Senate Budget and Fiscal Review

Subcommittee No. 5, 2011 Agendas

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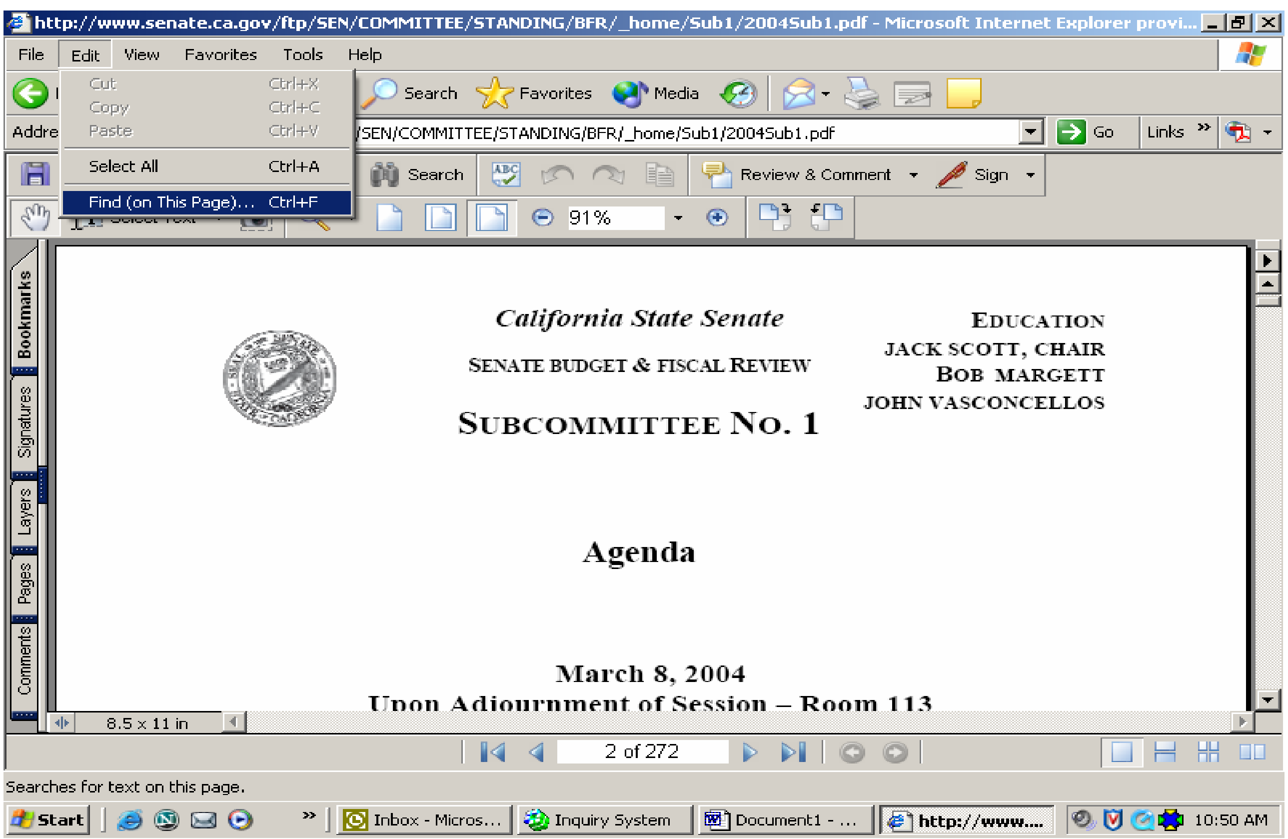


SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

Tuesday, January 25, 2011
9:30 a.m.
Room 4203

Consultant: Brian Brown

Item Number and Title **Page**

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

Criminal Justice Realignment Proposals - Background

Governor's Realignment Proposal Overview. The Governor's budget calls for realignment of various state programs to local governments. The programs proposed for realignment fall broadly into the category of public safety. This realignment is proposed to be funded through the continuation the 1 percent sales tax and 0.5 percent Vehicle License Fee increases set to expire at the end of the 2010-11 Fiscal Year. In total, the administration estimates that $5.9 billion in revenue would be generated in 2011-12, growing to $7.3 billion in 2014-15. The Governor's plan calls for a phased approach to realignment.

The administration's stated goals of realignment include (1) protection of California's essential public services, (2) improved efficiency and reduction of government duplication, (3) focus of state resources on oversight and technical assistance, (4) assigning program and fiscal responsibility at the level of government that can best provide the service, and (5) providing dedicated revenues to fund programs.

Criminal Justice Realignment Summary. Of the total realignment package, a large share is dedicated specifically to criminal justice programs. Specifically, the Governor proposes realignment of the following criminal justice programs:

1. Court security,
2. Local public safety grant programs,
3. Low level offenders,
4. Adult parole,
5. Division of Juvenile Justice.

