitted to the taxpayer, thereby avoiding interest payments on refunds. FTB's internet network infrastructure is responsible for distributing workloads across multiple computing resources such as servers, security devices, and other technology systems. Load balancers are an important aspect of FTB's internet network infrastructure, optimizing resource use, maximizing throughput, minimizing response time, and avoiding overloading any single resource. Load balancing ensures workloads are properly sorted and distributed evenly.

Network switches are the high speed devices that receive incoming data and redirect the data to the appropriate computing and system resources. These are crucial for FTB to provide connectivity to mission critical revenue generating systems, such as the Accounts Receivable Collection System (ARCS) and Integrated Non-Filer System (INC). FTB's internet network infrastructure must protect taxpayer privacy and ensure security of taxpayer information. FTB's network must have comprehensive and updated security firewalls in place to ensure the security of its network and mitigate potential breaches. The Network Engineering Services Section installs, operates and maintains the hardware and software that comprises the enterprise internet network infrastructure.

This refresh will update FTB's enterprise Internet network infrastructure through 2023 to meet the enterprise work demands, receive updates and patches, and have access to replacement equipment components. In order to reduce resource constraints, minimize impacts to current FTB network environments, and reduce filing season moratorium constraints, FTB will use a phased approach to refresh the internet network infrastructure.

In addition to the EOL issue, FTB's enterprise internet network infrastructure will not have sufficient capacity to handle the demands of FTB's tax and non-tax programs. Currently 100 percent of the network switch ports are allocated to current servers and technology systems. This is a major concern for FTB's workload growth and will jeopardize FTB's ability to perform its future revenue-generating work for California, as well as offer self-service options to taxpayers. By increasing FTB's internet network infrastructure port capacity, this will meet projected workload increases and demand of mobile devices through June 2023.

Staff Comments. During the budget year, several important components of FTB's internet network infrastructure will be at EOL and will no longer be supported. FTB's programs rely heavily on this infrastructure to securely, reliably and efficiently connect all California taxpayers, as well as FTB staff, to taxpayer information on our systems. Component failure after the end of the support period would lead to an enterprise-wide work stoppage until an emergency replacement of the internet network infrastructure could be completed. As the infrastructure is the backbone of FTB, a failure in the system will affect every division and staff's ability to perform daily workloads, including: access to systems that accept and process returns, prevent fraud, or assist taxpayers with compliance; initiating due process notices and other system generated correspondence; and functions to allow electronic filing or using FTB's self-service systems to make payments. This freeze in work and prevention of system use would negatively affect FTB's efforts to obtain voluntary compliance and the ability to generate revenue. In addition, once support ends, FTB would no longer receive updates and patches, compromising the security of the network and systems.

Staff Recommendation. Approve as budgeted.

Vote.

0860 BOARD OF EQUALIZATION

Issue 1: Joint Operations Center for Fuel Tax Compliance (BCP 003)

Governor's Proposal. This proposal represents a request to continue Board of Equalization's (BOE's) participation in the Joint Operations Center (JOC) project for national fuel compliance, a program that relates to compliance with California's fuel tax law and the collection of program revenues. The request calls for $296,000 (federal funds) in 2016-17 and ongoing for the conversion of two expiring limited-term business taxes specialist positions to permanent status. The source of annual funding is from Federal Highway Administration funds.

Background. The proposal continues the agency's participation in JOC, which is intended to reduce fuel tax evasion for the participating states. The program provides staff, data and expertise from participating states and the federal government to identify under-reporting, non-reporting and trends in tax evasion. JOC has established a National Data Center and has integrated California data into the national database. In 2009, BOE began the process of analysis and investigation of leads being generated by the data center. In the ensuing years, JOC put its operations into effect and is receiving and combining data from state, federal and private party sources. Analytical tools are being used to identify anomalies, inconsistencies and omissions in the data, and generate leads for JOC audit teams to pursue. Audit teams are currently combining state and federal resources to conduct joint audits and investigations.

Staff Comment. The BOE is committed through a memorandum of understanding to two full-time staff positions. The operations provide both a direct benefit to the state and an indirect benefit, through apportionment of federal dollars collected through the program.

Staff Recommendation. Approve as budgeted.

Vote.

Issue 2: Permanent Establishment of Fire Prevention Fee Positions (BCP 001)

Governor's Proposal. As part of the Governor's budget, the BOE requests $1.4 million (special funds) and 8.6 permanent positions (permanent establishment of expiring limited-term positions) and 7.2 in temporary help positions in Fiscal Year 2016-17 and ongoing. The positions will allow for the BOE to continue processing workload associated with AB 29 x1 (Blumenfield), Chapter 8, Statutes of 2011, First Extraordinary Session, which imposed an annual fee on habitable structures located on property within the State Responsibility Area (SRA) in order to pay for fire prevention activities that specifically benefit owners of the structures within the SRA. Among its provisions, the bill requires the BOE to assess and collect the SRA Fire Prevention Fee on behalf of the Department of Forestry and Fire Protection (CalFIRE).

Background. The BOE received limited-term funding and staffing in 2012-13 and 2013-14 to address SRA fire prevention fee-related workload. The estimated workloads were based on the BOE's experience implementing special tax and fee programs for primarily businesses. Due to the number and non-business nature of the fee-payers of the SRA fire prevention fee, the initial workload was underestimated. In addition, the workload was affected due to delayed initial billings; a higher protest rate and more collection actions than anticipated; errors in the billing data file used to identify fee-payers; and a lower staffing level than originally requested. Due to the volume of workload and the complexity of administering the program, BOE overspent its budgeted amount in 2012-13 by $1.7 million for one billing cycle alone. The BOE hired temporary help full-time equivalents, contracted with the FTB for key data operators, and utilized overtime to assist in processing over 775,000 fire prevention fee billings during the first cycle. Temporary full-time equivalent resources and overtime were used again during 2013-14. The 2014-15 budget converted 42.0 expiring positions to permanent, continued 12.0 as limited-term positions and established 9.7 one-year temporary staff positions and 9.0 new two-year limited term positions, in order to address the ongoing workload. The limited-term positions are set to expire June 30, 2016. This budget request would permanently establish 8.6 positions (of the expiring limited-term positions) and provide 7.2 positions in temporary help. Prior positions were only approved as limited-term to ensure the workload continued, but BOE expects account maintenance transactions, billings, phone advisor and fee-payer inquiries to remain high. Total program revenues are anticipated to be approximately $82 million annually.

Staff Comments. The imposition of the fire fee by the state continues to be a disputatious topic, and therefore the current level of resources may still be a relatively temporary situation. The continuation of resources is warranted under current conditions, but the committee may want the department to prepare a brief report through Supplemental Reporting Language (SRL) regarding the ongoing nature of the workload. Assuming this workload will remain through the 2017-18 budget, the report could be prepared in conjunction with the preparation of the 2018-19 budget.

Staff Recommendation. Approve as budgeted with SRL.

Vote.

8885 COMMISSION ON STATE MANDATES

Issue 1: Funded and Suspended Local Mandates

Governor's Proposal. The Governor's mandate proposal is largely a continuation of the status quo in terms of funded and suspended mandates. The budget proposes expenditures of $45.6 million related to funding non-education mandates. The budget would continue to fund the 16 mandates that were kept in force for 2015-16, the payments on which constitute the bulk of the General Fund cost. In addition, the budget proposes funding a payment of $7.6 million to address the back costs local agencies accrued from 2001 to 2013 in performing activities related to the Public Records Act (PRA) mandate. (In 2014, California voters approved Proposition 42, which placed the PRA in the Constitution and removed the state's ongoing responsibility to fund the PRA mandate). The budget also provides $11,000 to fund the Medi-Cal Eligibility of Juvenile Offenders mandate and $725,000 to fund the State Authorized Risk Assessment Tool for Sex Offenders mandate. Most mandates funded in the budget concern public safety or property taxes. Funded mandates are listed in the following table:

Mandates Funded in Governor's Budget
General Fund
(Dollars in Thousands)

Mandate Title	Amount
Accounting for Local Revenue Realignments	$97
Allocation of Property Tax Revenue	611
California Public Records Act	7,578
Crime Victim's Domestic Violence Incident Reports	166
Custody of Minors-Child Abduction and Recovery	13,328
Domestic Violence Arrests and Victim's Assistance	2,725
Domestic Violence Arrest Policies	8,494
Domestic Violence Treatment Services	2,019
Health Benefits for Survivors of Public Safety Officers	2,943
Medi-Cal Beneficiary Death Notices	26
Medi-Cal Eligibility of Juvenile Offenders	11
Peace Officer Personnel Records	548
Rape Victim Counseling	353
Sexually Violent Predators	5,129
State Authorized Risk Assessment Tool for Sex Offenders	725
Threats Against Police Officers	263
Tuberculosis Control	83
Local Agency Ethics	0
Unitary Countywide Tax Rates	456
Total	**$45,555**

Note: *Italics* indicates that mandate is newly funded in the proposed budget.
Source: Department of Finance

The budget incorporates a total of $884.8 million in savings from maintaining mandate suspensions or deferring payment of claims. Some 56 mandates are suspended under the budget proposal. In addition, payments on another 15 mandates that have been deferred or have expired have been delayed. The savings breakdown is as follows: (1) $260.3 million savings from deferring payment of post-2004 mandate claims for mandates that have since expired or are otherwise not in effect; (2) $607.6 million savings by continuing the suspension of certain local mandates; and, (3) $16.9 million savings from deferring payment on employee-rights mandates in effect. The mandates that are suspended in the budget are shown in the table below.

Mandates Suspended in Governor's Budget
General Fund
(Dollars in Thousands)

Mandate Title	Amount
Absentee Ballots	$49,608
Absentee Ballots - Tabulation by Precinct	68
AIDS/Search Warrant	1,582
Airport Land Commission/Plans	26,854
Animal Adoption	15,713
Brendon Maguire Act	0
Conservatorship: Developmentally Disabled Adults	349
Coroner's Costs	222
Crime Statistics Reports for the Department of Justice	154,937
Crime Victim's Domestic Violence Incident Reports II	2,010
Developmentally disabled Attorney's Services	1,201
DNA Database and Amendments to Postmortem Examinations: Unidentified Bodies	310
Domestic Violence Background Checks	20,627
Domestic Violence Information	0
Elder Abuse, Law Enforcement Training	0
Extended Commitment Youth Authority	0
False Reports of Police Misconduct	10
Firearm Hearings for Discharged Inpatients	157
Grand Jury Proceedings	0
Interagency Child Abuse and Neglect (ICAN) Investigation Reports	73,566
Identity theft	93,960
In-Home Supportive Services II	443
Inmate AIDS Testing	0
Judiciary Proceedings	274
Law Enforcement Sexual Harassment Training	0
Local Coastal Plans	0
Mandate Reimbursement Process	6,895
Mandate Reimbursement Process II	0
Mentally Disordered Offenders: Treatment as a Condition of Parole	4,910
Mentally Disordered Offenders' Extended Commitments	7,222
Mentally Disordered Sex Offenders' Recommitments	340
Mentally Retarded Defendants Representation	36
Missing Persons Report	0
Modified Primary Election	1,817

Not Guilty by Reason of Insanity	5,214
Open Meetings Act/Brown Act Reform	109,788
Pacific Beach Safety: Water Quality and Closures	344
Perinatal Services	2,338
Permanent Absent Voters II	11,907
Personal Safety Alarm Devices	0
Photographic Record of Evidence	291
Pocket Masks	0
Post-Conviction: DNA Court Proceedings	410
Postmortem Examinations: Unidentified Bodies Human Remains	5
Prisoner Parental Rights	0
Senior Citizens Property Tax Postponement	481
Sex Crime Confidentiality	0
Sex Offenders Disclosure by Law Enforcement Officers	0
SIDS Autopsies	0
SIDS Contacts by Local Health Officers	0
SIDS Training for Firefighters	0
Stolen Vehicle Notification	1,117
Structural and Wildland Firefighter Safety Clothing and Equipment	0
Very High Fire Hazard Severity Zones	0
Voter Identification Procedures	10,075
Voter Registration Procedures	2,481
Total Suspended Mandates	**$607,561**

Source: Department of Finance

Background. The proposed funding for non-education mandate payments to local governments is included in the budget of the Commission on State Mandates (CSM). CSM is responsible for determining whether a new statute, executive order, or regulation contains a reimbursable state mandate on local governments, and for establishing the appropriate reimbursement to local governments from a mandate claim. The California Constitution generally requires the state to reimburse local governments when it mandates that they provide a new program or higher level of service. Activities or services required by the Constitution (as opposed to statute) are not considered reimbursable mandates. The Constitution, as amended by Proposition 1A of 2004, generally requires that the Legislature either fund or suspend local mandates. In most cases, if the Legislature fails to fund a mandate, or if the Governor vetoes funding, the legal requirements are considered suspended pursuant to the Constitution. However, one exception to this is payment of costs related to labor relations-related mandates, which may be deferred while still retaining the mandate's requirements. [1]

Mandate reimbursement claims are filed with CSM for the prior fiscal year, after that fiscal year is completed and actual costs are known. The state pays the mandate claims in the following fiscal year. For example, local costs incurred in 2014-15 are reported and claimed in 2015-16, and the state will reimburse locals for these costs as part of the 2016-17 budget. Suspending a

[1] Payments for mandate costs incurred prior to 2004 were allowed to be repaid over time, and statutorily required to be fully paid by 2020-21. As of December 2015, the pre-2004 mandate debt (pursuant to Government Code Section 17617) was paid off as a result of appropriations made in the 2014 Budget Act.

mandate does not relieve the state of the obligation of reimbursing valid claims from prior-years, but it does allow the state to defer payment on these claims. The state owes local governments approximately $1.0 billion in non-education mandate payments. All of this is related to post-2004 mandate claims. In prior years, there have been proposals to repeal certain mandates, but no such repeal is proposed in the budget. Repealing mandates does not offer any additional budget savings relative to suspension; however, if the mandate will otherwise be suspended indefinitely, the repeal of statutory provisions cleans up the code, improves statutory transparency, and provides more certainty to local governments.

Staff Comments. Staff has no concerns with the proposal.

Staff Recommendation. Approve as budgeted.

Vote.

ITEMS FOR DISCUSSION AND VOTE

EARNED INCOME TAX CREDIT

Presenters: **Gail Hall, Franchise Tax Board**
Kristin Shelton, Department of Finance
Ryan Woolsey, Legislative Analyst's Office

Background. The 2015 Budget Act created the Earned Income Tax Credit (EITC), a state refundable tax credit for wage income that is intended to benefit very low-income households. Specifically, the program builds off the federal EITC and establishes a refundable credit for tax years beginning on or after January 1, 2015. The credit is applied to personal income tax liabilities associated with earned wage income (not including self-employment income). The program provides for a credit amount during a phase-in range of earned wage income according to specified percentages based on the number of qualifying children. The phase-in range (for the maximum credit) covers earned wage income of up to $3,290 for individuals without qualifying children, $4,940 for individuals with one qualifying child, and $6,935 for individuals with two or more qualifying children. The Franchise Tax Board (FTB) administers the EITC program.

California's EITC focuses on households with incomes less than $6,580 if there are no dependents and up to $13,870 if there are three or more dependents, with no tax credits earned for wages received above these thresholds. The California program dovetails with the existing federal EITC and matches 85 percent of the federal credits, up to half of the federal phase-in range, and then begins to taper off relative to these maximum wage amounts. As initially estimated, the program was expected to cost $380 million annually, beginning in 2015-16 and benefit an estimated 825,000 families and two million individuals. When adopted the estimated mean household benefit was $460 per year, with the median benefit expected to be in the range or $200 to $250 per year. Based on actual data to date for tax year 2015, the mean credit is $534 with the median credit $202. Maximum credit amounts available range from $214 for participants with no qualifying dependents, to $2,653 for participants with three or more qualifying dependents. The most recent data on the program is shown below.

Earned Income Tax Credit
As of April 2016

Returns with Claimed and Allowed EITC	357,912
Amount of EITC Claimed and Allowed	$182,717,175
Average (Mean) EITC Credit Claim	$534
Median EITC Credit Claim	$202
Range of EITC Credit Claims	$1 - $2,653
First Time Filers	45,587*
Returns with Claimed and Adjusted/Denied EITC	13,016*
Amount of Credits Adjusted or Denied	$5,898,519*

Source: Franchise Tax Board, as of April 23, 2016. * indicates as of April 9, 2016.

Characteristics of California's EITC. With the adoption of the EITC, California joined 25 other states in offering a state-level program for the working poor. Although some variations occur in the design details of individual state programs, all states' programs are based on a percentage of the federal credit. These programs typically match a percentage of the federal credit across the income spectrum that is eligible for the federal credit during the phase-in range, flat range, and phase-out range. Two major features set California's credit apart from those of most other states, as discussed below:

- First, as opposed to matching a set percentage of the federal EITC across the eligible income range, California matches a percentage of the federal credit over just a portion of the federal EITC phase-in range. Specifically, the state program matches 85 percent of the federal EITC amounts up to half of the federal phase-in range and then begins to phase out; California's EITC is fully phased-out when the federal credit reaches its maximum amount. By way of comparison, New York—which has had its own EITC since 1994—offers a refundable state EITC that is pegged at 30 percent of the federal EITC amount over the entire eligible income range. The design of the California credit limits the fiscal exposure to the state and allows for the concentration of available dollars on lowest income earners at a higher credit level.[2]

- Second, California's EITC is not an automatic entitlement. The program is only available if the Legislature and Administration affirmatively determine each year that the state can afford the program. Annually, the state is required to set the adjustment factor (initially set at 85 percent) to determine the amount of the actual credit and specify this in the annual budget act. Unless otherwise specified, the adjustment factor will default to zero percent. This feature distinguishes the state EITC from expenditure programs like California Work Opportunity and Responsibility to Kids (CalWORKs), but also various special tax programs, which typically operate unrestrained by legislation or budget action (except through a two-thirds vote of the Legislature).[3]

EITC Program Impacts. The federal EITC is an unusual assistance program for low-income wage earners in that it generally receives favorable views from economists and policy analysts from across a wide political spectrum. Some view it favorably as a program that shifts resources to lower income households and individuals and acts to lift some populations out of poverty. Others support the program due to the work incentives that are imbedded in the program design. In general, these dual qualities of the program have constituted much of the motivation to adopt similar programs at the state level.

---

[2] The difference in fiscal impacts is significant. New York's EITC results in an expenditure/revenue reduction of $994 million annually (on a personal income tax base of about $40 billion), whereas California's EITC is expected to result in an expenditure/revenue reduction of $380 million (on a personal income tax base of over $80 billion).

[3] For many tax programs, this annual uncertainty would tend to inhibit the very behavior the tax program is designed to encourage. For example, a research and development tax credit that was subject to annual fiscal assessment and budget decisions could undermine the intent to stimulate long-term investments in research and development. Similarly, subjecting the EITC to annual budget appropriations could potentially subvert the intended work incentive of the program.

The design of the EITC is relatively straightforward; however, the impacts of the EITC - conceptually and empirically - are far from simple or unambiguous. In particular, the work incentives of the program depend on numerous factors, including whether the recipient is in the phase-in or the phase-out range, marital status and the presence of a second worker, and interactions with prevailing wages or social welfare programs. For example, theoretically and empirically, the program would act as a work incentive (by increasing the hourly return) during the phase-in period and result in no work incentive during the flat phase. Over the phase-out range, theory would suggest that there would be a work disincentive; empirically, however, the actual impact on work hours appears to be slight. Over the entire range of program eligibility, the work incentive is (almost) never negative,[4] but during the phase-out range, the incentive to work is reduced for every additional dollar earned. The design of the California program is such that it phases-out while the federal program is still phasing-in, thus avoiding the disincentive that occurs with respect to the federal program during its phase-out period.

Annual Budgetary Appropriation. California has a significant number of tax programs that are designed to accomplish a variety of goals. Generally, for personal income taxes and corporation taxes, these tax programs include tax credits, income deductions or other special tax treatment. The programs are typically designed either to encourage particular types of behavior or provide generalized tax relief. The research and development (R&D) tax credit (available under the personal income tax and the corporation tax) is an example of the former, while the dependent exemption credit (available under the personal income tax) is an example of the latter.

Until recently, virtually all of California tax programs were not subject, through statute or other means, to any cost limitation. Given that such special tax treatment is considered to be a matter of legislative grace, the programs could always be limited or eliminated by the Legislature; however, this would require a two-thirds vote since it would result in an increase in the tax burden on a taxpayer. In recent years, the Administration and the Legislature have become more circumspect about the granting of tax preferences, with recent programs subject to either allocation through an annual cap on credits or by means of a sunset date. There is also some past experience with programs that automatically ‘trigger’ off if a specified event occurred. The former manufacturer’s investment credit (MIC) is an example of this.

These approaches are a means to simultaneously limit the state’s fiscal exposure, deal with the asymmetry of voting requirements, and facilitate an evaluation of the program’s effectiveness. With the EITC, the state has instituted a new means of ensuring protection of the state’s fiscal condition. Under the measure, the Administration must annually set the adjustment rate which determines the amount of the tax credit, with an effective rate of zero if no other rate is specified. This approach differs from virtually all other state tax programs, and creates substantial uncertainty for individuals and households that participate in the program.[5] Other than the few

[4] One exception is the area in which the participant loses eligibility for certain programs such as CalWORKs, CalFresh (formerly food stamps) and California Medical Assistance (Medi-Cal). The loss of these programs due to increased earnings can place the household in a negative marginal position with respect to additional work.
[5] One of the hallmarks of a good tax system is that it provides certainty to taxpayers and avoids short-term, sudden or capricious adjustments that can affect liabilities. An annual budget decision that affects tax liabilities (even negative liabilities) runs counter to this. Some argue that EITC participants lack the sophistication to track such

programs adopted in recent years, all other state tax programs change independently of state budget considerations.

Self-Employment Income. Under the adopted program, income eligible for calculating the amount of the EITC is limited to salaries and wages that are subject to withholding. In particular, self-employment income is not considered as part of earnings eligible for the EITC. The principal reason for this exclusion, according to the Administration, is the potential for large amounts of improper payments to participants who claim a larger credit than for which they are eligible. One of the primary means by which to misrepresent income—based on the federal experience—is through the misreporting of self-employment income. Unlike self-employment income, wages and salaries incorporate a more comprehensive paper trail to verify income.[6] The federal EITC, by contrast, includes self-employment income in the EITC definition of income. The federal program includes as income: wages, salaries, tips, and other taxable employee pay; union strike benefits; long-term disability benefits received prior to minimum retirement age; and, net earnings from self-employment.

Unlike California's approach, most other states with an EITC mimic the federal income eligibility standards. California's approach to ensure the reliability of payments is a fiscally reasonable approach, in that it helps ensure the program retains its integrity and only benefits those for whom the program was designed. On the other hand, the design certainly excludes others whom the program is intended to benefit. Many low-income earners have part-time occasional employment that results in income that is not subject to withholding. In fact, it is more than likely that some otherwise eligible individuals may rely solely on such income and thus are precluded from participating in California EITC program altogether.

During last year's legislative discussions, the possibility of including self-employment income was raised, but resisted by the Administration. In response, the Legislature required that the FTB, which administers the program, issue a report on the feasibility of including such income in the earned income calculation. The aspect of the report requirement is in supplemental language and states:

> *After implementation activities have been completed for the California EITC, the Franchise Tax Board shall explore methods that could be considered to allow self-employment income to be included as earned income while protecting against improper payments. This information shall be provided to staff of the budget committees.*

The FTB indicates that the report regarding self-employment income will be completed and submitted to the Legislature by April 30, 2016, and the board is prepared to address this issue at the hearing. Based on the considerations and issues developed in this report, the Legislature may consider measures that would broaden the earned income definition used for the EITC. This

consistency; however, it seems questionable to ignore basic tax policy because taxpayers affected might lack sophistication.

[6] Independent contractor income may be reported on a Form 1099, but the enforcement of this requirement is spotty and the resulting data often incomplete, inaccurate or missing.

would have the dual effect of expanding the program to include currently ineligible individuals as well as increasing the credit for some who currently participate in the program. This consideration would entail, in part, weighing the benefits of expanding the scope of the program against any potential increase in abuse of the tax program.

Periodic Payments. Like the federally-sponsored EITC, California's EITC is structured and administered through the tax system. Any EITC amount due to a participating individual is remitted as a refund or payment pursuant to an annual state income tax return filing. There are numerous advantages to such an approach. For example, the administrative costs and complications are minimized by using an already-established framework and potential abuses are likely to be constrained. In addition, the one-time payment facilitates 'forced' savings or, alternatively, allows recipients to make larger purchases on necessities such as car repairs or appliances.

There are drawbacks to this annual payment approach, however. With respect to the intended work incentive, a single lump sum is more likely to be perceived by participants as a simple income transfer as opposed to a wage subsidy with a direct link to work participation, thus potentially weakening the work incentive effect. In addition, while the program may force savings, it does so at the expense of consumer preferences, preventing a participating household from relying on the subsidy for regular budgeting purposes. Finally, the annual payment facilitates an outflow of benefits to commercial tax preparers that charge interest on refund anticipation loans on EITC participants' tax filings.

One option to the annual payment is some version of periodic payment approach. This alternative has been explored through research, pilot projects, and at the federal level. For example, beginning in 1978, the federal EITC had an optional program whereby EITC participants notified their employer that they were eligible for the EITC. The Internal Revenue Service (IRS) then conducted a preliminary approval process and calculated the amount of the eligible subsidy to be included in the participant's regular paycheck. The additional pay was financed by employers by reducing the amount of their withholding and tax payments to the IRS. The periodic payment program was severely undersubscribed and was discontinued by Obama Administration as part of the 2010 budget.

Since the discontinuation of the federal program, there have been additional proposals regarding a periodic payment system. The Chicago EITC Periodic Payment Pilot, administered by the Center for Economic Progress and the city government, involves a program that pays participants one-half of their anticipated EITC in four installments over the course of the year. Unlike the federal program, the payments are made directly rather than included in the participants' paychecks. According to preliminary indications, the program has been administered successfully, with a very small percentage of participants in an overpayment situation. In addition, the program has resulted in reduced fiscal stress for the participants (compared to the control group) as measured by debt accumulation, interest payments and late fees. There are numerous other periodic payment versions that could be adapted to serve California's needs.

Staff Comments. California's current EITC program is an important, although rather modest, investment in improving the economic situation of the state's low-income wage earners. At this point, there is not enough data to ascertain the degree of success in reaching the intended population, but data compiled through April 23, 2016 indicate that the number of participants and credits awarded may fall short of estimates. The Legislature may want to discuss expanding, broadening and improving the program as one of the means to improve the outlook for this population, and, in this process, consider further actions and potential pilot projects with respect to the alternatives presented here. For example, in its report, the FTB highlights a number of important issues with respect to including self-employment income for purposes of the EITC. Including this form of income would substantially broaden the population that benefits from the program

Regarding the annual appropriation, the Legislature might consider the following reforms that address this issue:

- The Legislature could change the law to simply place the EITC on par with the vast majority of other special tax programs by establishing a positive non-zero adjustment factor (at a specified rate) in statute and allow the program to expand (or contract) as determined by eligibility standards.[7] A rate lower than 85 percent could be selected, in order to provide additional fiscal protection to the state. This rate could always be enhanced should fiscal conditions permit and legislative prerogatives dictate.

- If some additional fiscal limits were deemed advisable, the Legislature could establish in statute a specified adjustment rate for a certain period of time, for example, a five year period. This approach would provide some certainty to participants in the program, but also provide some fiscal protection to the state in the event of an economic downturn or other source of budgetary stress.

With respect to periodic payments versus lump-sum payment, while this could require substantial development at the state level, the benefits to participants could be a significant and increase the impact of the state's modest program investment. A starting point could be an assessment of both the need and the demand for such a program. For example, for the 2012 tax year, five states (Georgia, Florida, Massachusetts, Minnesota and New York) included with their EITC application process a series of questions designed to obtain information about these issues. They included questions regarding: desirability of advance and deferred periodic payments; preferred payment frequency; participants' most fiscally stressed months; and households' abilities to meet unexpected payments or fees. Some of these states are in the process of designing periodic payment pilot programs.

Staff notes that subsequent to the original estimates, FTB was able to examine 2012 tax year IRS data at the micro level to project the number and distribution of taxpayers anticipated to be covered under the EITC program. Based on the newly available IRS micro data, the number of

[7] While this would not provide the automatic fiscal protection in current law, the Legislature could still change the rate if fiscal conditions necessitated this (such as when the Legislature suspended the ability of businesses to use the net operating loss provisions during the past recession).

households is now projected to be approximately 600,000, benefiting approximately 1.3 million individuals. This represents a substantially smaller universe that the 825,000 households and two million individuals assumed in the original estimate. FTB indicates that although the population has declined, the change in the revenue reduction/expenditure estimate is roughly the same because the population now excluded in the revised estimate would only have had small credit amounts. Staff has requested additional information regarding the cost estimate from FTB because of the significant change in the population base.

Staff Recommendation. Information Item.

7730 FRANCHISE TAX BOARD

Department Overview: The Franchise Tax Board (FTB) is one of the state's two major tax collection agencies and administers the personal income tax and the corporation tax programs, the largest and third-largest contributors to the state's revenue, respectively. The department also performs some non-tax collection activities, such as the collection of court-ordered payments, delinquent vehicle license fees, and political reform audits. The FTB is governed by a three-member board, consisting of the Director of Finance, the chair of the Board of Equalization, and the State Controller. An executive officer, appointed by the board, manages the daily functions of the department.

Budget Overview: The Governor's budget proposes expenditures of $748.1 million ($715.5 million General Fund) and 6,082 positions for FTB. This represents a continuation of a substantial increase in support for the agency, compared to the 2009-10 fiscal year, but just a slight increase from the current year funding level of $744.6 million. Expenditures grew from $533.1 million in 2009-10 due primarily to reinstating some of the budget reductions from earlier years as well as new programs. The budget reinstatements were made to reverse negative revenue impacts of the prior Administration's statewide cuts and furloughs, which included the state's tax collection agencies. In addition, the budget calls for augmentations for specific tax compliance programs and technology improvements related to the department's revenue collection activities. Recent budget increases have also been the result of funding for the Enterprise Date to Revenue (EDR) project, a benefits-funded project discussed below.

Issue 1: Enterprise Data to Revenue Project (BCP 001)

Governor's Proposal. The FTB requests 198 positions and $68 million General Fund ($53.3 million vendor payment) in 2016-17 and $61.4 million General Fund ($27 million vendor payment) in 2017-18 to support the maintenance and operations of the EDR project and support ongoing operational programs. The final year for the EDR project is 2016-17. The great majority of the requested positions are temporary help for data capture, return mail, and return analysis. The new positions will be largely devoted to data capture and scanning and receiving.

The proposal also requests an ongoing augmentation to support ongoing expenditures, beginning in 2018-19, associated with maintaining and refreshing new hardware and software implemented as a result of the EDR project. The resources are needed to support EDR's cost for workload growth, maintenance, operations, and hardware/software needs, as outlined in the Department of Technology's maintenance and operations (M&O) plan guidelines, covering a five-year timeframe from 2016-17 through 2020-21. Exercising the M&O option allows for significant savings estimated at about $12.5 million in the budget year. The resources will allow FTB to:

- Exercise the EDR contract M&O options for 2016-17 and 2017-18.

- Refresh EDR hardware/software and purchase EDR M&O hardware, software, and third-party party maintenance and support 2016-17 through 2020-21.

- Perform major version upgrades of the security database in 2016-17, and case management and data stage software in 2017-18.

- Increase FTB program resources to support full adoption and usage of the new EDR tools.

- Upgrade information technology position classifications for increased knowledge levels required for M&O.

- Provide compensation payments to the vendor in 2016-17 and 2017-18.

Background: The FTB processes more than 15 million personal income tax returns and one million business enterprise returns annually. Its operations are heavily reliant on effective storage and use of data from a variety of sources. The continuation of the EDR project is expected to fund the technology-intensive portion of the project. FTB indicates that the initial revenues generated by the EDR project were primarily from adding staff to process the current backlog of business entity returns and begin collection correspondence in order to accelerate revenue. Beginning in 2011-12, substantial revenues were generated by the EDR project proper.

The EDR project has three major goals. First, it seeks to capture all tax return data in an electronic form. Second, the project will integrate the various existing "siloed" tax databases at FTB into a data warehouse. Third, the project will enable FTB to add third-party data (for example, county assessor data) to its data warehouse. The FTB asserts that the EDR project will allow it to substantially improve detection of underpayment and fraud in order to collect taxes from those who are not paying the full amount that they owe. In addition, FTB indicates that the project will enable it to improve service and give taxpayers better access to their tax records.

The project includes the following improvements to FTB's systems that process personal income tax and business entity tax returns:

- An underpayment modeling process that is integrated with the Accounts Receivable Collections System and Taxpayer Information System.

- An enterprise data warehouse with data search and analysis tools.

- A taxpayer records folder that is accessible to the taxpayer and allows taxpayers and FTB staff to access the information.

- Re–engineered business processes—including tax return imaging, data capture, fraud and underpayment detection, tax return validation, filing enforcement, and other audit processes—and integration of these business processes with existing tax systems.

- Improved business services at FTB, such as address verification, issuance of notices, and a single internal password sign-on for IT systems.

Contractor payments for system development and implementation are conditioned on generating additional revenue that will more than cover the cost. This approach is intended to protect the state and give the contractors a strong incentive to develop the project in a manner that produces significant revenue quickly. The FTB has used this approach previously. FTB's benefits-funded approach made use of revenue gains from reducing the business entity backlog to more than offset costs in 2009-10 through 2012-13. Cleaning up the backlog was a necessary condition to efficient project development. In subsequent years, there have been large increases in annual revenue gains that are directly attributable to the project. For 2010-11 through 2013-14, revenue projections were $444 million, but actual revenue generated was $863 million. Through June 2015, revenues of $1.8 billion have been generated as a result of the project. Revenue generated from the EDR project is anticipated to be between $973.4 million and $1.2 billion for 2016-17 and between $968.7 million and $1.2 billion for 2017-18. FTB expects that the projected $4.0 to $4.7 billion of additional revenue through the life of the project (to 2017-18) will be realized.

As of June 30, 2015, the EDR project is 81 percent complete and is approaching the last year and warranty period. Since the project is now near completion, an assessment of the actual on-going needs to perform the maintenance and operations post-project for 2016-17 through 2020-21 has been completed. The FTB indicates the proposed changes are necessary for the project to sustain its on-going annual $1 billion revenue projection once the state takes over the full maintenance and operations of the EDR solution post-project. The project continually undergoes a thorough review and approval process, as well as scheduled reporting at appropriate milestones. As of June 30, 2015, the EDR project has also completed eight major releases on time and is on-track to deliver its one remaining release on schedule. To date, the project is on schedule with all deliverables and revenue generation.

Staff Comments. The net benefit of this project has ramped up quickly. As noted above, the project began to produce significant net revenues starting in 2011-12. The FTB has among the best track records in California state government for the successful development and implementation of major information technology projects. FTB projects have experienced some delays and cost increases in certain phases, although these problems generally have not prevented successful timely completion of overall project phases. The committee may ask the LAO and CalTech to comment on the project. The department has provided strong management of the implementation of EDR, to date. Nevertheless, given the sensitive nature of the project, and its direct relevance to revenue collection for the state, the committee is wise to provide continual oversight of the project.

Staff Recommendation. Approve as budgeted.

Vote.

Issue 2: Accounts Receivable Management Program (BCP 003)

Governor's Proposal. The FTB requests $8.2 million (General Fund) and 101 permanent positions, representing the continuation of limited-term positions, associated with working down the existing inventory of accounts receivable. The current positions will expire June 30, 2016. These positions were originally approved on a two-year, limited-term basis in 2010-11. The revenue resulting from the continuation of these positions for an additional two years is expected to be $108.2 million in 2016-17, $106.1 million in 2017-18, and $104.0 million in 2018-19.

FTB's tax collection activities involve collection of accounts receivable, and include automated billing and collection activities, notices, levies, attachment of assets, and routing accounts to collector. FTB's accounts receivable inventory has increased substantially over the last few years, from $5.4 billion in 2007 to $8.5 billion in 2011; as of July 1, 2015, inventory remained at about this level. The portion of the inventory "available to collect" has declined somewhat, from $5.7 billion in 2011 to $4.6 billion in 2015. The inventory in accounts receivable increased substantially during the years when the agency's resources were curtailed due to furloughs, work force reductions, and other forms of retrenchment during the previous Administration.

Staff Comments: The department has provided data and other information justifying the need for continued enhanced accounts receivable resources. The extension of the limited-term positions will continue an existing successful program, with a benefit to cost ratios of about 13 to one in the budget year. When these positions were extended in 2012, FTB indicated that it expected efficiency improvements to occur in the future. FTB has noted previously that continuing efforts will reduce the accounts receivable inventory, and this to some extent has occurred. From 2011 to 2015, the 'available to collect' inventory has decreased as a proportion of the total accounts receivable, indicating that the additional resources have been used effectively. A key factor in generating additional revenue from these accounts receivable activities is FTB's ability to work the receivables as soon as they become due and payable and enter the collection system. As accounts age, the tax liabilities become increasingly difficult to collect and the costs associated with collection activities increase. Given this, the committee may want to question the department regarding the future design of its accounts receivable program and, in particular, how technology improvements can address the ongoing inventory.

Staff Recommendation: Approve as budgeted.

Vote.

Issue 3: Customer Service Resources (SFL 001)

Governor's Proposal. The FTB requests $7.7 million (General Fund) and 85 positions for 2016-17, and $7.1 million (General Fund) and 93 positions for 2017-18, and ongoing to enable the department to effectively transact business with taxpayers, interacting in ways that are convenient for them and providing information allowing taxpayers to meet their tax filing and payment obligations. FTB indicates the existing service levels for its customer service channels are below desired standards. This proposal seeks resources to enhance service levels for self-service channels on the web and personal service channels including phone, electronic mail, live chat, and correspondence. The proposal calls for six positions associated with website technology accessibility; 24 positions related to the taxpayers services center and registration; 15 positions for written correspondence; 24 positions for power of attorney issues; and 15 positions (and eight converted from temporary in 2017-18) for live chat.

Background. In its role as one of the state major tax collection agencies, FTB seeks to provide customer service at the first point of contact to resolve their tax questions in a timely manner and therefor minimize departmental costs. If taxpayers cannot reach FTB for assistance, they make multiple contacts through different customer service channels and issues may migrate to the more costly involuntary non-compliance collection activities. FTB provides customer service through four existing primary channels:

- 24/7 website based and electronic self-service applications and programs.
- Taxpayer service contact center available via telephone.
- Interactive live chat via the internet.
- Personalized written correspondence (including power of attorney forms and correspondence on account issues.

FTB indicates that the service levels and response times in its customer service channels are unacceptable, as demonstrated by the following:

- FTB is unable to answer almost one million calls offered annually, between 50 percent and 60 percent of calls.
- In the last several years, FTB has seen the response time to address taxpayers written questions increase to between six to eight months.
- FTB lacks resources to support compliance with state and federal regulations regarding accessibility standards of FTB's applications and website pages.

During 2014-15, data from FTB's customer service channels and staff indicate the following: 14.8 million visits to FTB's website; 1.5 million taxpayers assisted by FTB's automated telephone system; 941,000 of 1.8 million calls to FTB's Taxpayer Assistance Line answered;

165,000 calls answered on Tax Practitioner Hotline; 110,000 live chats hosted; 163,000 pieces of correspondence completed (backlog of 63,000). The majority of these contacts relate to the following: 13 million notices and letters mailed to taxpayers; one million return information notices correcting amounts reported on a return and/or reducing the taxpayer's refund amount; 1.5 million statements of taxes due correcting amounts reported on a return and requesting payment of additional tax; one million requests or demands for a tax return from potential non-filers based on information available to FTB and over 650,000 notices of proposed assessments subsequently issued to these non-filers; 18 million personal income tax returns and 1.7 million business entity returns processed.

In the previous decade, FTB has been actively pursuing enhancements to its customer service channels to address taxpayers' needs as well as enhance levels of service without additional resources. FTB has deployed numerous website applications and tools to manage personal customer service channels. These are heavily utilized by taxpayers to gain information. Since 2011, the visits to FTB's website have increased by almost 78 percent. However, the FTB indicates that it has not been able to enhance service levels for those taxpayers that still need assistance after utilizing our self-service options. FTB has found that taxpayers still desire a high level of personal service for the following reasons:

- The taxpayer's tax issue is complex and they just need to receive assistance from an agent so they know they are addressing it correctly.

- Some taxpayers are not willing to manage their financial affairs without talking with an agent to ensure they are addressing issues correctly and minimizing penalties and interest.

- In a recent 2015 study by the Pew Research Group, a substantial proportion of adults do not have access to, or for other reasons, do not use the internet.

Staff Comments. FTB has aggressively pursued less personnel-intensive means of providing access to taxpayers to address questions, concerns and account issues. In particular, its provision of electronic services (information and filing) serve as good examples of what can be done with technology to make government work more efficiently. The data and other information provided as part of the budget request – especially data related to calls that were not addressed – provide evidence of the value of additional resources. However, the thrust of the current budget proposal works against the direction the department is working towards overall. Staff’s concerns relate to the fact that there will continue to be shifts in the manner in which taxpayers obtain information and assistance, and the direction of these shifts will be towards electronic provision and automated systems – not direct personal assistance. In addition, there are new programs that have been introduced – for example, the Earned Income Tax Credit (EITC – the concerns about which would be expected to decline over time. Thus, staff recommends that the committee approve a portion of the positions requested on a permanent basis with a portion of the request granted on a limited-term basis, with provisional language allowing continuation of the limited-term positions upon presentation of the justification and a 30-day notice to the Joint Legislative Budget Committee (JLBC). Draft BBL for such a continuation is as follows:

> *Of the funds appropriated in this item, $4,715,000 shall be available to fund the equivalent of 63 positions through the 2018-19 fiscal year for staffing various customer service channels. The Franchise Tax Board may convert this funding to permanent funding with corresponding position authority for 63 permanent positions subject to approval of the Department of Finance, not sooner than 30 days after 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.*

Staff Recommendation. Approve six positions for website technology accessibility and 24 positions for power of attorney activities on a permanent basis, and all other positions requested on a three-year limited-term basis, with additional BBL allowing for continuation of the limited-term positions presentation of the justification and a 30-day notice to the JLBC.

Vote.

0860 BOARD OF EQUALIZATION
7730 FRANCHISE TAX BOARD

Presenters: **Michelle Pielsticker, Board of Equalization**
Jeanne Harriman, Franchise Tax Board
Brian Weatherford, Legislative Analyst's Office

Issue 1: Branch and Field Offices – Oversight

Background: California has two major tax administration and collection agencies, the Franchise Tax Board (FTB) and the Board of Equalization (BOE).

- The FTB is under the purview of the Operations Agency and is governed by a three-member board, comprising the Director of Finance, the State Controller and the chair of the Board of Equalization. FTB administers and collects the personal income tax and the corporation tax (franchise and income), which together are expected to generate revenues of $91.7 billion in the current year, representing approximately 76 percent of General Fund revenue.