The Governor's proposal dedicates $2.6 billion of the revenues for these purposes when the realignment is fully implemented in 2014-15. In 2011-12, the proposal provides $1.5 billion to local governments and assumes that $2.3 billion would be sent to the state as reimbursement of state costs. This reimbursement would occur in the near term because much of the realignment would take a couple of years to be fully implemented.

The following figure from the Governor's Budget Summary summarizes the first phase of the proposed realignment plan.

Figure REA-01

Phase One Realignment Funding

(Dollars in Millions)

Program	2011-12	2014-15
Fire and Emergency Response Activities	$250.0	$250.0
Court Security	530.0	530.0
Vehicle License Fee Public Safety Programs	506.4	506.4
Local Jurisdiction for Lower-level Offenders and Parole Violators		
Local Costs	298.4	908.1 [1/]
Reimbursement of State Costs	1,503.6 [2/]	-
Realign Adult Parole to the Counties		
Local Costs	113.4	409.9 [1/]
Reimbursement of State Costs	627.7 [2/]	-
Realign Remaining Juvenile Justice Programs		
Local Costs	78.0	242.0 [1/]
Reimbursement of State Costs	179.6 [2/]	-
Mental Health Services		
The Early and Periodic Screening, Diagnosis and Treatment Program	-	579.0
Mental Health Managed Care	-	183.6
AB 3632 Services	-	104.0
Existing Community Mental Health Services	-	1,077.0
Substance Abuse Treatment	184.0	184.0
Foster Care and Child Welfare Services	1,604.9	1,604.9
Adult Protective Services	55.0	55.0
Unallocated Revenue Growth	-	621.1
Total	**$5,931.0**	**$7,255.0**
1% Sales Tax	4,549.0	5,567.0
0.5% VLF	1,382.0	1,688.0
Total Revenues	**$5,931.0**	**$7,255.0**

[1/] The allocation in 2014-15 is different than the amount allocated in 2011-12 due to a phased-in implementation.

[2/] During the transition, estimated state costs will be reimbursed from realignment revenues.

Key Questions for Legislative Consideration. In reviewing the Governor's realignment proposal, the Legislature may wish to consider the following over-arching questions.

- Are local governments the appropriate level of government to provide the program or serve the population recommended for realignment in a manner that is more efficient and effective than if delivered by the state?
- What is the appropriate level of resources to provide to local governments to provide the realigned program efficiently and effectively?
- What role, if any, should the state play following the realignment of each program, specifically with respect to oversight, coordination, transition, and/or technical assistance?
- What are the potential unintended consequences of realignment that need to be foreseen and mitigated?
- How can realignment be structured to incentivize or encourage the use of evidence-based practices designed to enhance public safety?

Issue 1 – Court Security

Background. Currently, court security is provided by county sheriffs in all but two small counties (which have their own marshals service for security). The staffing level of security in each of the 56 trial courts that utilize sheriffs are negotiated between the presiding judge and the county sheriff with the courts reimbursing the counties for their costs.

The state spends about $3 billion annually on operation of the trial courts in all 58 counties. Of this total, about $500 million is spent on court security. This amount has grown significantly in recent years, from $385 million in 2005-06. According to the administration, the state has a role in court security standards, but has no control over what level (and cost) of deputy is assigned to the court. The table below shows the increase in court security costs since 2005-06.

Court Security Expenditures

Fiscal Year	Expenditures	Annual Growth
2005-06	$385.4	
2006-07	$450.3	18%
2007-08	$501.7	12%
2008-09	$521.0	4%
2009-10*	$497.8	-4%

** Note: Statewide court closures were in effect during 2009-10.*

Proposal. The administration proposes to transfer $530 million in funding for court security to the counties. State General Fund support for court security costs would be reduced by an equivalent amount. According to the administration, this arrangement should allow the courts and counties to come to reasonable local agreements regarding the costs of court security.

Staff Comments. The LAO has raised some concerns with this aspect of the Governor's realignment proposal. They find that while control of funding for court security would be shifted to counties, the state judicial system would continue to be responsible for the overall operation of the courts. Absent financial control, the courts would have difficulty ensuring that the sheriffs provided sufficient security measures. The LAO believes that a more efficient approach would be to (1) clarify that the state is responsible for trial court security and (2) adopt a separate state law change authorizing the state to use competitive bidding by various private or public entities, including sheriffs, for the provision of court security services.

Should the Legislature approve realignment of court security, it may wish to give weight to the LAO's concerns and identify appropriate parameters around the realignment to ensure that it can be done in a way that does ensures provision of a sufficient level of court security at all courts.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- To what extent will realignment slow the growth of court security costs?
- How can the implementation of realignment be structured to ensure that counties continue to provide adequate security coverage?
- Will courts maintain flexibility to use in-house marshals services, if desired?
- What does the administration propose to do with the court security fee?