- The BOE is governed by an independent board, comprising four members elected from equally-populated districts across the state and the State Controller. The board is a quasi-judicial elected body, and serves as appellate entity for state taxes and as the administrative agency for taxes and fees under BOE purview. Taxes and fees under BOE administration include: sales and use taxes, motor vehicle fuels taxes, cigarette and tobacco taxes, alcoholic beverage tax, and various other specialized taxes and fees.[8]

Each of the agencies maintains field offices throughout the state. These offices serve two primary purposes; first, they provide office space for state employees who serve as auditors and other tax professionals with the agency; and, second, they provide a local facility to address questions or requests for information from tax- and fee-payers. For BOE board members, one of the offices is designated as the member's district office. Thus, assuming the offices are located in appropriate areas of the state, they can ease access to the public for the purposes of providing general information or addressing specific account issues. The table below lists FTB and BOE offices that are open to the public and presents data indicating public visits over the most recent five year period.

[8] Other taxes and fees are; timber yield tax, state-assessed property tax, private rail car tax, tire fee, lead poisoning fee, electronic waste recycling fee, emergency telephone users surcharge, energy resources electrical surcharge, fire prevention fee, various hazardous waste fees, lumber products assessment, ballast water fee, natural gas surcharge, led poisoning fee, oil spill prevention fee, railroad accident fee, underground storage tank fee, water rights fee. Many of the specialized taxes and fees are levied on or collected from a limited number of entities.

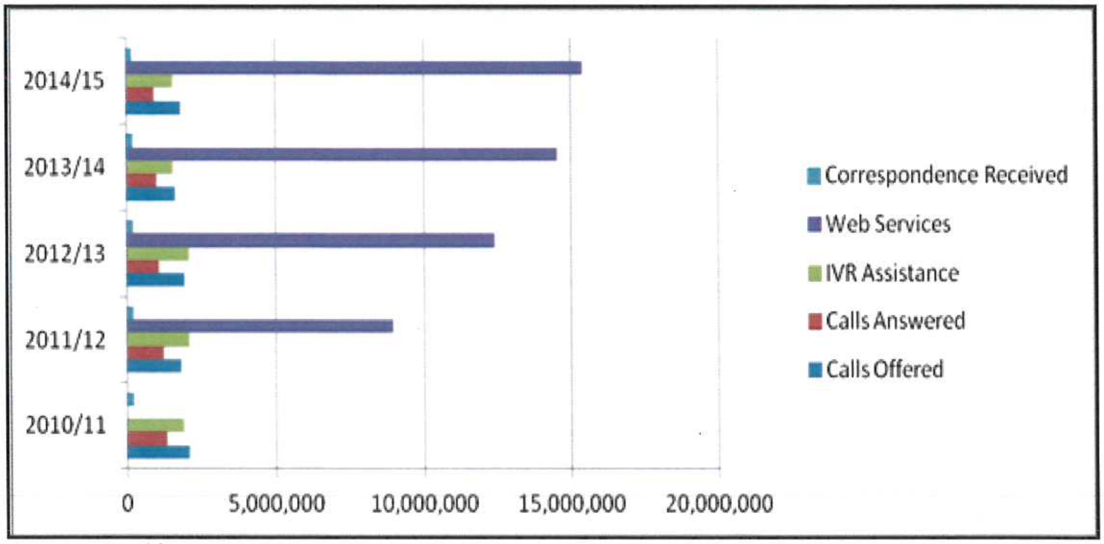
California Tax Collection Agencies
Number of Office Visits to Public Branch Offices
2010-11 through 2014-15

Franchise Tax Board	**2010-11**	**2011-12**	**2012-13**	**2013-14**	**2014-15**	**% Δ**
Sacramento	24,935	22.393	20,594	21,775	17,508	–29.8
Oakland	16,054	13,744	10,400	14,064	14,755	-8.1
San Francisco	14,869	13,464	10,160	11,980	13,457	-9.5
Los Angeles	15,912	20,012	19,105	16,947	16,313	2.5
Santa Ana	14,054	17,478	15,214	14,649	16,579	18.0
San Diego	14,468	19,007	18,110	14,469	14,026	-3.1
Total	100,292	83,727	93,583	93,884	92,638	-7.6
Board of Equalization	**2010-11**	**2011-12**	**2012-13**	**2013-14**	**2014-15**	**% Δ**
Fresno	11,516	12,534	7,528	7,388	6,475	-43.8
Bakersfield	6,017	6,480	3,712	9,293	8,138	35.3
Sacramento	20,446	18,305	11,262	10,804	10,006	-51.1
Redding	6,303	3,690	2,945	2,884	2,714	-56.9
Santa Clarita	NA	NA	NA	825	4,138	NA
Rancho Cucamonga	NA	NA	NA	NA	NA	NA
San Francisco	8,274	7,580	4,173	3,768	2,809	-66.1
Oakland	12,948	10,965	6,228	6,282	5,846	-54.9
San Jose	13,355	13,215	9,411	8,749	7,522	-43.7
Salinas	4,812	4,284	2,540	2,818	3,438	-28.6
Santa Rosa	6,687	6,323	4,378	4,052	3,185	-52.4
Fairfield	2,422	2,174	740	1,136	1,304	-46.2
Norwalk	39,007	38,675	28,462	25,188	22,905	-41.3
Glendale	26,935	25,894	17,846	14,345	10,929	-59.4
West Covina	22,877	22,092	16,208	15,692	17,873	-21.9
Ventura	5,608	5,591	3,475	3,187	3,095	-44.8
Culver City	23,739	23,543	13,801	19,237	10,594	-55.4
Irvine	24,710	23,964	18,455	15,464	11,746	-52.5
Riverside	21,308	21,446	15,701	14,601	13,143	-38.3
Rancho Mirage	3,913	3,313	2,416	2,368	2,263	-42.2
San Diego	13,349	20,015	11,028	10,829	9,404	-29.6
San Marcos	8,164	NA	NA	NA	NA	NA
Total	282,390	270,083	180,309	178,910	157,527	-44.2

Source: Franchise Tax Board and Board of Equalization

The data indicate a significant drop in the number of visits, especially for BOE public offices, which declined over 40 percent. Public offices are offices are not the only means of reaching customers, however, and lower-cost approaches have developed in recent years. Both FTB and BOE have pursued opportunities that minimize costs while retaining accuracy and responsiveness for the tax-paying public. In particular, both agencies have focused on web-based services and automated response telephone systems. As indicated in the table data, these efforts have been rewarded, as such efforts are likely to have been at least partially responsible for the drop in visitation to the district offices of both tax agencies. As an example of this transition, the chart below indicates the growth in web services at FTB just over the last five-year period.

Franchise Tax Board
Customer Service Channels Chart

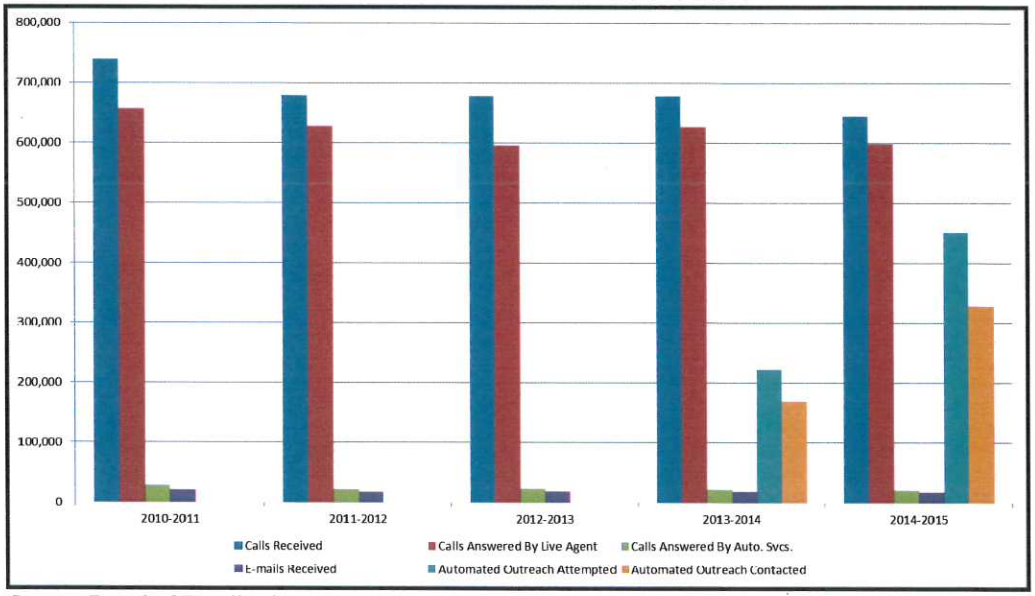


Source: Franchise Tax Board

Although not reflected in the field office table above, FTB has coupled its pursuit of technology-based outreach, customer services and filing, with the aggressive pursuit of savings through reducing the number of field offices. Up to 2003 and earlier, FTB had 19 offices, nine of which were accessible to the public. Between 2004 and 2006, it closed seven offices and between 2006 and 2008 closed three public service counters. As shown in the table, FTB has 12 district offices, six of which have public access. Along with this process, FTB has consolidated its staffing resources in the remaining offices. FTB's in-roads regarding e-filing are also significant. For tax year 2010, e-file accounted for 78 percent of personal income tax returns and 37 percent of business entity returns; for the tax year 2014, e-file percentages had climbed to 81 percent and 70 percent, respectively.

BOE is also beginning to make progress in shifting to a technology-based means of providing customer service. The chart below shows the shift towards automated outreach, although the number of automated responses lags well behind live agent contact (among the most expensive means of contact, other than face to face.) Although not tracked on this chart, BOE reports that the number of website hits has increased from about 50,000 in 2013-14 to almost 80,000 in 2014-15.

Board of Equalization
Customer Service Channels Chart



Source: Board of Equalization

Staff Comments. While both FTB and BOE are responsible for the administration and collection of state taxes and fees, they have a very different customer base and must tailor their respective public access programs somewhat differently. FTB collects from a vastly greater number of taxpayers but likely benefits from a high degree of homogeneity across the taxpayer population and significant participation by tax professionals. However, the issues associated with the personal income and the corporation tax that FTB administers can be quite technically complex and legally nuanced, requiring significant exchange of information. Taxes and fees administered by the BOE may often be somewhat less technically complex, but are levied on or collected by a varied group of entities with significantly different degrees of sophistication and tax knowledge. In the case of both agencies, access to accurate and timely information is vital for the process.

Incumbent upon each agency is ensuring taxpayer access to information in the most effective manner possible, as well as easing the burden of filing and payment responsibilities. The FTB has pursued aggressively various electronic means of providing information and assistance to taxpayers, including web-based solutions and automated telephonic systems. This effort, along with changes in the taxpaying base, has facilitated a reduction in the number of district offices that the agency has had to maintain. Even with the reduced number of offices (six), visitation has declined over the 2010-11 through 2014-15 five-year period by 7.6 percent. Meanwhile, FTB indicates that from 2011-12 through 2014-15, contacts for web services increased from under 10 million to over 15 million. FTB's Spring Finance Letter requests additional funding to improve services provided through these electronic and or automated means. The growth in the number of electronic tax filings is also an indication of the FTB successful embrace of electronic services.

BOE has provided information which indicates that there has been some trend towards electronic filing; however, given the BOE more diverse base of taxpayers, the incorporation of electronic means of filing and information dissemination is somewhat slower and more uneven across the tax base. BOE currently provides e-filing for some special taxes and sales and use taxes, which account most tax filings. About 95 percent of sale and use tax returns are e-filed, and there has been an increase in special tax filings from 5,271 in 2010-11 to 42,489 in 2014-15. Special taxes include cigarette and other tobacco products and motor vehicle fuel taxes. The Emergency Telephone Program will begin e-filing in October of this year and BOE's plan is to expand e-filing as a part of the Centralized Revenue Opportunity System (CROS) project in the future.

What is difficult to reconcile is technology advances allowing for growth in e-filing and web-based services at BOE, coupled with an actual increase in the number of physical offices maintained by the agency. In fact, as indicated in the table, the number of offices has increased while the number of visitations has actually declined by a significant percentage. While the agency certainly does not want to restrict or curtail public access by closing needed field offices, the state should also ascertain that access is provided by the most efficient means available. In addition, decisions regarding the location of offices appear somewhat counter-intuitive in some instances. Based on information available to staff, the agency specifically choose to locate the new office in Rancho Cucamonga when two existing field offices are within 25 miles of that city. There are several other cities of comparable size with much longer drives to the nearest field office.

The committee may interested in whether the agencies are meeting customers' demands for assistance and information in the most efficient and effective manner possible. Constructing (or renting) physical facilities present significant capital costs to the state and maintaining these facilities requires additional operating expenses and substantial personnel costs. Although there may be additional physical presence required by BOE because of the nature of its diverse responsibilities and varied customer base, the committee may be concerned that the state is getting the largest benefit for its invested customer service dollars. Delivering web-based information and providing filing opportunities electronically incur costs that are a fraction of those associated with maintaining a physical presence. In addition, the committee may be interested regarding the dispersion of offices around the state, and whether they actually reflect the distribution of the customer base.

Staff Recommendation. Information item.

0860 Board of Equalization

Presenter: Edna Murphy, Board of Equalization

Department Overview. The State Board of Equalization (BOE) is comprised of five members - four members each elected to the board on a district basis, and the State Controller. The BOE administers the sales and use tax (including all state and local components), oversees the local administration of the property tax, and collects a variety of excise and special taxes (including the gasoline tax, insurance tax, and cigarette and tobacco products taxes) and various fees (including the underground storage tank fee, e-waste recycling fee, and fire prevention fee). The BOE establishes the values of state-assessed property, including inter-county pipelines, railroads, and regulated telephone, electricity, and gas utilities. The BOE also hears taxpayer appeals of BOE-administered taxes and fees and FTB decisions on personal income and corporation taxes.

Budget Summary. The Governor's budget proposes resource support of $598.3 million ($319.3 million General Fund), and 4,667.5 positions for the BOE in fiscal year 2016-17. The budget proposes total level funding and a slight General Fund support increase, compared with spending estimates for the current year. Proposed staffing in the budget would increase by 48 positions from the current-year estimate. The department's budget request relate largely to the extension of existing programs and services.

Staff Comments. As noted in the previous issue, the BOE is unique in state government as an elected board with quasi-judicial powers that also administers one of California's major tax agencies, responsible for collecting almost $30 billion in General Fund revenues alone. The combination of administrative, political and adjudicatory responsibilities of the board raises numerous organizational issues that are of particular importance given the sensitive and confidential nature of the tax area. Given the sensitivity of the charge assigned to the agency, it is vital that the state's tax laws be administered in a fair and impartial manner.

To an overwhelming extent, California taxpayers voluntarily comply with the state's tax laws, and such compliance is based, in part, on taxpayers' perception of the fair administration of the system. This widespread compliance with the state's tax laws, in turn, preserves the integrity of the state's tax and revenue system. The line between administration and elected representatives should be a clear one, in order to preserve the fairness and impartiality of the tax system. This is of particular importance in the areas of auditing, collections and disputes over penalties and liabilities. The committee may wish to pursue questions relating to the organizational structures and administrative controls at BOE that ensure the continued impartial administration of the tax and fees administered by the agency.

Staff Recommendation. Informational issue.

Issue 1: Appeals Division Business Taxes Program and Settlement Workload (BCP 002)

Governor's Proposal. The Governor's budget includes a request from BOE for $5.1 million ($3.3 million General Fund) and 22 permanent positions (representing the continuation of 22 limited-term positions expiring June 30, 2016) and eight new permanent positions for 2016-17 to address the increase in combined incoming workload for the appeals program and settlement program. The positions include tax attorneys, business taxes specialists, and tax technicians.

Background. The appeals and settlement programs both perform legal services in cases where taxpayers can dispute tax and fee liabilities. The appeals program holds appeals conferences and prepares independent and neutral legal review of business tax disputes that arise once a billing has been issued by the agency and the taxpayer has, in response, filed a petition for reconsideration. Until the appeals process is completed, taxes cannot be collected on the disputed liability, and therefore it is critical to accelerate appeals cases as much as possible in order to move cases to a collectible state and maximize the potential for collecting amounts owed.

The appeals program conference holders, including attorneys or auditors, conduct appeals conferences in which the agency and the taxpayer present their arguments to the conference holder and the conference holder collects evidence regarding the legal and factual issues in each appeal. The conference holder then drafts a decision and recommendation setting forth the facts and contentions of both parties, analyzing the facts and contentions in light of the applicable law, and recommending a resolution with respect to the issues presented and the liability. A taxpayer may either accept the decision or further appeal its case to the five-member board. If the taxpayer or the agency requests an appeal, the conference holder reviews the request for reconsideration and then issues a supplemental decision and recommendation.

The settlement program conducts administrative settlement negotiations on disputed liabilities based on the risks and costs of litigation. Taxpayers are eligible to request settlement consideration at the time they submit a petition for reconsideration. As with an appeal, because taxpayers are not required to pay their disputed liabilities in order to file a petition for redetermination, it is important that settlement cases are accelerated as much as possible to maximize the potential for collecting funds due while businesses are viable and able to pay. Taxpayers who have reached settlement pay the agreed settlement amount either within 30 days of approval of the settlement, or within 12 or 24 months. Attorneys and auditors performing this work review audit case files, analyze the risks and cost of potential litigation, propose appropriate settlement ranges to reviewers for approval, conduct negotiations, draft settlement agreements, and prepare Attorney General and executive management memorandums recommending settlements for the five-member board or executive management approval.

Beginning in 2007-8 there was a significant and sustained uptick in appeals and settlement requests. Additional resources were added on a pilot basis effective October 1, 2010, to address significant increases in incoming workload that began in 2007-08. The then-existing staffing was divided roughly equally between the appeals and settlement programs, with auditors and attorneys conducting appeals conferences and holding settlement negotiations with taxpayers who had entered the appeals process. The positions for the pilot were originally established to work a backlog of cases; however, the incoming workload for the appeals and settlement programs as a whole has increased throughout the initial four-year pilot and the subsequent two-year continuation. The workload history for appeals and settlements is shown in the table below:

Board of Equalization
Appeals and Settlements Cases
207-08 through 2014-15

	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Beginning Inventory	695	699	1017	1387	1407	1586	1603	2011
Incoming Cases	834	1092	1260	1208	1449	1466	2001	2514
Completed Cases	830	774	890	1188	1270	1449	1593	1751
Ending Inventory	699	1017	1387	1407	1586	1603	2011	2774

BOE states that the significant growth in incoming workload for the appeals and settlement programs has created a gap between the amount of work to be done and the workload capacity of the programs. This has caused a backlog of cases to develop as demand for appeals and settlement services continues to increase. BOE indicates that the increases are believed to be related to the 2007-08 recession, as well as increased outreach by the agency to improve taxpayer education as to available options for resolving disputed tax liabilities.

Staff Comments. The BOE seems unable to provide an adequate analytically-based explanation for the increase in appeals and settlement cases. While there was an uptick in cases that coincides with the recent recession, there was no corresponding easing or even leveling off of cases before the board. In fact, as indicated in the data, for the most recent years for which data are available, the increases were 36 percent in 2013-14 and 25 percent in 2014-15. The issue here is that in not being able to attribute the increase to particular factors, it is not apparent whether the increases and higher level represent the new normal or are some relic from shorter-term economic conditions and tax issues. Given this, it would seem to make sense to approve continued funding for the 22 existing (and otherwise expiring positions) and approve funding for an additional eight staff, but on a limited-term basis for three years. This approach provide the resources to address the current and anticipated workload, as well as allowing for the budgetary flexibility to continue this funding during budget discussions for 2019-20, if necessary.

Staff Recommendation: Approve the conversion of existing 22 limited-term positions to permanent and approve three-year limited-term funding for addition eight positions.

Vote.

Issue 2: Regional Railroad Accident Preparedness and Immediate Response (SFL 003)

Governor's Proposal: In a Spring Finance Letter, the State Board of Equalization (BOE) requested $821,000 and 2.4 positions in 2015-16; $475,000 and 1.3 positions in 2016-17; and $278,000 and 1.3 positions in 2017-18 and ongoing from special funds to administer the provisions of SB 84 (Committee on Budget and Fiscal Review) Chapter 25, Statutes of 2015. SB 84 authorizes a new fee, the Regional Railroad Accident Preparedness and Immediate Response (RRAPIR) fee, to be imposed on owners of the 25 most hazardous material commodities at the time that hazardous material is transported by loaded rail car in California. The workload includes registering feepayers, processing returns, collecting fees, and processing audits and appeals. BOE is requesting permanent resources due to the difficulties in hiring and retaining staff in limited-term positions.

Background. The BOE has entered into an interagency agreement with the Office of Emergency Services (OES) to establish and implement and collect the RRAPIR fee on behalf of the OES. The collection of the fee is scheduled to begin October 1, 2016. Fee revenue is to be deposited in the Regional Railroad Accident Preparedness and Immediate Response Fund, with a portion of the deposited funds used for administrative expenses. The OES has agreed to provide the BOE $821,000 for fiscal year 2015-16, for costs to establish and implement the new fee collection program. BOE's implementation costs include: (1) one-time contract programming resources and data center services necessary to add a new fee program to the BOE's Integrated Revenue Information System (IRIS) and Automated Collection Management System (ACMS); and (2) funding for BOE positions and operating expenses for work involved in the implementation of the RRAPIR fee collection program. This request is for ongoing resources to administer and maintain the new RRAPIR fee program and be in compliance with the requirements of SB 84. The fee is levied on owners of the 25 most hazardous material commodities, as identified in regulations adopted by the OES, contained in or on a rail car transported by rail in California and is assessed on the number of loaded hazardous material rail cars transported within the state. The bill requires the OES director to establish a fee schedule based on each loaded rail car.

Staff Comments. Staff is supportive of this proposal, which provides reasonable staff resources for a legislative priority. The additional resources in the initial year correspond with registering fee-payers, an activity that should naturally tail-off as the fee becomes an established levy.

Staff Recommendation. Approve as budgeted.

Vote.

Issue 3: State Controller's Office Review of Board of Equalization Internal Accounting and Administrative Controls - Oversight

Presenters: Julia Findley / Edna Murphy, Board of Equalization
Jeffrey Brownfield, State Controller's Office

Background. From the second quarter of 2011 through the 4th quarter of 2013, BOE erroneously allocated sales tax revenue derived from gasoline sales to the General Fund instead of to special funds. During early 2014, a private consulting firm contacted BOE and raised a concern that the Local Public Safety Fund did not receive the correct cash allocations related to gasoline sales. BOE's internal auditor subsequently examined BOE's records and determined that when the fuel tax swap legislation took affect (which required BOE to change its methodology for allocating revenue derived from the sale of gasoline) there were two accounting errors that resulted in a misallocation of revenue:

- Incorrect reversal entries made in three quarters – total sales were reversed instead of only the state General Fund portion.

- Reversal entries were made in the wrong quarter – one quarter too early and before actual sales data was available

In July 2014, BOE notified the Department of Finance (DOF) that there had been a misallocation of funds in the Retail Sales Tax Fun (RTSF) As a result of this misallocation, the General Fund was attributed $343 million more in tax revenues than it should have received. During July 2014, DOF staff analyzed the issue and assessed the BOE proposed solution. In early August, DOF, BOE, and the State Controller's Office (SCO) agreed on a course of action to remedy the problem and the SCO made the adjustment to General Fund in August 2014.

The SCO initiated an audit of the BOE's internal accounting and administrative controls completed in November 2015. The SCO reviewed the internal accounting and administrative controls of the BOE's financial management and reporting practices over the BOE's RSTF, Office Revolving Fund (ORF), accounts receivable cycle, and apportionment and allocation processes for the period of July 1, 2013, through April 30, 2015.

SCO identified material internal control weaknesses over the RSTF revenue allocation process that have led to improper distributions to the various fund allocations. It noted the following in regard to the RSTF:

- Inadequate internal accounting and administrative controls to appropriately allocate money in the RSTF;

- Inaccurate adjustments of fund allocations in quarterly true-ups;

- Improper allocations of the additional sales tax on diesel fuel;

- Improper allocations of Department of Motor Vehicles (DMV) Use Tax; and
- Improper allocations of Franchise Tax Board (FTB) Use Tax;

In addition, SCO noted that the BOE's RSTF accounts receivable balance is inaccurate. Further, SCO identified control weaknesses over the BOE's ORF and specifically noted the following in regard to the ORF:

- Receivables were not collected in a timely manner;
- Claims were not scheduled for prompt reimbursement;
- Office revolving funds were improperly used, and there was a lack of supporting documentation for some payments;
- Controls over salary advances were inadequate; and
- Controls over travel advances and travel reimbursement claims were inadequate.

Based on its review, SCO determined that the BOE has a combination of weaknesses in internal control over the RSTF and ORF such that there is a reasonable possibility that a material misstatement in financial information, impairment of effectiveness or efficiency of operations, and/or noncompliance with provisions of laws, regulations, and policies will not be prevented, detected, and/or corrected in a timely manner.

Staff Comments. The SCO audit and evaluation noted some serious lapses in the internal control functions of BOE. This evaluation was initiated, at least in part, by concerns related to the agency misattribution of revenues. The result of this was a one-time reduction in General Fund of hundreds of millions of dollars that was mistakenly directed. At the conclusion of its review, the SCO stated "We strongly recommend that the BOE develop a detailed corrective action plan within six months of this report to address the issues noted…" SCO indicated that it would review the action plan and determine whether a follow-up is necessary. Staff is not aware of the extent to which BOE has respond to the various items identified in the review or implemented corrective actions. The committee may want to pursue questions related the status of BOE action plan and next steps, given that the six month period ends in May 2016.

Staff Recommendation. Information item.

8885 Commission on State Mandates

Department Overview: The Commission on State Mandates (CSM) is a quasi-judicial body created for the purpose of determining state-mandated costs. The objective of the CSM is to impartially hear and determine if local agencies and school districts are entitled to reimbursement for increased costs mandated by the state, consistent with Article XIII B, Section 6 of the California Constitution. The CSM consists of the director of Finance, the State Controller, the State Treasurer, the director of the Office of Planning and Research, and a public member and two local government representatives appointed by the Governor and approved by the Senate.

The CSM is responsible for determining whether a new statute, executive order, or regulation contains a reimbursable state mandate on local governments, and for establishing the appropriate reimbursement to local governments from a mandate claim. The Constitution generally requires the state to reimburse local governments when it mandates that they provide a new program or higher level of service. Activities or services required by the Constitution are not considered reimbursable mandates. The Constitution, as amended by Proposition 1A of 2004, requires that the Legislature either fund or suspend local mandates. In most cases, if the Legislature fails to fund a mandate, or if the Governor vetoes funding, the legal requirements are considered suspended pursuant to the Constitution.

Issue 1: Reasonable Reimbursement Methodology for Mandate Claims (TBL)

Governor's Proposal. The Administration's mandate proposal would require State Controller's Office (SCO) to audit all mandate reimbursement claims used in the development of any new reasonable reimbursement methodology (RRM), which is one approach to reimbursing local governments for mandate costs. The Administration proposes this amendment based on its concern that the claims used to develop a particular RRM overstated actual costs. RRM proposals must use cost information from one of three sources: a representative sample of eligible claimants; information provided by local government associations; or, other projections of local costs. Under the Administration's proposal, if a proposed RRM uses cost information based on claims filed by local governments to the SCO, those claims would have to be audited before being used to develop a general allocation formula. An RRM developed through means other than claims data would not face this requirement.

Background. Local governments can submit claims for mandates costs reimbursement based on the actual costs of the required activities or the CSM can adopt a RRM. The Legislature created the RRM process in 2004 with the intent to streamline the documentation and reporting process for mandates. An RRM allows local governments to be reimbursed based on general allocation formulas or other approximations of costs, rather than detailed documentation of actual costs. The Department of Finance (DOF), SCO, affected local governments, or an interested party may propose an RRM. Generally, when an RRM is proposed, the CSM cannot modify it, but must either adopt or reject the proposal. To be adopted by the CSM, an RRM must meet the following conditions:

- Use cost information from one of the following: a representative sample of eligible claimants; information provided by local government associations; or, other projections of local costs.

- Consider the variation in costs among local governments to implement the mandate in a cost-efficient manner.

- Be consistent with the mandated activities identified in the CSM's parameters and guidelines.

Once an RRM is submitted to the CSM for consideration, DOF, SCO, or affected local governments may file comments with the CSM. These comments are part of the administrative record and may outline the parties' support or opposition to the proposal. The parties may submit comments again after the CSM releases a proposed RRM decision. DOF has regular voiced concern that RRM may not be based on audited claims. There are currently six active mandates that have an RRM.

LAO Comments. The intent of the Legislature in establishing the RRM process was to reduce local governments' burden of documenting actual mandate costs, as well as reduce the work of state officials in reviewing and paying associated claims. But the RRM process has been seldom used to date. LAO notes that there are already several opportunities for DOF or other interested parties to weigh in on whether an RRM proposal meets the requirements of state law, and the proposed audit requirement likely would lengthen the process for developing an RRM. As a result, it could become more difficult for local governments to propose RRMs based on claims data in the future. Moreover, an increase in SCO's audit workload potentially could strain that department's resources in the future. LAO recommends caution in considering actions that could make the process less beneficial for local governments. For example, if the state suspends fewer local government mandates than it does today, there may be more RRM proposals. As one alternative, the SCO could be required to audit just a sample of the claims used for an RRM.

Staff Comments. The proposal is intended to avoid potentially inflated mandate claims, but could result in causing additional problems such as delays, reporting burdens and disincentives for the RRM process. In addition, the proposal would impose new auditing activities on the SCO with no additional resources. Given the potential unintended consequences of the proposed language, staff recommends no committee action at this time.

Staff Recommendation. Hold open.

Vote.

9210 Local Government Financing

Item Overview. The state provides general-purpose revenue to counties, cities, and special districts when special circumstances occur. The Local Government Financing program includes those payments to local governments where the funds may be used for any general government purpose as well as funds for one-time, designated purposes.

Issue 1: Revenue Loss Due to Wildfires (BBL)

Governor's Proposal: The Governor's budget proposes funding of $1.9 million General Fund one-time in 2016-17 to backfill property tax, sales and use tax, and transient occupancy tax revenue losses that Calaveras and Lake counties, and the special districts located in those counties, will incur due to wildfires last year. The accompanying budget bill language (BBL) requires that the counties submit to Department of Finance (DOF) a claim detailing the losses prior to being issued a warrant by the State Controller. The amount of reimbursement will not exceed $596,000 for Calaveras County and $1.3 million for Lake County.

Background. In 2015, Lake and Calaveras counties suffered significant financial losses due to two separate wildfires. The fires burned more than 145,000 acres combined and destroyed more than 2,000 homes and other structures. Earlier this year, the Legislature appropriated $105 million in funding to support fire recovery and debris removal for Lake and Calaveras counties. In another budget item, the Administration proposes additional relief by covering $2.9 million in CalFIRE contract costs for the two counties.

Staff Comments. Staff has no concerns with the proposal.

Staff Recommendation. Approve as budgeted.

Vote.

Issue 2: Local Law Enforcement Reimbursement (BBL)

Governor's Proposal. The budget includes $10.0 million for reimbursement of costs associated with AB 953 (Weber), Chapter 466, Statutes of 2015, which calls for tracking and reporting of stops by local law enforcement. The budget bill language indicates that the funds are to be awarded based on a schedule to be provided by the DOF and acceptance of the funds would preclude the local government from filing a claim for these costs with the Commission on State Mandates (CSM).

Background. The adopted statute requires the Attorney General to establish the Racial and Identity Profiling Advisory Board, which is directed, among other duties, to investigate and analyze state and local law enforcement agencies' racial and identity profiling policies and practices across geographic areas in California and make publicly available its findings and policy recommendations. The measure requires each state and local agency that employs peace officers to annually report to the Attorney General, data on all stops conducted by the agency's peace officers, and require that data to include specified information, including the time, date, and location of the stop, and the reason for the stop. The measure was identified as a state-mandated local program by Legislative Counsel. Whether the required activities constitute a reimbursable mandate (and if so, what are the allowable costs) will be determined by the CSM.

Staff Comments. Staff is aware that the proposal, as currently reflected in the budget, remains a work in progress. There are a number of questions that arise from the basic outline, however. These include the basis on which funds are to be allocated and, more fundamentally, whether local governments conducting state-mandated activities can actually be precluded from receiving constitutionally protected expense reimbursements or can waive the right to claim such reimbursements. This concern would be particularly relevant if the funds are accepted but prove inadequate to fully cover the allowable expenses established through the mandate process. Staff recommends that this item be held open.

Staff Recommendation. Hold open.

Vote.

Issue 3: Hard-to-Site Facilities (BBL and TBL)

Governor's Proposal. The Governor proposes $25.0 million (General Fund), budget bill language (BBL) and trailer bill language (TBL) relating to hard-to-site state facilities. The funds will be dedicated to siting incentive payments to cities and/or counties that approve, between January 1, 2016 and June 30, 2017, new long‑term permits for hard‑to‑site facilities that improve public safety and support the criminal justice system.

Background. Local governments have sole control over land use, zoning and permitting within their communities. When local communities are reluctant to allow the operation of programs for the rehabilitation of offenders in the criminal justice system, this local authority has slowed the ability of the state and local governments to provide meaningful rehabilitation programs. The appropriation would be used for siting costs related to such activities as substance use disorder treatment, mental health, and reentry programming.

LAO Comments. In its review of the proposal, LAO notes that it lacks significant details with respect to a full definition of the eligible facilities, specifics as to how the grants would be applied for and awarded, the amount of funding that could be received, and whether both state and local facilities would be eligible. In addition, the LAO indicates that there are no statewide data that shed light on permitting challenges, nor regarding local government costs. The office suggests a more targeted approach that would use state funds for specific mitigation measures on a case by case basis.

Staff Comments. The Administration has provided neither data nor other information regarding the magnitude of the problem, and the proposal itself, as currently formulated, remains rather inchoate. The proposed trailer bill language is intent language regarding the program. However, staff understands that the Administration is continuing to work with stakeholders to flesh-out the details of the proposal.

Staff Recommendation. Hold open.

Vote.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, April 28, 2016
9:30 a.m. or Upon Adjournment of Session
State Capitol - Rose Ann Vuich Hearing Room 2040

Part A

Consultant: Mark Ibele

ITEMS PROPOSED FOR VOTE-ONLY

Item	Department	Page
7730	**Franchise Tax Board**	**3**
Issue 1	E-Commerce Infrastructure Refresh	3
	Approve as budgeted 3-0 (Pan not voting)	
0860	**Board of Equalization**	**5**
Issue 1	Joint Operations Center for Fuel Tax Compliance	
	Approve as budgeted 3-0 (Pan not voting)	5
Issue 2	Permanent Establishment of Fire Prevention Fee Positions	5
	Approve as budgeted 3-1 (Nguyen no)	
8885	**Commission on State Mandates**	**7**
Issue 1	Funded and Suspended Mandates	7
	Approve as budgeted all funded mandates, 4-0	
	Approve funding of all election mandates, 4-0	
	Hold open all suspended non-election mandates.	

ITEMS FOR DISCUSSION AND VOTE

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, April 28, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultant: Farra Bracht

Part B

VOTE-ONLY ISSUES

DISCUSSION / VOTE ISSUES

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) 651-1505. Requests should be made one week in advance whenever possible.

Issues Proposed for Vote-Only

Staff Recommendation: Approve all of the following vote-only issues as budgeted.

2400 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD)

Issue 1: Community Development Block Grant-National Disaster Resiliency Competition (April Finance Letter)

The Administration requests $422,000 in federal state operations budget authority and one position through 2020-21 to administer the federal Community Development Block Grant Program for National Disaster Resiliency funding. The requested position and funding for an external consultant will enable HCD and partner agencies to carry out projects awarded to California under the National Disaster Resiliency competition. California received over $70 million from the US Department of Housing and Urban Development for this grant program for disaster recovery and resiliency work related to the 2013 Rim Fire. The grant funding will be used to address resiliency needs in Tuolumne County in three areas: 1) forest and watershed health; 2) integrated biomass and wood products facility, and 3) community resilience center. HCD will administer the award through the local government in Tuolumne County and the Sierra Nevada Conservancy.

Issue 2: Affordable Housing and Sustainable Communities Program Administration (April Finance Letter)

The Administration requests an increase of 11 positions to continue the administration of the Affordable Housing and Sustainable Communities (AHSC) program. These positions (along with 11 currently established positions) will award and administer approximately $320 million in 2016-17 in competitively awarded loans and grants for integrated housing and transportation projects. Future funding rounds will likely be similarly sized given that AHSC receives 20 percent of all cap-and-trade proceeds as a continuous appropriation. The cap-and-trade program, a key element in the Administration’s plan to reduce greenhouse gas (GHG) emissions to 1990 levels by the end of this decade, sets a statewide limit on the sources of greenhouse gases and establishes a financial incentive for long-term investments in cleaner fuels and more efficient energy use. Subsequent to the passage of AB 32, (Núñez and Pavley), Chapter 488, Statutes of 2006, the Legislature passed several bills related to the reduction of GHGs. The AHSC program at SGC was established to further the purposes of AB 32 and SB 375 (Steinberg), Chapter 728, Statutes of 2008, by investing in projects that reduce GHG emissions by supporting more compact, infill development patterns, encouraging active transportation and transit usage, and protecting agricultural land from sprawl development.

0650 OFFICE OF PLANNING AND RESEARCH

Issue 1: State Board of Education Workload Funding (Conforming Action)

The Governor's budget provides $1.4 million in non-Proposition 98 General Fund over three years ($548,000 in 2016-17, $572,000 in 2017-18, and $304,000 in 2018-19) to the Office of Planning and Research to support the State Board of Education's (SBE) work on local control and accountability plans (LCAP) and state accountability. This funding will continue to support limited-term positions for the SBE to continue workload related to the developing accountability system. This issue was heard in the Senate Budget and Fiscal Review Subcommittee No.1 on Education on April 21, 2016. The subcommittee heard and approved this issue.

Issues Proposed for Discussion and Vote

1700 DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

Issue 1: Enforcement Staffing and Resources (previously heard on March 3, 2016)

Governor's Proposal: The Governor's budget requests an increase of $2.5 million General Fund for 28 positions to provide investigations of discrimination complaints. This funding would provide:

- 24 positions in the Enforcement Division to investigate claims.
- Two positions to establish a training unit.
- Two positions to respond to an increased number of Public Records Act requests.

Background: The Department of Fair Employment and Housing (DFEH) is responsible for protecting the people of California from unlawful discrimination in employment, housing, and public accommodations, and from hate violence. DFEH receives, investigates, conciliates, mediates, and prosecutes complaints of alleged violations of the Fair Employment and Housing Act (FEHA), Unruh Civil Rights Act, Disabled Persons Act, and Ralph Civil Rights Act. The budget proposes expenditures of $25.9 million ($20.2 million from the General Fund and $5.7 million federal funds) for support of the department in 2016-17. This represents an increase of $2.7 million (11 percent) over estimated current-year expenditures.

DFEH receives approximately 23,000 employment and housing discrimination complaints annually and is required to investigate all complaints. Most of these are employment complaints. Approximately 50 percent of the claims are requests for "right to sue". This occurs when complainants decide to immediately sue rather than proceed through DFEH's investigation process and a "right to sue" letter from DFEH is required to file the lawsuit. The remaining 50 percent of claims are investigated by DFEH.

SB 1038, (Committee on Budget and Fiscal Review), Chapter 46, Statutes of 2012, made significant changes to DFEH's workload by eliminating the Fair Employment and Housing Commission and transferring the duties of the commission to DFEH. As a result, some of the staff used to conduct investigations was transferred to other functions and the number of cases each investigator was responsible for increased significantly, from roughly 150 cases per investigator to over 200. According to DFEH, this high of a caseload-per-investigator is unmanageable and is resulting in complaints not being processed in a timely manner, which can have negative consequences for Californians in some cases. DFEH notes that federal departments with similar workloads average about 35-70 cases per investigator and it also used caseload information from the California Department of Industrial Relations, Division of Labor Standards Enforcement as a benchmark.

The figure below shows the total number of cases/complaints received, the number investigated, the number of investigator positions authorized and filled, and the average number of cases per investigator since 2006-07.

Department of Fair Employment and Housing
Investigator Caseloads
2006-07 through 2015-16

	2006-07	**2007-08**	**2008-09**	**2009-10**	**2010-11**	**2011-12**	**2012-13**	**2013-14**	**2014-15**	**2015-16**
Total Cases	21,454	24,827	25,119	22,993	22,720	21,785	17,178	19,403	22,646	22,646
Cases Investigated	13,504	15,506	14,563	11,840	11,473	9,772	9,421	8,646	11,675	11,675
Authorized Investigator Positions	96	106	107	102	99	95	82	76	70	59
Filled Investigator Positions	87.7	98	92.8	85.5	73.9	64.2	58	53	47	51
Average Cases per Investigator	154	158.2	156.9	138.5	155.2	152.2	162.4	163.1	248.4	228.9

As shown in this figure, the number of cases received and investigated has remained relatively flat over the time period; however, the number of investigator positions has declined, and the average number of cases per investigator has increased. While DFEH has had problems filling its vacant investigator positions, recent changes in the allowable qualifications for this job classification should help to resolve DFEH's problem with filling vacant positions.

Questions:

1) DFEH staff will present the department's complaint processing process, discuss the value of the right-to-sue letter, and the performance metrics that have been developed for its complaint processing process (specifically metrics for key steps in the process).

Staff Comment: DFEH has a history of problems in completing investigations within statutory time limits. The 1996 Budget Act required the state auditor to perform a comprehensive fiscal and performance audit of the department and to develop recommendations for improving administrative operations and management of complaints related to housing and discrimination. The auditor found DFEH could make changes to improve the efficiency and timeliness of its complaint processing. However, at the time, the department took issue with many of the recommendations.

Unfortunately, DFEH continues to struggle with processing complaints in a timely manner and complaints take staff about as many hours to process as they did 20 years ago. The problem has been compounded over time by a reduction in the number of staff responsible for conducting investigations.

The budget request does not provide a good justification for the number of additional staff requested or an explanation of why investigations take the amount of time they do to complete. It is clear that DFEH would benefit from having additional investigators; however, it is difficult to determine what is the appropriate level of staff. As a result, concurrent with, or prior to approving a request for additional positions, it may be useful to have the auditor again assess DFEH's 1) organizational effectiveness; 2) caseload management practices for housing and employment complaints; 3) development of workload standards; and 4) the adequacy of DFEH's information technology (IT) systems. As an alternative to an audit, the Legislature may wish to adopt reporting language that would require DFEH to report beginning in 2017 on performance metrics. If the proposal is approved, it would be especially useful to have benchmark data to thoroughly assess the value of the additional investigative staff.

Staff Recommendation: Approve as budgeted and adopt the following placeholder supplemental reporting language:

Item 1700 001-0001—Department of Fair Employment and Housing

Employment and Housing Case Information. On or before March 1, 2019, the Department of Fair Employment and Housing shall submit a report to the Joint Legislative Budget Committee that includes the following information for each calendar year, January 1, 2017 through December 31, 2018:

1) Average number of days between receipt of a pre-complaint inquiry and the intake interview.