Staff Recommendations. Hold open pending further review.

Issue 2 – Local Public Safety Grant Programs

Background. Historically, the General Fund has supported various local public safety grant programs designed to enhance local criminal justice efforts. This includes programs such as Citizens Option for Public Safety (COPS), the Juvenile Justice Crime Prevention Act (JJCPA) program, booking fees, and juvenile probation funding. More recently, these programs have been funded from the temporary VLF increases that are currently set to expire at the end of the current fiscal year.

The table below lists each of grant programs, as well as the recipient agencies and purpose of the grant.

Local Public Safety Grant Programs

Program	Local Recipients	Purpose
Citizens Option for Public Safety	Counties and cities	Augment local public safety spending
Juvenile Justice Crime Prevention Act	Counties and cities	Lower juvenile crime rate
Booking fees	Counties	Reduce amount of booking fees counties charge cities
Small and Rural Sheriffs	37 sheriff departments	Augment local funding
Juvenile probation funding	Probation departments	At-risk youth, juvenile offenders, and their families
Juvenile camps funding	Probation departments	Operation of juvenile camps and ranches
CA Multi-Jurisdictional Methamphetamine Enforcement Team	Counties	Investigation and prosecution of methamphetamine production
Vertical prosecution grant	District attorneys	Prosecution activities
Evidentiary medical training	University of California	Forensic medical training in cases of sexual and other abuse
Public prosecutors and public defenders	CA District Attorneys Assoc. and CA Public Defenders Assoc.	Training, education, and research
CA Gang Violence Suppression Program	City and county applicants	Divert gang activity
CALGANG	Department of Justice	Database of statewide gang intelligence information
Multi-Agency Gang Enforcement Consortium	Fresno County	Reduce gang activity
Rural crime prevention	District attorneys	Investigation and prosecution of agricultural crimes

Sexual Assault Felony Enforcement	Counties	Monitor habitual sexual offenders
High tech theft apprehension and prosecution	High technology task forces	Investigation of high technology crimes

Proposal. The Governor proposes to fully fund these programs as part of the overall realignment package using largely the same funding formula as currently exists. The only difference would be that booking fees would be fixed at $35 million. The table below lists the programs by estimated funding levels in the current year and budget year. The funding levels would increase between the current year and budget year due to projected inflationary growth of VLF revenues.

Proposed Funding Level for Local Public Safety Programs
(Dollars in millions)

Program	2010-11	2011-12
Citizens Option for Public Safety	$94.2	$107.1
Juvenile Justice Crime Prevention Act	94.2	107.1
Booking fees	27.7	35.0
Small and Rural Sheriffs	16.3	18.5
Juvenile probation funding	133.4	151.8
Juvenile camps funding	25.9	29.4
Cal-MMET	17.1	19.5
Vertical prosecution	12.8	14.6
Evidentiary medical training	0.5	0.6
Public prosecutors and public defenders*	0.0	0.0
CA Gang Violence Suppression Program	1.4	1.6
CALGANG	0.2	0.3
Multi-Agency Gang Enforcement Consortium	0.1	0.1
Rural crime prevention	3.3	3.7
Sexual Assault Felony Enforcement	4.5	5.1
High tech theft apprehension and prosecution	10.5	12.0
Totals	***$442.0***	***$506.4***

**Note: This program is funded at less than $10,000 annually.*

Staff Comments. These programs are funded through the temporary 0.15 VLF increase that is set to expire at the end of the current fiscal year. The Governor's realignment proposal would ensure these programs continue to be funded at a level closer to historic levels for at least several more years. Absent extension of these tax revenues, the program costs would likely have to be shifted to the General Fund or the programs eliminated.

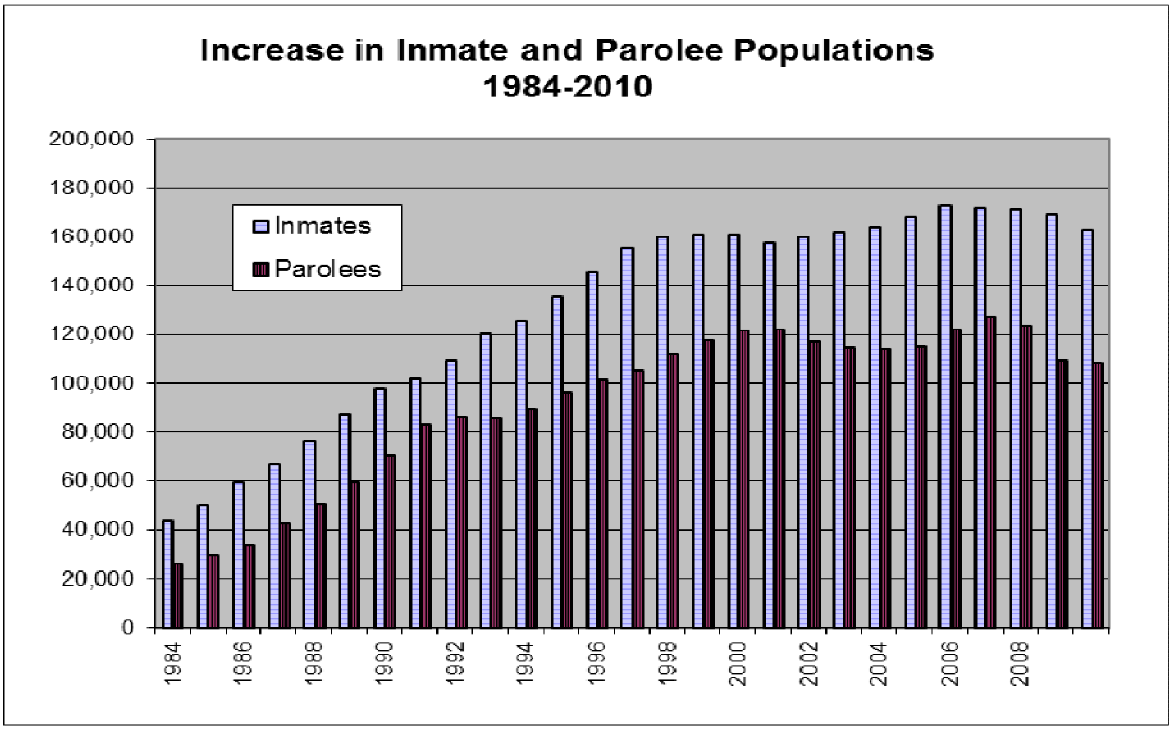
Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following question.

- What would be the impact to local public safety if VLF funding for these grant programs was to expire?

Staff Recommendations. Hold open pending further review.

Issue 3 – Low Level Offenders

Background. There are currently about 162,000 inmates housed in California state prisons (including contracted facilities). The state's inmate population has been relatively stable over the past several years following a period of rapid growth during the 1980s and 1990s, as shown in the figure below.



The LAO has analyzed the growth in the prison population and found that the growth does not appear to be driven by increases in crime rates which have actually decreased over the past two decades. Instead, it appears that the trend is more closely associated with higher rates of prosecutions and prison sentences, as shown in the table below. Consequently, a felony arrest is almost twice as likely to result in a prison term as twenty years ago.

Proportion of Arrests Resulting in A Prison Term Has Increased

Adult Felony Outcomes	1987	2007	Percentage Change In Factor
Arrests	423,000	457,000	+8%
Charges filed	197,000	280,000	+42
Convictions	154,000	231,000	+50
Prison sentences[a]	33,000	68,000	+106
Percent of Arrests Resulting in Prison	**8%**	**15%**	**+91%**

[a] Includes both new admissions and parole violators returned by the courts.

Under current law, the vast majority of inmates serve determinate sentences. This means that inmates are generally released at the conclusion of a prison term, defined by the sentencing court, and as adjusted by credits earned for good behavior. On average, inmates serve about two years in state prison, though many serve for much shorter periods. For example, in 2009, over 35,000 inmates first released to parole and an additional 66,000 parole violators re-released to parole served 12 months or less in state prison.

Current law defines some crimes as serious (e.g. first degree burglary) or violent (e.g. robbery and rape). Approximately 25 percent of the inmate population has never been sent to state prison for a serious or violent offense. Approximately, 14 percent of the prison population is currently in prison for a sex offense.

In 2008-09, it cost about $47,000 to house an inmate in state prison for one year. As shown in the figure below, about two-thirds of this cost is for security and health care costs.

California's Annual Costs to Incarcerate an Inmate in Prison

2008-09

Type of Expenditure		Per Inmate Costs
Security		$19,663
Inmate Health Care	**$12,442**	
Medical care		$8,768
Psychiatric services		1,928
Pharmaceuticals		998
Dental care		748

Operations	**$7,214**	
Facility operations (maintenance, utilities, etc.)		$4,503
Classification services		1,773
Maintenance of inmate records		660
Reception, testing, assignment		261
Transportation		18
Administration	**$3,493**	
Inmate Support	**$2,562**	
Food		$1,475
Inmate activities		439
Inmate employment and canteen		407
Clothing		171
Religious activities		70
Rehabilitation Programs	**$1,612**	
Academic education		$944
Vocational training		354
Substance abuse programs		313
Miscellaneous	**$116**	
Total	**$47,102**	

Counties operate jails to house lower level offenders, specifically those sentenced to less than a year of incarceration, as well as offenders awaiting trial. There are currently about 85,000 inmates in county jails. Currently, many counties have some or all of their jails under population caps, either court- or self-imposed due to overcrowding or budgetary constraints. In 2005-06, it cost counties an average of about $28,000 to house an inmate in jail per year.