2) Number of cases for which the amount of time between receipt of a pre-complaint inquiry and the intake interview exceeds 30 days.

3) Average number of days for complaints to be served on respondents, differentiated by complaints dual-filed with the U.S. Department of Housing and Urban Development or U.S. Equal Employment Opportunity Commission and those not dual-filed.

4) Number of dual-filed cases not served within 10 days.

5) Number of non-dual-filed cases not served with 60 days.

6) Average number of days to close a case.

7) Percentage of cases closed within 100, 180, 275 and 365 days.

8) Number of cases rejected by the U.S. Equal Employment Opportunity Commission for payment due to quality reasons.

9) Number of cases remanded by the U.S. Department of Housing and Urban Development because of incomplete or inadequate investigation.

10) Number of cases waived to the U.S. Department of Housing and Urban Development or U.S. Equal Employment Opportunity Commission because the department identified possible merit too late to adequately investigate.

11) U.S. Department of Housing and Urban Development scoring of investigation quality.

<u>Vote:</u>

Issue 2: Replace Existing Case Management System (April Finance Letter)

Governor's Proposal: The Governor requests $1.9 million from the General Fund, $1.45 million from the Enforcement Litigation Fund, and three permanent positions in the budget year to replace DFEH's current case management system. The total project cost is $6.5 million of which $2.15 million is being redirected from existing resources. In 2017-18, the cost will be $993,000 General Fund and in future fiscal years, $944,000 General Fund will be ongoing.

Background: As mentioned in the previous item, DFEH receives approximately 23,000 discrimination complaints annually and is required to investigate all complaints. To process and track this massive volume of complaints, DFEH implemented a web-based case management system known as "Houdini" in May 2012. The system allows complainants and/or their representatives to file online complaints, and provides the ability to submit online Public Records Act (PRA) and right-to-sue requests.

The vendor for the current system notified DFEH that it will not renew its contract and will terminate all system support at the conclusion of the existing contract in December 2017. The lack of an automated system would require DFEH to revert to a time-consuming, laborious, paper-based process, which would hinder DFEH's effectiveness in meeting the public need and in fulfilling its statutory mandate.

DFEH is working with the California Department of Technology (CDT) and plans to procure and implement a commercial-off-the-shelf case management system that is hosted and maintained by the vendor in their cloud environment. To implement and support the new system, DFEH would need three additional staff. The new system will be supported by a combination of existing and new IT resources. New IT resources will cover the project support activities by working with the vendor to implement the replacement system, as well as the ongoing support to configure and support the CMS with added functionality that includes user account management, designing and modifying templates, configuration of business processes in the new CMS, document and content management support, external interfaces programming, online web portal, database support, report configuration, and training related activities.

Considering the project's business and technical complexity, DFEH and CDT have determined that the project also will require a data processing manager III to plan, organize, and manage the new CMS project for 12 months, from July 1, 2016 to June 30, 2017. It is anticipated that this will be a one-time cost to contract with CDT for these services.

Staff Comment: Staff has no concerns with this proposal.

Staff Recommendation. Approve as proposed.

Vote:

2240 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Issue 1: California Housing Loan Insurance Fund-Trailer Bill Language

Governor's Budget Request: The Governor proposes trailer bill language to amend various Health and Safety Code sections to allow the California Housing Finance Agency (CalHFA) to (1) replace the Director of Insurance position with a Director of Enterprise Risk Management and Compliance and (2) to require the annual audit of the California Housing Loan Insurance Fund (mortgage insurance fund) to be based on agreed upon procedures.

Background: CalHFA is authorized to use the California Housing Loan Insurance Fund's (fund) assets as at-risk capital in support of mortgage insurance programs which finance the acquisition, new construction, or rehabilitation of residential structures in California. The fund insures loans made by the agency; loans made by lenders for securitization by the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation; and loans made by localities, nonprofit agencies, and the California State Teachers' Retirement System.

The fund stopped insuring new housing loans in 2009 and is currently winding down. CalHFA anticipates funds (revenues from payments of existing insurance premiums) will be available to continue to pay claims through at least 2020. CalHFA indicates that the requirement to have a Director of Insurance and to complete an annual independent audit costs the fund approximately $240,000 per year ($170,000 for the director and about $65,000 for audits), which reduces the number of claims the fund is able to pay. There is currently about $45 million in the unpaid claim queue. CalHFA uses the cash it receives (about $2.5 million in the last fiscal year and expected to be about $2 million in the current fiscal year) to pay the next unpaid claim in the queue on a first-in-first-out basis. CalHFA has done a premium deficiency calculation for future premiums collected vs. future claims and does not expect the fund to ever have net assets.

By replacing the Director of Insurance with a Director of Enterprise Risk Management and Compliance that is funded out of the California Housing Finance Fund, would save the mortgage insurance fund approximately $170,000 annually. Existing CalHFA staff would oversee the administrative responsibilities for winding down the fund by following existing procedures. The Director of Enterprise Risk Management and Compliance would be responsible for assisting in the implementation of processes, tools and systems to identify, assess, measure, manage, monitor, and mitigate risks related to the development of new programs or changes to existing laws or regulations that may result in new or increased risk to CalHFA. Changing the annual audit requirement to an agreed upon procedures engagement, the fund would save approximately $35,000 annually. CalHFA indicates that this more focused approach is appropriate because the fund is no longer insuring new loans or creating new liabilities. The work resulting from the more focused approach would still be contracted out but, would cost less, roughly $30,000 annually.

Proposed California Housing Loan Insurance Fund – Trailer Bill Language

1. Add Section 50912.5 to the Health and Safety Code
There shall be within the Agency a Director of Enterprise Risk Management and Compliance appointed by the Governor and serving at the pleasure of the executive director of the agency. The Director of Enterprise Risk Management and Compliance shall assist in the implementation of processes, tools and systems to identify, assess, measure, manage, monitor and mitigate risks related to the development of new programs or changes to existing laws or regulations that may result in new or increased risk to CalHFA, as well as any other duties as the executive director prescribes.

2. Delete Section 51618 of the Health and Safety Code
~~There shall be within the Agency a Director of Insurance of the fund, appointed by the Governor and serving at the pleasure of the executive director. The Director of Insurance of the fund shall demonstrate knowledge of, and expertise in, mortgage insurance. The Director of Insurance of the fund shall manage and conduct the business and affairs of the insurance fund under the direction and supervision of the Agency, and shall perform any other duties as the executive director prescribes.~~

3. Delete Section 51619 of the Health and Safety Code
~~The Agency may delegate to the Director of Insurance of the fund, under the resolutions of the board and subject to the conditions as it from time to time prescribes, any power, function, or duty conferred by law on the Agency in connection with the administration, management, and conduct of the business and affairs of the insurance fund. The Director of Insurance may exercise the powers and functions and perform the duties with the same force and effect as the executive director, but subject to his or her approval.~~

4. Amend Section 51622 of the Health and Safety Code
The Agency shall obtain an annual ~~audit~~ agreed upon procedures engagement of the insurance fund's books and accounts with respect to its activities under this part to be made at least once for each calendar year by an independent certified public accountant."

5. This act is a bill providing for the appropriations related to the Budget Bull within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

Questions:

1) Please explain why the new position is necessary and what the proposed changes to statue would do.

Staff Comment: Staff has no concerns with the proposal.

Staff Recommendation: Approve the proposed trailer bill language.

Vote:

0650 OFFICE OF PLANNING AND RESEARCH

Issue 1: Precision Medicine Funding and Trailer Bill Language

Governor's Budget Request: The Governor's budget requests $10 million General Fund for precision medicine to build tools, applications, and platforms that integrate diverse data sets that may lead to improved health outcomes and new areas for healthcare innovation and discovery; and to establish a more dynamic asset inventory in the state. With the proposed augmentation of funding the Administration proposes to fund six new demonstration projects ($1.2 million each) and the remaining $2.8 million would be used to support non-demonstration project activities (asset inventory, convenings, evaluation, and other administrative activities, and at the initiative's discretion, competitive round for finalist projects under the initial call for proposals).

The budget also proposes trailer bill language to establish the program in statute.

Background: According to the National Institutes of Health (NIH), precision medicine is an emerging approach for disease treatment and prevention that takes into account individual variability in genes, environment, and lifestyle for each person. While some advances in precision medicine have been made, the practice is not currently in use for most diseases. On January 20, 2015, President Obama announced the Precision Medicine Initiative to enable a new era of medicine in which researchers, providers and patients work together to develop individualized care.

The President called for $215 million in fiscal year 2016 to support the initiative, which includes several components with efforts from across the federal government. Of this total proposed budget, $130 million was allocated to NIH to build a national, large-scale research participant group, called a cohort, and $70 million was allocated to the National Cancer Institute to lead efforts in cancer genomics. In addition, many private and public universities are researching precision medicine.

In the 2014-15 budget, the Legislature approved $3 million General Fund for precision medicine. Approximately $2.4 million was allocated to two demonstration projects and $600,000 was allocated to other activities. These are described below.

- ***California Kids Cancer Comparison.*** Approximately $1.2 million was awarded to University of California, Santa Cruz to lead the California Kids Cancer Comparison project. This project uses large scale data processing to improve the outcomes of clinical trials that are underway at UC medical centers to identify new therapies for incurable tumors. The project analyzes each patient's tumor in the context of thousands of pediatric and adult tumors that have undergone similar characterization. The project is developing "Medbook", a secure social network designed for medical research and medical decision support.

- ***Precision Diagnosis of Acute Infectious Disease.*** Approximately $1.2 million was awarded to University of California, San Francisco (UCSF) to lead the first-ever demonstration of precision medicine in infectious diseases. UCSF has pioneered the use of a sequencing test called metagenomic next-generation sequencing to reveal the cause of infections that routinely elude physicians.

- ***Other Activities.*** OPR has developed an inventory of data, research, experts, and other resources related to precision medicine to facilitate cooperation in precision medicine research. In addition, funding (a total of $600,000 over two years) for other activities has been provided as follows:

Precision Medicine Administrative Costs

	2015-16	**2016-17**
Staff (two positions)	$220,102	$232,508
Catering	31,500	31,500
Transportation/hotels	13,690	13,700
Website/communications	25,000	25,000
Other	3,500	3,500
Total	**$293,792**	**$306,208**

Governor Proposes Additional State Funding for Precision Medicine. The 2016-17 Governor's Budget proposes to make a one-time appropriation of $10 million from the state General Fund to OPR to fund additional precision medicine research. The Administration intends for these funds to be allocated in a manner similar to the $3 million in 2014-15, but intends to broaden its call for proposals beyond the UC campuses.

The proposal would fund six new demonstration projects of $1.2 million each and provides $700,000 over 2016-17 and 2017-28 to fund IT staff to further develop the asset inventory. However, based on additional information from the Administration, it is possible this $700,000 may not be used for this purpose and may be used to fund other demonstration projects. Also, in 2016-17, an additional two positions would be funded at a total cost of $303,973 (bringing the level of administrative funding to a total of $609,181 in 2016-17) and in 2017-18 administrative costs would total $596,027.

What Is the State's Role in Funding Research? California's academic and research institutions conduct a wide variety of research with the potential to improve Californians' health and wellbeing. Most of the state's research institutions, including UC, receive a majority of their direct funding for research from federal, private, and other non-state sources. The state currently does not have a framework for prioritizing the allocation of General Fund monies across various research topics. Without such a framework, it is difficult to evaluate the Governor's proposal. Factors that may be reasonable to consider include:

- Are federal resources for the research inadequate?
- Are economic incentives insufficient to spur privately-funded research?
- Could the research yield benefits that are particularly important for California?

Legislative Analyst's Office (LAO) Comments: The LAO finds it difficult to justify allocating state funding for precision medicine research over other research areas and recommends rejection of the proposal. Below, the LAO discusses several questions left unanswered by the Governor's proposal.

- ***What Is the Program's Objective?*** The Administration has not articulated specific goals to be achieved with this funding. What is the state hoping to achieve by providing this funding for precision medicine research? What identifiable benefits will this research be expected to provide to the state and its residents? Without defined policy objectives, it is difficult for the Legislature to evaluate the Governor's proposal.

- ***Why $10 Million?*** The proposal provides insufficient information for the Legislature to judge whether $10 million is a proper amount of state funding. How many projects are intended to be funded and at what cost? Why is federal funding inadequate? How much state funding will be used for administrative costs? Without these details, the Legislature will have difficulty evaluating the Administration's funding request.

- ***How Will Funds Be Awarded?*** The Administration states that it intends to allocate the requested $10 million via a process similar to the one used to allocate the prior $3 million. The Administration, however, has not offered any statutory language to define and formalize this allocation process. In the absence of such language, the Legislature and the public cannot be confident these funds will be allocated fairly and effectively.

Staff Comments: Staff agrees with the LAO analysis and finds the use of additional state funds for researching precision medicine lacks justification.

Staff Recommendation: Reject the proposal.

<u>Vote:</u>

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, April 28, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultant: Farra Bracht

Part B

OUTCOMES

VOTE-ONLY ISSUES

Item	Department	Page
2240	**Department of Housing and Community Development**	
Issue 1	Community Development Block Grant- National Disaster Resiliency Competition (April Finance Letter) APPROVED AS BUDGETED 4-0	
Issue 2	Affordable Housing and Sustainable Communities Program Administration (April Finance Letter) APPROVED AS BUDGETED 3-1	
0650	**Office of Planning and Research**	
Issue 1	State Board of Education Workload Funding (Conforming issue heard in Subcommittee No. 1 on April 21, 2016) APPROVED AS BUDGETED 4-0	

DISCUSSION / VOTE ISSUES

Item	Department
1700	**Department of Fair Employment and Housing**
Issue 1	Enforcement Staff and Resources (previously heard on March 3, 2016) APPROVED AS BUDGETED AND ADOPTED SUPPLEMENTAL REPORTING LANGUAGE 3-0 (Nguyen not voting)
Issue 2	Replace Existing Case Management System (April Finance Letter) APPROVED AS BUDGETED 3-0 (Nguyen not voting)
2240	**Department of Housing and Community Development**
Issue 1	California Housing Loan Insurance Fund-Trailer Bill Language APPROVED AS BUDGETED 3-0 (Nguyen not voting)
0650	**Office of Planning and Research**
Issue 1	Precision Medicine Funding and Trailer Bill Language HOLD OPEN

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) 651-1505. Requests should be made one week in advance whenever possible.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, April 28, 2016
9:30 a.m. or Upon Adjournment of Session
State Capitol, Room 2040

Part C

Consultant: Samantha Lui

PROPOSED FOR VOTE-ONLY

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255, Sacramento, California 95814, or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

ISSUES PROPOSED FOR VOTE-ONLY

8260 ARTS COUNCIL

This issue was originally scheduled to be voted during the subcommittee's April 21, 2016, hearing.

Issue 1: Spring Finance Letter – Reimbursements

Budget. The California Arts Council (CAC) requests an ongoing and permanent $2 million increase in reimbursement authority in order to continue to operate the Arts-in-Corrections program at CDCR facilities. The reimbursements, which are received through an interagency agreement with the Department of Corrections and Rehabilitation (CDCR), provide support for arts instructions to inmates in the prison system.

Background. The Arts-in-Corrections program, which is as a pilot program between CAC and CDCR, allows professional artists to provide direct instruction and guidance to over 2,000 participants in correctional settings for the creation of, and participation in, visual, performing, literary, or media arts. In 2013-14, $1 million was provided; in 2014-15, $1.8 million was provided. In 2015-16, funding was increased to $3.5 million. With the certainty of a multi-year interagency agreement, the CAC no longer needs to have reimbursements unscheduled.

Staff Comment. The Arts-in-Corrections program was discussed as an oversight item during the Senate Subcommittee No. 5 on Corrections, Public Safety and the Judiciary hearing on April 7, 2016. The CAC will utilize a request for proposal (RFP) to select contractors to implement the Arts-in-Corrections program.

Staff Recommendation. Approve as requested.

7760 DEPARTMENT OF GENERAL SERVICES

The following items were discussed during the subcommittee's April 7, 2016, hearing.

Issue 1: Mercury Cleaners Site Remediation

Budget. The department requests a one-time $2.1 million General Fund appropriation to continue the remediation efforts at the former Mercury Cleaners site located in downtown Sacramento. Testing, clean-up, and monitoring is necessitated by the detection of contaminant dry cleaning solvents in soil, soil vapor, groundwater, and indoor air samples caused by historical discharge of hazardous wastes and products associated with previous businesses. Funding will include activities to (a) confer with the Central Valley Regional Water Quality Control Board (RWQCB); (b) conduct indoor air quality studies; (c) conduct investigation and treatment of the groundwater; (d) conduct onsite and offsite studies and monitoring near the

Mercury Cleaners property as requested by the RWQCB; and (e) continue soil vapor extraction testing and treatment to remediate hazardous materials

Staff Comment. The total cost for full remediation is unclear, until the full extent of the plume is defined. The department has not investigated other sites and is unable to answer with certainty whether other remediation sites may exist. In addition, it is unknown whether demolition, hazardous materials abatement, or relocation of neighboring tenants will need to occur. In regards to whether the site will generate revenue, at this time, there is no established long-term use defined for the site. The Capitol Area Plan designates this site as residential. The department will continue to finance the remediation through the budget process, as the state has the obligation to remediate state-owned land.

Staff Recommendation. Approve as requested.

Issue 2: Procurement Cost Savings for FI$Cal

Budget. The department requests an augmentation of $670,000 in expenditure authority and four positions in the budget year, and $1.26 million and eight positions in 2017-18 and ongoing, from the Service Revolving Fund. DGS-Procurement Division (DGS-PD) will recover the cost of the positions without any increase to its billable hourly rate or the acquisition surcharge. The positions, by year, are as follows:

CLASS TITLE	FY 2016-17	FY 2017-18
Associate Procurement Engineer to develop and review contract specifications.	1.0	1.0
Senior Electronic Data Processing Acquisition Specialist (Sup) to supervise the assignment of technical acquisition projects.		1.0
Senior Electronic Data Processing Acquisition Specialist (Tech) to act as lead in negotiations with state agency personnel on difficult procurements.		2.0
Staff Electronic Data Processing Acquisition Specialist to lead agency staff and vendor representatives to purchase electronic hardware, software and associated services through statewide contracts, and bidding processes.	3.0	2.0
Staff Services Analyst (General) to review, collect, and present data related to technology procurements.		2.0

Staff Comment. It remains unclear the savings to be realized through the implementation of FI$Cal. As the budget is an annual process, staff recommends amending the proposal to allow further deliberation and monitoring the success of the staff, proposed for this year, to implement the savings.

Staff Recommendation. Amend proposal. Approve budget year request of $670,000 in expenditure authority and four positions from the Service Revolving Fund. Reject out-year request for $1.26 million and eight positions in 2017-18 and ongoing, from the Service Revolving Fund.

Issue 3: Procurement Workload Increase

Budget. The department requests six permanent positions to be funded by redirecting $520,000 in operating expenses and equipment. The department notes there will be no fee increases to cover expenditures.

- Certification and Compliance Unit. The Certification and Compliance Unit, which certifies entities to compete and participate in annual state contracting, includes 25,649 entries of small business (SB) and disabled veteran business enterprise (DVBE) certification applications. The department requests two associate program governmental analysts to evaluate SB/DVBE certification applications.

- Communication and Outreach Section. The section must provide advocate training to over 125 department advocates and assist state agencies that have failed to meet the contract goals. The department requests one staff services analyst and one office technician for outreach, training, education services, and creating an advocate database.

- Contract and Logistics Response Unit. The unit must develop contracts, agreements, and missions for commonly procured items needed during an emergency, or prior to an emergency, in compliance with the State Emergency Plan. The department requests one staff services manager and one associate materials analyst to develop, maintain, and administer statewide contracts for use prior to and during a catastrophic disaster.

Staff Recommendation. Approve as requested.

Issue 4: TBL – Energy Services Contracts

Budget. The department proposes the following trailer bill provisions:

- Expands the authorized list of services to include energy efficiency and water conservation services, for which a state agency may enter into an energy savings contract with a qualified energy service company (ESCO).

- Authorizes the department or any other state agency to establish a pool of qualified energy service companies, based on qualifications, experience, pricing, or other factors.

- Defines “energy retrofit project” as a project for which the state works with a qualified energy service company to identify, develop, design, and implement energy conservation measures in existing facilities to reduce energy use or make energy efficient.

- Prohibits the erection or installation of a power generating system, power purchase, or project utilizing a site license or lease agreement to be considered, as an energy retrofit project.

Staff Comment. An ESCO is a single firm that manages and coordinates all phases of an energy project and provides many types of services. Typically, ESCOs provide energy audits, project financing, construction management services, and equipment maintenance and servicing. Currently, only three ESCOs actively bid on types of processes. In the last three years, the department has released twenty requests for responses/proposals (RFPs). With the proposed language, the department would establish a pre-qualified pool of ESCOs, who would meet specified criteria, and could be ready to be assigned to a project. Each energy savings company must be re-qualified every two years. The department hopes to provide a more expedient process for awarding projects, including 40 projects in the next six months.

Staff Recommendation. Approve placeholder trailer bill language, subject to technical changes that may arise in drafting process but consistent with proposed policy change.

7502 DEPARTMENT OF TECHNOLOGY
0690 OFFICE OF EMERGENCY SERVICES

The following issues were discussed during the subcommittee's April 21, 2016, hearing.

Issue 1: Transfer of Public Safety Communications, Public Safety Communications Permanent Positions

Budget. The budget includes two related proposals that complete the final transfer of public safety communications administration.

- Department of Technology (CDT). The budget requests the transfer of one accounting officer and $83,000 (Technology Services Revolving Fund) to the Office of Emergency Services (OES).

- Office of Emergency Services. The budget requests one accounting officer and $83,000 (Public Safety Communications Revolving Fund) ongoing to be transferred from CDT; creation of a new Public Safety Communications Revolving Fund; and transfer existing authority from the Technology Services Revolving Fund (TSRF). The budget also includes one-time provisional language to allow borrowing General Fund dollars for cash flow purposes, as it starts up the program (discussed below). The borrowed funds must be repaid by October 31, 2017. The budget also proposes 28 positions for the Public Safety Communications section.

Corresponding trailer bill language establishes the new Public Safety Communications Fund; specifies what monies may be included in the fund; and requires any balance, which exceeds 25 percent of the current fiscal year's budget for PSC, to be used to reduce billing service rates during the following fiscal year.

Staff Recommendation. Approve transfer of funding authority from CDT to OES. Approve shifting one permanent position from CDT to OES. Adopt placeholder provisional budget bill language and placeholder trailer bill language, subject to technical changes that may arise in drafting process but consistent with proposed policy change. Approve establishing 28 permanent positions, with no additional funding, to OES.

0690 Office of Emergency Services

The following issues were discussed during the April 21, 2016, hearing.

Issue 1: California Sexual Violence Victim Services Fund – Local Assistance

Budget. The Office of Emergency Services (OES) requests $250,000 in local assistance authority to administer the California Sexual Violence Victim Services Fund, which was established by Senate Bill 782 (DeSaulnier), Chapter 366, Statutes of 2014. Contributions received through the fund would be distributed to support rape crisis programs for victims of rape and sexual assault. OES plans to begin awarding grants to rape crisis centers by July 2016.

Staff Comment. According to data from the FTB, the current contribution fund balance from June 2015 to March 2016 is $115,598. It is unclear whether this fund will reach the $250,000 minimum contribution for 2016. In addition, because the FTB does not charge administrative costs in the first year, it will likely retain the lesser amount of three percent of contributions or $6,000 to cover administrative costs this year.

Staff Recommendation. Approve as requested.

Issue 3: Proposition 1B Adjustment

Budget. The budget requests a reduction of $20 million in the budget year, and a reduction of $80 million in 2017-18, of the Proposition 1B bond funding local assistance appropriation to balance administrative costs and to close out the program. Proposition 1B, known as the "Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006," which authorizes the issuance of $19.9 billion general obligation bonds over the course of ten years for purposes including: grants for transit system safety, security, and disaster response projects.

Staff Comment. The 2016-17 budget year is the final fiscal year for the department to allocate funding for the program. With one year to encumber the funds[1] and two years to liquidate,[2] the department has three years left (until 2018-19) to administer the program, conduct program oversight, and manage the program. Existing law prohibits administrative costs (e.g., audit and program oversight costs for agencies, commission, or departments) recoverable by bond funds from exceeding three percent of the program's cost ($30 million). The department estimates only $20 million of the allowable $30 million is needed to reimburse the Department of Finance and the Office of State Audits and Evaluations for program audits.

Staff Recommendation. Approve as requested.

[1] Last day to encumber 2016-17 Proposition 1B program funds is June 30, 2017.
[2] Last day to liquidate 2016-17 Proposition 1B program funds is June 30, 2019.

7760 OFFICE OF EMERGENCY SERVICES

During the April 21, 2016 hearing, the subcommittee considered the following two items, as part of the department's larger budget proposal[3] comprised of 16 different components that support emergency operations. During the hearing, the public nor the Legislative Analyst's Office raised concerns with these two pieces.

Issue 2A: Disaster Logistics Program

Budget. The department requests $421,000 General Fund and three permanent positions (one program manager and two emergency services coordinators) to address gaps identified in the 2012 Logistics Capability Assessment Tool.

Background. The department supports various emergency planning and response activities, including those related to logistics. For example, the department develops facility use agreements, in coordination with the Department of General Services, to ensure that the necessary locations are available for use during emergency events. The OES reports that the department does not have any existing staff dedicated to disaster logistics, and this function has been covered by existing staff.

Staff Comment. Approve as requested.

Issue 2B: Regional Coordination Center

Budget. The department requests $782,000 ($700,000 General Fund, $82,000 Public Safety Communications Revolving Fund) in the budget year and ongoing to combine the Inland Region, Coastal Region, and a public safety communications office into one site near Fairfield or Vacaville. This new site will expand current regional emergency management capabilities and capacity, and create a Regional Coordination Center. The three existing sites currently occupy 7,601 square feet and will be combined into one site with 14,566 useable square feet. The additional costs of approximately

LAO Comment and Recommendation. The LAO finds the proposal reasonable, given the department's operational needs and deficiencies at existing facilities. The LAO recommends a technical modification, reducing the request from $700,000 General Fund to $500,000 General Fund in 2017-18, since one-time and short-term costs associated with the office moves and tenant improvements will not be on an ongoing basis. (This funding amount should be further reduced beginning in 2020-21 to account for reduced costs associated with tenant improvements.)

[3] The Office of Emergency Services requests $35.2 million General Fund in state operations authority in the budget year, and $14.8 million General Fund in state operations authority in 2017-18 and ongoing; 77 permanent positions, and a permanent decrease of $3.9 million Federal Trust Fund state operations authority to support emergency operations and critical support. The chart below describes the proposal's 16 various components.

Staff Recommendation. Modify proposal and reduce out-year budget expenditure authority to $500,000 General Fund.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, April 28, 2016
9:30 a.m. or Upon Adjournment of Session
State Capitol, Room 2040

Part C

Consultant: Samantha Lui

PROPOSED FOR VOTE-ONLY

OUTCOMES

Approved (4-0).

Approved (3-1, Nguyen voting no).

Amend proposal. Approve budget year request of $670,000 in expenditure authority and four positions from the Service Revolving Fund. Reject out-year request for $1.26 million and eight positions in 2017-18 and ongoing, from the Service Revolving Fund. (4-0)

Approved (4-0).

Approve placeholder trailer bill language, subject to technical changes that may arise in drafting process but consistent with proposed policy change. (3-1, Nguyen voting no)

Approve transfer of funding authority from CDT to OES. Approve shifting one permanent position from CDT to OES. Adopt placeholder provisional budget bill language and placeholder trailer bill language, subject to technical changes that may arise in drafting process but consistent with proposed policy change. Approve establishing 28 permanent positions, with no additional funding, to OES. (4-0)

Approved (4-0).

Approved (4-0).

Approved (4-0).

Modify proposal and reduce out-year budget expenditure authority to $500,000 General Fund. (4-0).

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, May 5, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultant: Samantha Lui

PROPOSED FOR VOTE-ONLY

PROPOSED FOR DISCUSSION/VOTE

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

ISSUES PROPOSED FOR VOTE-ONLY

1111 DEPARTMENT OF CONSUMER AFFAIRS

The following items were discussed during the subcommittee’s March 10, 2016, hearing.

Issue 1: BCP, Board of Pharmacy – Sterile Compounding Facilities (SB 294)

Budget. The Board of Pharmacy (Board) is requesting $1.1 million (Pharmacy Board Contingent Fund, Professions and Vocations Fund) to transition 5.5 existing three-year limited-term positions to permanent in 2016-17, and ongoing, to execute statutorily mandated inspections, investigations, process license and renewal applications, handle enforcement related workload and provide support for the resident and non-resident sterile injectable compounding facilities.

Staff Comment. Historically, limited-term positions allow an individual to remain in a given position for up to two-years. In May 2015, the Administration submitted a letter to the Legislature, eliminating the use of limited-term positions to address short-term workload. Although the position authority is authorized until June 30, 2017, staff, under CalHR policy, would not be allowed to remain in the same position after two-years. As such, the Board is requesting to make permanent the positions to allow current staff to remain in their positions.

Staff Recommendation. Approve as budgeted.

Issue 2: BCP, Board of Pharmacy – Combatting Prescription Drug Abuse

Budget. The Board requests $1.3 million (Pharmacy Board Contingent Fund, Professions and Vocations Fund) to transition eight existing three-year limited-term positions to permanent in 2016-17, and ongoing, to address prescription drug abuse.

Staff Comment. In May 2015, the Administration submitted a letter to the Legislature, eliminating the use of limited-term positions to address short-term workload. Although the position authority is authorized until June 30, 2017, staff, under CalHR policy, would not be allowed to remain in the same position after two-years. As such, the Board is requesting to make the positions permanent, allowing current staff to remain in the position, once their limited-term appointment expires.

Although the Board does not have a legislative mandate to evaluate coroner's reports, it has done so proactively and in response to media reports that found used a similar data set. The Board currently has focused its efforts in two counties to review 306 decedent's reports. Of the 16 citations the Board has issued, the Board has recovered only $3,740 of the imposed $15,400 amount in fines.

Proposed Supplemental Reporting Language (SRL). Given the Board's proactive use of coroner's reports as a means to identify possible pharmacies or pharmacists who over-prescribe medication, the subcommittee may wish to consider the following SRL to address concerns about (1) this activity not previously discussed in a policy forum; (2) learning additional information about whether this is an appropriate use of resources in respect to the number of cases that may actually be prosecuted using coroner's reports singularly.

> No later than April 1, 2017, the Board of Pharmacy shall provide to the fiscal subcommittees of both houses a narrative description of the preceding year's activities related to combatting prescription drug abuse, including: the total amount of funding budgeted, allocated, and expended; the number of positions and their responsibilities; the number of cases and disposition of those cases referred to the Office of the Attorney General for prosecution that were a direct result from findings from a coroner's report; and the number of hours spent to combat prescription drug abuse, including separately identifying the total number hours spent reviewing coroner reports and submitting public records act requests for such information. The Legislature declares its intent to limit the Board's use of coroner reports to circumstances that occur within the course of an investigation related to specific pharmacies and/or pharmacists suspected of over-prescribing prescription drugs.

Staff Recommendation. Adopt proposal. Adopt supplemental reporting language, allowing for any technical modifications to be made in the drafting process but consistent with the intent and negotiated language.

Issue 3: BCP + TBL, State Board of Optometry

Budget. The Board requests 0.5 office technician - typing and a 0.6 special investigator (SI) to replace current services provided to the program by the Medical Board of California and Division of Investigation (DOI): Health Quality Investigation Unit (HQIU).

- The office technician will provide services, such as cashiering, receiving and mailing, and complaint processing.
- The special investigator will conduct desk investigations on complaints or other violations. The Board is not requesting additional expenditure authority to support these positions.

This request includes an offsetting reduction in position authority of a 0.5 office technician and funding of $39,000 for the Medical Board, and a 0.6 SI and $62,000 for DOI: HQIU.

The budget also provides trailer bill language to implement the provision of transitioning the Registered Dispensing Optician (RDO) program from the Medical Board to the Board of Optometry.

Staff Comment. During the March 10, 2016, hearing, the subcommittee questioned the department's oversight of boards and bureaus' fund health. The Registered Dispensing Optician Fund is projected to become insolvent by fiscal year 2017-18. The RDO notes that its authority to increase the statutory fee from $75 to $100 is not sufficient to address the structural deficit of the RDO fund. The Board is in the process of contracting out for a fee analysis to determine the appropriate fee levels, as they were last raised in 1999.

Staff Recommendation. Approve budget request as requested. Approve placeholder trailer bill that is consistent with intent but allows for any technical modifications in the drafting process.

Issue 4: BCP, Naturopathic Medicine Committee

Budget. The committee requests $101,000 (Naturopathic Doctors Fund) in 2016-17, and ongoing, to convert one associate governmental program analyst (AGPA) position from three-year limited-term to permanent.

Staff Comment. In May 2015, the Administration submitted a letter to the Legislature, eliminating the use of limited-term positions to address short-term workload. Following the implementation of California Department of Human Resources (CalHR)'s policy, the committee is requesting to retain current staff in the position, once their limited-term appointment expires.

Staff Recommendation. Approve as requested.

8940 Military Department

Issue 1: SFL + Provisional Language - Support Fund Increase

Budget. The department requests one-time increase in $151,000 California Military Department Support Fund (CMDSF) expenditure authority to spend private donations and provisional language to authorize donated funds received throughout the year to augment the annual appropriation from the CMDSF.

Background. Existing law authorizes the department to solicit and accept funds and donations from private individuals and companies to support programs that benefit the soldiers, airmen, their families, and community and youth programs. In 2015, two organizations donated funds to the CMD. One organization donated $10,000 to support the department's behavior health program. The department also received a $141,000 donation from a probate estate.

Staff Comment. To determine the allocation of the $151,0000, the MDSF Board of Directors and the comptroller will evaluate requests for grants proposals, and proposals will undergo a legal review. The provisional language authorizes the department to use and disperse donations received by the department between budget cycles. The language also requires the Department of Finance to approve expenditures, no sooner than 30 days after Joint Legislative Budget Committee review. According to the department, possible project ideas include community and youth programs.

Staff Recommendation. Approve as requested. Adopt placeholder provisional language, allowing for any technical changes that arise in the drafting process.

Issue 2: SFL - Active Duty Compensation Increase

Budget. The department requests $187,000 ($104,000 federal funds, $74,000 General Fund, $5,000 Mental Health Services Fund, and $4,000 reimbursements) to align pay of its state active duty (SAD) employees to the pay of service members in the U.S. Army, U.S. Air Force, and U.S. Navy. Approximate SAD payroll for the budget year is $61.9 million.

Background. The federal government, in the annual National Defense Authorization Act (NDAA), sets compensation for service members of the United States Army, United States Air Force, and United States Navy. Existing state law authorizes the department to pay its SAD employees the same rate as service members of the federal armed forces. As part of the annual budget process, the department submits an estimate of the changes to SAD compensation, which is processed as a technical adjustment and included in the Governor's Budget. Because the NDAA is signed in December, the department waits until the spring process to revise the amounts proposed in the technical adjustment to match those amounts codified in the NDAA.

The differences between the proposed increases for pay, housing (BAH), and subsistence (BAS) allowances and those authorized in the NDAA are below:

	Pay Increase	BAH	BAS
Projected/Requested	1.3%	1.5%	3.4%
Actual/DAA	1.3%	3.4%	0.1%
Variance	--	1.9%	-3.3%

The net effect of the changes reflects an overall compensation increase of $187,000 (all funds).

Staff Comment. This request appears consistent with statewide policy to pay SAD personnel at the same rate as service members of the federal armed forces.

Staff Recommendation. Approve as requested.

Issue 3: SFL, Cap Outlay – ChalleNGe Academy Dining Facility

Budget. The department requests $2.6 million (Armory Fund) to construct a dining facility at the Army National Guard Base in Lathrop. The proposed project will utilize the design-build procurement method to construct a 9,800 square foot dining facility that will serve 200 cadets enrolled in the new National Guard Youth ChalleNGe Program, the Army National Guard units on the base, and soldiers stationed at the nearby Stockton Airfield. The project will include: food storage, refrigeration, bathrooms, a commercially-equipped kitchen, and a seating area.

Total project costs are $2.6 million ($295,000 for performance criteria and $2.3 million for the design-build phase). In 2014-15, the budget approved annual operations funding for $6 million ($1.5 million General Fund, $4.5 million in federal matching funds).

Background. The National Guard Youth ChalleNGe Program mentors youth who are at-risk for substance abuse, delinquency, and criminal activity. California has two existing ChalleNGe programs in Los Alamitos and San Luis Obispo.

In May 2015, the federal Department of Defense granted the California National Guard a 58-acre parcel of land with several existing structures to develop an Army National Guard base. CMD is currently renovating existing buildings for use as barracks and classrooms for the 200 resident students during the first six-month term of the new National Guard Youth ChalleNGe Program, scheduled to begin in January 2017. Construction of the barracks will be completed in the summer of 2016; renovation of the classrooms by November 2016; and the anticipated completion date of the dining facility is June 2017.

Staff Recommendation. Approve as requested.

8955 VETERANS AFFAIRS

Issue 1: BCP – Veterans Homes: West Los Angeles Memory Care Unit

Budget. The department requests $3.3 million General Fund and 32 positions in the budget year ($4 million General Fund ongoing and 40 positions in ongoing) to staff the last skilled nursing facility-memory care (SNF-MC) unit in the West Los Angeles home (VHC-WLA).

Background. The 2010 Budget Act provided funding for the VHC-West Los Angeles, including 84 RCFE beds, 252 SNF beds, and 30 SNF-MC beds. However, due to a miscalculation, funding for staffing the remaining 30 beds was omitted. Although this error was discovered after the 2010-11 appropriations, the department notes, "A decision was made not to commit further General Fund in advance of needing it to fill the unit." Lack of funding for staffing this unit prevents the second SNF-MC unit from opening. In 2015-16, VHC-WLA received 122 applications to be admitted to the SNF-MC unit, and there is an 80-person waiting list.

Staff Comment. The proposal makes consistent the level of staff, at a relief factor of 1.77, in this new SNF-MC unit to the 40 positions in the existing SNF-MC unit. Staff notes that the remainder of the WLA units are budgeted at the 1.7 relief factor, not the 1.77 relief factor, common in the older homes, such as Yountville, Chula Vista, and Barstow. The department notes that the 1.7 relief factor is more appropriate for newer homes that have budgeting flexibility to hire and staff up, while older homes have more concrete budget needs.

CalVet anticipates filling the beds at eight veterans per month, and anticipates receiving around 172 applications in 2017-18 for the SNF-MC.

Staff Recommendation. Approve as budgeted.

Issue 2: BCP – Veterans Homes: Fresno and Redding Food Services

Budget. The budget includes $592,000 in the budget year, $585,000 ongoing, for nine cook specialist positions to address food service delivery changes in the Redding and Fresno homes. Specifically, the department requests 3.1 cook specialists and 6.2 cook specialists in Redding and Fresno, respectively.

Background. In addition to a large main kitchen, VHC-Redding (150 beds) and VHC-Fresno (300 beds) have satellite kitchens for each neighborhood, so that food could be cooked in the main kitchen but staged and reheated in the satellite kitchen. On March 19, 2015, the California Department of Public Health (CDPH) surveyed the VHC-Redding kitchen and noted the SNF kitchen must function independently of the RCFE kitchen, a change to the original design of the home and staffing plan; because in case of emergency, the satellite kitchen must serve as a standalone kitchen. In addition, CDPH requires CalVet to have dedicated staff to the SNF kitchen, instead of the staffing model where cooks in the main kitchen can cover both SNF and RCHFE kitchens.

Staff Comment. The VHC-Fresno has the same design (satellite kitchens) as VHC-Redding, but CDPH has not made the same request of VHC-Fresno. As such, the department anticipates similar staffing requirements for VHC-Fresno.

Staff Recommendation. Approve as requested.

Issue 3: SFL, Cap Outlay – Yountville Home: Chilled Water Distributions System Renovation Construction

Budget. The department requests $5.4 million to be re-appropriated to the construction phase of the Yountville Home’s Chilled Water Distribution System Renovation project. As a result of design and contracting delays, the completion of the working drawings phase is scheduled for August 2016; construction to begin January 2017; and project completion for April 2018. Total estimated project costs are $6.4 million.

Background. The Yountville home is equipped with two chillers. When the outside air temperature exceeds 96°F, the chilled water system does not keep the water at proper temperature, resulting in patient areas exceeding mandated temperatures by the state Department of Public Health. A November 2007 study pointed out other shortfalls in the system: (1) insufficient capacity of chillers; (2) undersized existing towers; and (3) a wing of the Holderman Building has problems with the chilled water supply during peak demand. The project was first approved in the Budget Act of 2011.

Staff Recommendation. Approve, as the amount was previously approved ($1.7 million in 2015 in lease-revenue bonds, and $3.7 million federal funds in 2013) and unencumbered.

Issue 4: SFL + BCP – Residential Nursing Care and Technical Adjustment

Governor's Budget. The budget requests $2.9 million General Fund in the budget year, and $2.7 million General Fund ongoing, for 32 positions to address nursing care shortages in the Yountville ($1.8 million General Fund), Barstow ($369,000 General Fund), and Chula Vista ($686,000 General Fund) Veterans Homes. Specifically, the department would like to update its nursing relief factor from 1.7 to 1.77. The net impact of nursing staff by home is as follows:

Home	CNA	LVN	RN	Total
Yountville	11	3	5	19
Barstow	3	0	1	4
Chula Vista	7	2	0	9
Total	21	5	6	32

Spring Finance Letter. The department requests a decrease of $1.3 million General Fund and 14 positions to correct an error in projecting costs.

Adjusted Request. With the adjustment, the request is for $1.6 million General Fund in the budget year, and $1.49 million General Fund ongoing, for 18 positions.

Background. Long-term care facilities use hours-per-patient-days to determine nursing staff ratios. However, due to fatigue and stress of the 24/7 operations on nursing staff, the department has high rates of medical-related leave under the Family and Medical Leave Act (FMLA) and worker's compensation claims. As a result, the department has mandated double-shifts to cover patients' needs.

Staff Comment. This item was discussed during the subcommittee's March 10, 2016, hearing. The proposal attempts to address three of the contributing factors to nursing staff issues – (1) eliminating use of overtime and nurse registries with additional staff; (2) ongoing challenged caused by FMLA or worker's compensation claims; and (3) and the use of a more appropriate nursing relief factor.

Staff Recommendation. Approve technical adjustment to modify the Governor's budget proposal and relief factor of 1.77.

0890 SECRETARY OF STATE

Issue 1: SFL – Business Connect

Budget. The department requests $2.6 million ($2 million Business Programs Modernization Fund, $605,000 Secretary of State Business Fees Fund), in the budget year, for the California Business Connect project. This request is to enter into a contract for business process analysis services, project management services, independent project oversight, independent verification and validation (IV&V), temporary help to backfill redirected staff, and other operating expenses related to the project.