Proposal. The administration proposes to require that all inmates not currently or previously convicted of a serious, violent, or sex offense be housed in county jails or otherwise managed at the local level, rather than being sent to state prison. The administration estimates that this policy would reduce the prison population by about 44,000 inmates when fully implemented. The administration proposes for this change to be made on a prospective basis only. So, no inmates currently in prison would be transferred to the counties.

Under the Governor's realignment plan, counties would receive an estimated $298 million in 2011-12 to begin managing these offenders locally. Because most felon non-serious, non-violent, non-sex inmates would remain in state prison in the budget year, a share of realignment funding - $1.5 billion – would be sent to the state to reimburse CDCR for the costs of housing those offenders. When fully implemented, counties would receive an estimated $908 million annually to manage these offenders.

According to the administration, realignment of these offenders can be both more efficient and achieve better outcomes. With more resources at the local level, these short-term, lower-level offenders can be better managed and can become more successful through a combination of probation services and jail time.

Staff Comments. The Governor's proposal merits consideration. Removing lower-level, short-term offenders from state prisons will have the benefit of reducing the existing overcrowding problems that contribute to operational problems and lawsuits. Moreover, it would ensure that expensive state prison beds are reserved for the state's most serious and violent offenders. In addition, removing short-term offenders has the advantage of reducing the state's need for very expensive reception center beds. Reception centers are the state prison facilities that accept new inmates from county jails, as well as parole violators. They tend to be more expensive than the average prison bed due to the battery of evaluations conducted and higher security staffing necessary.

The Governor's proposal recognizes that counties can potentially manage low-level offenders more efficiently and effectively than the state. County agencies already provide services such as mental health treatment, substance abuse programs, and education and employment services that can be targeted to the offender population and enhance the likelihood of success in the community. Historically, short-term prison inmates, especially those in reception centers, do not receive such services before being released to the community. In addition, the flexibility that counties would have under the Governor's proposal would mean that they could choose the combination and intensity of incarceration, probation supervision, sanctions, and services to manage each offender in a way that will improve the likelihood of success in their local community. The state does not currently have this level of flexibility under state law.

The Governor's proposal shares similarities with other recent Senate proposals. As part of last year's budget process, Senate leadership proposed a realignment plan which included a proposal to shift responsibility for wobbler offenders – those charged with crimes that can be prosecuted as felonies or misdemeanors – to counties. Also, in 2009, the Legislature passed, and Governor Schwarzenegger signed, the California Community Corrections Performance Incentives Act of 2009 [SB 678 (Leno)]. This bill provides counties with a share of state prison savings when counties are able to demonstrate a reduction in felony probation failures that would otherwise result in offenders being sent to state prison. Importantly, this bill requires that counties use the state resources provided to develop evidence-based supervision and intervention strategies.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- What are the jail capacity needs of counties under this proposal?
- How can realignment be implemented in such a way as to incentivize or otherwise ensure the use of evidence-based practices designed to reduce reoffending and enhance public safety?
- To what extent does the administration's state savings estimate include ancillary savings such as state administration or the additional costs to run more expensive reception center beds?
- To what extent are the proposed level of new resources provided to counties sufficient to provide a more appropriate mix of incarceration, supervision, sanctions, and services?
- How will this proposal affect the department's long-term bed plan, including the use of existing aging facilities and the need for future construction?
- Will SB 678 have to be modified if realignment is implemented?

Staff Recommendations. Hold open pending further review.

Issue 4 – Adult Parole

Background. Under current law, inmates released from state prison are placed onto state parole generally for three years. There are currently about 108,000 parolees statewide. Parolees who commit new crimes or violations of the terms of parole can be returned to state prison administratively for up to one year. (Parolees can be returned for a longer period if convicted of a new crime.) More than 60,000 parolees are returned to state prison through the administrative process run by the Board of Parole Hearings each year.

County probation departments also supervise offenders in the community. There about 350,000 probationers statewide. This includes offenders sentenced for misdemeanors and felonies. Judges grant felony probation as a sentence in lieu of state prison, though jail time frequently is also part of the sentence.

According to CDCR data, about half of all inmates are returned to state prison within one year of release, and two-thirds are returned to prison within three years.

Proposal. The Governor proposes to realign all of state parole to county probation departments. This would be done on a prospective basis only. So, no offenders currently on parole would be shifted to county responsibility. About 60,000 inmates are first released to parole each year.

Under the Governor's realignment plan, counties would receive an estimated $113 million in 2011-12 to begin supervising parolees locally. Because most parolees would remain on state caseloads in the budget year, a share of realignment funding - $628 million – would be sent to the state to reimburse CDCR for the costs of managing those existing caseloads. When fully implemented, counties would receive an estimated $410 million annually to manage these offenders.

Since these offenders typically live in the community from which they were sentenced to prison, the administration argues that local law enforcement and probation are usually more knowledgeable about the offender, suggesting local supervision of parolees is a better policy and public safety option.