Background. The CalBusiness Connect project is envisioned to automate paper-based processes, allowing business to file and request copies of records online and to process fee payments within one business day. Currently, the department relies on manual sorting through different automation systems and paper databases, including three inch by five inch index cards.

On April 1, 2011, the SOS was approved to solicit a system integration contractor for the California Business Connect. On January 10, 2014, the systems integration contract was awarded to Bodhtree Solutions, Inc; and on August 14, 2015, the SOS and Bodhtree Solutions, Inc. mutually agreed to terminate the contra for $8.9 million. At the time of contract termination, the project was in the design phase (specifically, requirements specification and technical architecture planning). A Special Project Report (SPR) #2 was submitted to the Department of Technology on December 28, 2015 and proposed: (1) changing the project scope to focus on the largest annual volume filings and reducing the complexity of the project; (2) changing the schedule to a phased implementation approach; and (3) changing the project's budget.

Staff Comment. A fee increase is not required to support the California Business Connect project because the money to support the project exists through the fees currently paid by businesses for filings and services. Anticipated timeline is below:

Major Milestones	Estimated Completion Date
Release of RFP	8/01/2017
Contract Award	9/01/2018
Vendor On-board	11/1/2018
Phase 1: LLC & LP Deployment	8/31/2019
Phase 2: Corporations Deployment	2/29/2020
Phase 3: Uniform Commercial Code Deployment	8/31/2020
Phase 4: Trademarks Deployment	1/31/2021
First Year Contract Maintenance and Operations	1/31/2022
PIER	1/31/2022

Staff Recommendation. Approve as proposed.

Issue 2: BCP – Business Programs Division Filings Process

Budget. The SOS requests $5.5 million (Business Fees Fund) for the budget year and 2017-18, for 52 temporary help positions (appointments of retired annuitants, permanent intermittent, seasonal) to assist in processing business filings and statements of information until CalBusiness Connect is implemented in 2020-21.

Background. The Budget Act of 2013 provided $7.8 million in combined funding and 56 limited-term positions to reduce processing times to an average of five business days. The five-business day average was achieved in October 2013. In 2014-15 and the current year, the spending authority was reduced to an annual allocation of $6.2 million and 54 limited-term positions to maintain the average five business day turnaround times for both business formations and statements of information.

Backlog History

Fiscal Year	Year-End **Formations** in Process	**Formations** Processing Times during FY (low and high)	Year-End **Statements of Information** in Process	**Statements of Information** Processing Times during FY (low and high)
FY 2010-11	11,681	21-45 days	120,288	48-84 days
FY 2011-12	5,631	19-53 days	100,279	71-95 days
FY 2012-13	7,788	9-45 days	67,221	30-74 days
FY 2013-14	2,848	4-13 days	10,164	3-38 days
FY 2014-15	3,982	4-5 days	10,878	3-5 days

	1/31/2016 **Formations** in Process	**Formations** Processing Times during 1/2016 (low and high)	1/31/2016 **Statements of Information** in Process	**Statements of Information** Processing Times during 1/2016 (low and high)
End of 1/2016*	4,329	5-7 days	12,905	5-8 days

*These numbers reflect the documents in process at the end of January 2016. January is a peak processing month; therefore, January work in process is higher than is typical at fiscal year-end in June.

There are no statutorily required timelines for processing business formation filings (BF) or statements of information (SI). However, Assembly Bill 113 (Committee on Budget), Chapter 3, Statutes of 2013, provided an additional $1.6 million to reduce processing times for BFs and SIs. The SOS and the Legislature agreed to reach an average five-business day turnaround for these two items.

Staff Comment. This issue was discussed during the March 30, 2016, hearing. During this hearing, the subcommittee asked the department to explain its use of temporary help while CalBusiness Connect is being phased-in. Given the history of the project, the subcommittee may wish to request quarterly legislative briefings.

Staff Recommendation. Approve as requested.

PROPOSED FOR DICSCUSSION/VOTE

8940 MILITARY DEPARTMENT

Issue 1: SFL – Armory Fund, Santa Barbara

Budget. The department requests one-time $100,000 Armory Fund for the Department of General Services' Asset Management Branch to hire a consultant to prepare an economic land-use study for the armory.

Background. Senate Bill 536 (Roth), Chapter 355 Statutes of 2015, authorizes the department to divest the Santa Barbara Armory, which is located on one four-acre city block in downtown Santa Barbara, with proceeds from the sale to be deposited into the Armory Fund.

Staff Comment. Following conversations with DGS' Real Estate Division, the department believes the economic study will maximize development potential of the site, in its current residential zoning designation, and achieve a higher selling price. Staff notes the department's careful deliberation of the sale.

The subcommittee may wish to discuss how this proposal interacts with legislation that provides the City of Santa Barbara or the Santa Barbara Unified School District the right of first refusal for the property.

Staff Recommendation. Approve as requested.

Issue 2: SFL, Cap Outlay – San Bernardino Armory Renovation

Budget. The department requests $4.8 million ($2.4 million General Fund and $2.4 million federal matching funds) for the construction and equipment phase of the project.

Background. The San Bernardino Armory was built in 1969 and is 26,274 square feet on 4.27 acres. This site has been vacant for the past five years, and requires extensive renovations due to damage by vandals who removed the plumbing, electrical, and HVAC components from the building.

The original scope of the project submitted in 2015-16 contemplated a two-phase project. The first phase would have renovated HVAC, electrical, plumbing, lead and asbestos abatement, energy efficient window installation, and reroof, among others. Phase two would have converted existing spaces into a training room and equipment storage facility. Now, the department believes it more efficient and cost-effective to complete the armory renovation project in one phase.

Staff Comment. The existing authority for preliminary plans, working drawings, and construction reverted in March 2016 due to project manager errors.

Staff Recommendation. Approve as requested.

0845 DEPARTMENT OF INSURANCE

Issue 1: SFL – Warner Chilcott Settlement

Budget. The department requests $6.2 million General Fund, over a span of five years until 2020-21, support up to ten positions by 2020-21. The five-year breakdown is as follows:

Fiscal Year	General Fund, in thousands	Positions Requested
2016-17	$1,567	7 SI* 1 supervising SI
2017-18	$1,268	1 attorney III
2018-19	$1,116	No new positions requested
2019-20	$1,258	1 attorney
2020-21	$992	No new positions requested
Total	**$6,201**	**10 positions**

*SI = special investigator

- Investigation Division. The proposed five special investigators would investigate unassigned or closed life and annuity cases, which, typically, impact seniors; and two special investigators – located in Northern and Southern California – would conduct outreach and education to seniors on how CDI can assist fraud victims and to educate them on how to avoid becoming victims. One supervising special investigator would oversee the investigators.

  Also, the request also includes $200,000 General Fund for the budget year and 2017-18, and $55,000 for 2018-19 through 2020-21, to support educational material, travel costs, and statewide anti-fraud advertisements.

- Fraud Division. The department's request includes $450,000 in FY 2016-17 for the planning of a software-as-a-service solution for enhanced fraud investigation and prevention efforts.

- Legal Branch. The department requests one attorney III in 2017-18, and one attorney in 2019-20, to work the anticipated additional life and annuity fraud cases to be referred to the legal branch for administrative enforcement actions.

Background. On December 18, 2015, Insurance Commissioner Jones announced a $23.2 million settlement with pharmaceutical company Warner Chilcott, resolving a lawsuit alleging drug marketing fraud. The settlement payment was divided between the whistle-blowers and the state, and the state's share was $11.8 million to the General Fund for enhanced fraud investigation and prevention efforts.

The CDI Enforcement Branch is comprised of two divisions – (1) investigation and (2) fraud. The investigation branch investigates criminal and regulatory violations, suspected insurance fraud against consumers, and investigates complaints against agents, brokers, public adjusters, bail agents, and others. The fraud division detects, investigates, and arrests insurance fraud offenders across five fraud programs: (1) automobile insurance fraud program, (2) organized automobile Fraud Activity Interdiction Program, (3) disability and healthcare fraud program, (4) workers' compensation insurance fraud program, and (5) Property, Life and Casualty Fraud Program. These programs are funded through a combination of annual insurer general assessments and insurance policy assessments. The fraud division receives approximately 33,000 suspected insurance fraud referrals a year.

Life and Annuity/Senior Unassigned Cases. The department estimates around 8,494 hours to work 49 open, unassigned cases and the 13 cases, which were closed due to insufficient resources. Over the last four fiscal years, ID has closed an average of 20 cases per year due to insufficient resources.

Legal Branch. Cases tend to be complex, and hearing times range from three days to several weeks. The department projects approximately 104 additional cases per year will be opened as a result of the outreach efforts.

Fraud Data Analytics. While investigating a case, investigators use materials provided by consumers, insurance companies, reports from the department's "Fraud Investigation Database" (FIDB), and manual research of external data sources. Cases are assigned based on county. Currently, there is no way to determine if networks of fraud operate across several counties or are linked to a single case.

Staff Comment. The department's request reflects a five-year proposal, until 2020-21, with the exception of the first year of the IT project, which the department plans to return next year for additional funding after it receives approval for the Stage 2 Alternatives Analysis.

The subcommittee may wish to ask the department how it intends to use the remainder of the settlement funds (this request reflects $6.2 million General Fund of the $11.8 million General Fund) will be used.

Staff Recommendation. Approve as requested with opportunity to review and conduct oversight during the annual budget process in the out-years.

Issue 2: SFL – Fraud Litigation Software

Budget. The department requests $626,000 General Fund in the budget year, and $184,000 General Fund in 2017-18, to purchase and maintain a computer litigation software program, which will be used to handle documentation, research, and analysis. The cost breakdown is below:

Civil Litigation Software Proposed Cost Breakdown

Item	FY 2016-17	FY 2017-18
Consulting & Professional Services - External		
• Project Manager • Business Analyst • Application Training for FLB staff	$112,000	
Data Center Services – Network Bandwidth	$58,000	$54,000
Information Technology		
Hardware	$264,000	
Software	$192,000	$130,000
Total	**$626,000**	**$184,000**

Background. On November 4, 2013, Commissioner Jones announced a $46 million settlement with Sutter Health to settle a 2011 whistle-blower lawsuit. The state's share of the settlement was $20.6 million, which was paid to the General Fund. To date, the Legislature has approved a total of $19.9 million General Fund to CDI, including in 2014-15, $18.3 million ($4.6 million annually for four years) for enhanced fraud investigation and prevention; and in 2015-16, $1.5 million General Fund for the CDI Menu Modernization Project Year 2. The remaining balance available for appropriation from this settlement is approximately $2.0 million General Fund.

Staff Comment. According to the department, it is currently monitoring 66 whistle-blower cases, wherein each case can "easily involve two million to five million documents or more." The department alleges that the legal branch's:

> "…current content management system is incapable of handling large documentation and lacks the ability to conduct pattern searches through millions of documents thus manual processes are used to analyze data and evidence."

The department requests an additional $626,000 General Fund in the budget year, and $184,000 General Fund next year, on top of the existing $2 million General Fund remaining from the settlement, to fund this software, because the department strictly interprets that settlement funds can only be used for "enhanced fraud investigation and prevention efforts." The subcommittee may wish to ask why the department does not interpret the purchase of litigation software, which provides an enhanced monitoring function than is currently available and allows counsel to review documents in a less labor-intensive manner, is not considered an enhanced fraud effort.

Staff Recommendation. Approve as requested.

Issue 3: SFL – Health Network Adequacy

Budget. The department requests $424,000 (Insurance Fund) in the budget year, and $367,000 (Insurance Fund) ongoing, to support one attorney III and funding for health network adequacy reviews and a cloud-based analytics software to analyze health network adequacy reports. The attorney will evaluate waiver requests, provide written objections to waivers, negotiate with insurers over network issues and compliance, and manage the IT issues with the analytics vendor and negotiate vendor services.

Background. Assembly Bill 2179 (Cohn), Chapter 797, Statutes of 2002, requires the department to issue a network adequacy regulation to ensure insureds timely access to health services. Existing law also requires the department to periodically review its network adequacy regulations. During 2014, the department reviewed its regulations, and determined, due to industry responses to the new requirements of the Affordable Care Act, the regulation did not ensure that consumers had access to healthcare services in a timely manner. For example, according to the department, “Health insurers reduced provider networks and/or shifted to offering Exclusive Provider Organization (EPO) health insurance products with no out-of-network benefits, except for emergency room visits.” As a result, consumers had difficulty obtaining appointments and traveled long distances to receive in-network medical care. To address this problem, CDI revised its network adequacy regulation on an emergency basis in January 2015. As a result of the revised regulation, health insurers, now, must submit annual network adequacy reports and raw data files of all providers and facilities.

The department requests support for a cloud-based software-as-a-service (SaaS) to analyze files to audit compliance with current requirements and detect network adequacy issues. An analytics vendor will pull the network adequacy data from the National Association of Insurance Commissioners (NAIC). In FY 2014-15, 17 network filings were submitted. The department estimates approximately 90 annual network reports may generate $72,000 in additional revenue ($990 per each network adequacy submission). CDI expects to use the same software tool utilized by the Department of Managed Health Care.

Staff Comment. The department submitted a Stage 1 business analysis to the Department of Technology (CDT) on July 20, 2015, and CDT delegated the project back to the department for oversight and implementation. The CDI is still completely its Stage 2 Alternative Analysis. The subcommittee may wish to clarify why this project was referred back to the department.

For timeline purposes, the department anticipates the SaaS contract will be finalized by August 2016. By September 2016, all network reports submitted by the June 1, 2016 deadline will have undergone networks analytics.

Staff Recommendation. Approve as requested with request for updated information through the vendor procurement process.

0890 SECRETARY OF STATE

Issue 1: CAL-ACCESS Replacement Project

Budget. The department requests a one-time $757,000 (Political Disclosure, Accountability, Transparency, and Access Fund) [PDATA Fund] in the budget year, to procure contracted services to complete system and business requirements, market research, project management documents, and other deliverable required in the Stage 2 Alternatives Analysis phase of the project approval lifecycle.

Another request seeks $13.5 million General Fund to develop the CAL-ACCESS system.

Background. The earliest stages of CAL-ACCESS, which is the the state's campaign disclosure and lobbying financial activity portal, were developed and deployed in 1999. Since then, the department estimates processing more than 1.2 million filings. The current CAL-ACCESS system is a conglomeration of component applications developed at different times using multiple, now-obsolete, coding languages, platforms, and technologies. The campaign finance and lobbying activity process is a paper/File Transfer Protocol (FTP)/online hybrid model that results in inefficient processes, duplicate efforts, sub-optimal data quality, and public disclosure reporting that does not meet the needs of stakeholders.

The department identifies three major stakeholder concerns: (1) the system does not support accurate or efficient online filings because the current system requires manual entry; (2) inability to find staff or vendor support to sustain the processes; and (3) the system does not provide base reports and there is limited ability to aggregate and report data.

In September of 2012, Senate Bill 1001 (Yee), Chapter 506, Statutes of 2012, established the PDATA Fund to collect fees imposed on campaign committees and lobbying entities. The funds are earmarked for the maintenance, repair, and improvement of CAL-ACCESS. A total of $2.0 million has been collected, and the fund contains approximately $1.6 million. PDATA funds are generated by an annual filing fee of $50.00 per year garnered from qualified campaign recipient committees; a $50 per year statutory lobby registration fee; and any fines collected for failure to pay annual fees by mandated deadlines. Approximately $450,000 is collected annually.

Proposed project timelines are below:

Milestone	Target Completion Date
Contract for Project Support	07/01/2016 – 09/15/2016
Complete Stage 2 Alternatives Analysis	10/15/2016
Refine Business Requirements and initiate project management and procurement plans (data governance; communications; issue/risk management; project; and contract management)	09/16/2016 – 03/15/2017
Develop Request for Proposal	11/01/2016 – 05/01/2017
Confidential bidder discussions	06/01/2017 – 10/15/2017
Evaluate final RFP responses	10/15/2017-12/15/2017
Issue Intent to Award	1/15/2018
Develop Special Project Report	1/15/2018 – 02/28/2018
Award Contract	03/31/2018
Requirements Definition	03/31/2018 – 08/31/2018
Design and Development	08/31/2018 – 06/28/2019
Testing	03/01/2019 – 07/15/2019
Implementation	08/30/2019
First Year Operation and Closeout	08/30/2020

Staff Comment. Two recent bills, one in 2013 and in 2014, expressed legislative intent and required the SOS to develop a new system to replace CAL-ACCESS. However, both of these bills were vetoed, citing the Governor's desire to consult with the Fair Political Practices Commission and the SOS to improve campaign disclosure.

Senate Bill 1349 (Hertzberg), which would require the SOS with the FPPC's consultation, to develop an online filing and disclosure system for campaign statements and reports is currently pending in the Senate Appropriations Suspense File. According to the bill's analysis, the SOS would incur one-time costs of $11.6 million and ongoing annual costs of $2.8 million to create the online filing and disclosure system. Increased staff ($2.2 million) and software customization ($6 million) comprise the majority of the one-time costs. Ongoing costs related to increased staff would total $1.3 million annually. In addition, the Fair Political Practices Commission (FPPC) would incur first-year costs of $131,000, and ongoing costs of $124,000 annually to assist SOS in documenting its business requirements and implementation of the system as it relates to its duties and mission. Additionally, FPPC would need to update forms and modify regulations to reflect the new IT system. Typically, as the budget is an annual process, department requests funding for one year of costs.

The subcommittee may wish to clarify whether the department may provide legislative briefings on this project, and the department's other IT automation projects, for oversight purposes.

Staff Recommendation. Hold open.

1111 DEPARTMENT OF CONSUMER AFFAIRS

Some of the DCA's 19 health care and healing arts boards have taken three years or longer to investigate, or take disciplinary action, on licensees when discipline is warranted. In January 2010, the DCA created the Consumer Protection Enforcement Initiative (CPEI) to reduce the average length of time for health care boards to take formal disciplinary action, from three years to 12 to 18 months. Key components of CPEI include: administrative changes, sufficient staffing for boards and bureaus' enforcement programs; adequate technology to conduct regulatory functions, and performance targets. Since 2011, the Legislature has authorized 220 additional enforcement staff, approved funding for the BreEZe project, and established performance measures for the OAH – nearly all of these efforts have been within the context of supporting CPEI.[1]

The following two budget requests are related to CPEI, and are companion proposals to those submitted by the Department of Justice (DOJ). The DOJ budget is heard in Senate Budget Subcommittee No. 5 on Corrections, Public Safety, and the Judiciary, and any final action will have a conforming vote in both subcommittees.

[1] For more information about CPEI, please see the department's overview on their website: http://dca.ca.gov/about_dca/cpei/overview.pdf

Issue 1: BCP – Department of Justice (SB 467)

Budget. The department requests $1.3 million (special funds) in state operations in the budget year, and ongoing, to support the Department of Justice's budget for increased staffing needs to implement Senate Bill 467 (Hill), Chapter of 656, Statutes of 2015. The request provides the boards and bureaus the budget authority to reimburse DOJ for the cost to implement this reporting requirement. Approximately $1.3 million will be collected from the following boards and bureaus, in specified amounts, detailed below:

Program Name	Amount (in thousands)
Board of Accountancy	$31
Board of Behavioral Science	$37
Board of Barbering and Cosmetology	$28
Acupuncture Board	$7
Physical Therapy Board of CA	$27
Physician Assistant Board	$14
Board of Psychology	$29
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	$6
CA Board of Occupational Therapy	$4
State Board of Optometry	$8
CA State Board of Pharmacy	$75
Bureau of Real Estate Appraisers	$12
Professional Fiduciaries Bureau	$1
CA Architects Board	$1
Landscape Architects Committee	$1
State Athletic Commission	$3
Contractors' State License Board	$120
Medical Board of CA	$577
Osteopathic Medical Board	$13
Board for Professional Engineers and Land Surveyors	$25
Geology and Geophysicists Program	$1
Vocational Nurses Program	$68
Psychiatric Tech. Program	$17
Private Investigators Program	$2
Electronic and Appliance Repair	$2
Automotive Repair and Smog Check Programs	$151
Cemetery Program	$2
Funeral Directors and Embalmers Program	$22
Total	**$1,284**

This request is a companion to the corresponding Department of Justice (DOJ) request for $1.3 million (Legal Services Revolving Fund) in the budget year, and ongoing, for ten senior legal analyst positions.

Background. Generally, the enforcement process includes three steps: intake, investigation, and formal discipline. First, at intake, the board of bureau receives a complaint and assigns the case to an investigator. At the investigation step, at the DCA, investigations are typically conducted by the DCA employees. Once the investigation is completed, cases that warrant formal disciplinary action are forwarded to the Office of the Attorney General (AG) for prosecution. The AG must use the Office of Administrative Hearings (OAH) to schedule and conduct the disciplinary hearings.

The DCA's enforcement performance measures are an important tool for management and oversight. In response to the lack of data regarding major milestones in prosecutions or length of investigations that result in prosecutions, SB 467 requires the Department of Justice (DOJ) to submit an annual report, with specified information, to the DCA, the Governor, other policy committees, beginning January 1, 2017. The report would include the following information, among others: actions taken by the Attorney General related to consumer complaints against a person whose profession or vocation is licensed by the DCA, the average number of days from when the AG receives an accusation to when an accusation is filed; the number of days to prepare an accusation for a case; the average number of days from filing an accusation to a stipulated settlement; the average number of days from an agency transmitting a default decisions; the average number of days from filing an accusation to requesting a hearing date from the OAH; and the average number of days from receipt of a hearing date to the commencement of a hearing date.

Staff Comment. According to the DCA, the affected programs' budgets (see table above) would be increased, effective July 1, 2016; and, absent this proposal, programs would absorb costs from other critical program activities and postpone enforcement actions. According to the DOJ, the department anticipates opening at least 5,262 matters for the licensing section this year and also, is expecting to adjudicate 1,765 cases in the health quality enforcement section.

During last year's legislative session, the bill's estimated fiscal impact was projected around $1.45 million in 2015-16 ($537,000 GF and $911,000 Legal Services Revolving Fund - LSRF), and ongoing costs of $1.8 million ($268,000 GF and $1.534 million LSRF) for the AG to compile data and develop, design, and prepare the required report.

Given that the DCA must use the AG as its attorney, the subcommittee may wish to clarify the cost estimate methodology for the proposal. It is unclear why the DCA, as the AG's client, could not otherwise receive this information without cost.

Staff Recommendation. Hold open.

Issue 2: BCP – Attorney General Staffing

Budget. The department requests $1.4 million (special funds) in the budget year, and ongoing, to support the increased staffing at the Department of Justice. The amounts, by program, are listed below:

Program Name	Amount (in thousands)
Board of Accountancy	$71
Board of Behavioral Science	$86
Board of Barbering and Cosmetology	$64
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	$6
CA Board of Occupational Therapy	$10
State Board of Optometry	$18
CA State Board of Pharmacy	$175
Bureau of Real Estate Appraisers	$28
Professional Fiduciaries Bureau	$3
CA Architects Board	$3
Landscape Architects Committee	$3
State Athletic Commission	$7
Contractors' State License Board	$265
Board for Professional Engineers and Land Surveyors	$57
Geology and Geophysicists Program	$2
Vocational Nurses Program	$157
Psychiatric Tech. Program	$38
Private Investigators Program	$4
Electronic and Appliance Repair	$6
Automotive Repair and Smog Check Programs	$312
Cemetery Program	$5
Funeral Directors and Embalmers Program	$53
Total	**$1,373**

This is a companion request to the corresponding Department of Justice (DOJ) request for $1.4 million (Legal Services Revolving Fund) in the budget year, and ongoing, for seven positions (two legal secretaries and five deputy attorneys) in the licensing section to reduce average case processing time to meeting the Consumer Protection Enforcement Initiative.

Background. According to the DOJ, the average case processing time for formal discipline matters has increased over the past five fiscal years due to a large increase in the volume of referrals of new cases. The increased volume of referrals caused the average days to adjudication of formal discipline cases to increase from 319 days in 2010-11, to 384 days in 2014-15, longer than the goal of 274 days (9 months). In addition, staffing levels between FY 2010-11 and FY 2015-16 have only increased by 14 percent, and cannot support the required reduction in case processing time.

The chart below shows that historically, the licensing section's case closing rate is 5,158 cases per year. According to DOJ, with less volume in 2010-11, the licensing section resolved cases more quickly, around 319 days on average With increasing volume over the past five years, the "benchmark of 274 days is not attainable with existing staff levels." Further, the increase in volume has caused case-aging.

Workload Measure (Grey scale shows projected)	PY – 4 FY10-11 97 Pos.	PY – 3 FY11-12 102 Pos.	PY – 2 FY12-13 103 Pos.	PY – 1 FY13-14 104 Pos.	PY FY14-15 108 Pos.	CY FY15-16 117 Pos.
Starting Caseload	4,034	5,125	5,704	5,926	6,190	5,660
Cases Opened	4,703	4,610	4,815	5,142	4,628	4,780
Total Cases	8,737	9,735	10,519	10,968	10,818	10,440
Cases Closed	3,612	4,031	4,693	4,778	5,158	5,850
Hours Per Case*	42	37	32	33	32	32
Average Days to Adjudication of Formal Discipline Cases	319	352	355	362	384	384
Average Days Goal	274	274	274	274	274	274
Number of Days Beyond Goal	45	78	81	88	110	110
Percentage Beyond Goal	25.8%	28.5%	29.5%	32%	40%	40%
*"**Hours Per Case**": Total Billable Hours for fiscal year divided by number of cases closed.						

Prior Budget Investments. To implement CPEI, the DCA obtained 107.0 positions and $12.8 million in 2010-11; 138.5 positions and $14.2 million in 2011-12. The Office of Administrative Hearings, which is an integral part in the adjudication of license discipline matters, received 14 administrative law judges (ALJs) in 2014-15.[2] In 2015-16, the budget included $2.8 million (Legal Services Revolving Fund) and nine deputy attorney general in the civil law division, and six legal secretary positions to address increased workload related to formal discipline. The Civil Law Division of the Attorney General's Office received nine positions, effective July 1, 2015. According to the DOJ, these positions were intended to address general workload related CPEI, though not directly related to reduce time to adjudicate a case.

Staff Comment. The DOJ anticipates the additional resources will help the department meet the case processing time goals and projects the following outcomes:

Projected Outcome: With Additional Positions

Workload Measure (Grey scale shows projected)	CY FY 15-16 117 Pos.	BY FY 16-17 122 Pos.	BY +1 FY 17-18 122 Pos.	BY +2 FY 18-19 122 Pos.	BY +3 FY 19-20 122 Pos.	BY +4 FY 20-21 122 Pos.
Cases Closed	5,850	5,850	5,850	5,580	5,580	5,580
Hours Per Case	32	32	32	32	32	32
Average Days to Adjudication of Formal Discipline Cases	384	362	362	362	362	362
Average Days Goal	274	274	274	274	274	274
Number of Days Beyond Goal	110	88	88	88	88	88
Percentage Beyond Goal	40%	24%	24%	24%	24%	24%
***Referral of new cases is expected to continue to increase, with a growth rate in referrals projected at 2% per year for this analysis**.						

[2] Budget Act of 2014 Budget Act, Chapter 25, Statutes of 2014.

The DOJ states the goal is to reduce case processing time to 9 months (274 days), so that agency clients can meet their goals under CPEI. However, it is unclear how the 274 day benchmark was first established.

Over six years have passed since CPEI was first announced in January 2010. According to the LAO, many boards and bureaus have not been meeting the 18–month target. For example, roughly two–thirds of boards and bureaus exceeded the target in 2013–14. Of this amount, roughly 58 percent exceeded the target by more than 200 days. The subcommittee may wish to ask both the DCA and the DOJ for an update on the implementation of CPEI. Aside from DCA and OAH staffing needs, the subcommittee may wish to ask the AG why it did not allocate any of its requested nine attorneys for CPEI efforts and whether any additional staff has been provided to the licensing section to comply with CPEI, aside from this proposal.

LAO Comments and Recommendation.

- **Average days to adjudication would likely decline without additional positions.** In 2014–15, DOJ received fewer cases than it adjudicated, allowing DOJ to begin to reduce the total number of unresolved cases, which may have led to a reduction in average days to adjudication. Also, the number of cases received annually appears relatively constant. Assuming that DOJ attorneys each handle the same number of cases, the additional positions provided in 2015–16 should allow DOJ to adjudicate more cases.

- **Issues unrelated to staffing could be responsible for delaying overall enforcement process. S**ome DCA boards indicated that difficulties in obtaining information necessary to complete investigations often caused delays in completing the second step of the enforcement process in a timely manner. Departments involved in the process also noted that DOJ sometimes receives incomplete cases from DCA and that there are often delays regarding the scheduling of hearings by OAH, both of which impact the average time it takes to complete the formal discipline step.

- **Reject Governor’s proposal. Create report to identify causes of delays and strategies to address delays.**

Staff Recommendation. Hold open.

Issue 3: SFL – Bureau of Private Postsecondary Education, Student Tuition Recovery Fund Administrative Costs

Budget. The bureau requests to transfer $183,000 from the Private Postsecondary Education Administration Fund (Admin Fund) to the Student Tuition Recovery Fund (STRF) to fund two existing positions: one staff services analyst and one associate governmental analyst. This proposal represents a net-zero cost to the bureau and General Fund.

Background. The Private Postsecondary Education Act of 2009 (Chapter 310, Statutes of 2009) requires the bureau to provide oversight and regulation of California's private postsecondary educational institutions, including licensing institutions, conducting compliance inspections, and investigating and acting upon complaints received against private postsecondary institutions. Currently, the bureau regulates approximately 1,100 main locations, 400 branch locations, and 379 satellite locations.

The bureau administers two funds:

- **Admin Fund.** The Admin Fund provides general operational support for the bureau to administer STRF awards. Revenues are derived from license and other regulatory fees. Revenues are projected to be approximately $9.7 million in 2016-17. However, the bureau notes that these revenues are generally expended on licensing and enforcement activities. As of July 1, 2015, the fund balance was $9.45 million, and is structurally imbalanced because expenditures are outpacing revenues. The bureau significantly increased its staff in the last three years to address its enforcement and licensing backlogs. If projected expenditures and revenues fully materialize, the Bureau's fund will become insolvent in FY 2017-18. Please see chart below:

Fiscal Year	Fund Balance (in thousands)	Months In Reserve**
2013-14	$ 11,462	12.1
2014-15	$ 9,466	7.3
2015-16	$3,550	2.7
2016-17	$213	0.2
2017-18	-$5,944	-4.4

* Dollars in Thousands
** Ed Code 94930 (b) - Statutory Fund Balance not to exceed 6.0 months in reserve

- **STRF.** The STRF was created as a fund to reimburse students in the event of an untimely school closure. Every Californian student enrolled in a private postsecondary institution must pay a STRF assessment fee, based upon the student's tuition paid quarterly. Upon a school's closure, a student may file a claim with the bureau for reimbursement from the STRF. To qualify for a STRF reimbursement, applicants must be a California resident and must have resided in California at the time the enrollment agreement was signed. The STRF has a fund reserve of approximately $28.3 million, which exceeds the $25 million statutory cap. As a result, the Bureau has temporarily suspended the STRF assessment fee until the fund balance decreases below the statutory cap.

Staff Comment. According to the bureau, the STRF is a “more appropriate funding source for STRF administration costs than the Admin Fund because expending license and other regulatory fees for purposes other than license and enforcement activities of licensees is inconsistent with other boards and bureaus within DCA.” In addition, the bureau notes existing staff, in receiving 300-400 STRF claims per year, supports students directly (e.g., review and decide on claim) and indirectly (e.g, respond to student inquiries about the STRF). However, no other board or bureau has a fund similar to the STRF, in which students pay directly into the fund and are eligible for reimbursements from the fund, in case of a school closure. Given recent for-profit school closures, the subcommittee may wish to consider whether it is appropriate to use the STRF to fund these positions since the intent of the STRF is to reimburse students, not support administration of STRF claims.

In addition, there remain broader questions about the bureau’s predicted Admin Fund imbalance and whether the current assessment level on private schools is appropriate. Since the bureau was re-constituted in 2009-10, fees have not been changed. When asked about the bureau’s plans to address the Fund’s insolvency, the bureau responded that it is “tightly monitoring its spending and has begun a fee audit with an independent third-party accounting firm to reassess the Bureau’s fee structure. The fee audit is anticipated to be completed in early May and presented at the Bureau’s May Advisory Committee meeting on May 17, 2016.” The subcommittee may wish to consider holding the item open until the Bureau meets after this date.

Staff Recommendation. Hold open.

8955 VETERANS AFFAIRS

Issue 1: SFL – Vets Services Division Support

Budget. The department requests $1.7 million General Fund in the budget year, and ongoing, to fund 16 positions; the reclassification of one associate governmental program analyst (AGPA) to associate management auditor (AMA); and the reclassification of the three district office managers from staff services manager (SSM) I to SSM II, due to the increase in personnel reporting to them. All of these positions are within existing position authority. Of those resources, 15 positions and three reclassified positions will be located in CalVet's three district offices, commensurate to the workload in the respective district offices:

Location	Currently Projected 2016-17 Position Funding	Requested 2016-17 Funding in this Proposal	Total 2016-17 and ongoing Positions if Proposal is Approved
Los Angeles	1 Staff Services Manager (SSM) I 4 Associate Governmental Program Analysts (AGPA) 1 Office Technician, Typing (OT(T))	Reclassify SSM I to SSM II 5 AGPAs	1 SSM II 9 AGPAs 1 OT(T)
Oakland	1 SSM I 5 AGPAs 1 OT(T)	Reclassify SSM I to SSM II 7 AGPAs	1 SSM II 12 AGPAs 1 OT(T)
San Diego	1 SSM I 2 AGPAs 1 OT(T)	Reclassify SSM I to SSM II 3 AGPAs	1 SSM II 5 AGPAs 1 OT(T)

Responsibilities include: developing and filing veterans claims for completeness and accuracy; ongoing training for county veteran services offices (CVSOs); review of the initial United States Department of Veterans Affairs (USDVA) decision; representation in the appeals process if the veteran disagrees with the decision; and other supports to assist veterans in obtaining benefits.

Background. The CalVet manages three District Offices throughout the state, which are co-located within the United States Department of Veterans Affairs (USDVA) regional offices in Los Angeles, Oakland, and San Diego. When a veteran or family member chooses to provide the CalVet with power of attorney (POA) over a claim, one of the three CalVet district offices will represent the veteran or family member in the submission and appellate process for a USDVA benefit claim. Due to a backlog of initial claims, the Budget Act of 2013 provided to the department $3 million General Fund and 36.0 limited-term positions to initiate the Joint Claims Initiative, a partnership between the USDVA and CalVet, to create a 12-person "Strike Team " in each of the three District Offices to reduce the backlog of pending initial entitlement claims. The Budget Act of 2015 made permanent the 36.0 limited-term positions; however, associated funding is set to expire June 30, 2016. This proposal requests funding for 16.0 out of the 36.0 positions, as well as funding to reclassify four existing positions.

Strike teams are comprised of Veterans Claims Representative (VCR) I and VCR II classifications. The department believes the positions' analytical requirements align as an AGPA. In addition, current district office managers must be reclassified in compliance with the Department of Human Resource's allocation guidelines, which require a SSM I to manage between three and five staff, and a SSM II to manage six to twelve staff.

This proposal requests to reclassify an AGPA to an AMA to complete the CVSO's auditing functions. A July 2015 State Auditor's Report 2015-15 states, "[The department] does not adequately audit data used to determine the CVSOs funding, and it lacks procedures for conducting these audits." To ensure state funding to CVSOs is consistent with actual workloads, the State Auditor recommended the department develop and implement procedures to review the accuracy of the data in CVSO's workload activity reports. According to the department, it is unable to fulfill audit responsibilities for the CVSO subvention program, nor implement the recommendations, due to having only one CalVet analyst audit 57 counties for both claims activities and the College Fee Waiver for Veteran Dependents program, twice each year. Although staff is able to ensure workload units claimed by CVSOs are not double counted, the staff is only able to perform sample audits on approximately three to six counties each year (depending on their size) because of other required auditing duties. During the sample audit process, the CalVet requests additional feedback and a conference call to discuss any quality issues seen of CVSO workload activity. At this rate, the department estimates all 57 counties would have a sample audit performed every 10 years. Adding a full time AMA position may enable sample audits on an estimated 15 additional counties each year.

Staff Comment. According to the department, the additional staff allows full representation at USDVA claims appeal hearings, and all CVSOs would have a sample audit performed every two to three years instead of every ten years. In addition, CalVet has 48 hours to review USDVA rating decisions for each claim, prior to it being promulgated. If the rating is not commensurate to the veteran's claim, CalVet responds to the USDVA and can work to avoid the claim from entering the appeals process if a discrepancy or error is found at a later date.

To the extent that the subcommittee deems it appropriate to repurpose the existing positions into these new responsibilities, as identified by the department, the request appears appropriate given the strike teams success and necessary review and compliance of other district office needs, such as CVSO oversight. Further, the department has identified a multi-prong approach to tackle the claims and appeals backlog, by improving fully developed claims upfront and by providing review to within the critical 48-hour window to the USDVA to prevent an appeals process.

During the subcommittee's March 10, 2016, hearing, the department presented its monitoring and engagement of CVSOs, in light of criticism that the percentage of veterans served by CVSOs appeared inconsistent throughout the state, despite consistent state support. This request appears to acknowledge this discussion, and the subcommittee may wish to discuss the role of the one AMA, intended to be a CVSO auditor, and its duties to "plan, design, and carry out audit services for semi-annual reports for veterans claims and College Fee Waivers for Dependents; develop recommendations to improve Medi-Cal cost avoidance; and coordinate with the vendor to improve outreach," and determine whether this one individual could provide the proper oversight of state subvention funding, with the necessary prioritization from departmental leadership. The subcommittee may wish to ask the department its intention with the remainder of the existing but unfunded 16 strike team positions.

Staff Recommendation. Hold open.

Issue 2: SFL – Administrative Support Services

Budget. The department requests $1.7 million ($1.6 million General Fund and $103,000 Farm and Home Building Fund of 1943 [F&H Fund]) in the budget year, and $1.7 million ($1.6 million General Fund and $99,000 F&H Fund) in 2017-18, and ongoing, to support 15 positions in information services, contracts, performance management, and new federal payroll-based-journal (PBJ) reporting requirements. The requested positions are in the following areas:

Information Services Division (ISD). The Helpdesk provides support services to all CalVet locations. Helpdesk staff is located in Sacramento and all of the eight homes, and manages service requests for all onsite technology needs. The budget requests positions to help restructure the PC support to a 24/7 tiered system for staff working second and third shifts in the Homes:

- One assistant information system analysts (AISA) for first-tier support on off-shift.
- One staff information system analysts (SISA) for second-tier support on off-shift.

Contracts. Currently, the department has one manager to oversee eight contract analysts– four in Sacramento, and one located in each Yountville, Chula Vista, Redding, and Fresno Homes. This current structure does not allow for direct supervision or review of contracts prior to the bidding process or contract execution. The budget requests positions for standardized contract scopes of work, rates, general terms and conditions, and streamlined bid and contract award processes. The current contract analysts at the homes will be restructured to become contract liaisons.

- One staff services manager I (SSM I)
- Three associate governmental program analysts (AGPA)
- One office assistant general (OA)

Human Resources Division (HRD). With the recent growth in Homes and staffing, the department has experience an increase in preventative and corrective memoranda, adverse and non-punitive actions, rejections during probation, absence without leave, and other employee performance issues. The department relies on two labor relationship specialists to draft and review adverse actions and provide managers with guidance on employee performance issues. The budget requests the following positions to improve initial and ongoing assistance and training for personnel and performance management. In addition, around $9,000 is included in the request for travel to the eight homes.

- One SSM I
- Three associate personnel analysts (APA)

Legal Division. Currently, the department has seven staff attorneys to handle all litigation. When the homes in West Los Angeles, Lancaster, and Ventura were opened, the division was not provided an additional position to handle increased workload. The budget requests one position to provide training to the performance management unit on personnel actions, hearing processes, writing legally sufficient declarations. The position will also be assigned litigation arising out of the West Los Angeles, Lancaster, and Ventura Homes, and will be assigned regulatory review to update the department's regulations. In addition, $27,000 is included for travel for investigations, litigations, and training.

• One attorney III

Reasonable Accommodation (RA). The department has two equal employment opportunity (EEO) officers and one officer/manger to assist with processing RA requests in the homes and to manage the discrimination complaint process. The EEO Officer/Manager ensures that all CalVet supervisory personnel receive training in the RA process to ensure responses to accommodation requests follow state and departmental policy and federal Americans with Disabilities Act. With the unanticipated volume of complaints in the Redding and Fresno homes and increased number of RAs as the homes come to capacity, some RAs were not managed timely. Three issues were elevated to internal discrimination complaints and appeals to the State Personnel Board, and are still being addressed.

The budget requests one SSM I (Specialist) to facilitate communication, manage the volume of RA requests, and provide guidance and direction and training to supervisory staff. In addition, the budget includes $3,000 for travel for quarterly visits and training at the veterans' homes.

• One SSM I

PBJ Reports. To remain in compliance with federal regulations and eligibility for Medicare funding,[3] the department must have a system for implementing PBJ reporting by June 30, 2016. Specifically, long-term care (LTC) facilities that participate in Medicare and/or Medicaid/Medi-Cal must submit electronically in a uniform format, direct care staffing information based on payroll and other verifiable and auditable data.
PBJ will require the VHCs to submit information on 1) staff turnover and tenure, including start and termination dates, 2) exempt and nonexempt staff and contract staff, and 3) number of hours each staff member is paid to deliver direct care service to residents in certified beds for each day worked. PBJ requires submission of monthly census data, including number of residents whose primary payer is Medicaid/Medi-Cal, number of residents whose primary payer is Medicare, and other - number of residents whose primary payer is neither Medicaid/Medi-Cal nor Medicare. PBJ also requires that each employee have a unique employee number assigned for tracking and reporting purposes.

PBJ distinguishes hours paid and hours worked, recorded with other compensation such as compensating time off. However, in California, bargaining unit contracts allow time to be worked that is not paid directly. The VHCs will be required to report hours paid for services performed onsite for the residents of the facility, with the exception of paid time off (e.g., vacation, sick leave, etc.). In addition, an employee may perform different roles

[3] In 2014-15, the CalVet drew down $6.3 million in Medicare funding and $7.0 million in Medi-Cal funding

or duties throughout the day. This new process is occurring at the same time as several other federal mandates. To implement PBJ, the CalVet requests two AGPA in Yountville and Fresno Homes, and will support the remaining veterans homes in complying with the federal requirements that impact over 1,000 residents in the six Homes with SNF/ICF levels of care.

• Two AGPAs

Staff Recommendation. Hold open.

Questions

1. Please describe the transition of existing contract analysts to contract liaisons. When would this transition occur? How would the job responsibilities change?