Staff Comments. The LAO has been on record for several years recommending realignment of all or part of parole to probation, both as a budget savings option, as well as to achieve better policy outcomes. The LAO has written that parole realignment (specifically, of lower-level offenders) could result in better public safety outcomes because the realignment of resources and responsibilities provides an incentive for local governments to have a greater stake in the outcomes of these offenders, develop innovative approaches to supervision, and reduce crime. Moreover, the LAO has argued that realignment would enable local governments to better meet their public safety priorities, as well as reduce the current duplication of effort that occurs by the state and counties supervising similar offenders in the community.

While parole realignment has the potential to enhance public safety outcomes, there are important implementation issues that would need to be addressed to implement realignment effectively. There would need to be greater coordination between the state and counties as inmates are released from state prison to local supervision. There would also need to be decisions made about the most appropriate process to hear parole revocation cases. Currently, parole revocation hearings are conducted by the state Board of Parole Hearings, but probation revocation proceedings are held in the local trial courts. There would also need to be consideration of how to incentivize or otherwise encourage the use of evidence-based supervision practices statewide to better ensure good public safety outcomes.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

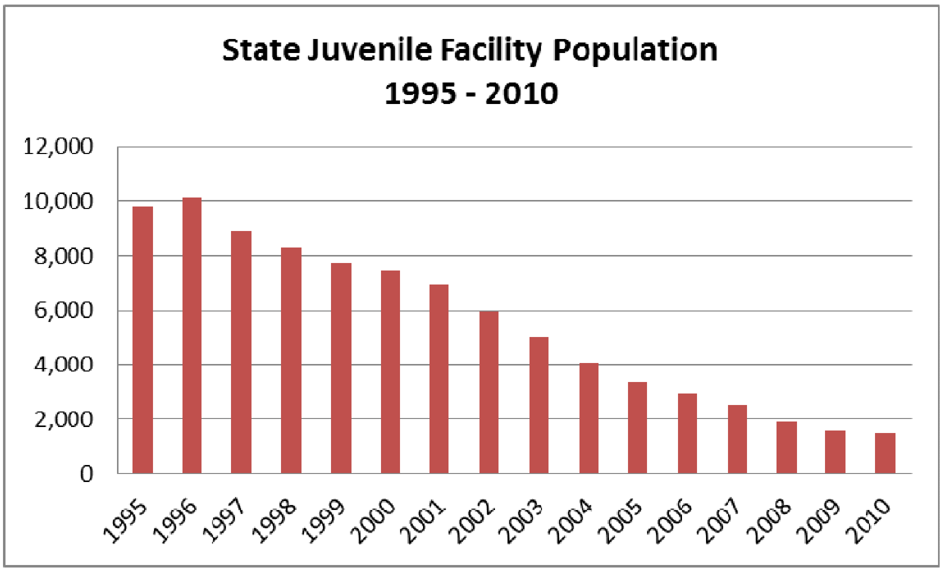
- What steps can the state and local partners take to ensure successful transition of parolees to local probation?
- What should be done to ensure the use of evidence-based supervision strategies by counties in supervising these parolees?
- What role, if any, should the state play in providing long-term oversight and/or providing locals with assistance in implementing best practices?
- What is the most appropriate and efficient way to manage revocations by parolees supervised by locals?

Staff Recommendations. Hold open pending further review.

Issue 5 – Division of Juvenile Justice

Background. The Division of Juvenile Justice (DJJ) within CDCR (formerly the California Youth Authority) houses about 1,300 wards in four facilities (and one fire camp) statewide. Most of these wards were adjudicated in juvenile court for felonies, while about 230 were prosecuted as adults and are housed in DJJ facilities until old enough to transfer to adult prison. Under California law, wards can be housed in DJJ facilities until the age of 25.

The DJJ population has declined significantly over the past 15 years, as shown in the figure below. Factors that have contributed to the reduction in DJJ's population have included greater investment in front-end prevention and intervention programs, declining juvenile crime rates, and legal changes designed to reduce the number of lower-level wards sent to DJJ. Consequently, local governments – typically, probation departments – manage 99 percent of all offenders on juvenile justice caseloads.



The DJJ spent about $248 million on facility operations in 2009-10. It currently costs an average of about $192,000 to house a ward in DJJ for one year. On average, wards spend 3 years in DJJ (not including recommitment time), costing the state a total of more than a half million dollars for each DJJ commitment. The average cost per ward has increased in recent years due largely to the increased staffing ratios and requirements of the *Farrell* lawsuit (described below). More recently, these costs have been somewhat offset by the department's efforts to consolidate and close facilities.

The DJJ facilities are currently operating under a state court consent decree in the *Farrell v Brown* case. *Farrell* requires the state to bring its general operations, as well as operation of its mental health, education, and other programs up to standards established by court-appointed experts. The consent decree was signed in 2004. It is likely that it will take at least a few more years for the department to reach compliance with all *Farrell* requirements and for the lawsuit to terminate.

Three-quarters of wards released from DJJ facilities are rearrested within two years.

Proposal. The administration proposes to realign the remaining 1,300 wards to county responsibility. This would be done on a prospective basis. So, no wards currently in DJJ facilities would be released to county supervision. Under the Governor's proposal, counties would receive about $78 million in 2011-12, growing to $242 million at full implementation. The state would receive $180 million in 2011-12 as reimbursement for the costs to continue to house existing DJJ wards.

The administration also indicates it would consider the option of allowing counties to contract back with the state in the future to house wards. Counties might choose this option if they lack sufficient local capacity or do not feel as though they have the local resources to manage particularly difficult cases, such as wards with severe mental health problems.

Staff Comments. The proposal to realign DJJ has merit and, ultimately, could result in better juvenile justice outcomes. Research suggests that housing offenders close to home can better position the ward for a successful transition back into the community after release. This is particularly true if that transition process incorporates the ward's family, as well as local community-based services that the ward may need to draw upon after release, such as community substance abuse and mental health treatment and employment training and assistance services.

As part of the 2010-11 Budget Act, the Legislature and Governor approved a proposal to realign DJJ parole operations to county probation departments. So, counties have begun to take responsibility for these offenders already, once they are released from DJJ. As recently as 2009-10, the LAO recommended realignment of DJJ to locals as a viable budget solution option. Specifically, the LAO found that realignment of juvenile offenders would create greater governmental accountability by making a single level of government responsible for all outcomes in the system. The LAO also argued that juvenile realignment would promote flexibility and innovation by allowing counties to use resources provided to meet the unique challenges and needs of their local offender populations.

While the proposal to realign of DJJ merits consideration, there are important implementation issues that would need to be considered and addressed. For example, those wards currently housed in DJJ represent some of the toughest juvenile cases, including violent offenders and those with significant mental health problems. About three-quarters of DJJ wards were adjudicated or prosecuted for assault, robbery, or murder, and nearly all wards have a significant mental health and/or substance abuse problems. Ensuring that counties have the appropriate resources to effectively manage these offenders is critical. Moreover, if such resources were not available, there is a high likelihood that some of these wards would be prosecuted in adult court and sent to state prison as an unintended consequence of this proposal.

There is also the issue of local capacity, particularly given that under existing law, wards can be housed in DJJ until the age of 25. It is unlikely that counties will want to house wards that old with their existing, younger population. Therefore, counties will have to ensure that they have appropriate capacity for some of the realigned capacity that is generally separate from their existing juvenile populations.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Is the funding level proposed sufficient for locals to be more effective than has historically been the case in DJJ?
- To what extent is additional juvenile capacity going to need to be created to ensure that counties have appropriate placement options for these juvenile offenders?
- Given appropriate resources, would counties have the ability to manage higher-acuity juvenile offenders, those with more severe mental health or substance abuse problems, for example?
- How can DJJ realignment be structured to promote the use of evidence-based best practices in the supervision and treatment of juvenile offenders?
- If DJJ realignment were to occur, what would be the appropriate role of the state, if any, in providing oversight, technical assistance, or coordination?
- Can realignment be structured in such a way as to mitigate the unintended consequence of increased convictions of juveniles in adult courts?

Staff Recommendations. Hold open pending further review.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

Thursday, January 27, 2011
10:00 a.m. (or upon adjournment)
Room 113

Consultant: Brian Brown

Item Number and Title **Page**

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

California Gambling Control Commission (0855)

Departmental Overview. The California Gambling Control Commission (CGCC) has jurisdiction over gambling establishments (cardrooms), Tribal casinos, and charitable organizations that offer remote caller bingo, pursuant to its authority under State law and Tribal-State Gaming Compacts.

There are 89 licensed cardrooms in California over which the Commission has regulatory authority. This authority extends to the operation, concentration, and supervision of the cardrooms and all persons and things related to each licensed establishment.

The Commission has fiduciary, regulatory, and administrative responsibilities related to Tribal gaming that include: (1) oversight of Class III gaming operations, which are primarily casino-type games, (2) distribution of tribal gaming revenues to various State funds and to authorized, federally-recognized, non-Compact Tribes, (3) monitoring of Tribal gaming through periodic background checks of tribal key employees, vendors, and financial sources, (4) validation of gaming operation standards through testing, auditing, and review, and (5) fiscal auditing of Tribal payments to the State pursuant to Compact provisions.

The Commission has fiduciary, regulatory, and administrative responsibilities related to remote caller bingo that include: (1) regulation of the licensure and operation of remote caller bingo, (2) validation of gaming operations standards through testing, auditing, and review, and (3) fiscal auditing of the organizations and vendors of equipment that conduct remote caller bingo.