2. Please describe how the department plans to incorporate more training for RAs.

3. Please describe how the department plans to meet the new federal mandates, including PBJ.

Issue 3: SFL, Cap Outlay –Yountville Home: Steam Distribution System Renovation, Working Drawings and Construction

Budget. The department requests to reappropriate $6.9 million of the unencumbered balances of the working drawings and construction phases of the Yountville Home's Steam Distribution System Renovation project. As a result of design and contracting delays, completion of preliminary plans is scheduled for March 2017, working drawings are scheduled for completion by April 2018, and construction is scheduled to begin in October 2018. Project completion is scheduled for September 2020. Total estimated project costs for working drawings and construction are $6,903,000 ($2,808,000 lease-revenue bond funds, $4,095,000 federal funds).

Background. This project will: (1) renovate the underground steam distribution system and replace the underground lines; (2) replace the asbestos-containing insulating material; (3) add ten American with Disabilities Act accessible parking spots to the Section A residence. This residence currently houses 90 members, but only has 12 existing parking spaces.

Staff Comment. Total project costs are estimated to be $7.5 million. The request seeks to re-appropriate $535,000 (originally approved in 2015) for the working drawings phase and $6.4 million ($2.3 million lease-revenue first approved in 2011, $4.1 million federal funds first approved in 2013) for the construction phase. The subcommittee may wish to ask the department to clarify the delays in the project and why the amounts continue to remain unexpended.

Staff Recommendation. Hold open.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, May 5, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultant: Samantha Lui

PROPOSED FOR VOTE-ONLY

OUTCOMES

Item Department

(All vote-only items approved, 4-0)

1111 Department of Consumer Affairs
Issue 1: BCP, Board of Pharmacy – Sterile Compounding Facilities (SB 294)
Approve as budgeted.

Issue 2: BCP, Board of Pharmacy – Combatting Prescription Drug Abuse
Adopt proposal. Adopt supplemental reporting language, allowing for any technical modifications to be made in the drafting process but consistent with the intent and negotiated language.

Issue 3: BCP + TBL, State Board of Optometry
Approve budget request as requested. Approve placeholder trailer bill that is consistent with intent but allows for any technical modifications in the drafting process.

Issue 4: BCP, Naturopathic Medicine Committee
Approve as requested.

8940 Military Department
Issue 1: SFL + Provisional Language - Support Fund Increase

Approve as requested. Adopt placeholder provisional language, allowing for any technical changes that arise in the drafting process.

Issue 2: SFL - Active Duty Compensation Increase
Approve as requested.

Issue 3: SFL, Cap Outlay – ChalleNGe Academy Dining Facility
Approve as requested.

8955 Veterans Affairs
Issue 1: BCP – Veterans Homes: West Los Angeles Memory Care Unit
Approve as budgeted.

Issue 2: BCP – Veterans Homes: Fresno and Redding Food Services
Approve as budgeted.

Issue 3: SFL, Cap Outlay – Yountville Home: Chilled Water Distributions System Renovation Construction
Approve, as the amount was previously approved ($1.7 million in 2015 in lease-revenue bonds, and $3.7 million federal funds in 2013) and unencumbered.

Issue 4: SFL + BCP – Residential Nursing Care and Technical Adjustment
Approve technical adjustment to modify the Governor's budget proposal and relief factor of 1.77.

0890 Secretary of State

Issue 1: SFL – Business Connect
Approve as proposed.

Issue 2: BCP – Business Programs Division Filings Process
Approve as requested.

PROPOSED FOR DISCUSSION/VOTE

8940 Military Department Error! Bookmark not defined.
Issue 1: SFL – Armory Fund, Santa Barbara
Approve as requested (4-0)

Issue 2: SFL, Cap Outlay – San Bernardino Armory Renovation
Approve as requested (4-0)

0845 Department of Insurance
Issue 1: SFL – Warner Chilcott Settlement
Approve as requested with opportunity to review and conduct oversight during the annual budget process in the out-years (4-0)

Issue 2: SFL – Fraud Litigation Software
Approve as requested (4-0)

Issue 3: SFL – Health Network Adequacy
Approve as requested with request for updated information through the vendor procurement process (3-0, Nguyen not voting)

0890 Secretary of State
Issue 1: CAL-ACCESS Replacement Project
Hold open.

1111 Department of Consumer Affairs
Issue 1: BCP – Department of Justice (SB 467)
Hold open.

Issue 2: BCP – Attorney General Staffing
Hold open.

Issue 3: SFL – Bureau of Private Postsecondary Education, Student Tuition Recovery Fund Administrative Costs
Hold open.

8955 Veterans Affairs
Issue 1: SFL – Vets Services Division Support
Hold open.

Issue 2: SFL – Administrative Support Services \
Hold open.

Issue 3: SFL, Cap Outlay –Yountville Home: Steam Distribution System Renovation, Working Drawings and Construction
Hold open.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, May 12, 2016
9:30 a.m. or Upon Adjournment of Session
State Capitol - Rose Ann Vuich Hearing Room 2040

Consultant: Mark Ibele

ITEMS PROPOSED FOR VOTE-ONLY

ITEMS FOR DISCUSSION AND VOTE

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255, Sacramento, California 95814, or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

ISSUES PROPOSED FOR VOTE ONLY

0509 GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT

Issue 1: California Infrastructure and Economic Development Bank - Administrative Workload (BCP 001)

Governor's Proposal. The Governor's Office of Business and Economic Development (GO-Biz) requests increased reimbursement and corresponding expenditure authority from the California Infrastructure and Economic Development Bank Fund in the amount of $1.5 million in 2016-17 ($1.3 million in 2017-18 and ongoing). The new funding will allow the California Infrastructure and Economic Development Bank (IBank) to administer the Small Business Finance Center, bond programs, and loan programs. To ensure appropriate implementation and administration of the numerous existing, new, and expanding programs, IBank also requests the establishment of 11 permanent positions. The positions include staff programmer analysts, assistant trainee, associate government program analyst, attorney, senior loan officer and six staff loan officers. This issue was discussed at the committee's March 30th hearing and held open pending receipt of additional information.

Background. The IBank has broad authority to issue tax-exempt and taxable bonds, provide financing to public agencies, provide credit enhancements, acquire or lease facilities, and leverage state and federal funds. The IBank's current major programs include the Direct Loan Unit, Bond Unit, Small Business Finance Center, Compliance Unit, Fiscal Unit, Legal and Legislative Unit and Technical Resource Support Center.

Staff Comments. The department has provided reasonable measures of workload increases and the requirements for additional staff. The proposal indicates that the additional resources will be sufficient to work down the existing backlog. If this occurs, then once the backlog is reduced, there could be excess staff capacity, absent a steady increased demand for services. Staff has received additional information from the department regarding the continuing workload need once the backlog has been reduced or eliminated, and has no additional concerns with the proposal.

Staff Recommendation: Approve as budgeted.

Vote.

0840 STATE CONTROLLER'S OFFICE

Issue 1: Financial Information System for California System Support (BCP 016)

Governor's Proposal. The Governor's budget includes a request from the State Controller's Office (SCO) for $1.7 million ($968,000 General Fund) in 2016-17, and $1.6 million ($911,000 General Fund) in 2017-18 and 2018-19 for 13.0 positions to support new workload resulting from the FI$Cal project. The requested resources are intended to provide for the SCO's continued efforts to fulfill its obligations and statutory responsibilities related to fiscal management, state reporting and auditing of payments during transition and use of the FI$Cal system. The positions will be directed to governance risk and compliance (eight positions), business analysis (two positions), information security (one position), production operations (one position), application development (four positions). This issue was discussed at the committee's March 30th hearing and held open pending receipt of additional information.

Background. The SCO in partnership with Department of Finance, State Treasurer's Office and the Department of General Services are engaged in a collaborative effort to develop, implement, utilize and maintain an integrated financial management system, known as the FI$Cal project. As described elsewhere in this agenda, the FI$Cal system is a statewide enterprise solution, which will re-engineer the state's business processes and encompass the management of resources and dollars in the areas of budgeting, accounting, procurement, cash management, financial management, financial reporting, cost accounting, asset management, project accounting, grant management and human resources management.

Staff Comments. The positions in this request appear to be necessary to support required activities for the SCO in the areas of security, compliance, analysis and ISD support. These resources will be integrated into existing SCO divisions and report to SCO management. The workload and resources requested are in direct support of both the SCO and FI$Cal, and will demonstrate a commitment to the success of the FI$Cal project beyond implementation. Given that direct requests related to the FI$Cal project are recommended for approval, this item should also be approved.

Staff Recommendation. Approve as budgeted.

Vote.

Issue 2: California Automated Travel Expense Reimbursement System (SFL and BBL)

Governor's Proposal. In a spring finance letter (SFL) the SCO has requested $1.1 million ($619,000 General Fund and $467,000 Central Service Cost Recovery Fund [CSCRF]) in 2016-17 for three positions to continue the study of alternatives for replacing the California Automated Travel Expense Reimbursement System (CalATERS) vendor and reimbursement system and to maintain the current system without disruptions to service through 2016-17. Additionally, the SCO requests a funding realignment in 2016-17 and ongoing, to more appropriately support the existing CalATERS workload which provides a central service function to other state entities (reduction of $1.9 million in reimbursement authority and corresponding increase in General Fund and CSCRF support).

Background. The SCO's Personnel and Payroll Services Division (PPSD), operates and maintains CalATERS as a service to state department accounting offices and employees. Prior to 2000, travel advances and expense reimbursement claims were processed using a manual, paper-based method, which was labor-intensive and often delayed reimbursements to state employees. In 2000, the SCO developed CalATERS to process claims more rapidly and accurately. The system allows employees to electronically submit claims through the internet, and for those claims to follow an automatic review, approval, and payment process. Funding for the system came from agencies that voluntarily determined they needed a more efficient way to process reimbursement for travel expenses. In addition to a one-time development fee, participating agencies pay a transaction fee for each reimbursement claim processed through CalATERS to support ongoing program expenditures.

In 2007, the Legislature mandated all state agencies use CalATERS by July 1, 2009. This mandate recognized that an electronic process using web technologies, an electronic workflow, and incorporating audits and edits based on state travel rules, would improve the way the state does business. The legislation also provided for an agency to opt out of CalATERS, if a business case could be made to the SCO and Department of Finance that the use was not cost effective or feasible. Currently, CalATERS is used by 94 agencies and 93,020 users, with 23 agencies granted an exemption.

CalATERS was designed and built under a contract with International Business Machines Inc. (IBM). In November 2013, CalATERS was fully upgraded to IBM's Global Expense Reporting Solution (GERS) to become compliant with the Americans with Disabilities Act (ADA). In May 2014, IBM announced that it will sunset and discontinue support for the current system effective March 31, 2016 (which is the end date of the current contract). The SCO is actively engaged in contract negotiations with IBM for transitional support until June 2020. This option can be provided at an increased cost of $171,000 for 2015-16 and $684,000 for 2016-17, which will allow the SCO to actively pursue the most feasible travel reimbursement solution. Due to IBM announcing the discontinuation of support to the GERS solution, the SCO will need a temporary solution to maintain service during the process of evaluating all possible solutions for a replacement system and to implement the solution. The funding requested would maintain the current level of service through 2016-17, while the SCO evaluates solutions to replace the CalATERS system.

Staff Comments. Staff has no concerns with the proposal.

Staff Recommendation. Approve as proposed.

Vote.

8880 FINANCIAL INFORMATION SYSTEM FOR CALIFORNIA

Issue 1: Funding for Special Project Report 6 – Project and Department (BCP 001 and 002)

Governor's Proposal. The budget includes a request from FI$Cal for $45.1 million to support the changes identified in SPR 6. This brings the total 2016-17 budget to $135 million ($96.2 million General Fund, $18.3 million Central Service Cost Recovery Fund (CSCRF) and $20.5 million special funds). This request has been broken into two separate requests to identify the project costs and departmental costs. The 2016-17 project costs requested are $92.4 million ($71.9 million General Fund and $20.5 million various special funds) and the departmental costs requested are $42.6 million ($24.3 million General Fund and $18.3 million CSCRF). The proposed trailer bill language establishing the Department of FI$Cal is presented as a discussion item.

During the development of Special Project Report (SPR) 6, FI$Cal re-baselined its budget, evaluated and redirected existing resources to project or department activities, and identified additional costs. The change in project costs compared to SPR 5 are related to: system integrator costs (Accenture); project management and independent verification & validation (IV&V) contracts; additional project-related contracts; and staff costs (FI$Cal positions for technology staff, re-direction of existing resources; and, hardware/software related to SPR 6).

The cost of operating the proposed Department of FI$Cal would be funded 57 percent from the General Fund and 43 percent from the CSCRF. The CSCRF portion would be paid for by allocating the operational cost to departments based on their share of use. The annual cost of operating the department will increase in future years as new functions and departments come onto the FI$Cal system. The cost of operating the department is expected to level off in 2019–20, at which point the annual ongoing cost is expected to be $70.4 million ($40 million General Fund).

The proposed department would include 122 positions (99 of which would shift from the project to the department) to support the FI$Cal maintenance and operations. This position total will grow over time as the FI$Cal system becomes more mature and as other staff working on design, development and implementation activities and finishing up the implementation work for the project, shift to ongoing activities. By 2019–20, it is estimated that the department will be comprised of 274 ongoing positions, primarily dedicated to maintenance and operations of the FI$Cal System.

Background. FI$Cal is an ambitious and complex project and, in reflection of this, the project has undergone numerous changes in scope, schedule and cost. These various changes have been incorporated and documented in SPRs with the project currently working under the rubric of SPR 5. The Governor's budget proposals are based on SPR 6, just released. SPR 6 incorporates intentional delays in the implementation of the project in order to increase the probability of success. The Legislative Analyst's Office (LAO) notes that project changes to date have led to schedule extensions and cost increases, but have also have led to modifications that have mitigated project risk and made project objectives more attainable.

LAO Comments. In its recent analysis of the FI$Cal project, the LAO noted that the release approach is more realistic going forward and views the revision as improving the flexibility for the implementation. They view the addition of the knowledge transfer to the scope of the project favorably, but indicate that some additional time may be required for final project completion. Finally, the office notes the cost is still dependent on contract negotiations with the vendor.

Staff Comments. The FI$Cal project is vital to the modernization of the state's fiscal management and control structure. While there have been delays and cost increases, as is typical for most IT projects with this degree of complexity, generally the project is on a positive course. It is essential that the project continue to be given adequate resources and support to ensure its success. Staff is supportive of the budget request, but continues to have some reservations regarding the timeline. It is likely, given the magnitude of the work that has been pushed to the back end of the project timeline, that an additional SPR will be required, even without additional unexpected complications or developments. Nevertheless, after discussions with the project and DOF staff, the current timeline currently seems to be a reasonable structure under which to conduct the next phases of the project and staff recommends approval of the budget requests.

Staff Recommendation. Approve as budgeted, both proposals.

Vote.

0954 SCHOLARSHARE INVESTMENT BOARD

Issue 1: California Memorial Scholarship Program (SFL)

Governor's Proposal. The Governor proposes adding the California Memorial Scholarship Fund item to the budget and providing funding in the amount of $236,000 for scholarships for surviving dependents of California residents killed as a result of the September 11, 2001 terrorist attacks. The Scholarshare Investment Board has identified and notified additional persons of their eligibility for the educational assistance program and anticipates making new awards in 2016-17.

Staff Recommendation. Approve as proposed.

Vote.

0959 CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

Issue 1: Staff Augmentation for Workload (SFL)

Governor's Proposal. The Administration has requested in a spring finance letter (SFL) the establishment of one permanent position and a corresponding increase of $132,000 in expenditure authority for the California Debt Limit Allocation Committee (CDLAC). This increase in resources will allow CDLAC to administer its programs. The fees CDLAC collects will cover the costs of the position.

Background. CDLAC allocates the federal tax-exempt private activity volume ceiling for the state of California through a variety of programs including multifamily housing, single-family housing, tax-exempt facilities, and industrial development bonds. CDLAC indicates that demand for tax-exempt bond financing will continue to increase and remain high over the next several years which will result in an increased number of submissions to CDLAC. The agency expects application submittals for existing programs to grow by at least 10 percent annually over the next few years. CDLAC received 34 applications requesting a total of $664 million for the first application round in 2016, representing a 100 percent increase in the number of applications reviewed, when compared to the annual average number of applications reviewed from 2009-2014.

Staff Comments. Staff has no concerns with this budget request.

Staff Recommendation. Approve as proposed.

Vote.

0860 Board of Equalization

Issue 1: Board of Equalization Physical Office Space (SRL)

Committee Proposal: At a previous hearing, the committee requested the Board of Equalization (BOE) to provide an assessment of the agencies physical office needs in view of its overall strategic plan regarding taxpayer access and information. Draft supplemental report language has been prepared as follows:

> ***Item 0860-001-0001—State Board of Equalization***
> *1.* ***Physical Office Space.*** *The Board of Equalization (BOE), in consultation with the Department of General Services, shall conduct a comprehensive strategic review of its physical office space requirements and current office space usage. No later than February 1, 2017, the BOE shall submit to the appropriate fiscal committees of the Legislature and to the Department of Finance a report containing the following:*
> *(1) A detailed inventory of all office space occupied by the BOE during the 2015-16 fiscal year. For each office, this inventory shall provide (a) a description of its purpose, (b) the size in square feet, (c) the terms of its lease, and (d) the total annual cost of leasing and using the space—including all necessary operational expenses.*
> *(2) Information about any office space the BOE owned or leased during 2015-16 that was unoccupied and an explanation for why the space was not occupied.*
> *(3) A list of the office space requirements of the BOE. It is the intent of the Legislature that (a) the BOE should minimize the total annual cost of physical office space while satisfying the other requirements and that (b) the headquarter offices of all of the members of the Board of Equalization should be located in the same physical office space as the plurality of other BOE headquarters employees.*
> *(4) A detailed strategic plan for satisfying the physical office space requirements.*

Staff Comment. In a prior hearing on April 28, the agency's presentation regarding district and field office lacked sufficient detail regarding the approval process for office space. Subsequent budget staff conversations with both BOE staff and board members indicated that the current approval process lacks clarity and may be ambiguous. BOE staff has indicated that the policies regarding such approval (and other district related activities) will considered by the Board at its meeting this month.

Staff Recommendation. Approve the proposed SRL.

Vote.

ITEMS FOR DISCUSSION AND VOTE

8880 FINANCIAL INFORMATION SYSTEM FOR CALIFORNIA

Issue 1: Establishing the Department of FI$Cal (TBL)

Governor's Proposal. The proposed trailer bill language (TBL) establishes the Department of FI$Cal effective July 1, 2016; establishes the director of the Department of FI$Cal, to be appointed by the Governor, who will oversee the day-to-day functions of the department and the implementation of the FI$Cal project documents; change the interim cost allocation plan to fund the FI$Cal project and Department of FI$Cal; make all automated accounting systems referred to in Government Code Section 13000 inoperative after required data and departments using the system have transitioned to the FI$Cal System

Background. Initially, FI$Cal was established as a statewide information technology (IT) project, approved through a Department of Finance (DOF) Feasibility Study Report (FSR) in 2005. Since then, it has gradually transitioned away from the DOF, becoming its own entity, with increasingly more authority, effectively transitioning to a fully-functioning state department. Total project costs include departmental functions such as human resources, accounting, budgeting, contracts and procurement, business services. During the development of SPR 6, existing positions and costs were re-evaluated and redirected to align with project or departmental functions. Additional resources are needed to fully staff the units where existing staff cannot be redirected.

LAO Comments. The LAO noted in its report that there may be alternative options to creating a new department at this time, including maintaining the current FI$Cal Service Center (FSC) or delegating responsibility for the project to one of the four participating state offices. The analysis indicates issues and potential difficulties with each of the three options. The analysis notes that accountability may continue to be a problem under the Governor's proposal and recommends additional steps to improve this regardless of the particular organizational structure chosen. It addition, LAO points out two potential solutions for accountability: (1) shift the role of the control agencies to one of advisory rather than formal decision-making and (2) elevate the project leader to the steering committee.

Staff Comments. Given the number of state entities responsible for fiscal and other control functions in the state, the design of the administrative structure with responsibility for FI$Cal is not likely to resemble that of a typical state department. The challenge is to design an organizational structure that maximizes the positives associated with the different control agencies and minimizes the potential drawbacks associated with multiple lines of authority and responsibilities. The committee discussed this proposal at previous hearing, and raised concerns regarding governance, accountability and reporting. The Administration has continued to make progress on the proposal, provided additional clarity regarding the organizational structure for the department, and briefed staff regarding the governance model envisioned. The design of the particular organization best suited for the FI$Cal project may well benefit from further discussions and analysis, but the current proposed framework is a suitable one. Staff recommends that FI$Cal brief the committee on further progress of the proposal and suggests the proposal be brought back for a vote once the revised language is final.

Staff Recommendation. Hold open pending receipt of revised TBL.

Vote.

0981 CALIFORNIA ACHIEVING A BETTER LIFE EXPERIENCE ACT

Issue 1: Program Administration Costs (SFL and BBL)

Governor's Proposal. The Administration proposes funding and budget bill language (BBL) to allow for implementation of the California Achieving a Better Life Experience (ABLE) program. AB 449 (Irwin), Chapter 774, Statutes of 2015, created the ABLE Act and conforms the personal income tax law to the federal ABLE Act. SB 324 (Pavley), Chapter 796, Statutes of 2015, establishes the ABLE Act board and the California ABLE Program Trust for the purpose of creating a statewide program known as the Qualified ABLE program. The requested resources will be used for one staff services manager, one associate governmental program analyst, executive director, and external consulting services. Funding for startup and administrative costs for the board is in the form of a loan of $850,000 from the General Fund, sufficient to cover the board's projected administrative costs for its first two years of implementing the program. The loan will be repaid once revenues from the program are sufficient to cover the ongoing costs, within five years, including interest.

Background. AB 449 and SB 324 establish in state government the ABLE Program Trust for purposes of implementing the federal ABLE Act. The federal ABLE Act provides a tax incentive to individuals with disabilities and their families to save private funds for the purpose of assisting persons with disabilities maintain their health, independence, and quality of life. The federal ABLE Act is, in part, modeled after 529 educational savings accounts. The primary financial benefits of the program are that funds placed in a qualified account grow tax-free, and distributions, when made for qualifying educational expenses, are federal and state income tax-free. The federal ABLE Act allows individuals with disabilities and their families to save their own funds for the purpose of maintaining health and independence, with a goal of allowing those individuals to transition away from government assistance and benefits. President Obama signed the federal ABLE Act in 2014. The State Treasurer is to administer ABLE accounts on behalf of qualified Californians.

Staff Comments. The General Fund loan is expected to be repaid once the pool of contributions meets a minimum threshold and generates earnings in excess of administrative expenses. Staff has no concerns with the proposal.

Staff Recommendation. Approve as proposed and BBL.

Vote.

0968 CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

Issue 1: Modification of Low-Income Housing Tax Credit (TBL)

Budget Proposal. Proposed trailer bill language (TBL) would allow for the sale of low-income housing tax credits (LIHTC), allocated by the California Tax Credit Allocation Committee (CTCAC), under certain conditions, thus increasing the efficiency of these tax credits available under the personal income tax, corporation tax and insurance tax. The language would allow credits allocated to one low-income housing developer to be sold to another low-income program participant. After the initial sales, the credit can be resold once more. For the sale of a credit to occur: (a) sellers of the credit must receive funds of not less than 80 percent of the credit value; (b) purchasers of the credit are restricted to those who currently or previously provided project capital for other LIHTC projects in the state; and (c) purchasers of the credit can use it in the same manner as the entity allocated the credit.

Background. Current federal law allows tax credits for investors who provide project capital to low-income housing projects. Taxpayers claim LIHTCs equal to either nine percent or four percent of the project cost over 10 years, and may start claiming the credit in the taxable year in which the project is placed in service. Projects must remain as affordable housing for 55 years. The CTCAC allocates the federal credits based on a formula in federal law. Housing developers design projects and apply for credits from CTCAC, which reviews the application, and either denies or grants credits. Housing developers form partnership agreements with taxpayers that provide project capital for the low-income housing project in exchange for the credits at a discount.

The Legislature in 1987 authorized a state low-income housing tax credit program designed to leverage the federal credit program. State taxes are generally deductible from federal taxes, meaning that investors claiming the state LIHTC must then pay taxes on their higher federal income. Based on a federal marginal corporate tax rate at 35 percent, this means that investors claiming state LIHTC's might pay no more than 65 cents for each dollar. In other words, for every dollar the state invests in this critical program, the federal government currently taxes a portion. The proposed language would seek to increase the impact of the state's existing LIHTC, with minor fiscal impact on the state, by structuring the credits in a way that is subject to lower, or no, federal taxation. This revision could significantly increase the value of state LIHTCs and potentially the public benefit of the state credits. It could increase the efficiency of the program and allow more affordable housing units to be built for the same level of state tax expenditure.

Staff Comments. The TBL is based on SB 873 (Beall) and is supported by the State Treasurer's Office. The language in the bill was also in SB 377 (Beall) which was vetoed by the Governor in October, 2015 with the accompanying message: "I cannot support providing additional tax credits that will make balancing the state's budget even more difficult. Tax credits, like new spending on programs, need to be considered comprehensively as part of the budget deliberations."

In general, tax credits are an inefficient means of encouraging investment or other economic behavior, especially compared to direct budget outlays. In this particular case, however, the efficiency of the state tax credit may be increased because of the particular tax treatment by the IRS of "allocated" versus "purchased" tax credits. Unlike allocated credits, which are treated as a reduction in state taxes, purchased credits are treated as a pre-payment of taxes. The treatment of purchased credits as tax pre-payments avoids additional federal taxation that resulting from a reduction in state liabilities and federal deductions. As a result of this differential treatment, the value of the state credits is likely to increase. Franchise Tax Board (FTB) estimates minor revenue gains of $300,000 in 2016-17, and revenue losses of $100,000 in 2017-18, $700,000 in 2018-19, which gradually increases to $2 million by 2021.

Staff Recommendation. Approve placeholder TBL.

Vote.

0950 STATE TREASURER'S OFFICE

Issue 1: Debt Management System (SFL)

Governor's Proposal. In a spring finance letter, the State Treasurer's Office (STO) has requested an augmentation of $6.3 million (bond funds) in the budget year to continue the Debt Management System II (DMS II) project that was originally authorized in the 2013 Budget Act. The amount estimated pursuant to the Special Project Report 1 (SPR 1) for 2016-17 and the revised amount requested in this finance letter and the SPR 2 for 2016-17 consists of: $4.0 million for the vendor; $810,000 for continued state staff funding; $628,000 for consulting services; $620,000 for hardware and software licensing; and, $208,000 for oversight by the Department of Technology, agency facilities costs, and other costs. Staffing for the project includes the continuation of four positions: data processing manager (project manager); senior programmer analyst (technical architect); senior information systems analyst (business/data architect), and treasury program manager (program staff). The two new positions are associate information systems analyst (test analyst) and systems software specialist (network administrator).

Background. The STO received funding for the debt management system in 2013-14 and 2014-15. In the current year, the STO received continued funding, and in conjunction with this funding, changed the procurement strategy for the DMS II Project from what was as previously submitted in SPR 1. The change was based on vendor feedback provided to the STO and subsequent staff analysis. Initially, the STO had determined that replacing the existing debt management system with a solution-based procurement using a systems integrator was the preferred approach, due to available staffing expertise. However, STO subsequently determined, based on potential vendor feedback, that it would be very difficult to completely satisfy business requirements at an acceptable cost and within a reasonable timeframe using this approach. Following more in-depth vendor conversations, STO explored alternative procurement strategies and models and determined the debt management system replacement could be better addressed by using certain core functions of the existing debt management system and expert-level technicians rather than STO staff. CalTech agreed with this decision.

The new system is necessary for debt administration, including duties associated with trustee, registrar and paying agent responsibilities, payment of debt service, disclosure and analysis of debt issuances. Given the increased legal and financial complexities in the debt markets, the STO indicates a need for a new system to administer outstanding debt, track and pay debt service and fees on outstanding debt, and track and validate the issuance of new debt. The existing system dates back to 2004.

Staff Comments. The debt management system is an essential component for the STO to follow through on its essential services. The STO has adjusted its procurement plan in response to concerns raised through the interested parties' process, as well as a result of concerns voiced by the Legislature, including this committee. The efforts of the STO's Debt Management System should continue to be monitored by the committee in order to help ensure that the project is delivered in a satisfactory manner.

Staff Recommendation. Approve as proposed.

Vote.

CONTROL SECTION 6.10

Issue 1: Funding for Deferred Maintenance Projects (BBL)

Governor's Proposal. Budget Control Section 6.10 gives the Department of Finance the authority to allocate $500 million General Fund in the amounts identified below for deferred maintenance projects for the following state entities:

Department of Water Resources	100,000,000
Department of State Hospitals	64,000,000
Judicial Branch	60,000,000
Department of Parks and Recreation	60,000,000
Department of Corrections and Rehabilitation	55,000,000
California State University	35,000,000
University of California	35,000,000
Department of Developmental Services—Porterville Facility	18,000,000
Department of Fish and Wildlife	15,000,000
California Military Department	15,000,000
Department of General Services	12,000,000
Department of Veterans Affairs	8,000,000
Department of Forestry and Fire Protection	8,000,000
State Special Schools	4,000,000
Network of California Fairs	4,000,000
California Science Center	3,000,000
Hastings College of the Law	2,000,000
Office of Emergency Services	800,000
California Conservation Corps	700,000
Department of Food and Agriculture	300,000
San Joaquin River Conservancy	200,000

In addition, the control section allows for DOF to allocate $18 million from the Motor Vehicle Account for deferred maintenance projects for the California Highway Patrol and Department of Motor Vehicles.

Under this proposal, departments would provide DOF a list of deferred maintenance projects for which the funding would be allocated. The DOF would review and provide the approved list to the Chairperson of the Joint Legislative Budget Committee (JLBC) 30 days prior to allocating any funds. The amounts specified above would be available for encumbrance or expenditure until June 30, 2018. If departments make a change to the approved list after the funds have been allocated, DOF's approval is required and quarterly the JLBC would be notified of any changes.

Background. The proposed control section is virtually identical (except for the amounts and departments) to that proposed last year as part of the Governor's budget. Outside of this program, most deferred maintenance is funded through the baseline support budget provided to individual departments. Departments have some discretion to use these funds for maintenance projects or other higher priority needs within the department.

The Legislative Analyst Office (LAO) continues to express concern regarding the Legislature's abrogation of its authority for capital outlay and deferred maintenance and recommends steps that would reinsert the legislative perspective in this process. For the current deferred maintenance proposal, the LAO recommends: (1) requiring lists of proposed projects to be funded by each department by April; (2) requiring individual departments to report at budget hearings regarding the projects; (3) modifying departments' funding levels based on project reviews; and (4) requiring that funded projects be listed in a Supplemental Report to the 2016 Budget Act.

Staff Comments. This issue was heard in this Subcommittee on April 7, 2016 and held open. A listing of deferred maintenance projects was provided by the Administration to the Legislature at the end of April, and these identified projects are being heard in the respective budget subcommittees. Staff recommends that the quarterly notification related to any project changes be altered to require a 30 day notice to JLBC. Staff also recommends supplemental reporting language (SRL) suggested by LAO.

Staff Recommendation. Approve proposed Control Section 6.10 with the change noted below in subdivision (d) and SRL.

> *(d) Prior to making a change to the list, a department shall obtain the approval of the Director of Finance. The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee ~~quarterly~~ of any changes to the list of deferred maintenance projects 30 days prior approving any changes. The ~~quarterly~~ notification to the Joint Legislative Budget Committee shall identify the projects removed or added, the cost of those projects, and the reasons for the changes.*

Vote.

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, May 12, 2016
9:30 a.m. or Upon Adjournment of Session
State Capitol - Rose Ann Vuich Hearing Room 2040

Consultant: Mark Ibele

ITEMS PROPOSED FOR VOTE-ONLY

OUTCOMES

ITEMS FOR DISCUSSION AND VOTE

Public Comment

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Wednesday, May 18, 2016
1:30 p.m. or Upon Call of the Chair
State Capitol - Room 112

Consultant: Mark Ibele

Part A

ITEMS PROPOSED FOR VOTE-ONLY

ITEMS FOR DISCUSSION AND VOTE

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255, Sacramento, California 95814, or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

ISSUES PROPOSED FOR VOTE ONLY

C.S. 12.00 State Appropriations Limit

Issue 1: Revised State Appropriations Limit (May Revision)

Governor's Proposal. The Administration requests that the budget bill be amended to reflect the updated change in the State Appropriations Limit (SAL). The revised limit of $99.787 billion is the result of applying the growth factor of 5.96 percent. The revised 2016-17 limit is $950 million above the $98.837 billion estimate in January.

Staff Comment: Staff has no concerns with this technical change.

Staff Recommendation: Approve the revised State Appropriations Limit.

Vote:

0500 Governor's Office

Issue 1: Director of Immigrant Integration (May Revision)

Governor's Proposal. The May Revision requests $200,000 to provide funding for the State Director of Immigrant Integration, established as part of the 2015 Budget Act in SB 84 (Committee on Budget and Fiscal Review), Chapter 25, Statutes of 2015. The director serves as the statewide lead for the planning and coordination of immigrant services and policies in California.

Staff Comment: Staff has no concerns with this proposal.

Staff Recommendation: Approve as proposed.

Vote:

0750 Lieutenant Governor's Office

Issue 1: Personnel Support (May Revision)

Governor's Proposal. The Administration requests that the budget for the Lieutenant Governor's Office be increased by $9,000 to account for an increase in operational costs for personnel activities.

Staff Comment: Staff has no concerns with this proposal.

Staff Recommendation: Approve as proposed.

Vote:

0110/0120 STATE LEGISLATURE

Issue 1: Constitutional Adjustment (May Revision)

Governor's Proposal. The Legislature's budget for 2016-17 was proposed in January to be $121.5 million for the Senate and $160.1 million for the Assembly. Under the terms of Proposition 140, the growth in the Legislature's budget is constitutionally limited to the growth in the state's appropriation limit (SAL). The year-to-year SAL increase is calculated to be 5.96 percent in the Governor's May Revision. Applying this to the legislative budget would result in funding of $128.780 million for the Senate and $169.683 million for the Assembly.

Staff Comment. The Senate's budget was held constant from 2008-09 to 2009-10, reduced by a negative SAL of -1.77 percent in 2010-11, received no increase in the subsequent two years (2011-12 and 2012-13), then received increases of 5.8 percent in 2013-14 and 0.48 percent in 2014-15 and 4.55 in 2015-16. Legislative increases were forgone because of the state's budget constraints during the previous recession. The combined spending by the Senate and the Assembly is still well below the State Appropriations Limit. Funds from the Senate and Assembly appropriations are also used to fund the Legislative Analyst's Office.

Staff Recommendation. Staff recommends that the Legislature's (Senate and Assembly) budget be adjusted as provided in the State Constitution, resulting in a total increase for the Legislature of $16.8 million, and that the Legislative Analyst's Office receive its SAL-adjusted share from the Senate and the Assembly.

Vote.

0985 CALIFORNIA SCHOOL FINANCE AUTHORITY

Issue 1: Charter School Facilities (May Revision, BBL and TBL)

Governor's Proposal. The Administration has several proposals for the California School Financing Authority (CSFA) related to charter schools, specifically: providing resources for workload for the state's charter school facility grant program and the federal charter school facilities incentive grant program; and providing $20 million Proposition 98 funding for a charter school start-up grant program and resources for the administration of the program. The substance of these proposals will be heard in Subcommittee No. 1 on Education.

Staff Comments. The proposals will be heard in Subcommittee No. 1 on Education, with Subcommittee No. 4 taking a conforming action.

Staff Recommendation. Conform to action in Subcommittee No. 1 on Education.

Vote.

8885 COMMISSION ON STATE MANDATES

Issue 1: Post Election Manual Tally (May Revision)

Governor's Proposal. The Administration proposes funding the Post Election Tally Mandate at a cost of $625,288 in one-time costs incurred between October 20, 2008 and November 28, 2008.

Background. The statewide cost estimate for this mandate was recently determined. There will be no on-going costs as the mandate has expired. This will be a one-time payment as both the reimbursement and claim periods for this mandate have already expired, so no additional costs will be incurred and no additional claims can be filed.

Staff Comment. Staff has no concerns with the proposal.

Staff Recommendation. Approve the May Revision request.

Vote.

0840 STATE CONTROLLER'S OFFICE

Issue 1: Post-Employment Benefits Workload Automation (May Revision BCP)

Governor's Proposal. In the May Revision, the State Controller's Office (SCO) requests $883,000 ($503,000 General Fund) in 2016-17 for eight positions, and $573,000 ($327,000 General Fund) in 2017-18 for five positions, to automate the deduction, remittance and reporting for Other Post-Employment Benefit (OPEB) prefunding. With the requested resources, the SCO will be able to support OPEB automation, and implement all required changes to the uniform state payroll system (USPS) and associated business processes to comply with the mandated requirements of collective bargaining. Once this automation is finalized, the USPS will have the capability to accommodate OPEB deductions for any future bargaining units (BUs). Additionally, the SCO will have the necessary support to continue the manual workload related to retroactivity and pursue a solution to synchronize the historical data with the newly automated system data.

Background. The USPS is a decentralized system, with participating departments and agencies for entering data into the system to accurately generate personnel and payroll records. As a control agency, the SCO has a statewide responsibility to manage the personnel resources of the state, account for salary and wage expenditures, and provide data to the retirement systems necessary for calculation of employee retirement benefits. OPEB significantly affects how the SCO carries out this core responsibility and requires the SCO to make programming changes to the USPS and related business processes. Additionally, as the mandated reporter for the State of California, the SCO is responsible for generating reports to CalPERS, the California Department of Human Resources (CalHR), and various unions on OPEB activity.

The personnel payroll services division (PPSD) currently creates OPEB deductions outside of the payroll system for several BUs. This process consists of using a monthly, point-in-time program, which involves creating deduction transactions and then deducting approved amounts from eligible employee payments during the master payroll process. Those amounts, plus approved corresponding employer share amounts, if applicable, are then transferred to specific accounts in the California Public Employees' Retirement System (CalPERS). While the timing of the current program being utilized to create OPEB deductions does not allow for automated system calculations related to retroactive adjustments in pay, the BUs currently being processed are subject to deductions calculated off of base pay, are small in population, and have little movement by their employees. Because of these static factors, PPSD has been able to process the correct deductions, with some manual corrections along the way.

As a result of the contract, BU 06 will likely begin adopting the OPEB program as early as July 1, 2016. In addition, tentative agreements for BU 09 and BU 10 will become effective July 1, 2017. PPSD cannot accommodate the introduction of any new BUs to the current point-in-time program that creates deductions outside of the normal payroll process, and does not have sufficient resources to develop and implement OPEB as a real time payroll deduction. As the population of employees subject to deductions grows, the risk of applying incorrect deductions may also increase. With a larger population, and more complex criteria, there is a greater chance that employment history transactions affecting pay may occur between when the program is run and the end of the pay period. In addition, BUs 06, 09 and 10 utilize pensionable pay as the basis for OPEB deductions which would require staff to manually review the monthly deductions for accuracy and calculate any adjustments.

Staff Comments. Staff has no concerns with this proposal

Staff Recommendation. Approve as proposed.

Vote.

ITEMS FOR DISCUSSION AND VOTE

0509 GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT

Issue 1: California Small Business Development Center Program (May Revision)

Governor's Proposal: The Governor's Office of Business and Economic Development (GO-Biz) has requested one time appropriation of $1.5 million (General Fund) as a partial match of federal funds to support the Small Business Development Center (SBDC) network.

Background: The SBDC provides training to small business owners, including in the areas of start-up assistance, planning for growth and expansion, technology and innovation, and access to capital. The funds will be used for competitive grants to the 44 SBDC offices, and require quarterly reports on results. After receiving no funding from the General Fund from 2004 through 2010, the SBDC program received a one-time $6.0 million in 2011 and then $2.0 million in General Fund in 2014 and 2015. No General Fund was received in 2012 or 2013.

The federal Small Business Administration (SBA) provides up to $13.1 million of federal grant funds to California SBDC network, if the state can meet the required one-to-one match. Absent this match, any available funds are reallocated to other states. Of the required match, 50 percent of the match can be in-kind match and the other 50 percent must be in the form of a local cash match. Go-Biz administers the SBDC grant, which is designed to assist in providing some of the local cash match needed by local organizations. Although the SBDC competitive grant does not fulfill the entire cash match requirement, the SBDC activities related to the grant are designed to attract additional cash match to the SBDC network.

Staff Comments: The proposal will help with SBDC funding, but there should be additional efforts to stabilize support for the program, especially given the erratic nature of state support. In addition, the proposal will only allow for a partial draw on available federal funds, unless additional resources can be accessed.

Staff Recommendation: Approve the May Revision request.

Vote:

7730 FRANCHISE TAX BOARD

Issue 1: Earned Income Tax Credit Outreach (May Revision)

Governor's Proposal. In the May Revision, the Franchise Tax Board (FTB) requests $2 million for education and outreach efforts related to the California Earned Income Tax Credit (EITC) that was implemented in the 2015 tax year.

Background. The EITC provides a targeted, refundable credit for wage income (excluding self-employment) and focuses on the lowest-income Californians - households with incomes less than $6,580 if there are no dependents or $13,870 if there are three or more dependents. The state program complements the existing federal EITC and matches 85 percent of the federal credits up to half of the federal phase-in range and then tapers off relative to the maximum wage amounts.

FTB collaborated with a wide breadth of government and non-government agencies to develop a detailed communication plan to reach California taxpayers who might qualify for both the federal and state credits. Efforts included: compilation and analysis of demographic information regarding the targeted population, web support activities (including CalEITC4me.org, ftb.ca.gov, and taxes.ca.gov); direct mailer campaign to California taxpayers who did not have a state filing requirement but may qualify for the new California EITC credit; educational outreach for taxpayers, tax professionals, legislative staff, and other groups.

Staff Comment. Despite efforts to reach the intended population, early analysis suggests that a significant proportion of the population that is eligible for the program has not participated and additional outreach resources are warranted. In its last return report, FTB indicated that 362,000 EITC returns had been received – well below the expected number of 600,000. These returns allowed for credits in the amount of $180 million, also well below the expected amount. Staff has no concerns with this proposal, but the committee may ask for more specifics and details on the expected use of the funds and whether they are sufficient for the purposes.

Staff Recommendation. Approve the May Revision request.

Vote.

0860 BOARD OF EQUALIZATION

Issue 1: Prepaid Mobile Telephony Services Surcharge Resources (May Revision)

Governor's Proposal. In the May Revision, the Board of Equalization (BOE) requests 3.7 positions and $1.3 million (Special Funds) in 2016-17, and 2.3 positions and $188,000 in 2017-18 and ongoing, to continue processing mandated workload associated with AB 1717 (Perea), Chapter 885, Statutes of 2014, which imposes a surcharges on prepaid mobile communication services. The additional resources would include funding for personnel in the data analysis section, return analysis unit, audit and information section, and compliance and technology section.

Background. AB 1717 enacted the Prepaid Mobile Telephony Services (MTS) Surcharge Collection Act and the Local Prepaid Mobile Telephony Services Collection Act (Prepaid MTS Collection Acts), which imposed upon each prepaid consumer a prepaid MTS surcharge and local charge to be collected by a seller on each retail transaction involving prepaid mobile telephony services, effective January 1, 2016. The bill defines "prepaid consumer" to mean a person who purchases prepaid mobile telephony services in a retail transaction. The statute will sunset on January 1, 2020. The prepaid MTS surcharge and local charges are imposed upon the consumer of prepaid MTS, but are required to be collected by the retail seller and the direct seller. The program for retailers of prepaid MTS will be administered by the Sales and Use Tax Department of the BOE, while the program that applies to direct sellers is administered by the Special Taxes and Fees Department.

The prepaid MTS surcharge rate is subject to calculation each year by BOE. The state rate consists of the 911 surcharge rate, determined by the Office of Emergency Services, plus the California Public Utilities Commission (CPUC) end-user surcharges, which includes the annual user fee established by the CPUC. The local charge rates are to be provided by local jurisdictions to the BOE annually. The BOE is responsible for publishing the combined rate for each jurisdiction by December 1 of each year, with the published rates becoming operative April 1 of the following year.

Staff Comments. The BOE received substantial resources in the current year for administering the fee discussed. The BOE should be prepared to discuss the need for additional resources, in particular the change in anticipated workload that would justify the current request.

Staff Recommendation. Depending on satisfactory additional department information at the hearing, approve but limit funding to four years, with funding terminating with the expiration of the fee on January 1, 2020.

Vote.

Issue 2: Cigarette and Tobacco Products Tax Program (State Auditor's Report)

Budget Issue. In March 2016, the State Auditor released a report on their audit concerning the costs to administer the Cigarette and Tobacco Products Tax Program and Licensing Program by BOE. Among the other findings of the auditor's report is that the balance in the Cigarette and Tobacco Products Compliance Fund (CTPCF) is in excess of a prudent amount. This finding suggests that the excess amount above a prudent reserve threshold could be used for program purposes.

Background. Cigarettes and tobacco products are subject to various federal, state, and local taxes and fees, including excise taxes (taxes on the sale or consumption of these products), which provide funds for early childhood development, environmental, and other programs. The BOE administers the collection and enforcement of these excise taxes through its Cigarette and Tobacco Products Tax and Licensing Programs. The BOE's most recent estimate is that in fiscal year 2012-13 the State lost $214 million in excise tax revenue for cigarettes and tobacco products due to the evasion of these taxes by consumers, retailers, wholesalers, and distributors. BOE estimates that measures to stop such tax evasion prevented the state from losing an additional $91 million in tobacco tax revenue that year.

The requirement that retailers, distributors, wholesalers, manufacturers, and importers of cigarettes and tobacco products be licensed is a fundamental component of the BOE's enforcement efforts. However, the fees charged for the licenses do not cover all of the licensing program's costs. In 2014-15 the licensing program received about $1.8 million, mostly from license fees, while the program cost more than $9.8 million to administer. As a result, the licensing program had a funding shortfall of roughly $8 million that fiscal year, and has experienced similar annual funding shortfalls since fiscal year 2006-07. To make up the program's funding shortfall, the Legislature approved a budget change proposal in fiscal year 2006-07 to appropriate funds from the four funds that receive taxes from cigarette and tobacco products. The BOE divided the shortfall among these four tax funds in proportion to how much cigarette tax revenue they receive. The practical effect of using these four funds to offset the $8 million shortfall is that the administrators of those funds are not able to provide the level of services or activities that they otherwise would have, absent the need to make up the licensing program's funding gap.

Even though the licensing program has a continuing funding shortfall, as of June 2015 it had accumulated more than $9 million in revenue from license fees, which are maintained in the CTPCF, that it could use to offset the costs of the licensing program and reduce its shortfall. According to the BOE, the balance in the compliance fund steadily grew from $1 million in 2006-07 to almost $9 million in 2014-15 due to various factors, including underestimating revenues and an almost $3 million fund balance increase due to an accounting adjustment by the Department of Finance. A reasonable balance for this type of fund would equate to two to three months' worth of operating expenditures.

Staff Comments. The Governor's budget includes spending of $2.3 million to support the licensing program, leaving $7.9 million balance remaining in the CTPCF. Based on state auditor's report and recommendations, about $5.2 million could be distributed to the various programs that benefit from the excise taxes, based on their respective shares of support of the licensing program. This would allow for retaining a prudent reserve in the CTPCF of approximately $2.7 million.

Staff Recommendation. Staff recommends that the excess fund balance of $5.2 million in the CTPCF be reallocated, based on the share of each tax fund's support of the licensing program. This would result in a CTPCF reserve of $2.7 million and the following one-time distributions: $590,000 to the General Fund; $119,000 the Breast Cancer Fund, $1.5 million to the Cigarette and Tobacco Products Surtax Fund (supports health and environmental programs); and $3.0 million to California Children and Families First Fund (supports early childhood education and health programs). The Assembly has taken a similar action and Department of Finance has indicated its support.

Vote.

0840 State Controller's Office

Issue 1: 21st Century Project Management Assessment and Project Approval (May Revision)

Governor's Proposal. The May Revision proposes additional support for the State Controller's Office (SCO) 21st Century Project assessment efforts and refine the scope of a future payroll project. The SCO requests $2,720,000 ($1,550,000 General Fund and $1,170,000 special fund) to support four positions (and eight continuing positions effective January 1, 2017) in 2016-17, and $2,831,000 ($1,060,000 General Fund, $799,000 special funds, and $972,000 reimbursements) in 2017-18, and $2,607,000 ($932,000 General Fund, $703,000 special fund, and $972,000 reimbursements) in 2018-19 to support eight positions to complete the project assessments, convey the results of the project management assessment in a post implementation evaluation report, perform business process re-engineering of human resource management and payroll processing practices to refine the scope of the future project and complete Department of Technology project approval.

Background. The activities are related to a post-mortem assessment of the 21st Century Project which has been terminated. The state's payroll technology needs are being met by a reconstituted legacy system. The proposal also includes components that will begin the process of designing and procuring a new state wide payroll approach.

LAO Comments. The Legislative Analyst's Office (LAO) has recommended in that past that an independent third party assess the 21st Century Project. It appears, however, that the alternatives assessment would instead be conducted through the Department of Technology's new IT project approval process, which presumably would involve SCO working directly with the Department of Technology. LAO expresses concern that this approach would result in relatively narrow set of alternatives considered in the assessment. The LAO indicates that a fresh approach using an outside party may result in possible designs that depart from the state's current payroll practices. In light of the challenges of the 21st Century Project and the complexity of the state's workforce, the LAO indicates that new approaches should be considered before the state commits to spend hundreds of millions of dollars on a new project. LAO recommends that the Legislature approve the first year of the request only and the Legislature adopt supplemental reporting language requiring SCO to provide more detail on future assessment activities, as drafted:

> *It is the intent of the Legislature to continue funding assessment activities relating to the 21st Century Project efforts to replace the state's human resources and payroll management systems. No later than January 10, 2017, the State Controller's Office shall provide to the Joint Legislative Budget Committee and the fiscal committees of both houses a report that details proposed assessment activities beginning in 2017-18. The report shall at a minimum detail: (1) the results of assessments already completed and preliminary findings from ongoing assessments; and, (2) alternatives to be considered as part of Stage 2 of the Project Approval Lifecycle process before restarting efforts to replace the state's payroll system. Concerning the alternatives, the report shall address whether: (1) an independent third party should conduct the alternatives assessment; (2) the assessment should consider incrementally replacing business processes through a series of smaller projects; (3) the assessment should consider a decentralized model that integrates less complex payroll departments together and considers alternative approaches for modernizing the payroll systems of complex departments; (4) other state*

> *departments or agencies should be involved in the project in addition to the State Controller's Office. This reporting requirement may be satisfied by the submission of a budget change proposal as part of the Governor's 2017-18 Budget that addresses the issues listed above.*

Staff Comments. Staff is in general agreement with the concerns raised by the LAO, especially the need to gain outside perspectives on an appropriate approach for the state's payroll needs. The technology in this area changes rapidly and external perspectives are an important means for the state to remain abreast of changes in this area. Prior to approval of the proposal, the committee should ascertain the manner in which outside or third-party perspectives will be incorporated in the project.

Staff Recommendation. Approve budget request and SRL.

Vote.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Wednesday, May 18, 2016
1:30 p.m. or Upon Call of the Chair
State Capitol - Room 112

OUTCOMES

Consultant: Mark Ibele

Part A

ITEMS PROPOSED FOR VOTE-ONLY

Item	Department	Page
C.S. 12.00	**State Appropriations Limit** **Approved May Revision, 4-0**	**3**
0500	**Governor's Office**	**3**
Issue 1	Director of Immigrant Integration **Approved May Revision, 4-0**	3
0750	**Lieutenant Governor's Office**	**3**
Issue 1	Personnel Support **Approved May Revision, 4-0**	3
0110/0120	**State Legislature**	**4**
Issue 1	Constitutional Adjustment **Approved May Revision, 4-0**	4
0985	**California School Finance Authority**	**4**
Issue 1	Charter School Facilities **Approved May Revision, 3-0 (Nguyen not voting)**	4

ITEMS FOR DISCUSSION AND VOTE

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Wednesday, May 18, 2016
1:30 p.m. or Upon Call of the Chair
State Capitol - Room 112

Consultant: Samantha Lui

PART B

PROPOSED FOR VOTE-ONLY

ISSUES PROPOSED FOR DISCUSSION

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

ISSUES PROPOSED FOR VOTE-ONLY

7502 CALIFORNIA DEPARTMENT OF TECHNOLOGY

Issue 1: Statewide Information Technology Project Workload

Budget. The department requests $1.7 million (Technology Services Revolving Fund) for twelve full-time permanent positions that will provide project oversight for reportable IT projects and extended procurement support. The positions would be located in:

- **Statewide Technology Procurement Division (STPD)**, which acquires IT goods and services with market research and develops mid-level requirements earlier in the project approval lifecycle (PAL) of an IT project.

- **Information Technology Project Oversight Division (ITPOD)** provides independent project oversight to keep projects on budget and implemented on time.

Staff Comment. The department has a total of 51 reportable projects (37 medium-criticality and 14 high-criticality). The department acknowledges that some departments are concerned about paying the $9,340 per month charge, which has been steady since its implementation in July 2014. However, absent these positions, the department notes that vendor oversight is not as effective because it cannot require the remediation of project risks.

Staff Recommendation. Approve as requested.

7502 CALIFORNIA DEPARTMENT OF TECHNOLOGY (CDT)
8940 CALIFORNIA MILITARY DEPARTMENT

Issue 1: CDT – Security Audit

Budget. The department requests an increase of $1.6 million Technology Services Revolving Fund in the budget year, and ongoing, for 11 permanent positions (six new positions and five limited-term positions to become permanent) in a permanent audit unit within the Department of Technology's Office of Information Security. The department assumes 15 audits to be completed by 2017, with 23 entities to be audited in 2017-18, and ongoing, for a three-year auditing cycle for all noncompliant entities.

Issue 2: Military Department - Cyber Network Defense Team

Budget. The budget proposes an increase in reimbursement authority from $774,000 to $1.4 million, for eight permanent positions (six existing positions and two new permanent positions) for the department's Cyber Network Defense Team (CNDT) to implement provisions of AB 670 (Irwin), Chapter 518, Statutes of 2015. If necessary, the department could also expand to include eight National Guard (part-time) security experts to immediately respond to a cyber-incident.

The proposal will also fund hardware and software needs to conduct the assessments for 35 state agencies. The department will be reimbursed through CDT through an existing memorandum of agreement.

The CDT audit team proposal will review departments' compliance with mandated state and federal IT policies; whereas CNDT assessments assess network vulnerabilities. In both proposals, the audited or assessed entity must pay for the audit or assessment.

Staff Comment. The subcommittee considered both of these proposals, in tandem, on April 7, 2016. During this hearing, the departments discussed their collaboration to ensure an intentional and effective sequencing of an audit versus and assessment. More broadly, the subcommittee may wish to discuss how the various approaches (policy evaluation, network examinations, or other) effectuate effective oversight, and how the state can better protect its assets proactively.

Staff Recommendation. Approve both proposals as requested.

8940 CALIFORNIA MILITARY DEPARTMENT (CMD)
0690 OFFICE OF EMERGENCY SERVICES (OES)

The following two issues pertain to the Southern Regional Emergency Operations Center Replacement in Los Alamitos.

Background. The OES' Southern Region Emergency Operations Center (SREOC), located at the California Military Department's Joint Forces Training Base (JFTB) in Los Alamitos, serves as a central point for mobilizing assets in Southern California, provides disaster intelligence to the State Operations Center in Sacramento, and serves as liaison with local agencies, and interfaces with the media. The two existing modular facilities have been in use since 1991, and were built as an interim state operations office in Southern California for earthquake response coordination.

In November 2005, the Department of General Services (DGS) conducted a study, which was later validated in a 2014 feasibility study, identifying the need for an additional 30,000 sq. ft. The new facility must include: adequate staffing space, an expandable information technology infrastructure, and space for an alternate State Operations Center and State Warning Center.

Construction was expected to start by July 2017 and completed by April 2019. However, this timeline was contingent on OES' ability to secure a long-term lease from the federal Department of Defense of the project site. The departments were unable to secure a lease, due to the federal government not looking favorably on a single state entity as a sole proprietor of federal land. As such, both departments, instead, will co-use the site, which the federal government recommended. The National Guard has an indefinite license for the federal installation at Los Alamitos. Under this authority, CMD, can build a co-use structure that will also serve OES and the National Guard unit.

Total estimated project costs are $25.7 million ($570,000 for preliminary plans, $1.28 million for working drawings, and $23.87 million for construction). Moving to the new facility will incur a $60,000 one-time cost, with around $560,000 ($280,000 General Fund and $280,000 matching federal funds) in ongoing operating costs for utilities, maintenance, and staff.

Issue 1: CMD - Southern Regional Emergency Operations Center Replacement, Los Alamitos

May Revision. The department proposes $1.9 million General Fund for the preliminary plans and working drawings phase of the Los Alamitos Southern Region Emergency Operations Center Replacement project. This project replaces an OES project originally approved in the Budget Act of 2015 to replace the current Southern Region Emergency Operation Center (SREOC), located at the Military's Joint Forces Training Base in Los Alamitos.

In addition, the department requests budget bill language to increase Item 8940-301-0001 by $1.85 million for the preliminary plans and working drawings phases of the project.

Issue 2: OES Cap Outlay – Southern Regional Emergency Operations Center Replacement, Los Alamitos

Governor's Budget. This budget requests $1.4 million General Fund for the working drawing phase of the project to replace the two existing modular buildings totaling approximately 7,200 square feet, and construct a new Southern Region Emergency Operations Center at the Joint Forces Training Base in Los Alamitos. The total estimated project cost is $24.6 million General Fund.[1] The budget request provides provisional budget bill language.

May Revision. The department proposes to withdraw this proposal. The department also proposes budget bill language (add Item 0690-495) to revert the balance of funding appropriated in the current 2015-16 year for the acquisition and preliminary plans phases

Staff Comment. The subcommittee considered this OES proposal during its April 21, 2016, hearing and held it open.

Staff Recommendation. (1) Reject OES proposal in order to withdraw $1.4 million General Fund in requested funding for the working drawings phase. (2) Approve $1.85 million GF for CMD in its capital outlay budget for the preliminary plans and working drawings, including placeholder budget bill language. (3) Approve placeholder language to allow reversion of the unencumbered funding balance from 2015-16 for the acquisition and preliminary plans phases of the project.

[1] The cost estimate is based on CES obtaining a long-term lease on the real property necessary for the project and the Military Department managing the project to build the proposed facility.

7760 OFFICE OF EMERGENCY SERVICES

Issue 1: Drought Funding

Governor's Budget. The budget includes $26.7 million General Fund ($4.5 million General Fund in state operations, $22.2 million General Fund in local assistance for the California Disaster Assistance Act [CDAA] program) for the budget year to support ongoing drought operations (long-term activation of the State Operations Center and Regional Operations Centers, responses to local assistance centers, the public information office's drought campaigns and public awareness, and the temporary tank program). The department cannot identify the specific number of positions because staff is rotated into emergency response positions temporarily.

Staff Comment. The subcommittee considered and held open this proposal during its April 21, 2016, hearing.

Staff Recommendation. Approve as requested.

Issue 2: Earthquake Early Warning System

May Revision. This proposal would provide $10 million General Fund and four positions to support the initial implementation of a California Earthquake Early Warning System. This funding would be used for initial project costs, including (1) a financial strategy for funding future costs associated with the system ($150,000), (2) capital costs for equipment and seismic stations necessary for the system ($6.9 million), (3) development of a public education and training strategy and plan ($2.2 million), and (4) staffing to support the system ($734,000). The department estimates that the project will cost a total of $28 million to implement and $17 million annually thereafter to operate. The positions include:

- Two research program specialists to oversee the operations and education/training program areas, respectively.
- One associate governmental program analyst to oversee the research and development program.
- One program manager to manage the Earthquake Early Warning System and Program.
- One executive officer.

Background. Senate Bill 135 (Padilla), Chapter 342, Statutes of 2013, requires the Office of Emergency Services, in collaboration with the California Institute of Technology (CalTech), the California Geological Survey (CGS), the University of California (UC Berkeley), the United States Geological Survey (USGS), the California Seismic Safety Commission, and other stakeholders, to develop a comprehensive statewide earthquake early warning system in California through a public/private partnership. Senate Bill 494 (Hill), Chapter 799, Statutes of

2015, specified the development of this statewide earthquake early warning system is contingent on the department identifying funding for the system, using federal funds, revenue bonds, local funds, and/or private dollars. Existing law prohibits the use of General Fund dollars to create the system. The law also provides an automatic repeal of the requirement to develop an earthquake warning system, if funding is not identified.

The May Revision proposal identifies the first-round of capital investments and recognizes the ongoing need for education and outreach, which will be accomplished through contracted services. The initial outreach campaign will include private sector application developers, schools, and public safety officials.

LAO Comments and Recommendation.

- **Reliance on the General Fund appears inconsistent with legislative intent.** Existing law requires OES to identify funding for an earthquake early warning system and prohibits the department from identifying the state General Fund as a source of funding. However, this proposal appears inconsistent with this statute.

- **Funding the creation of the financial strategy, but reject the other components of the proposal at this time.** As part of developing this financial strategy, the department may identify other stakeholders (such as private utilities or the federal government) that could pay for components of the project, thus reducing the costs to the General Fund. The LAO has no concerns with the types of activities that the department proposes to fund.

Staff Comment. The subcommittee discussed earthquake early warning as an informational item during its April 21, 2016, hearing.

Staff Recommendation. Approve as requested with opportunity to review and conduct oversight during the fall and annual budget process in the out-years.

Issue 3: Victim-Witness Assistance Fund Adjustment

May Revision. The department requests a reduction of $750,000 to the Victim-Witness Assistance Fund local assistance appropriation due to declining revenues.

Staff Comment. The Victim-Witness Assistance Fund was established to deposit specified penalty assessments to fund local assistance centers for victims and witnesses to crimes. Revenues deposited in to the fund have steadily declined over the past five years, with a projected decrease of 2.3 percent from past year to current year. The proposed reduction of $750,000 in local assistance appropriation will ensure Cal OES' expenditures align with projected revenues.

Staff Recommendation. Approve as requested.

7760 Department of General Services

Issue 1: Office of Public School Construction Reduction

May Revision. The department proposes to reduce the building regulation services budget by $690,000, and six non-audit staff positions, to align administrative resources with the School Facilities Program (SFP) workload.

Background. The State Allocation Board (SAB) determines the allocation of resources (proceeds from general obligation bonds and other stage funds) for the construction, modernization, and maintenance of local public school facilities. The SAB is also administers the State School Facility Program (SFP), Emergency Repair Program, and Deferred Maintenance Program. Funds for the SFP may be from any source, including proceeds from the sale of general obligation bonds and General Fund. In addition, districts must provide a portion of the project cost from funds available to the school district, which may include local general obligation bonds, developer fees, local general fund. The SAB meets monthly to apportion funds to school districts, approve projects, act on appeals, and adopt policies and regulations.

Staff Comment. According to the Administration, bond authority is running out and the only active programs are the Seismic Mitigation Program, Facility Hardship (health and safety), and the Charter School Facilities Program. The criteria for the Facility Hardship and Seismic Programs are such that not many districts are eligible and applications are not frequent. For the Charter School Facilities Program, the pool of applicants is small, and much of the application processing has already occurred.

While there is still workload in closing out projects, most workload goes to audit staff. The positions being eliminated are for the non-audit staff. Some of the six positions are currently vacant, but for any that are filled, as of July 1, 2016, the department will be re-directing staff to other vacancies within the department if there is workload need. In addition, the request reflects the nature of the declining SFP workload.

Staff Recommendation. Approve as requested.

Issue 2: Rental Lease Payments, Technical Adjustment

May Revision. The department proposes to reduce the real estate services' building and property management branch operating expenses and equipment costs by $943,000 to reflect reduced rental payments for the San Diego Office Building Replacement, due to the refinancing of the original lease-revenue bond.

Staff Recommendation. Approve as requested.

Issue 3: Division of State Architect School Construction Plan Review

May Revision. The department proposes trailer bill to increase the minimum project cost threshold, which would trigger the Department of General Services' Division of State Architect (DSA) to review the project, from $42,218 to $100,000 for structural projects, and from $168,197 to $225,000 for non-structural projects. In addition, the language would authorize the department to annually increase these thresholds, adjusting for inflation, effective January 1, 2018.

Background. The DSA reviews construction projects for "Title 24," known as the California Building Standards Code, compliance. The scope of DSA's review depends on the client who owns the facility and the scope of the project. Plan review and construction oversight focus on school and community college districts' new construction and alteration projects. DSA's oversight for structural safety of school facilities is governed by the provisions of the Field Act.[2]

According to the Administration, "Determining the original legislative intent is challenging and time consuming as a result of school facilities statutes consolidation language (SB 1562 (Greene), Chapter 277, Statutes of 1996." SB 1562 consolidated school facilities related statutes that were scattered throughout the Education Code. Locating the original language and related legislation requires research through the state archives." To extent there are fewer total projects to review; the Division of the State Architect's (DSA) capacity to review larger projects could be increased.

As of April 29, 2016, DSA reviewed and were successful in preventing several health and safety hazards, which were found during plan review of drawings prepared by licensed architects and engineers for school district projects with a construction cost under $100,000. Some examples of structural safety issues include falling and collapse hazards for roofs, antennas, or pipe framing. For fire safety, the DSA found lack of smoke detectors and fire extinguishers. For accessibility, the reviewers found some site paths did not provide for curbs or detectable warnings or accessible curb ramps.

Staff Recommendation. Approve as requested.

[2] California Education Code §17280, et. seq. for K–12 and §81130, et. seq. for community colleges.

ISSUES FOR DISCUSSION/VOTE

1111 DEPARTMENT OF CONSUMER AFFAIRS

Issue 1: Board of Behavioral Sciences (BBS): Examination Vendor Contract Amendment

May Revision. The Board requests $1.5 million (Behavioral Sciences Examiners Fund, Professions and Vocations Fund) to increase its existing examination vendor contract, from $359,000 to $1.8 million, to accommodate a projected 61,000 incoming test takers for the Board's new Law and Ethics examination.

Background. The BBS licenses and regulates more than 100,000 licensed clinical social workers (LCSWs), licensed marriage and family therapists (LMFTs), licensed educational psychologists (LEPs), and licensed professional clinical counselors (LPCCs). In addition, the BBS regulates approximately 16,262 MFT Interns and 12,215 ACSWs.

In the past, LMFT, LCSW, and LPCC candidates were required to pass two examinations for licensure – the California standard written examination and the written clinical vignette examination. Effective January 1, 2016, the Board implemented the examination restructure, which requires all registrants to take the California Law and Ethics exam which is developed by the Board, within the first year of registration. Also, the new exam eliminates the clinical vignette portion. The Board anticipates receiving over 61,000 applications (initial examination application and retake applications) in the budget year, below:

Fiscal Year	2016-17
Initial Registrants*	8,627
Existing Registrants required to take exam	30,634
Total first exam	39,261
First retake applications**	15,704
Subsequent retake applications **	6,282
Total exam applications received annually	61,247
*includes MFTI, ASW, PCI	
** assumes 60% pass rate	

When the Board proposed the examination restructure, it assumed that exam development costs would be absorbable, since the candidate pays for it ($25.50 per exam) with the application. However, the Board overlooked increasing its expenditure authority to address the increased examination costs associated with the examination vendor contract.

Staff Comment. On March 10, 2016, the subcommittee approved the Board's January proposal for $557,000 in 2016-17, and $533,000 in 2017-18 and ongoing, for eight positions in the licensing and examination units to address the ongoing increase of applications and to reduce processing times. The Board estimates a five-month reserve balance at the end of current year, and does not have plans to increase or reduce fees.

Staff Recommendation. Approve as requested.

Issue 2: Medical Cannabis - Governor's Budget + May Revision BCP, TBL, BBL

Overall Governor's Budget. The budget includes an initial loan of $5.4 million to the Medical Marijuana Regulation and Safety Act Fund, which will, in the future, be the repository for all fees collected by the licensing authority. In addition, the January budget included $12.8 million General Fund, $10.6 million Medical Marijuana Regulation and Safety Act Fund, $1.2 million special funds, and a proposed 126 positions across various departments, including: Department of Fish and Wildlife ($7.7 million General Fund and 31 positions); State Water Resources Control Board ($5.2 million General Fund, $472,000 Waste Discharge Permit Fund, and 35 positions); Department of Food and Agriculture ($3.3 million in 2015- 16, $3.4 million from the Medical Marijuana Regulation and Safety Act Fund, and 18 positions); Department of Public Health ($457,000 in 2015-16, $3.4 million from the Medical Marijuana Regulation and Safety Act Fund, and 14 positions in the budget year); and Department of Pesticide Regulation ($700,000).

Department of Consumer Affairs (DCA) - Governor's Budget. The Governor's budget includes 9.7 positions and $10 million in the current year; $3.8 million in the budget year and 25 positions ongoing; $4.1 million in FY 2017-18; and $492,000 in 2018-19 and 2019-20 to fund the development and initial start-up of the Bureau of Medical Marijuana Regulation (Bureau), and the study as required by the Medical Marijuana Regulation and Safety Act. For the budget year, the department proposes staffing in the following areas:

- **Bureau staff (13 positions)**
    - One bureau chief and one deputy chief to formulate, implement, and interpret Bureau operations, so that program areas comply with statutes.
    - One enforcement program manager (effective January 1, 2017) to oversee investigations and prosecutions, including developing policy recommendation related to the governance of medical marijuana.
    - One licensing program manager to oversee the operations of licensing (effective January 1, 2017).
    - One information officer to serve as a liaison between the Bureau and the media (effective July 1, 2016).
    - Establish a Legal Affairs Division, comprised of one attorney III, two attorneys, one senior legal analyst, one legal analyst, and one legal assistant position. (The anticipated start date for the senior legal analyst, legal analyst, and legal assistant is April 1, 2016.
    - One assistant chief of policy and legislation to develop regulatory packages and coordinate stakeholder meetings.

  - One data processing manager III to serve as the primary IT liaison with other licensing entities and state departments (effective July 1, 2016).

  - One AGPA and one management service technician to assist and provide other support.

- **Division of Investigation (Four positions)**

  - One supervising investigator II to serve as visible outreach to local law enforcement.

  - Two investigators (one Northern California, one Southern California; effective April 1, 2016) to serve as liaisons to regional law enforcement, legal affairs, and city and county enforcement needs.

  - One AGPA (effective April 1, 2016) to develop reports of a not-yet-developed matrix and maps of existing medical marijuana dispensaries, cultivation locations, and transportation operations.

- **Legislative and Regulatory Review.** One AGPA to review, analyze, and facilitate regulatory packages of the Bureau, and respond to constituent inquiries.

- **Office of Information Services.** One data processing manager to direct multiple state project managers and business analysts within DCA and within stakeholder agencies in all phases of project planning, executing, and closing activities of contract management, and support the project's Executive Steering Committee in the development and implementation of inter-agency governance polices.

- **DCA's Office of Human Resources and Budget Office.** Two Associate Personnel Analysts to assist the Bureau with the hiring, recruitment, compensation and performance management of personnel. One AGPA to serve as the single-point-of-contact for fiscal and accounting issues with the Bureau.

- **Business Services Office.** One AGPA to secure a lease, prepare service contracts and procure equipment in order to run day-to-day operations

- **Consultant contract (one)** to provide subject-expertise related to the medical marijuana industry.

- **Study with the Center.** Dr. Igor Grant, Head of the Center at the University of California, San Diego, provided the following breakdown of costs associated with developing and conducting the study as required by AB 266:

  - Building retrofit to accommodate the requirements of this study ($350,000)
  - Comprehensive study would be $1.476 million over three fiscal years ($492,000)

Total costs for this study are $1.8 million over four fiscal years, assuming the building retrofit occurs in 2016-17, and the study is conducted in 2017-18 through 2019-20.

DCA - May Revision. The department requests $6.0 million in the budget year; $6.5 million in 2017-18; $1.0 million in 2018-19; and $803,000 ongoing, to fund eight positions and external contract costs for the development, implementation, and maintenance of licensing and enforcement IT system for the Bureau of Medical Marijuana Regulation (Bureau). The positions are as follows:

- **Documentation of business requirements.** Two senior information systems analysts and two staff information systems analysts to document business requirements. They will be broken up into two teams –licensing business processes and enforcement.

- **Project management tasks.** One staff information systems analyst and one associate information systems analysts to implement the commercial-of-the-shelf (COTS) system, such as schedule management and deliverables management/

- **Maintenance.** Two systems software specialists for startup and hardware maintenance The department anticipates that only two senior information systems analysts and one systems software specialist will be needed for IT maintenance in the future.

The department estimates (in thousands) the following start-up and ongoing costs and assumes a COTS IT solution, based on the implementation of the department's BreEZe system, as follows:

	FY 16/17	FY 17/18	FY 18/19	Ongoing
Configuration and Testing	$2,088	$2,087	$0	$0
Reports and Correspondence Development	40	40	0	0
Update of Existing DOJ Background Check and Third-Party Print Interfaces	5	5	0	0
Development of New Interface with the CDFA to Share License Information	45	45	0	0
Web Portal for Law Enforcement Personnel Easy Access to License Data	13	13	0	0
IT Consulting and Project Management Resources	1,500	1,500	0	0
Unanticipated Enhancement Requests/Initial System Maintenance After Launch	500	1,500	415	170
Total Estimated Contract Costs	**$4,191**	**$5,190**	**$415**	**$170**
Hardware + Software	577	183	183	183
Staff	1,184	1,124	450	450
Total Estimated Costs	**$5,952**	**$6,497**	**$1,048**	**$803**

May Revision - Trailer Bill. The May Revision provides updated trailer bill language for the Medical Cannabis Regulation and Safety Act. The language, among other provisions: (1) authorizes a licensing authority to promulgate regulations, including emergency regulations; (2) requires additional conditions of licensures, such as proof of bond to cover the cost of destroying product; (3) establishes a filing deadline for individuals to submit an application for licensure; (4) authorizes the Board of Equalization (BOE), for purposes of taxation and regulation, to have access to the Department of Food and Agriculture's track and trace electronic database, instead of requiring the BOE to create a separate reporting system; (6) provides the Department of Public Health (DPH) cite and fine authority and the authority for mandatory recalls; (7) shifts authority to license laboratories from the DPH to the Bureau of Medical Cannabis Regulation; and (8) excludes a cannabis manufacturer, who infuses butter with cannabis, from having to be licensed as a milk product plant. For additional information about the implication of instream protections and DPH provisions, please see the agendas for Senate Budget Subcommittee No. 2 and No. 3, respectively.

May Revision – Budget Bill Control Section. The Administration proposes Control Section 11.42, which would authorize the Department of Finance, no sooner than 30 days after written notification to the Joint Legislative Budget Committee and chairs of the fiscal committees in each house, to augment departmental budgets, as necessary, to fund medical marijuana-related information technology projects.

Background. In June 2015, Governor Brown signed the Medical Marijuana Regulation and Safety Act, comprised of Assembly Bill 243 (Wood), Chapter 688, Statutes of 2015; Assembly Bill 266 (Bonta), Chapter 689, Statutes of 2015; and Senate Bill 643 (McGuire), Chapter 719, Statutes of 2015. Together, these bills established the oversight and regulatory framework for the cultivation, manufacture, transportation, storage, and distribution of medical marijuana in California.

LAO Comment and Recommendation. Please see attachment.

Staff Comments.

- **Abbreviated time-frame, high IT costs projected.** Given the date-sure implementation date of January 2018, the department projects high IT costs. Statutes and regulations, including the pending initiative on recreational marijuana use, are currently being crafted when software implementation activities are occurring. Adjustments to baseline designs will increase costs. According to the department, the IT cost estimate is based on the cost structure to develop and support the BreEZe system. However, the department plans to review other states' licensing systems and other available COTS products. The subcommittee may wish to ask the department about other state’s IT projects.

- **Oversight.** The department experienced a difficult implementation with the BreEZe project. Given the proposal’s plan to use a similar COTS model as the BreEZe system, the subcommittee may wish to ask the department: (1) How does this IT project fit within the Stage/Gate model? (2) How does DCA plan to collaborate with CDT, so legislative oversight is retained despite the accelerated schedule? (3) The proposed control section appears duplicative to existing control section 11, which requires the Department of Finance to report to the Joint Legislative Budget Committee of any increases to the project’s overall cost of $5 million.

Staff Recommendation. Hold open for further consideration.

0890 SECRETARY OF STATE

Issue 1: Voter Information Guide

May Revision. The department proposes an increase of one-time $10 million General Fund (GF) to print the principal and supplemental voter information guides (VIG) for the 2016 Election. The proposal also includes budget bill language to specify that resources can only be used for printing the 2016 VIG; and prior to expending funds, the SOS must provide a report to Department of Finance. In addition, the language authorizes any unexpended funds to revert to the General Fund.

Background. In light of the competitive Presidential Primary Election, high voter participation and registration, and number of initiatives seeking to quality for the state ballot, the SOS requests additional funding for 2016 elections. During the subcommittee's April 14, 2016, hearing, the department presented its proposal of, between $13 million GF and $19.5 million GF, to assist counties' costs to verify signatures on initiative petitions for the November election, and $13 million for printing costs for voter information guides. On April 29, 2016, the Governor signed Assembly Bill 120 (Budget Committee), Chapter 11, Statutes of 2016, which provided $16.3 million GF to the SOS to provide counties reimbursement for elections costs related to the June 2016 primary. AB 120 does not include funding for the SOS' request for VIG printing.

The June VIG is printed in color, in an attempt to stand out from junk mail, be more user-friendly, and increase voter participation. The SOS estimates VIG costs for June 2016 to be $5.7 million General Fund, and November 2016 to be $14.5 million General Fund (an 81.25 percent increase in costs compared to the November 2012 VIG).

The department continues to anticipate as many as 21 measures to qualify for the ballot. As of May 16, 2016, three measures have qualified for November's ballot, with an additional five measures currently eligible.

Staff Comment. The subcommittee may wish to discuss the following:

- **Printing costs.** State law specifies the text size in the VIG and the size of margins. In the past, the state has managed costs by reducing paper quality and printing in black and white. Senate Bill 1070 (Committee on Budget and Fiscal Review), Chapter 133, Statutes of 2008, approved and allocated the Governor's $3.5 million General Fund Budget-Balancing Reduction by reducing printing and mailing costs associated with the VIG.

  During the subcommittee's April 14, 2016, hearing, the committee deliberated the benefits of a color-print versus printing in black and white. Given the SOS' estimate of a 208 page VIG for the November 2016 election, the committees may wish to consider whether spending $2 million on color printing has a direct impact on voter turnout, or whether $2 million may be spent more effectively elsewhere.

- **Unclear provisional language.** The request includes language that prior to expending the $10 million, the Secretary of State "shall provide a detailed report to the Department of Finance." As proposed, the language appears vague and does not indicate the type of, and when, information would be reported to Finance. The subcommittee may wish to consider the following language:

0890-001-0001—For support of Secretary of State .... ~~2~~39,038,000

Schedule:

(1)	0700-Filings and Registrations	1,181,000
(2)	0705-Elections	~~1~~29,350,000
(3)	0710-Archives	8,174,000
(4)	0715-Department of Justice Legal Services	333,000
(5)	9900100-Administration	24,467,000
(6)	9900200-Administration—Distributed	−24,467,000

Provisions:

1. The Secretary of State shall not expend any special handling fees authorized by Chapter 999 of the Statutes of 1999 which are collected in excess of the cost of administering those special handling fees unless specifically authorized by the Legislature.
2. Of the funds appropriated in this item, $15,733,000 is available for the purposes of preparing, printing, and mailing the state ballot pamphlet pursuant to Article 7 (commencing with Section 9080) of Chapter 1 of Division 9 of the Elections Code. At least 30 days before these funds are expended, the Secretary of State shall submit to the Director of Finance and the chairperson of the Joint Legislative Budget Committee an itemized estimate of these costs. Any unexpended funds pursuant to this provision shall revert to the General Fund.

Staff Recommendation. Hold open.

8955 DEPARTMENT OF VETERANS AFFAIRS (CALVET)

Issue 1: Transition Assistance Program

May Revision. The department requests $813,000 (General Fund), and $774,000 (General Fund) ongoing, for seven positions (five existing but unfunded positions, and two new permanent positions) to implement Assembly Bill 1509 (Fox), Chapter 647, Statutes of 2014. AB 1509 requires the department to develop a transition assistance program (Cal-TAP) for veterans, discharged from the Armed Forces of the United States or the National Guard of any state, into civilian life. This proposal requests one staff services manager II and six associate governmental program analysts (AGPA).

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

Currently, state agencies, county veterans service officers (CVSOs), and nonprofit organizations participate in TAP/T-GPS sessions on military bases located in California; but, participation varies from base to base, and material is not uniform. AB 1509 created Cal-TAP. Its curriculum, comprised of 22 modules, will be developed based on current best practices and veteran demographic and benefits usage data regionally. Cal-TAP will be available online and offered in-person in 15 regions (map on page 20), which were identified based on infrastructure and live field agents, who will be centrally-based in each region, travel. Cal-TAP coordinators will facilitate training opportunities through eight existing CalVet Local Interagency Network Coordinators (LINC), who are located in Sacramento. The LINC program staff serves as information conduits in various local communities throughout California. In addition, the benefit of Cal-TAP over T-GPS is that it is offered to any person, at any time, who has served in the U.S. Armed Forces.

Last year's Senate appropriations analysis cited one-time costs to implement AB 1509 (Fox) as $200,000 GF. However, actual costs to implementation the Cal-TAP were unknown at the time. This proposal requests $813,000 for the full implementation of the Cal-TAP.

Staff Comment. The subcommittee may wish to consider the following items:

- **Potential for federal funds.** According to the department, Cal-TAP has the ability to draw down federal funds by connecting more veterans to the federal benefits (disability compensation, healthcare, education, housing, and others) earned through military service.

- **Curriculum development and outreach.** The curriculum has yet to be produced, but will be created in collaboration with service providers through the Governor's Interagency Council and the CalVet community-of-care engagement. In addition, the curriculum will be developed based on current best practices and analysis of vet demographics and benefits usage regionally.[3] Cal-TAP will be marketed through CVSOs, existing email listserv mailings, CalVet public notices, and installations.

- **Metrics for success and best practices.** CalVet plans to track the number of participants for the online courses, number of participants for the in-person curriculum, USDVA Compensation and Pension participation rate, the USDVA dollars spent per veteran by county, and the satisfaction rate of the curriculum increasing benefit and service knowledge as reported by participant surveys for both the online and in-person curriculum.

Staff Recommendation. Hold open.

[3] This data will come from the Repository of Information for Veteran Reintegration (RIVR) project, which consolidates a database of multiple sources. Currently, the project is in partial production, and it is anticipated that, with testing, users can examine demographics and benefits usage/requests.

ATTACHMENT B - PROPOSED LINC REGIONS WITH APPROVAL OF PROPOSAL (15 TOTAL)

0690 OFFICE OF EMERGENCY SERVICES

Issue 1: California Disaster Assistance Act

May Revision. The department requests an increase of $30 million General Fund for the California Disaster Assistance Act (CDAA) Program to remove hazardous trees out of the public rights-of-way and away from public infrastructure.

Background. The CDAA authorizes state cost-share funding (75 percent) in local assistance to jurisdictions to repair, restore, or replace public real property damaged or destroyed by disasters, such as wildfires, earthquakes, floods, drought, and most recently, tree mortality. On October 30, 2015, Governor Brown proclaimed a state of emergency for tree mortality, including provisions to expedite removal and disposal of dying trees from drought conditions. Currently, counties must remove hazardous trees, which threaten county facilities/public infrastructure and roads. CDAA does not fund any hazardous tree removal that is the responsibility of a state or federal agency. The state's cost-share provides local assistance for eligible costs, such as "overtime for emergency personnel, travel and per diem, repair and replacement for public facilities; and costs for work basic engineering services."

To date, the Department of Forestry and Fire Protection (CAL FIRE) identified six counties (Kern, Fresno, Madera, Mariposa, Tulare, and Tuolumne) as high hazard zones. After a survey was conducted,[4] the department anticipates four more counties (Amador, Calaveras, El Dorado, and Placer) to be included in the future. According to the department, with the addition of the Governor's proclamation on tree mortality, its existing CDAA annual appropriation of $39 million is insufficient to cover all CDAA activities. Estimates for the removal and disposal of dead and dying trees are based on a unit-cost per tree, which ranges between $350 to $1,000 depending on location and other factors. The six high-hazard zone counties identified eligible costs under the CDAA in the amount of $83.5 million General Fund. The department estimates total state cost-share is approximately $60-63 million General Fund, below:

Workload Measure	BY	BY+1
Kern County	$6,000,000	$6,000,000
Fresno County	$5,071,000	$5,071,000
El Dorado County	$5,000,000	$5,000,000
Madera County	$5,000,000	$5,000,000
Mariposa County	$4,786,000	$4,786,000
Placer County	$2,550,000	$2,550,000
Calaveras County	$2,500,000	$2,500,000
Amador County	$5,000,000	$5,000,000
Tulare County	$ 500,000	$ 500,000
Tuolumne County	$5,357,500	$5,357,500

[4] The following counties were surveyed: Kern, Tulare, Fresno, Madera, Mariposa, Tuolumne, Calaveras, Amador, El Dorado, and Placer counties, because they are the most heavily impacted counties thus far as identified by the Tree Mortality Task Force.

Staff Comment. The subcommittee may wish to discuss the following items.

- **Possible out-year costs.** The state has provided CDAA funding, typically between $39.1 million General Fund (2013-14 and 2014-15) and most recently, $61.3 million General Fund last fiscal year. With the projected continuation of the drought and inclusion of tree mortality as an eligible cost under CDAA, the potential for CDAA costs could increase in future years.

- **How much is in CDAA?** The department states, "[Cal OES'] request is specific to the projected deficiency of $33 million General Fund in the CDAA appropriation for 2016-17." However, the department appears to have $22 million General Fund in CDAA that can only be used for the drought. To the extent the Legislature supports the department's emergency response work within CDAA program, the proposal may be interpreted as a $30 million General Fund augmentation to the existing $39 million General Fund baseline for CDAA.

Staff Recommendation. Hold open.

California Governor's Office of Emergency Services
California Disaster Assistance Act Projection for 2016/17
As of May 12, 2016

Disaster Number	Disaster Title	Projected Expenditures
DR1577 (2005-01)	2005 January Winter Storms	700,000
DR1628 (2006-01)	2005/06 Winter Storms	600,000
DR1810 (2008-11)	November 2008 CA Wildfires	2,700,000
DR1884 (2010-02)	2010 Severe Winter Storms	1,000,000
DR1911 (2010-03)	CA Baja Earthquake	500,000
DR1952 (2010-17)	December 2010 Statewide Storms	2,000,000
DR1968 (2011-02)	March 2011 CA Tsunami	500,000
DR4158 (2013-02)	Rim Fire	700,000
DR4193 (2014-02)	South Napa EQ	1,000,000
DR4240 (2015-03)	Valley & Butte Fires	1,200,000
FM5093 (2015-03)	Rocky Fire	100,000
FM5111 (2015-03)	Butte Fire	100,000
FM5112 (2015-03)	Valley Fire	100,000
94-01	1994 Northridge EQ	9,550,000
1996-07	Santa Cruz Co Flooding/Fallen Trees	148,000
2005-01	2005 Winter Storms	4,000,000
2005-05	March 2005 Storms	500,000
2006-03	Spring Storms	5,000
2007-02	Extreme Cold Weather	5,000
2007-04	Griffith Park Fire	140,000
2007-09	Zaca Fire	350,000
2008-01	2008 January Storms	900,000
2008-10	So California Wildfires	2,200,000
2010-04	Pacifica Storm Drain Outfall	125,000
2010-06	2010 LA Co Wildfires	1,000,000
2010-14	November Storms	7,500
2010-17	Dec 2010 Statewide Storms	2,500,000
2011-02	2010 Severe Winter Storms	162,000
2014-04	Siskiyou County Wildfires	250,000
2014-05	San Bernardino County Storms	1,000,000
2014-07	December 2014 Storms	43,000
2015-02	Hurricane Marie	500,000
2015-03	Summer 2015 Wildfires	1,000,000
2015-04	Tropical Storm Delores	500,000
2015-05	Tree Mortality	30,000,000
2015-06	Waterman Terrorist Incident	4,500,000
2016-01	Pacifica Storm Drain Outfall	2,500,000
	Subtotal all Expenditures	73,085,500
	Existing Budget Authority	39,114,000
	Subtotal of Expenditures after Exisiting Budget Authority	33,971,500
	May Revise #1	30,000,000
	Balance (Shortfall)	3,971,500

Drought		
2014-03	Drinking Water Shortage	22,000,000
	Existing Budget Authority	22,000,000
	Balance	-

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Wednesday, May 18, 2016
1:30 p.m.
State Capitol - Room 112

Consultant: Farra Bracht

PART C

VOTE-ONLY ISSUES

DISCUSSION / VOTE ISSUES

VOTE-ONLY ISSUES

0650 OFFICE OF PLANNING AND RESEARCH

Issue 1: Precision Medicine Funding and Trailer Bill Language
(Previously heard on April 28, 2016)

Governor's Budget Request: The Governor's budget requests $10 million General Fund for precision medicine to build tools, applications, and platforms that integrate diverse data sets that may lead to improved health outcomes and new areas for healthcare innovation and discovery; and to establish a more dynamic asset inventory in the state. With the proposed augmentation of funding, the Administration proposes to fund six new demonstration projects ($1.2 million each) and the remaining $2.8 million would be used to support non-demonstration project activities (asset inventory, convenings, evaluation, and other administrative activities, and at the initiative's discretion, competitive round for finalist projects under the initial call for proposals).

The budget also proposes trailer bill language to establish the program in statute.

Background: According to the National Institutes of Health (NIH), precision medicine is an emerging approach for disease treatment and prevention that takes into account individual variability in genes, environment, and lifestyle for each person. While some advances in precision medicine have been made, the practice is not currently in use for most diseases. On January 20, 2015, President Obama announced the Precision Medicine Initiative to enable a new era of medicine in which researchers, providers and patients work together to develop individualized care.

The President called for $215 million in fiscal year 2016 to support the initiative, which includes several components with efforts from across the federal government. Of this total proposed budget, $130 million was allocated to NIH to build a national, large-scale research participant group, called a cohort, and $70 million was allocated to the National Cancer Institute to lead efforts in cancer genomics. In addition, many private and public universities are researching precision medicine.

In the 2014-15 budget, the Legislature approved $3 million General Fund for precision medicine. Approximately $2.4 million was allocated to two demonstration projects and $600,000 was allocated to other activities. These are described below.

- ***California Kids Cancer Comparison.*** Approximately $1.2 million was awarded to University of California, Santa Cruz to lead the California Kids Cancer Comparison project. This project uses large scale data processing to improve the outcomes of clinical trials that are underway at UC medical centers to identify new therapies for incurable tumors. The project analyzes each patient's tumor in the context of thousands of pediatric and adult tumors that have undergone similar characterization. The project is developing "Medbook", a secure social network designed for medical research and medical decision support.

- ***Precision Diagnosis of Acute Infectious Disease.*** Approximately $1.2 million was awarded to University of California, San Francisco (UCSF) to lead the first-ever demonstration of precision medicine in infectious diseases. UCSF has pioneered the use of a sequencing test called metagenomic next-generation sequencing to reveal the cause of infections that routinely elude physicians.

- ***Other Activities.*** OPR has developed an inventory of data, research, experts, and other resources related to precision medicine to facilitate cooperation in precision medicine research. In addition, funding (a total of $600,000 over two years) for other activities has been provided as follows:

Precision Medicine Administrative Costs

	2015-16	**2016-17**
Staff (two positions)	$220,102	$232,508
Catering	31,500	31,500
Transportation/hotels	13,690	13,700
Website/communications	25,000	25,000
Other	3,500	3,500
Total	**$293,792**	**$306,208**

Governor Proposes Additional State Funding for Precision Medicine. The 2016-17 Governor's budget proposes to make a one-time appropriation of $10 million from the state General Fund to OPR to fund additional precision medicine research. The Administration intends for these funds to be allocated in a manner similar to the $3 million in 2014-15, but intends to broaden its call for proposals beyond the UC campuses.

The proposal would fund six new demonstration projects of $1.2 million each and provides $700,000 over 2016-17 and 2017-18 to fund IT staff to further develop the asset inventory. However, based on additional information from the Administration, it is possible this $700,000 may not be used for this purpose and may be used to fund other demonstration projects. Also, in 2016-17, an additional two positions would be funded at a total cost of $303,973 (bringing the level of administrative funding to a total of $609,181 in 2016-17) and in 2017-18 administrative costs would total $596,027.

What Is the State's Role in Funding Research? California's academic and research institutions conduct a wide variety of research with the potential to improve Californians' health and well-being. Most of the state's research institutions, including UC, receive a majority of their direct funding for research from federal, private, and other non-state sources. The state currently does not have a framework for prioritizing the allocation of General Fund monies across various research topics. Without such a framework, it is difficult to evaluate the Governor's proposal. Factors that may be reasonable to consider include:

- Are federal resources for the research inadequate?
- Are economic incentives insufficient to spur privately-funded research?
- Could the research yield benefits that are particularly important for California?

Legislative Analyst's Office (LAO) Comments: The LAO finds it difficult to justify allocating state funding for precision medicine research over other research areas and recommends rejection of the proposal. Below, the LAO discusses several questions left unanswered by the Governor's proposal.

- ***What Is the Program's Objective?*** The Administration has not articulated specific goals to be achieved with this funding. What is the state hoping to achieve by providing this funding for precision medicine research? What identifiable benefits will this research be expected to provide to the state and its residents? Without defined policy objectives, it is difficult for the Legislature to evaluate the Governor's proposal.

- ***Why $10 Million?*** The proposal provides insufficient information for the Legislature to judge whether $10 million is a proper amount of state funding. How many projects are intended to be funded and at what cost? Why is federal funding inadequate? How much state funding will be used for administrative costs? Without these details, the Legislature will have difficulty evaluating the Administration's funding request.

- ***How Will Funds Be Awarded?*** The Administration states that it intends to allocate the requested $10 million via a process similar to the one used to allocate the prior $3 million. The Administration, however, has not offered any statutory language to define and formalize this allocation process. In the absence of such language, the Legislature and the public cannot be confident these funds will be allocated fairly and effectively.

Staff Comments: Staff agrees with the LAO analysis and finds the request for $10 million General Fund to research precision medicine lacks justification.

Staff Recommendation: Reject the proposal.

Vote:

DISCUSSION / VOTE ISSUES

2240 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Issue 1: Down Payment Assistance Programs (May Revision)

Governor's Proposal: The May Revision proposes changes to law to combine remaining funding, totaling $176.6 million, from multiple down payment assistance programs into the MyHOME Program to help more families become first-time homebuyers. Under this proposal, these funds would be continuously appropriated to the California Housing Finance Agency (CalHFA) for the purpose of making home purchases more affordable to low and moderate income Californians for owner-occupied homes.

Background: As part of its first time homebuyer assistance function, over the last several years CalHFA has administered several down payment assistance programs, many targeted to specific groups of buyers. Some of these programs were funded by CalHFA with its own resources, but most were started with proceeds from general obligation bonds. The first bond that provided funds for this purpose was issued in 1988 (often referred to as the Roberti bonds), which provided for the creation and initial funding of the Home Purchase Assistance (HPA) fund.

Additional funding was provided to CalHFA for down payment assistance through the passage of propositions 46 (2002) and 1C (2006). Those bonds funded the California Homebuyer Downpayment Assistance Program (CHDAP), which included a number of subprograms, including the Extra Credit Teacher Home Purchase Program (ECTP). Each of those bonds contained language that provided for funds from each of those subprograms to revert to CHDAP at some point in time, but each of those programs remains in CalHFA's governing statutes.

To date, all of the original bond funds have been used, and CalHFA has been operating its down payment assistance programs with recycled program funds. For accounting and auditing purposes, when repayments are received, they have been redeposited into their original funds, and when a sufficient amount has accumulated, redeployed into new down payment assistance loans. While virtually all of the funds from propositions 46 and 1C can transfer back to CHDAP, there is currently no provision to combine the administration of all funds from CHDAP and HPA into a single fund.

CalHFA currently offers the MyHome Assistance Program, which provides down payment assistance for first-time homebuyers through a deferred payment, subordinate loan. It is available to first-time homebuyers throughout California that meet low and moderate income requirements. The down payment assistance is paired with a CalHFA first loan mortgage and payment on the down payment assistance is due when the borrower pays off or refinances the first loan. CalHFA has been using recycled funds from both HPA and CHDAP to run its MyHome Program.

The proposed change would move all funds from the programs shown in the chart below into CalHFA's existing Home Purchase Assistance (HPA) Fund and make all other sections affecting down payment assistance programs inoperative.

Programs Proposed for Consolidation

Program	**Description**	**Fund Balance (in millions)**
California Homebuyer's Downpayment Assistance Program (CHDAP)	Provided a deferred-payment junior loan of an amount of three percent of the purchase price or appraised value, whichever was less, to low and moderate income, first-time homebuyers.	$130.4
Housing in Revitalized Areas Program (HIRAP)	Provided a deferred-payment junior loan of an amount up to six percent of the purchase price or appraised value, whichever was less, to low and moderate income, first-time homebuyers purchasing a property within a community revitalization area.	$2.1
Extra Credit Teacher Home Purchase Program (ECTP)	Intended for teachers, administrators, classified employees, and staff members working in high priority schools in California. Offers a deferred-payment junior loan of an amount not to exceed the greater of $7,500 or 3 percent of the sales price or in CalHFA-defined high cost areas an amount not to exceed the greater of $15,000 or 3 percent of the sales price. The ECTP has a forgivable interest component should the school staff remain employed with the high priority school for more than 3 years.	$8.4
Residential Development Loan Program (RDLP)	CalHFA was authorized to use, at its discretion, not more than $75 million of CHDAP to finance the acquisition of land and the construction and development of housing developments. However, the statute also stated that as funds grew short, down payment assistance was to be the priority use for these funds.	$34.9
School Facility Fee Program (SFF)	Down payment assistance program for homebuyers of newly constructed single family homes or condominiums in economically distressed areas (defined by a high rate of unemployment and low number of residential building permits). Assistance was calculated based on a portion of the eligible school facility fees paid by the builder.	$0.7

Staff Questions for HCD/ CalHFA:

1. The changes proposed expand this from a program for first-time homebuyers to a program for any low- to moderate-income home buyer. What are the tradeoffs associated with making this change?

Comments: The Administration is proposing significant changes to CHDAP to expand the program beyond first-time home buyers to all low-and moderate-income home buyers. Transferring all down payment assistance funds into one single fund and program would make the administration of these dollars more efficient and effective, allowing CalHFA to administer these funds under a single set of consistent rules. The proposed statutory changes would allow CalHFA to utilize the $176.6 million remaining more flexibly and continue to fund the MyHome Program or other home purchase assistance for up to three more years, depending on volume.

Staff Recommendation:

Vote:

Issue 2: "By-Right" Trailer Bill Language (May Revision)

Governor's Proposal: The May Revision proposes trailer bill language requiring ministerial "by right" land use entitlements for multifamily infill housing developments that include affordable housing.

Background: Every city and county in California is required to develop a general plan that outlines the community's vision of future development through a series of policy statements and goals. A community's general plan lays the foundation for all future land use decisions, as these decisions must be consistent with the plan. General plans are comprised of several elements that address various land use topics. Seven elements are mandated by state law: land use, circulation, housing, conservation, open-space, noise, and safety. The land use element sets a community's goals on the most fundamental planning issues—such as the distribution of uses throughout a community, as well as population and building densities—while other elements address more specific topics. Communities also may include elements addressing other topics—such as economic development, public facilities, and parks—at their discretion.

Each community's general plan must include a housing element, which outlines a long-term plan for meeting the community's existing and projected housing needs. The housing element demonstrates how the community plans to accommodate its "fair share" of its regions housing needs. To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. Communities also identify regulatory barriers to housing development and propose strategies to address those barriers. State law requires cities and counties to update their housing elements every eight years.

Each community's fair share of housing is determined through a process known as Regional Housing Needs Allocation (RHNA). The RHNA process has three main steps: 1) state departments develop regional housing needs estimates; 2) regional councils of governments allocate housing within each region; and 3) cities and counties incorporate their allocations into their housing elements.

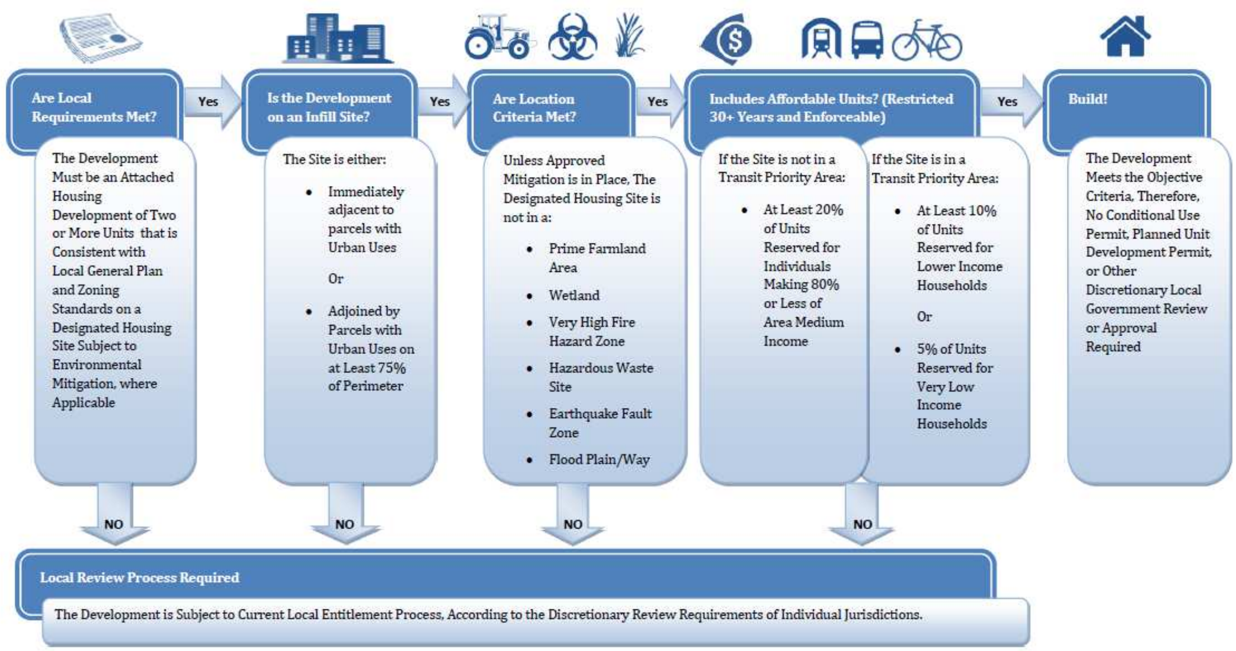
Cities and counties enact zoning ordinances to implement their general plans. Zoning determines the type of housing that can be built. In addition, before building new housing, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors.

Some housing projects can be permitted by city or county planning staff without further approval from elected officials. These projects are typically referred to as "by right." By-right projects require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing projects are not allowed by right. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to CEQA review, while projects permitted by right generally are not.

The Administration's Proposal Requires "By Right" Entitlements. Under the Administration's proposal, current state housing law would be modified to broaden eligibility for by-right, ministerial land use entitlements for multifamily infill housing if it includes long-term deed-restricted affordable units. Under the proposed legislation, a local government may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval for qualifying developments that include an affordable housing component, provided they are consistent with objective general plan and zoning standards and are, where applicable, subject to mitigating measures to address potential environmental harm.

The figure below shows the proposed "by right" process.

Proposed "By-Right" Process for Developments with Affordable Housing Units



LAO Comment: The LAO finds and recommends the following.

- ***Governor's Proposal Has Merit.*** The LAO believes the Governor's proposal warrants serious consideration from the Legislature and that the proposed changes have the potential to be an important first step toward addressing California's housing shortage.

- ***Strengthen and Expand Governor's Proposal.*** The LAO suggests the Legislature consider some modifications to strengthen and expand the Governor's proposal. Most notably, the LAO suggests the Legislature expand the number of housing projects eligible for streamlined approval by lowering the affordability requirements developers must meet. The LAO also recommends changes to guard against possible actions some communities may take to hinder the use of streamlined approval.

- ***More Policy Changes Needed to Address This Issue.*** Looking beyond this year, the Administration has committed to consider additional policy changes to encourage housing production. Along these lines, the LAO suggests the Legislature continue to explore other ways to encourage more home building in California's coastal communities. Additional policy changes aimed at ensuring local planning and zoning rules provide sufficient opportunities for home building would be a critical complement to the Governor's proposal.

Staff Questions:

1. How would this proposal interact with CEQA requirements and would it limit the environmental review process? Some are asserting that permitting a use "by right" would essentially make an action ministerial, which makes a project not subject to an environmental review subject to CEQA.

2. The trailer bill language requires only 10 percent of a housing development's units be for lower income households or 5 percent of the units for very low income households – With such a low threshold, how does this actually improve or effectively increase affordable housing when at least 90 percent of the units can be market rate?

3. How frequently do localities update general plans? What are the implications if a general plan has not been updated for many years, as is the case for some cities?

4. How would the state ensure that cities and counties complied with this law and did not put other barriers in place that might limit the development of affordable housing?

Staff Comments: The Administration has proposed significant changes to existing laws around the development of affordable housing. It is a very large task for the Legislature to weigh, in such a short period of time, the policy implications of the proposed changes and balance the trade-offs of building affordable housing, ensuring appropriate environmental review processes, and allowing for local decision-making.

Staff Recommendation:

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Wednesday, May 18, 2016
1:30 p.m.
State Capitol - Room 112

Consultant: Farra Bracht

PART C

VOTE-ONLY ISSUES

Item	Department	Page
0650	**Office of Planning and Research**	
Issue 1	Precision Medicine Funding and Trailer Bill Language	

Approved BBL funding and TBL. Vote 3-1 (Roth voting no.)

DISCUSSION / VOTE ISSUES

Item	Department
2240	**Department of Housing and Community Development**
Issue 1	Down Payment Assistance Programs

Rejected without prejudice to the proposal and sent to the Senate Transportation and Housing policy committee for consideration and requested that it be heard in this legislative session. Vote 4-0.

Issue 2	“By-Right” Trailer Bill Language

Held open.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, May 19, 2016
9:30 a.m. or Upon Adjournment of Floor Session
State Capitol - Room 2040

Consultant: Samantha Lui

PART A

PROPOSED FOR VOTE-ONLY

Item Department **Page**

PROPOSED FOR DISCUSSION

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

ISSUES PROPOSED FOR VOTE-ONLY

(MULTIPLE DEPARTMENTS)

Issue 1: TBL – General Administration Costs (Pro Rata)

Governor's Budget. The budget proposes trailer bill language to simplify the budgeting and accounting processes for the recovery of statewide central administrative costs, by charging directly at the fund level, rather than through each individual appropriation. Charging at the fund level eliminates layers of budgeting and accounting steps while ensuring a fair share of costs will be recovered from other funds. The language includes technical clarifications, such as eliminating duplicative phrases, and authorizes Department of Finance to allocate and charge costs to the fund directly.

Background. Central service agencies, such as the Department of Finance, the State Treasurer, the State Controller, provide budgeting, banking, accounting, payroll, and other services to all state departments. The Pro Rata process apportions the costs of providing these central administrative services to all state departments and funding sources that benefit from these services. Amounts apportioned to funds for their fair share of these costs are currently charged at the appropriation level.

Staff Comment. Adopt placeholder trailer bill language, allowing for technical modifications during the drafting process and consistent with the intent. Conform placeholder trailer bill with the action related to the proposed Department of Financial Information System for California.

1111 DEPARTMENT OF CONSUMER AFFAIRS

Issue 1: BCP – Department of Justice (SB 467)

Budget. The department requests $1.3 million (special funds) in state operations in the budget year, and ongoing, to support the Department of Justice's budget for increased staffing needs to implement Senate Bill 467 (Hill), Chapter of 656, Statutes of 2015. The request provides the boards and bureaus the budget authority to reimburse DOJ for the cost to implement this reporting requirement. Approximately $1.3 million will be collected from the following boards and bureaus, in specified amounts, detailed below:

Program Name	Amount (in thousands)
Board of Accountancy	$31
Board of Behavioral Science	$37
Board of Barbering and Cosmetology	$28
Acupuncture Board	$7
Physical Therapy Board of CA	$27
Physician Assistant Board	$14
Board of Psychology	$29
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	$6
CA Board of Occupational Therapy	$4
State Board of Optometry	$8
CA State Board of Pharmacy	$75
Bureau of Real Estate Appraisers	$12
Professional Fiduciaries Bureau	$1
CA Architects Board	$1
Landscape Architects Committee	$1
State Athletic Commission	$3
Contractors' State License Board	$120
Medical Board of CA	$577
Osteopathic Medical Board	$13
Board for Professional Engineers and Land Surveyors	$25
Geology and Geophysicists Program	$1
Vocational Nurses Program	$68
Psychiatric Tech. Program	$17
Private Investigators Program	$2
Electronic and Appliance Repair	$2
Automotive Repair and Smog Check Programs	$151
Cemetery Program	$2
Funeral Directors and Embalmers Program	$22
Total	**$1,284**

This request is a companion to the corresponding Department of Justice (DOJ) request for $1.3 million (Legal Services Revolving Fund) in the budget year, and ongoing, for ten senior legal analyst positions.

Staff Comment. The subcommittee considered this item during its May 5, 2016, hearing.

Staff Recommendation. Approve as requested. Adopt necessary conforming changes to the DOJ budget for the proposal.

Issue 2: BCP – Attorney General Staffing

Governor's Budget. The department requests $1.4 million (special funds) in the budget year, and ongoing, to support the increased staffing at the Department of Justice. The amounts, by program, are listed below:

Program Name	Amount (in thousands)
Board of Accountancy	$71
Board of Behavioral Science	$86
Board of Barbering and Cosmetology	$64
Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	$6
CA Board of Occupational Therapy	$10
State Board of Optometry	$18
CA State Board of Pharmacy	$175
Bureau of Real Estate Appraisers	$28
Professional Fiduciaries Bureau	$3
CA Architects Board	$3
Landscape Architects Committee	$3
State Athletic Commission	$7
Contractors' State License Board	$265
Board for Professional Engineers and Land Surveyors	$57
Geology and Geophysicists Program	$2
Vocational Nurses Program	$157
Psychiatric Tech. Program	$38
Private Investigators Program	$4
Electronic and Appliance Repair	$6
Automotive Repair and Smog Check Programs	$312
Cemetery Program	$5
Funeral Directors and Embalmers Program	$53
Total	**$1,373**

This is a companion request to the corresponding Department of Justice (DOJ) request for $1.4 million (Legal Services Revolving Fund) in the budget year, and ongoing, for seven positions (two legal secretaries and five deputy attorneys) in the licensing section to reduce average case processing time to meeting the Consumer Protection Enforcement Initiative.

Staff Comment. The subcommittee considered this item during its May 5, 2016, hearing, and ask the department to provide additional information regarding its current practices implementing the Consumer Protection Enforcement Initiative.

Staff Recommendation. Reject DCA's budget proposal, without prejudice. Adopt conforming action to reduce the Department of Justice's Governor's budget by $1.4 million (Legal Services Revolving Fund) and seven positions to reflect the rejection of this proposal.

Issue 3: Medical Cannabis

Department of Consumer Affairs (DCA) - Governor's Budget. The Governor's budget includes 9.7 positions and $10 million in the current year; $3.8 million in the budget year and 25 positions ongoing; $4.1 million in FY 2017-18; and $492,000 in 2018-19 and 2019-20 to fund the development and initial start-up of the Bureau of Medical Marijuana Regulation (Bureau), and the study as required by the Medical Marijuana Regulation and Safety Act.

DCA - May Revision. The department requests $6.0 million in the budget year; $6.5 million in 2017-18; $1.0 million in 2018-19; and $803,000 ongoing, to fund eight positions and external contract costs for the development, implementation, and maintenance of licensing and enforcement IT system for the Bureau of Medical Marijuana Regulation (Bureau).

	FY 16/17	FY 17/18	FY 18/19	Ongoing
Configuration and Testing	$2,088	$2,087	$0	$0
Reports and Correspondence Development	40	40	0	0
Update of Existing DOJ Background Check and Third-Party Print Interfaces	5	5	0	0
Development of New Interface with the CDFA to Share License Information	45	45	0	0
Web Portal for Law Enforcement Personnel Easy Access to License Data	13	13	0	0
IT Consulting and Project Management Resources	1,500	1,500	0	0
Unanticipated Enhancement Requests/Initial System Maintenance After Launch	500	1,500	415	170
Total Estimated Contract Costs	**$4,191**	**$5,190**	**$415**	**$170**
Hardware + Software	577	183	183	183
Staff	1,184	1,124	450	450
Total Estimated Costs	**$5,952**	**$6,497**	**$1,048**	**$803**

May Revision - Trailer Bill. The May Revision provides updated trailer bill language for the Medical Cannabis Regulation and Safety Act. The language, among other provisions: (1) authorizes a licensing authority to promulgate regulations, including emergency regulations; (2) requires additional conditions of licensures, such as proof of bond to cover the cost of destroying product; (3) establishes a filing deadline for individuals to submit an application for licensure; (4) authorizes the Board of Equalization (BOE), for purposes of taxation and regulation, to have access to the Department of Food and Agriculture's track and trace electronic database, instead of requiring the BOE to create a separate reporting system; (6) provides the Department of Public Health (DPH) cite and fine authority and the authority for mandatory recalls; (7) shifts authority to license laboratories from the DPH to the Bureau of Medical Cannabis Regulation; and (8) excludes a cannabis manufacturer, who infuses butter with cannabis, from having to be licensed as a milk product plant.

May Revision – Budget Bill Control Section. The Administration proposes Control Section 11.42, which would authorize the Department of Finance, no sooner than 30 days after written notification to the Joint Legislative Budget Committee and chairs of the fiscal committees in each house, to augment departmental budgets, as necessary, to fund medical marijuana-related information technology projects.

Staff Comment. The Senate Committee on Budget and Fiscal Review considered various facets of the medical cannabis proposal in the respective subject's subcommittee. On May 18, 2016, the Senate Subcommittee No. 2 on Natural Resources rejected the Administration's trailer bill language pertaining to agency roles in protecting streams; licensing and enforcement for when growers apply for a license from the Department of Food and Agriculture; coordination of the Department of Fish and Wildlife and State Water Resources Control Board; process to protect instream flows; and environmental review.

On May 18, 2016, Subcommittee No. 3 on Health and Human Services approved $500,000 General Fund to the Department of Public Health's (DPH) for a study analyzing the health risks associated with the use of marijuana, and adopted placeholder trailer bill that required DPH to establish minimum security requirements for the storage of medical cannabis; shifted authority to license laboratories to the Bureau of Medical Cannabis Regulation; provided DPH cite and fine authority; authorized DPH to conduct mandatory recalls; among other provisions.

On May 18, 2016, this subcommittee considered this proposal and deliberated the rapidity of the implementation of the IT project, despite many unknowns, such as the number of licensees impacted and whether the system would be folded into BreEZe. The subcommittee also requested updates regarding Bureau and program development in the months leading up to January 1, 2018.

Staff Recommendation. Given the expanse of affected departments, and the limited time frame to review the language with various stakeholders, the following recommendations are provided with the intent to move some components to Conference Committee, allowing for additional time to consider the various aspects of the proposal:

- Approve Governor's budget proposals, retaining budget oversight to review of projected out-year costs.

- Reject the May Revision budget bill control section language, without prejudice.

- Adopt placeholder trailer bill language for portions of the proposed budget trailer bill related to this subcommittee's purview, while conforming to actions taken in Senate Subcommittee No. 2 on Natural Resources, Energy, and Subcommittee No. 3 on Health and Human Resources.

- Approve first-year costs for the IT project. Reject out-year costs, without prejudice, with interest in maintaining legislative and departmental oversight of the IT system while supporting the collaboration of departments in the implementation of the Bureau and licensing needs.

Issue 4: Registered Dispensing Optician - TBL

Governor's Budget. The Board requests 0.5 office technician - typing and a 0.6 special investigator (SI) to replace current services provided to the program by the Medical Board of California and Division of Investigation (DOI): Health Quality Investigation Unit (HQIU). This request includes an offsetting reduction in position authority of a 0.5 office technician and funding of $39,000 for the Medical Board, and a 0.6 SI and $62,000 for DOI: HQIU.

The budget also provides trailer bill language to implement the provision of transitioning the Registered Dispensing Optician (RDO) program from the Medical Board to the Board of Optometry.

Proposal. The Administration proposes additional trailer bill language, which authorizes a spectacle lens dispenser or a contact lens dispenser to qualify as one of the nonpublic members of the 11-member Board of Optometry. The language also authorizes a retro-active allowance to appointments made on or after January 1, 2016.

Background. Assembly Bill (AB) 684 (Alejo, Chapter 405, Statutes of 2015) moves RDO from the Medical Board of California (MBC) to the State Board of Optometry (Board). AB 684 was a result of over a decade of litigation. In *National Association of Optometrists & Opticians v. Harris*, the plaintiffs argued that the laws restricting business arrangements between opticians and optometrists violate the dormant Commerce Clause of the United States Constitution, stating it was unfair that optometrists and ophthalmologists may set up a practice where patients may receive both eye examinations and prescription eyewear; but opticians may offer only the sale of eyewear. The Court upheld the California law as constitutional, stating the law did not place a burden on interstate commerce because it precludes a preferred, more profitable method of operating in a retail market.

During last year's deliberations, according to the Administration, the term, "RDO," was used as a catch-all. However, existing law defines an "RDO" as the business location or business owner of the location. The Administration is proposing the language to clarify that the RDO member of the Optometry Board also extends to an individual who is a spectacle lens dispenser or as a contact lens dispenser.

Staff Comment. The subcommittee considered the Board of Optometry during its March 10 and May 5, 2016, hearings, and approved the Governor's budget request. This proposed language was not discussed at either of those hearing dates.

Staff Recommendation. Amend trailer bill proposal to include language, as requested, and adopt placeholder trailer bill language to allow for any technical modifications during the drafting process.

0890 SECRETARY OF STATE

Issue 1: Voter Information Guide

May Revision. The department proposes an increase of one-time $10 million General Fund (GF) to print the principal and supplemental voter information guides (VIG) for the 2016 Election. The proposal also includes budget bill language to specify that resources can only be used for printing the 2016 VIG; and prior to expending funds, the SOS must provide a report to Department of Finance. In addition, the language authorizes any unexpended funds to revert to the General Fund.

Staff Recommendation. Approve $7.3 million General Fund to reflect the estimated funding cost for a principal VIG. Amend proposed budget bill language to adopt the language below, subject to any technical modifications.

0890-001-0001—For support of Secretary of State .... ~~29,038,000~~ <u>36,338,000</u>

Schedule:

(1)	0700-Filings and Registrations	1,181,000
(2)	0705-Elections	~~19,350,000~~ <u>26,650,000</u>
(3)	0710-Archives	8,174,000
(4)	0715-Department of Justice Legal Services	333,000
(5)	9900100-Administration	24,467,000
(6)	9900200-Administration—Distributed	−24,467,000

Provisions:

1. The Secretary of State shall not expend any special handling fees authorized by Chapter 999 of the Statutes of 1999 which are collected in excess of the cost of administering those special handling fees unless specifically authorized by the Legislature.
2. Of the funds appropriated in this item, ~~$5,733,000~~ <u>$13,033,000</u> is available for <u>the purposes of</u> preparing, printing, and mailing the state ballot pamphlet pursuant to Article 7 (commencing with Section 9080) of Chapter 1 of Division 9 of the Elections Code. <u>At least 30 days before these funds are expended, the Secretary of State shall submit to the Director of Finance and the chairperson of the Joint Legislative Budget Committee an itemized estimate of these costs.</u> Any unexpended funds pursuant to this provision shall revert to the General Fund.

Issue 2: CAL-ACCESS

April Letter. The department requests a one-time $757,000 (Political Disclosure, Accountability, Transparency, and Access Fund) [PDATA Fund] in the budget year, to procure contracted services to complete system and business requirements, market research, project management documents, and other deliverable required in the Stage 2 Alternatives Analysis phase of the project approval lifecycle.

Staff Comment. The subcommittee considered this item during its May 5, 2016, hearing.

Staff Recommendation. Approve as requested, with opportunity to review and conduct oversight in advance of next year's subcommittee hearings.

Issue 3: Assembly Bill 120 – Supplemental Reporting Language

Proposal. Assembly Bill 120 (Budget Committee), Chapter 11, Statutes of 2016, provides $16.3 million General Fund to the Secretary of State to provide counties reimbursement for elections costs related to the June 2016 primary. The proposed supplemental reporting language (below) provides the fiscal committees and the joint Legislative Budget Committee additional information regarding the amount counties requested in reimbursement for elections costs, related to the Jun 7, 2016, primary.

Item 0890-101-0001

1. ***Reimbursement of Election Costs to County Governments.*** Chapter 11 of 2016 (AB 120, Committee on Budget) establishes a process through which as much as $16.3 million can be reimbursed to counties that request assistance to pay for identified costs incurred between April 26, 2016 and July 15, 2016 in conducting the June 7, 2016 primary election simultaneously with completing statewide initiative signature verifications in a timely manner. On or before January 10, 2017, the Secretary of State shall submit to the Joint Legislative Budget Committee and the fiscal committees of both houses of the Legislature a report that includes the following information:

   (a) The formula developed by the Secretary of State that was used to determine the maximum amount of money counties seeking reimbursement were eligible to receive as reimbursement pursuant to this item.

   (b) For each county seeking reimbursement, the maximum amount of money available for reimbursement under this item as determined by the formula developed by the Secretary of State.

   (c) For each county seeking reimbursement, the amount of money those counties reported to the State Controller as costs incurred between April 26, 2016 and July 15, 2016 in conducting the June 7, 2016 primary election simultaneously with completing statewide initiative signature verifications in a timely manner.

   (d) For each county seeking reimbursement, the amount of money received pursuant to this item.

Staff Recommendation. Approve as placeholder provisional language, allowing for any technical modifications and clarifications during the drafting process and remaining consistent with intent of language.

8955 DEPARTMENT OF VETERANS AFFAIRS (CALVET)

Issue 1: Transition Assistance Program

May Revision. The department requests $813,000 (General Fund), and $774,000 (General Fund) ongoing, for seven positions (five existing but unfunded positions, and two new permanent positions) to implement Assembly Bill 1509 (Fox), Chapter 647, Statutes of 2014. AB 1509 requires the department to develop a transition assistance program (Cal-TAP) for veterans, discharged from the Armed Forces of the United States or the National Guard of any state, into civilian life. This proposal requests one staff services manager II and six associate governmental program analysts (AGPA).

Staff Recommendation. Approve as proposed.

Issue 2: Veterans Homes – Supplemental Reporting Language

Proposal. The proposal requests the LAO submit a report to the Legislature, by March 15, 2017, on the role of the Veterans Homes in the 21st century.

> Item 8955-001-0001
>
> The Legislative Analyst's Office, with assistance from the California Department of Veterans Affairs and the Department of Finance, shall report to the Legislature, by March 15, 2017, on the role of Veterans Homes in the 21st century. To the extent feasible, topics of the report shall include, but are not limited to: demographics of the state's veterans; an analysis on whether the services provided at the Homes align with veterans' needs in the community, such as housing, employment assistance, or behavioral or mental health services; options to improve federal funding; and the implications of various funding scenarios.

Staff Comment. During the subcommittee's March 10 and May 5, 2016, hearing, the subcommittee's considered several veterans issues, including the Homes and their several capital outlay requests, outdated infrastructure, and staffing constraints. In a shifting long-term care landscape, the subcommittee may wish to consider adopting the above SRL to have more information for next year's subcommittee deliberations, on the department's plan for use the Veterans Homes, whether Homes meet current needs demands of the demographics, and how to best use federal matching funds.

Staff Recommendation. Adopt placeholder SRL, as proposed.

Issue 3: SFL, Cap Outlay –Yountville Home: Steam Distribution System Renovation, Working Drawings and Construction

April Letter. The department requests to reappropriate $6.9 million of the unencumbered balances of the working drawings and construction phases of the Yountville Home's Steam Distribution System Renovation project. As a result of design and contracting delays, completion of preliminary plans is scheduled for March 2017, working drawings are scheduled for completion by April 2018, and construction is scheduled to begin in October 2018. Project completion is scheduled for September 2020. Total estimated project costs for working drawings and construction are $6,903,000 ($2,808,000 lease-revenue bond funds, $4,095,000 federal funds).

Staff Comment. The subcommittee considered this item during its March 5, 2016, hearing.

Staff Recommendation. Approve as proposed.

Issue 4: SFL – Administrative Support Services

Budget. The department requests $1.7 million ($1.6 million General Fund and $103,000 Farm and Home Building Fund of 1943 [F&H Fund]) in the budget year, and $1.7 million ($1.6 million General Fund and $99,000 F&H Fund) in 2017-18, and ongoing, to support 15 positions in information services, contracts, performance management, and new federal payroll-based-journal (PBJ) reporting requirements. The requested positions are in the following areas:

> **Information Services Division (ISD).** The Helpdesk staff is located in Sacramento and manages service requests for all technology needs. The budget requests two information system analyst positions to help restructure the PC support to a 24/7 tiered system for staff working second and third shifts in the Homes:
>
> **Contracts.** Currently, the department has one manager to oversee eight contract analysts– four in Sacramento, and one located in each Yountville, Chula Vista, Redding, and Fresno Homes. The budget requests positions (one staff services manager, three associate governmental program analysts, and one office assistant general for standardized contract scopes of work, rates, general terms and conditions, and streamlined bid and contract award processes. The current contract analysts at the homes will be restructured to become contract liaisons.
>
> **Human Resources Division (HRD).** With the recent growth in Homes and staffing, the department has experience an increase in preventative and corrective memoranda, adverse and non-punitive actions, rejections during probation, absence without leave, and other employee performance issues. The budget requests four positions (one staff services manager and three associate personnel analysts) to improve initial and ongoing assistance and training for personnel and performance management. In addition, around $9,000 is included in the request for travel to the eight homes.

Legal Division. Currently, the department has seven staff attorneys to handle all litigation. When the homes in West Los Angeles, Lancaster, and Ventura were opened, the division was not provided an additional position to handle increased workload. The budget requests one attorney to train the performance management unit on personnel actions, hearing processes, writing legally sufficient declarations. The position will be assigned litigation out of the West Los Angeles, Lancaster, and Ventura Homes, and will be assigned regulatory review to update the department's regulations.

Reasonable Accommodation (RA). The department has two equal employment opportunity (EEO) officers and one officer/manger to assist with processing RA requests in the homes and to manage the discrimination complaint process. With the unanticipated volume of complaints in the Redding and Fresno homes and increased number of RAs as the homes come to capacity, some RAs were not managed timely. The budget requests one SSM I (Specialist) to facilitate communication, manage the volume of RA requests, and provide guidance and direction and training to supervisory staff.

PBJ Reports. To remain in compliance with federal regulations and eligibility for Medicare funding,[1] the department must have a system for implementing PBJ reporting by June 30, 2016. Specifically, long-term care (LTC) facilities that participate in Medicare and/or Medicaid/Medi-Cal must submit electronically in a uniform format, direct care staffing information based on payroll and other verifiable and auditable data. The budget requests two associate governmental program analysts in Yountville and Fresno Homes.

Staff Comment. The subcommittee considered this item during its March 5, 2016, hearing.

Staff Recommendation. Approve as proposed.

[1] In 2014-15, the CalVet drew down $6.3 million in Medicare funding and $7.0 million in Medi-Cal funding

Issue 5: SFL – Vets Services Division Support

April Letter. The department requests $1.7 million General Fund in the budget year, and ongoing, to fund 16 positions; the reclassification of one associate governmental program analyst (AGPA) to associate management auditor (AMA); and the reclassification of the three district office managers from staff services manager (SSM) I to SSM II, due to the increase in personnel reporting to them. All of these positions are within existing position authority. Of those resources, 15 positions and three reclassified positions will be located in CalVet's three district offices, commensurate to the workload in the respective district offices:

Location	Currently Projected 2016-17 Position Funding	Requested 2016-17 Funding in this Proposal	Total 2016-17 and ongoing Positions if Proposal is Approved
Los Angeles	1 Staff Services Manager (SSM) I 4 Associate Governmental Program Analysts (AGPA) 1 Office Technician, Typing (OT(T))	Reclassify SSM I to SSM II 5 AGPAs	1 SSM II 9 AGPAs 1 OT(T)
Oakland	1 SSM I 5 AGPAs 1 OT(T)	Reclassify SSM I to SSM II 7 AGPAs	1 SSM II 12 AGPAs 1 OT(T)
San Diego	1 SSM I 2 AGPAs 1 OT(T)	Reclassify SSM I to SSM II 3 AGPAs	1 SSM II 5 AGPAs 1 OT(T)

Staff Comment. The subcommittee considered this item during its March 5, 2016, hearing.

Staff Recommendation. Approve as proposed.

0690 Office of Emergency Services

Issue 1: California Disaster Assistance Act

May Revision. The department requests an increase of $30 million General Fund for the California Disaster Assistance Act (CDAA) Program to remove hazardous trees out of the public rights-of-way and away from public infrastructure.

Staff Comment. The subcommittee discussed this item at its May 18, 2016, hearing.

Staff Recommendation. Approve as requested.

Issue 2: Cap. Outlay – Relocation of Red Mountain Communications Site

Budget. The Office of Emergency Services requests $1.26 million General Fund reappropriation of the 2015-16 working drawings appropriation for the relocation of the Red Mountain communications site to allow completion of the working drawings phase.

Staff Comment. The subcommittee discussed this item during its April 21, 2016, hearing.

Staff Recommendation. Approve as requested.

Issue 3: SFL – Headquarters Complex, Rancho Cordova: Public Safety Communications Network

Budget. The department requests to re-appropriate $609,000 General Fund of the $1.5 million General Fund 2015-16 preliminary plans appropriation to complete the preliminary plans phase. In addition, the department requests to include $92,000 General Fund for the bidding process to begin at the end of fiscal year 2016-17. The total cost of the project has increased by $1.9 million, from $4.3 million to $6.2 million.

Staff Comment. The subcommittee discussed this item during its April 21, 2016, hearing.

Staff Recommendation. Approve as requested.

Issue 4: Spring Finance Letter (SFL) Provisional Language: Victim Assistance Discretionary Grant Training Program

Budget. The department requests provisional language to authorize the use of $2.7 million in local assistance federal funds to provide training for the Victims of Crime Act (VOCA) Victim Assistance Discretionary Grant (VADG) Training Program, which provides training and technical assistance to victim assistance service providers and others who work with crime victims.

Staff Comment. The subcommittee discussed this item during its April 21, 2016, hearing.

Staff Recommendation. Adopt placeholder provisional language.

Issue 5: Victim Services Funding

Proposal. Shift all funding for victims services from 0690-101-0890 to a newly created budget item, such as 0690-102-0890.

Staff Comment. During the subcommittee's oversight at the April 21, 2016, hearing, the subcommittee discussed improving the funding transparency in the department's budget line item to distinguish the amount of funding provided for victim services and federal disaster emergency response.

Staff Recommendation. Approve as proposed.

7870 VICTIMS COMPENSATION GOVERNMENT CLAIMS BOARD

Issue 1: Increase Local Assistance Funding

Governor's Budget. The budget requests permanent increase of $707,000 (Restitution Fund) to the local assistance portion of the Victim Compensation and Government Claims Boards (VCGCB) budget due to increases in contracted staff and county employee wages, benefits, and operating costs. Local assistance supports the California Victim Compensation Program (CalVCP) Joint powers (JPs) contracts and the Criminal Restitution Compact (CRCs) contracts. Joint powers contracts would be increased by $578,451 and the CRC contracts would be increased by $128,549 annually.

Staff Comment. This item was previously heard at the April 21, 2016, hearing.

Staff Recommendation. Approve as requested.

7760 DEPARTMENT OF GENERAL SERVICES
7870 VICTIM'S COMPENSATION GOVERNMENT CLAIMS BOARD

Issue 1: BCP + TBL - Transfer of the Government Claims Program to DGS

Governor's Budget. The budget proposes to shift the Government Claims Program (GCP) from the Victims Compensation Government Claims Board (VCGCB) to the Department of General Services (DGS). As part of this shift, the budget transfers nine permanent positions and $1.2 million (Service Revolving Fund) ongoing to DGS. The Administration also proposes trailer bill language to make conforming statutory changes related to moving the program to DGS.

The budget also proposes to retain the existing $25 filing fee—which generates about $90,000 annually—but to eliminate the charge on departments of up to 15 percent of approved claims.

In addition, the budget proposes trailer bill language to effectuate the above changes.

May Revision. The Administration released updated trailer bill language to recast the VCGCB to the Victims Compensation Board.

Staff Comment. With this proposal, other than victim compensation and TRCS, VCGCB would keep the Indemnity for Erroneously Convicted Persons Program (PC 4900 claims), which provides compensation to individuals wrongly convicted of crimes. VCGCB would also continue to process claims for the Missing Children Reward Program and the Good Samaritan Program. The following items would be transferred to DGS, along with the Government Claims Program: IT bid protests, goods bid protests, the State Employee Charitable Campaign, legislator's per diem and travel, and Discharge from Accountability.

During the April 21, 2016, hearing, the subcommittee deliberated the shift of the government claims program and heard testimony from the Legislative Analyst's Office, regarding its recommendations to restructure the VCGCB and task the new VCGCB to create a comprehensive strategy that would assist victims statewide. In addition, the subcommittee considered why a report, which asked the Administration to identify a consolidation of administering victim programs under one entity, was not provided as expected.

Currently, the VCGCB serves as an administrative entity approving victims' claims. To the extent the Legislature remains interested in discussing the future duties and composition of the Board, and whether the current construct of providing victim services in separate departments, the subcommittee may wish to formally create a workgroup, comprised of members of the Administration and stakeholders, about determining next steps for the Board and other victim service issues.

Staff Recommendation. Amend proposal to retain the existing charge on department of up to 15 percent of approve claims. Conform placeholder trailer bill language to this action, and adopt placeholder language approving the shift of the government claims program to DGS and additional language, if necessary, regarding possible consolidation.

7760 DEPARTMENT OF GENERAL SERVICES

Issue 1: Capital Outlay – Central Plant, Capitol Irrigation Project

Budget. The department requests $1.7 million in existing lease-revenue bond funds, sold in 2009, to provide a reclaimed water system to reuse cooling tower water from the Sacramento Downtown Central Plant as irrigation water for the Capitol Park. The project will include piping, piping modifications, underground water storage tanks, chemical treatment, and signage.

Staff Comment. The subcommittee considered this item during its April 7, 2016, hearing. The subcommittee clarified the length of the payback period.

Staff Recommendation. Approve as proposed.

ITEM PROPOSED FOR DISCUSSION/VOTE

0690 OFFICE OF EMERGENCY SERVICES

Issue 1: Emergency Operations and Critical Support

Budget. The budget requests $35.2 million General Fund in state operations authority in the budget year, and $14.8 million General Fund in state operations authority in 2017-18 and ongoing; 77 permanent positions, and a permanent decrease of $3.9 million Federal Trust Fund state operations authority. The chart below describes the proposal's 16 components.

Governor's Proposed Positions and General Fund for Emergency Operations and Critical Infrastructure Support

Program	Ongoing Positions	2016-17	2017-18
Fire Response			
Fire apparatus fleet replacement and augmentation	—	$20,000,000	—
Fire and Rescue Branch staffing	12	2,528,000	$2,368,000
Automated Vehicle Location	—	342,000	177,000
Fire apparatus operating costs and maintenance	—	102,000	224,000
Disaster Coordination			
Statewide disaster programs	2	4,987,000	4,987,000
Regional response and readiness	13	1,951,000	1,951,000
Law Enforcement Branch staffing	6	1,661,000	1,533,000
Disaster Logistics Program	3	421,000	421,000
Facilities			
Regional Coordination center	—	700,000	700,000
Fire Maintenance Shop lease	—	94,000	94,000
Technology			
Information technology	—	1,030,000	1,030,000
Cal EOC support	3	495,000	495,000
Other			
Federal Emergency Management Program	—	700,000	700,000
Emergency Operations Incident Support Training	—	169,000	169,000
Public Safety Communications	28	—	—
Administrative support	10	—	—
Totals	**77**	**$35,180,000**	**$14,849,000**

Staff Comment. The subcommittee considered all pieces of this proposal during its April 21, 2016, hearing.

Staff Recommendation. The committee may wish to adopt the following, subject to any technical modifications but consistent with subcommittee intent:

	Governor's Proposal		Proposed	
Program	**Positions**	**Funding**		
Fire Response				
Fire Apparatus Fleet Replacement and Augmentation		$ 20,000,000		$ 10,000,000 for replacement apparatus
Fire and Rescue Branch Staffing	12	2,528,000	6 coord 1 mech.	1,500,000
Automated Vehicle Location		342,000		227,000
Fire Apparatus Operating Costs and Maintenance		102,000		102,000
Disaster Coordination				
Statewide Disaster Programs - Administration	2	4,987,000		188,000
Regional Response and Readiness	13	1,951,000	6	879,000
Law Enforcement Branch Staffing	6	1,661,000	4	1,107,000
Disaster Logistics Program	3	421,000		
Facilities				
Regional Coordination Center		700,000		700,000
Fire Maintenance Shop Lease		94,000		94,000
Technology				
Information Technology		1,030,000		1,030,000
Cal EOC Support	3	495,000		495,000
Other				
Federal Emergency Management Program		700,000		
Emergency Operations Incident Support Training		169,000		
Public Safety Communications	28	-	28	
Administrative Support	10	-	3.5	
TOTAL	**77**	**$ 35,180,000**	**48.5**	**$ 16,322,000**

8940 MILITARY DEPARTMENT

Issue 1: Work for Warriors

Proposal. The proposal provides an additional one-time $670,000 General Fund to support the Work for Warrior (WFW) Program.

Background. The WFW uses a direct placement model, which walks service members through each step of the hiring process, includes resume preparation, and interviews. Since February 2012, according to the department, the WFW has placed over 5,000 service members with over 300 business partners through the state. Currently, the program has 18 staff service members and veterans, who help match military personnel, veterans and military family members into employment commensurate with their education and experience

In 2014-15, the state received approximately $391 million from the federal Workforce Investment Act (WIA). According to the 2013 Annual Report on the Workforce Investment Act Title 1-B (California), $675,000 was allocated to "Veterans Employment Services" and $262,000 was allocated to CalVet.

Currently, the program has a WIA grant, which fund five uniformed state active duty service members, from the state Employment Development Department. These funds are anticipated to be fully expended by June 30, 2016. In addition, the department was recently notified of a $1 million federal award, which will expire on September 30, 2016. This funding is used to hire 11 federal contractors to help staff the program. Although the department has successfully applied and received funding in the last three years, it remains uncertain whether additional grant funding for the staffing will be available.

Staff Comment. Adopt as proposed.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, May 19, 2016
9:30 a.m. or Upon Adjournment of Floor Session
State Capitol - Room 2040

Consultant: Samantha Lui

Outcomes

PART A

PROPOSED FOR VOTE-ONLY

PROPOSED FOR DISCUSSION

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, May 19, 2016
Upon Adjournment of Session
State Capitol - Rose Ann Vuich Hearing Room 2040

Consultant: Mark Ibele

Part B

ITEMS PROPOSED FOR VOTE-ONLY

ITEMS FOR DISCUSSION AND VOTE

Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255, Sacramento, California 95814, or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.

ISSUES PROPOSED FOR VOTE ONLY

CONTROL SECTION 6.10

Issue 1: Funding for Deferred Maintenance Projects (BBL)

Governor's Proposal. Budget Control Section 6.10 gives the Department of Finance the authority to allocate $500 million General Fund in the amounts identified below for deferred maintenance projects for the following state entities:

Department of Water Resources	100,000,000
Department of State Hospitals	64,000,000
Judicial Branch	60,000,000
Department of Parks and Recreation	60,000,000
Department of Corrections and Rehabilitation	55,000,000
California State University	35,000,000
University of California	35,000,000
Department of Developmental Services—Porterville Facility	18,000,000
Department of Fish and Wildlife	15,000,000
California Military Department	15,000,000
Department of General Services	12,000,000
Department of Veterans Affairs	8,000,000
Department of Forestry and Fire Protection	8,000,000
State Special Schools	4,000,000
Network of California Fairs	4,000,000
California Science Center	3,000,000
Hastings College of the Law	2,000,000
Office of Emergency Services	800,000
California Conservation Corps	700,000
Department of Food and Agriculture	300,000
San Joaquin River Conservancy	200,000

In addition, the control section allows for DOF to allocate $18 million from the Motor Vehicle Account for deferred maintenance projects for the California Highway Patrol and Department of Motor Vehicles.

Under this proposal, departments would provide DOF a list of deferred maintenance projects for which the funding would be allocated. The DOF would review and provide the approved list to the Chairperson of the Joint Legislative Budget Committee (JLBC) 30 days prior to allocating any funds. The amounts specified above would be available for encumbrance or expenditure until June 30, 2018. If departments make a change to the approved list after the funds have been allocated, DOF's approval is required and quarterly the JLBC would be notified of any changes.

Background. The proposed control section is virtually identical (except for the amounts and departments) to that proposed last year as part of the Governor's budget. Outside of this program, most deferred maintenance is funded through the baseline support budget provided to individual departments. Departments have some discretion to use these funds for maintenance projects or other higher priority needs within the department.

The Legislative Analyst Office (LAO) continues to express concern regarding the Legislature's abrogation of its authority for capital outlay and deferred maintenance and recommends steps that would reinsert the legislative perspective in this process. For the current deferred maintenance proposal, the LAO recommends: (1) requiring lists of proposed projects to be funded by each department by April; (2) requiring individual departments to report at budget hearings regarding the projects; (3) modifying departments' funding levels based on project reviews; and (4) requiring that funded projects be listed in a supplemental report to the 2016 Budget Act.

Staff Comments. This issue was heard in this subcommittee on April 7, 2016 and May 12, 2016 and held open. A listing of deferred maintenance projects was provided by the Administration to the Legislature at the end of April, and these identified projects are being heard in the respective budget subcommittees. Staff recommends that the quarterly notification related to any project changes in excess of $1 million be altered to require a 30 day notice to JLBC.

Staff Recommendation. Approve proposed Control Section 6.10 with the change noted below in subdivision (d).

> *(d) Prior to making a change to the list, a department shall obtain the approval of the Director of Finance. The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee no less than <u>30 days prior to approving any changes in excess of $1 million and</u> quarterly of any <u>and all</u> changes to the list of deferred maintenance projects. The <u>30–day and</u> quarterly notification<u>s</u> to the Joint Legislative Budget Committee shall identify the projects removed or added, the cost of those projects, and the reasons for the changes.*

Vote.

0509 GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT

Issue 1: Membership of the California Travel and Tourism Commission (TBL)

Governor's Proposal and Background. The May Revision includes trailer bill language (TBL) that makes a technical change in the membership of the California Travel and Tourism Commission (CTTC). The measure would require the chairperson and vice chairperson of the CTTC be elected by the 12 commissioners appointed by the Governor. The CTTC membership is comprised of: the Director of the Governor's Office of Business and Economic Development (GO-Biz); 12 members appointed by the Governor; and, 24 members elected by industry category. Under current law, the Director of GO-Biz serves as the chairperson, and the vice chairperson is chosen by the commissioners from among the elected commissioners.

Staff Comments and Recommendation. Staff has no concerns with this proposal and recommends that TBL be approved.

Vote.

8880 FINANCIAL INFORMATION SYSTEM FOR CALIFORNIA

Issue 1: Establishing the Department of FI$Cal (TBL)

Governor's Proposal. The proposed trailer bill language (TBL) establishes the Department of FI$Cal effective July 1, 2016; establishes the director of the Department of FI$Cal, to be appointed by the Governor, who will oversee the day-to-day functions of the department and the implementation of the FI$Cal project documents; change the interim cost allocation plan to fund the FI$Cal project and Department of FI$Cal; make all automated accounting systems referred to in Government Code Section 13000 inoperative after required data and departments using the system have transitioned to the FI$Cal System

Background. Initially, FI$Cal was established as a statewide information technology (IT) project, approved through a Department of Finance (DOF) Feasibility Study Report (FSR) in 2005. Since then, it has gradually transitioned away from the DOF, becoming its own entity, with increasingly more authority, effectively transitioning to a fully-functioning state department. Total project costs include departmental functions such as human resources, accounting, budgeting, contracts and procurement, business services. During the development of SPR 6, existing positions and costs were re-evaluated and redirected to align with project or departmental functions. Additional resources are needed to fully staff the units where existing staff cannot be redirected.

LAO Comments. The LAO noted in its report that there may be alternative options to creating a new department at this time, including maintaining the current FI$Cal Service Center (FSC) or delegating responsibility for the project to one of the four participating state offices. The analysis indicates issues and potential difficulties with each of the three options. The analysis notes that accountability may continue to be a problem under the Governor's proposal and recommends additional steps to improve this regardless of the particular organizational structure chosen. It addition, LAO points out two potential solutions for accountability: (1) shift the role of the control agencies to one of advisory rather than formal decision-making and (2) elevate the project leader to the steering committee.

Staff Comments. Given the number of state entities responsible for fiscal and other control functions in the state, the design of the administrative structure with responsibility for FI$Cal is not likely to resemble that of a typical state department. The challenge is to design an organizational structure that maximizes the positives associated with the different control agencies and minimizes the potential drawbacks associated with multiple lines of authority and responsibilities. The committee discussed this proposal at its hearings on April 7 and May 12, 2016, and raised concerns regarding governance, accountability and reporting. The Administration has made substantial progress on the proposal, provided additional clarity regarding the organizational structure for the department, and briefed staff regarding the governance model envisioned. The design of the particular organization best suited for the FI$Cal project may well benefit from further discussions and analysis, but the current proposed framework is a suitable one. In particular, the revised language provides for ultimate authority and discretion on the implementation of changes in the FI$Cal system.

Staff Recommendation. Approve proposed TBL as revised.

Vote.

0984 CALIFORNIA SECURE CHOICE RETIREMENT SAVINGS INVESTMENT BOARD

Issue 1: Administrative Costs (Budget Proposal and BBL)

Budget Proposal. The proposal would provide $1.5 million as a General Fund loan to the California Secure Choice Retirement Savings Investment Board (CSCRSIB) sufficient for the first two years of operations and implementation. These resources will provide for one executive director, one staff manager, and a program analyst, and operating expenses (to include external consultants). Budgeted costs are $850,000 in 2016-17, and $650,000 in FY 2017-18. The budget request is proposed pursuant to SB 1234 (De León) with budget bill language (BBL).

Background. The BBL would allow for administrative costs to be provided in the form of a loan of $1.5 million from the General Fund for the period of January 1, 2017 to June 30, 2018, which shall be sufficient to cover the board’s projected administrative costs for its first two years of implementing the program. The loan would be expected to be repaid in five years, dependent on deposits in the amount sufficient to generate interest in excess of administrative costs.

Staff Comments. Staff has no concerns with the proposal.

Staff Recommendation. Approve the budget proposal BBL.

Vote.

0840 STATE CONTROLLER’S OFFICE

Issue 1: 21st Century Project Management Assessment and Project Approval (May Revision)

Governor’s Proposal. The May Revision proposes additional support for the State Controller's Office (SCO) 21st Century Project assessment efforts and refine the scope of a future payroll project. The SCO requests $2,720,000 ($1,550,000 General Fund and $1,170,000 special fund) to support four positions (and eight continuing positions effective January 1, 2017) in 2016-17, and $2,831,000 ($1,060,000 General Fund, $799,000 special funds, and $972,000 reimbursements) in 2017-18, and $2,607,000 ($932,000 General Fund, $703,000 special fund, and $972,000 reimbursements) in 2018-19 to support eight positions to complete the project assessments, convey the results of the project management assessment in a post implementation evaluation report, perform business process re-engineering of human resource management and payroll processing practices to refine the scope of the future project and complete Department of Technology project approval. The proposal was heard in subcommittee hearing on May 18, 2016 and held open. Based on the discussion in the hearing, the department has limited the scope of the assessment and reduced the costs proportionately. The revised costs will result in funding of $2,377,000 in the budget year.

Background. The activities are related to assessment efforts and refinements regarding the scope of a future payroll project. The state's payroll technology needs are being met by a reconstituted legacy system. The proposal also includes components that will begin the process of assessing options and designing a new state wide payroll approach.

LAO Comments. The Legislative Analyst's Office (LAO) has recommended in that past that an independent third party assess the 21st Century Project. It appears, however, that the alternatives assessment would instead be conducted through the Department of Technology's new IT project approval process, which presumably would involve SCO working directly with the Department of Technology. LAO expresses concern that this approach would result in relatively narrow set of alternatives considered in the assessment. The LAO indicates that a fresh approach using an outside party may result in possible designs that depart from the state's current payroll practices. In light of the challenges of the 21st Century Project and the complexity of the state's workforce, the LAO indicates that new approaches should be considered before the state commits to spend hundreds of millions of dollars on a new project. LAO recommends that the Legislature approve the first year of the request only and the Legislature adopt supplemental reporting language requiring SCO to provide more detail on future assessment activities, as drafted:

> *It is the intent of the Legislature to continue funding assessment activities relating to the 21st Century Project efforts to replace the state's human resources and payroll management systems. No later than March 31, 2017, the State Controller's Office shall provide to the Joint Legislative Budget Committee and the fiscal committees of both houses a report that details proposed assessment activities beginning in 2017-18. The report shall at a minimum detail: (1) the results of assessments already completed; and (2) alternatives to be considered as part of Stage 2 of the Project Approval Lifecycle process before restarting efforts to replace the state's payroll system. Concerning the alternatives, the report shall address whether: (1) an independent third party should conduct the alternatives assessment; (2) the assessment should consider incrementally replacing business processes through a series of smaller projects; (3) the assessment should consider a decentralized model that integrates less complex payroll departments together and considers alternative approaches for modernizing the payroll systems of*

> *complex departments; and (4) other state departments or agencies should be involved in the project in addition to the State Controller's Office. This reporting requirement may be satisfied by the submission of a budget change proposal as part of the Governor's 2017-18 Budget that addresses the issues listed above.*

Staff Comments. Staff is in general agreement with the concerns raised by the LAO, especially the need to gain outside perspectives on an appropriate approach for the state's payroll needs. The technology in this area changes rapidly and external perspectives are an important means for the state to remain abreast of changes in this area. Prior to approval of the proposal, the committee should ascertain the manner in which outside or third-party perspectives will be incorporated in the project.

Staff Recommendation. Approve budget request, as revised, and SRL.

Vote.

ISSUES PROPOSED FOR DISCUSSION AND VOTE

0509 GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT

Issue 1: Clarification of California Competes Authority (TBL)

Governor's Proposal. The proposed trailer bill language (TBL) would provide clean-up and clarifying language regarding considerations that may be taken into account in the award of California Competes Tax Credit (CCTC). The language would clarify the ability of Governor's Office of Business and Economic Development (GO-Biz) to negotiate tax credit agreements by explicitly stating that it may consider the following factors when deciding whether to enter into a tax credit agreement with a business: financial solvency and ability to finance its proposed expansion; current and prior compliance with federal and state laws; current and prior litigation involving the business; reasonableness of any fee arrangement with any third party providing services related to the CCTC; other factors GO-Biz deems necessary to ensure the administration of the CCTC is a model of accountability, transparency, and the effective use of the limited tax credits available is maximized.

Background. The CCTC program is one component of the Governor's Economic Development Initiative of 2013. The CCTC program authorizes GO-Biz to provide tax credits to businesses in exchange for California job creation and capital investments. However, unlike other tax incentive programs in which a business is automatically entitled to the incentive if it meets the statutory requirements, the CCTC enabling statutes provide GO-Biz the ability to negotiate tax credit agreements on behalf of the state with businesses committing to expand or locate in California.

The total amount of CCTC that can be awarded in any fiscal year is statutorily capped at $200 million, plus any unallocated or recaptured previously awarded credits. The legislative intent language in the bill that created the CCTC states that the program was enacted to be a model of accountability and transparency and to maximize the effectiveness of the state's limited economic development dollars. Consistent with this intent, in 2014 GO-Biz promulgated regulations that, among other requirements, require applicants for the CCTC to disclose information related to their financial condition, federal and state law violations, pending and resolved litigation, and the compensation and nature of agreements with third parties preparing applications for the CCTC. GO-Biz requires this information to ensure the efficacy of the CCTC program and to maximize benefits of the credits awarded. However, despite the clear legislative intent and authority vested in GO-Biz to administer the CCTC program, GO-Biz's ability to request and evaluate the above information required by its regulations has been called into question. The CCTC clean-up language would clarify and make explicit GO-Biz's authority in this regard and ensure that the program continues to operate as it has since its inception.

Staff Comments. The language provided by the Administration is a reasonable effort to clarify existing law, and will ensure that the state remains a careful steward of taxpayer dollars, such that any tax credits go directly to support job generating activities.

Staff Recommendation. Approved proposed TBL.

Vote.

7730 FRANCHISE TAX BOARD

Issue 1: Advanced Strategic Aircraft Tax Credit (May Revision TBL)

Governor's Proposal. The May Revision includes trailer bill language (TBL) that amends existing statute regarding the award of tax credits related to the manufacturing of aircraft for the use by the United State Air Force (USAF). The proposed language would shift the period during which the credit could be claimed out by one year.

Background. SB 718 (Roth), Chapter 189, Statutes of 2014, modified the definition of a "qualified taxpayer" under the aerospace tax credit program to include, in addition to a first-tier subcontractor, a taxpayer that is a contractor awarded a prime contract to manufacture property for ultimate use in, or as a component of, a new advanced strategic aircraft for the USAF. A "prime contractor" is defined as a contractor that was awarded a prime contract for the manufacturing of a new advanced strategic aircraft for the USAF.

When the Legislature passed the Advanced Strategic Aircraft Tax Credit, it was anticipated that the contract would be awarded by the USAF in early 2015. Due to federal procurement delays and a bid protest by competitors, the contract was not officially awarded to the "prime contractor" until 2016. The initial award date of the contract was October 27, 2015 with the Air Force upholding their decision after the US Government Accountability Office (GAO) ruled against the validity of the protest on February 16, 2016. Since the contract was not awarded in 2015, as anticipated, the $25 million tax credit available in 2015 will not be claimed. Instead, this proposal would push the Advanced Strategic Aircraft Tax Credit out one year to run 2016-2031 instead of 2015-2030, and extend the sunset by one year. The proposed language would allow the tax credit begin the same year the contract begins, as originally anticipated. There are no additional changes to the tax credit. The total amount of the credit and all other factors remain.

Staff Comments. The revenue impact of the delay in the claiming of the credit has already been reflected in Department of Finance revenue estimates.

Staff Recommendation. Approve proposed TBL.

Vote.

0860 BOARD OF EQUALIZATION

Issue 1: Centralized Revenue Opportunity System (May Revision and BBL)

Governor's Proposal. The Board of Equalization (BOE) requests $17.5 million and 43.1 positions (22.5 positions and 20.6 temporary help) in 2016-17, to ensure that the Centralized Revenue Opportunity System (CROS) project has the resources required to begin the implementation phase. During the first year, BOE staff, funded by temporary help or overtime, will staff the project. This approach results in 22.5 permanent positions and 20.6 temporary help for the CROS Project. The Contractor will be paid from revenue generated by the solution. BOE also requests budget bill language (BBL) to allow up to $5.0 million to be made available for possible contractor payments in 2016-17. The project will re-align the contractor payments in next year's 2017-18 budget after the contract award.

Background. BOE is in the process of consolidating and modernizing its existing taxpayer information systems through the CROS project. As designed, CROS would replace the BOE's two existing systems of tax information and return management, expand online business and taxpayer services, and provide an agency-wide data warehouse. CROS would replace two legacy systems, the Integrated Revenue Information System (IRIS) and the Automated Compliance Management System (ACMS).

The acquisition of CROS will be achieved through a performance-based, benefits-funded procurement approach. This approach is similar to that used by the Franchise Tax Board (FTB) and the Employment Development Department (EDD) for their respective information and data management systems. The approach does not require up-front vendor funding, as the development and implementation costs are paid under a benefits-funded contract, with payment allowed only when increased revenues are received. Contractor payments would be dependent on the generation of additional revenues attributable to the project and would be capped overall.

Staff Comments. The CROS project is a necessary undertaking for the state, given the age and status of the agency's legacy mainframe-based revenue and collection information systems. The budget proposal for continued funding of the CROS project is reasonable with respect to anticipated workload during the implementation phase. In addition, the benefits-based funding for the project is appropriate for the tax agency; a similar approach has been used successfully by the FTB.

Nevertheless, staff has significant misgivings regarding the ability of the agency to successfully undertake a project of this importance and magnitude. Several unrelated issues discussed at the committee's April 28 hearing highlight potential concerns for the governance of large and complex undertakings, like the CROS project, given the organizational structure and administrative capability of the agency. Clearly, the BOE, in most cases, functions adequately, but the following instances of questionable management and decision-making nevertheless raise concerns.

- The BOE, for over two years, misallocated revenues generated by the sales and use tax. This stemmed from various administrative control weaknesses and resulted in a one-time negative correction of $343 million to the General Fund.

- The BOE has pursued the continuation of physical office space despite the availability of less expensive electronic solutions for tax compliance and taxpayer access. The agency has more than three times the number of offices than FTB, with less revenue collection and fewer taxpayers.

- The policies that govern the opening of new offices appear to be ambiguous and open to various interpretations from both staff and board members. In addition, questions have been raised regarding instances of inconsistent application of audit processes and tax collection.

Previous information technology projects that have failed to meet expectations have generally fallen short, not because of technical challenges, but due to the failure of adequate oversight, management and governance. The state is dealing with the failure and termination of the 21st Century Project, in which the state invested approximately $300 million dollars. While the assessment of the project has not been completed, it is likely that the state will realize little by way of useful product from this investment. On the other hand, more positive examples are also available. FTB has given much thought and deliberation to working through project management and oversight issues related to its Enterprise Data to Revenue (EDR) project. Although this project was not without some uncertainties and delays, the structure of responsibility is such that the agency was able to adjust to these contretemps while keeping the overall project on track. Similarly, the Financial Information System for California (FI$Cal) project has devoted considerable discussion to the governance and management issues in order to maintain the integrity of the final product.

Undoubtedly, BOE has given careful thought to the governance and management of the CROS project; however, the documentation that has been provided to staff in the May Revision consists of a handful of organizational charts and a brief paragraph regarding accountability, as indicated below:

> *To ensure accountability and best practices, the Project reports directly to the Chief Information Officer (CIO) and has a governance structure that includes an Executive Sponsor from the Program. The Governance Plan defines how the BOE will make decisions and how risks and issues may be escalated for resolution.*
>
> *The BOE has retained the services of an independent Project Management consultant responsible for ensuring that project management activities, including schedule, costs, scope, and risk management are properly planned and executed. Also, Independent Verification & Validation (IV&V) consultants are being used to verify and validate CROS Project deliverables meet the requirements and fulfill contractual obligations.*

> *The Department of Technology will provide external oversight of the CROS Project's activities and management processes through both an onsite presence and through review and analysis of the CROS Project's monthly Project Reports to ensure that all applicable policies, rules, guidelines, and procedures are followed. The Department of Finance will provide fiscal oversight and monitors the compensation model.*

Project governance models and management structures are crucial, not because of routine decisions or quotidian activities, but rather for instances of technical challenge and impediments to implementation. Staff notes that IT projects, by their very nature, carry with them inherent unknowns both in design and timeline. Nevertheless, the CROS history to date is not at all encouraging. The project's Feasibility Study Report (FSR) was approved five years ago, in 2011. Special Project Report 1 (SPR 1), outlining two strategies for procurement was submitted in March 2012. SPR 2 was then submitted in December 2013, addressing a nine month change in the procurement schedule and one year delay in implementation. SPR 3 was submitted in April 2016 to address an additional 19 month delay in the procurement phase. Meanwhile, the CROS project itself was without a director from September 2015 until March of this year. The incumbent is the project's third director.

Staff Recommendation. Staff does not recommend action on this proposal at this point. The department should be prepared to walk through with the committee the proposed governance approach and management structure for the project, and focus on those areas that have proven to be weaknesses in other state projects. Depending upon further details regarding project management, the committee may wish to consider requiring more direct oversight by both the Department of Technology and the Department of Finance. Once the committee is satisfied with the overall design, it could consider approval at a later time in the budget process or in a supplemental appropriation measure later in the year.

Vote.

9210 LOCAL GOVERNMENT FINANCING

Issue 1: Local Law Enforcement Reimbursement (BBL)

Governor's Proposal. The budget includes $10 million for reimbursement of costs associated with AB 953 (Weber), Chapter 466, Statutes of 2015, which calls for tracking and reporting of stops by local law enforcement. The budget bill language indicates that the funds are to be awarded based on a schedule to be provided by the DOF and acceptance of the funds would preclude the local government from filing a claim for these costs with the Commission on State Mandates (CSM). This issue was heard by the committee on April 28, 2016 and held open

Background. AB 953 requires the Attorney General to establish the Racial and Identity Profiling Advisory Board, which is directed, among other duties, to investigate and analyze state and local law enforcement agencies' racial and identity profiling policies and practices across geographic areas in California and make publicly available its findings and policy recommendations. The measure requires each state and local agency that employs peace officers to annually report to the Attorney General, data on all stops conducted by the agency's peace officers, and requires that data to include specified information, including the time, date, and location of the stop, and the reason for the stop. The measure was identified as a state-mandated local program by Legislative Counsel. Whether the required activities constitute a reimbursable mandate (and if so, what are the allowable costs) will be determined by the CSM.

Staff Comments. Staff was informed initially that the proposal, as currently reflected in the budget, was a work in progress; however, no revision has been submitted to the Legislature. The intent to beginning 'saving' for the payment of likely mandate claims is commendable, but there are a number of questions that arise from the language. These include the basis on which funds are to be allocated and, more fundamentally, whether local governments conducting state-mandated activities can actually be precluded from receiving constitutionally-protected expense reimbursements or can waive the right to claim such reimbursements. This concern would be particularly relevant if the funds are accepted but prove inadequate to fully cover the allowable expenses established through the mandate process. Given this, staff recommends that language be adopted that treats any amounts awarded for activities undertaken by local governments in complying with the statute be treated as payments toward fulfilling any mandated reimbursements.

Staff Recommendation. Approve alternative BBL with the following language change:

9210-103-0001—For local assistance, Local Government Financing $10,000,000

Schedule:

(1) *7540-Aid to Local Government 10,000,000*

Provisions:

1. *The amount appropriated in this item is to reimburse local law enforcement agencies for*

costs related to the implementation of Chapter 466, Statutes of 2015.

2. *The funds appropriated in this item shall be allocated to the local jurisdictions by the Controller according to a schedule provided by the Department of Finance.*
3. ~~*Acceptance of these funds shall preclude recipient entities from filing a claim with the Commission on State Mandates for costs incurred under the provisions of Chapter 466, Statutes of 2015.*~~ *Funds received by local agencies from this appropriation shall offset future mandate claims submitted to the State Controller's Office."*

Vote.

Issue 2: Community-Based Transitional Housing Program (BBL and TBL)

Governor's Proposal. In January, the Governor proposed $25 million (General Fund), budget bill language (BBL) and trailer bill language (TBL) relating to hard-to-site state facilities. With the May Revision the Administration proposes additional trailer bill language and has renamed the proposal the Community-Based Transitional Housing Program. The funds will be dedicated to siting incentive payments to cities and/or counties that approve, between January 1, 2016 and June 30, 2017, new long-term permits for hard-to-site facilities that improve public safety and support the criminal justice system. This issue was heard in this subcommittee on April 28, 2016 and held open.

The revised TBL would accomplish the following:

- Direct the Department of Finance (DOF) to review applications for the program and award grants ranging from $500,000 to $2 million, which could be encumbered over a period of three years.
- Allow cities, counties, or cities and counties that approve permits to facilities providing transitional housing to persons released from state prison or county jail to apply for the grant.
- Provide that local governments would be eligible for funding for providing permits to transitional housing providers that offer at least two additional services (beyond housing), including by not limited to life skills training, employment counseling, and continuing education, would be considered eligible.
- Specify that local governments would be required to provide 40 percent to the transitional housing provider, which could be used be used to offset costs related to security

requirements of local government permits, and local governments may use the grant funds for local costs associated with permitting the facility.

- Require local governments to explain the planned use for the funds in their application to the DOF and provide other information about the facility being permitted and the amount of funds requested.
- Include a DOF report requirement to the Legislature regarding the number of applications submitted and approved, as well as basic information about the programs that applied for funding.
- Provide $500,000 to the State Auditor to determine whether the program is effective at increasing the supply of transitional housing facilities for persons recently released from prison or jail.

Background. Local governments have sole control over land use, zoning and permitting within their communities. When local communities are reluctant to allow the operation of programs for the rehabilitation of offenders in the criminal justice system, this local authority has slowed the ability of the state and local governments to provide meaningful rehabilitation programs. The appropriation would be used for siting costs related to such activities as substance use disorder treatment, mental health, and reentry programming.

LAO Comments. In its initial review of the proposal, the LAO noted several weaknesses, including the lack of: a full definition of the eligible facilities, specifics as to how the grants would be applied for and awarded, information regarding the amount of funding that could be received, and an indication of whether both state and local facilities would be eligible. LAO indicates that the new language reflects a significant improvement from January, but recommends one additional change. It notes that given that there could be meritorious applications for facilities with few beds, LAO recommends removing the minimum grant amount, noting that if a facility were to only serve 10 persons, awarding the city and the provider $500,000 would be a substantial award compared to a facility serving 100 persons and receiving $2 million

Staff Comments. The Administration's revision of this proposal is much improved. The issues relating to hard-to site facilities are numerous and complex and this particular program is unlikely to be a panacea. Nevertheless, the program could prove to be one method, among several, that can be developed to address hard-to-site facilities. The LAO-proposed change is reasonable. The committee may wish to ask DOF if this change is acceptable, given the potential of greater administrative costs associated with smaller grant. In addition, there may be some need to tighten the language with respect to capacity. While the state would not want the capacity of selected projects to diminish, but there may be some need for flexibility in situations involving violations. Approving placeholder language will allow for additional tightening of the proposal.

Staff Recommendation. Approve placeholder TBL, with the removal of the minimum grant requirement, and BBL.

Vote.

8885 COMMISSION ON STATE MANDATES

Issue 1: Reasonable Reimbursement Methodology for Mandate Claims (TBL)

Governor's Proposal. The Administration's January mandate proposal would require State Controller's Office (SCO) to audit all mandate reimbursement claims used in the development of any new reasonable reimbursement methodology (RRM), which is one approach to reimbursing local governments for mandate costs. The May proposal represents a slight revision, specifying that "a representative sample of claims" be audited. The Administration proposes this amendment based on its concern that the claims used to develop a particular RRM overstated actual costs. RRM proposals must use cost information from one of three sources: a representative sample of eligible claimants; information provided by local government associations; or, other projections of local costs. Under the Administration's proposal, if a proposed RRM uses cost information based on claims filed by local governments to the SCO, a representative sample of those claims would have to be audited before being used to develop a general allocation formula. An RRM developed through means other than claims data would not face this requirement. The language would apply to both education and local government mandates.

Background. Local governments can submit claims for mandates costs reimbursement based on the actual costs of the required activities or the CSM can adopt a RRM. The Legislature created the RRM process in 2004 with the intent to streamline the documentation and reporting process for mandates. An RRM allows local governments to be reimbursed based on general allocation formulas or other approximations of costs, rather than detailed documentation of actual costs. The Department of Finance (DOF), SCO, affected local governments, or an interested party may propose an RRM. Generally, when an RRM is proposed, the CSM cannot modify it, but must either adopt or reject the proposal. To be adopted by the CSM, an RRM must meet the following conditions:

- Use cost information from one of the following: a representative sample of eligible claimants; information provided by local government associations; or, other projections of local costs.
- Consider the variation in costs among local governments to implement the mandate in a cost-efficient manner.
- Be consistent with the mandated activities identified in the CSM's parameters and guidelines.

Once an RRM is submitted to the CSM for consideration, DOF, SCO, or affected local governments may file comments with the CSM. These comments are part of the administrative record and may outline the parties' support or opposition to the proposal. The parties may submit comments again after the CSM releases a proposed RRM decision. DOF has regular voiced concern that RRM may not be based on audited claims. There are currently six active mandates that have an RRM.

LAO Comments. The intent of the Legislature in establishing the RRM process was to reduce local governments' burden of documenting actual mandate costs, as well as reduce the work of state officials in reviewing and paying associated claims. But the RRM process has been seldom used to date. LAO notes that there are already several opportunities for DOF or other interested parties to weigh in on whether an RRM proposal meets the requirements of state law, and the proposed audit requirement likely would lengthen the process for developing an RRM. As a result, it could become more difficult for local governments to propose RRMs based on claims data in the future. Moreover, an increase in SCO's audit workload potentially could strain that department's resources in the future. LAO recommends caution in considering actions that could make the process less beneficial for local governments. For example, if the state suspends fewer local government mandates than it does today, there may be more RRM proposals. As one alternative, the SCO could be required to audit just a sample of the claims used for an RRM. LAO notes that the May revision is improved over the initial proposal in that it addresses auditing of claims.

Staff Comments. The proposal is intended to avoid potentially inflated mandate claims, and at the same time, improve the RRM process in order to expedite the determination of mandated costs. Although there may be some additional technical adjustments that may be warranted, the May changes are positive and the proposal is step in the right direction and warrants approval by the subcommittee. Subcommittee No. 1 took action to approve the language with respect to education mandates.

Staff Recommendation. Approve proposed TBL as revised.

Vote.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 4 Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan

Thursday, May 19, 2016
Upon Adjournment of Session
State Capitol - Rose Ann Vuich Hearing Room 2040

OUTCOMES

Consultant: Mark Ibele

Part B

ITEMS PROPOSED FOR VOTE-ONLY

Item	Department	Page
C.S 6.10	**Funding for Deferred Maintenance Projects**	**3**
	Approve staff recommendation, 4-0	
0509	**Governor's Office of Business and Economic Development**	**4**
Issue 1	Membership of the California Travel and Tourism Commission	4
	Approved proposed TBL, 4-0	
8880	**Financial Information System for California**	**5**
Issue 1	Establishing Department of FI$Cal	5
	Approved proposed TBL, 4-0	
0984	**California Secure Choice Retirement Savings Investment Board**	**6**
Issue 1	Administrative Costs	6
	Approved Senate proposal, 3-0 (Nguyen)	
0840	**State Controller's Office**	**6**
Issue 1	21st Century Project Management Assessment and Project Approval	6
	Approved May Revision proposal, 4-0	

ITEMS FOR DISCUSSION AND VOTE

Item	Department	Page
0509	**Governor's Office of Business and Economic Development**	**9**
Issue 1	Clarification of California Competes Authority	9
	Held open	
7730	**Franchise Tax Board**	11
Issue 1	Advanced Strategic Aircraft Tax Credit	11
	Approved proposed TBL, 4-0	
0860	**Board of Equalization**	**12**
Issue 1	Centralized Revenue Opportunity System	12
	Held open	
9210	**Local Government Financing**	**15**
Issue 1	Local Law Enforcement Reimbursement	15
	Held open	
Issue 2	Community-Based Transitional Housing Program	16
	Approved proposed TBL, 3-0 (Nguyen not voting)	
8885	**Commission on State Mandates**	**18**
Issue 1	Reasonable Reimbursement Methodology for Mandate Claims	18
	Approved placeholder TBL, 3-0 (Nguyen not voting)	
	Public Comment	