Budget Overview. The CGCC has a proposed budget of $108.4 million in 2011-12, a $30 million decrease from the current year. The reduction reflects the one-time $30 million augmentation of the Indian Gaming Special Distribution Fund in 2010-11. The Commission has no General Fund in its budget with the Indian Gaming Revenue Share Trust Fund the source of 89 percent of its budget authority. According to the Governor's budget, the Commission has about 73 authorized positions.

Issue 1 – Gambling Control Licenses

Proposal. The Commission requested $45,000 in one-time funding from the Gambling Control Fund for information technology upgrades necessary to process delinquency fees for late renewals of gambling licenses based on authority provided in AB 2596 (Portantino, Chapter 553, Statutes of 2010).

Staff Comments. The Department of Finance has notified the committee of the administration's request to withdraw this proposal. According to DOF, the Commission has determined that it can absorb this workload within existing resources.

Staff Recommendation. Deny this request. The Committee needs to take the formal action of rejecting the proposal in order to remove it from the Governor's budget, as requested by the administration.

Issue 2 – Remote Caller Bingo

Background. The Remote Caller Bingo Act (SB 1369 [Cedillo], Chapter 748, Statutes of 2008) was approved by the Legislature to authorize remote caller bingo as a game that allows specific nonprofit organizations to use audio or video technology to remotely link designated in-state facilities to cosponsor live bingo games. The Commission is required to regulate remote caller bingo, including licensure and development of regulations. In addition, the Remote Caller Bingo Act requires the Commission to license persons that manufacture, distribute, supply, vend, lease or otherwise provide card-minding devices for bingo ("traditional" bingo and remote caller bingo).

The Commission currently has five positions authorized to manage the workload associated with this program. These positions were approved on a two-year limited term basis that will expire at the end of the current fiscal year.

While the Commission has recognized charitable organizations as eligible to conduct remote caller bingo games, no games have yet been conducted. The program was intended to be funded entirely from program fees, but it has primarily been funded from loans from the Gambling Control Fund and the Indian Gaming Special Distribution Fund because the program has only generated about $52,000 since its inception. To date, ten organizations have been recognized to conduct remote caller bingo, and six more organizations are currently in the application process or scheduled to be considered by the Commission.

Proposal. The Commission requests 1.0 position and $104,207 from the California Bingo Fund on a one-time basis to address workload associated with the California Remote Caller Bingo Act.

Staff Comments. While the Commission clearly has a statutory responsibility to license and regulate remote caller bingo games, it is unclear that the amount of workload fully justifies even a single full position. This is particularly true considering that there have been no games yet conducted, and the amount of fee revenues collected in the three years since passage of the bill authorizing remote caller bingo have been too low to support even one position.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Given the relatively low number of applications coming to the Commission, can the department absorb this workload?
- What is the department's plan for repaying the special fund loans to the California Bingo Fund?

Staff Recommendation. Deny without prejudice. This is still a relatively new program with some, albeit small, workload for the department. By holding this issue over to later in the Spring, it will allow the Legislature to see if additional workload arises that would justify the continuation of the requested position.

California Emergency Management Agency (0690)

Department Overview. The principal mission of the California Emergency Management Agency (CalEMA) is to reduce the state's vulnerability to hazards and crimes through emergency management and criminal justice programs.

The CalEMA was created by Assembly Bill 38 (Chapter 372, Statutes of 2008) as an independent entity reporting directly to the Governor. The CalEMA was formed by merging two departments, the Office of Emergency Services (OES) and the Office of Homeland Security (OHS).

During an emergency, CalEMA functions as the Governor's immediate staff to coordinate the state's responsibilities under the Emergency Services Act. It also acts as the conduit for federal assistance through natural disaster grants and federal agency support. Additionally, CalEMA is responsible for the development and coordination of a comprehensive state strategy related to all hazards that includes prevention, preparedness, and response, and recovery.

Further, CalEMA also provides financial and technical assistance to local governments, state agencies, and the private sector for public safety and victim services.

Budget Overview. The department has a 2011-12 budget of $1.4 billion, more than $1 billion of which is funded through federal funds. The Governor's budget includes about $200 million in General Fund. The CalEMA has 573 authorized staff positions.

Issue 1 – Federal Justice Assistance Grant

Background. The CalEMA is the administering department for the justice stimulus funding that came to California as part of the American Recovery and Reinvestment Act of 2009 (ARRA). This included three major programs – the Justice Assistance Grant ($135.6 million), Victims of Crime Act ($2.8 million), and Violence Against Women Act ($12.0 million). The table below shows the amount of funding that has been allocated for each program authorized and the amount expended to date. (Note that under federal requirements, expenditures to grant recipients are paid on a reimbursement basis.)

CalEMA ARRA Program Expenditures to Date
(As of December 31, 2010)

Program	Allocations	Expenditures
Justice Assistance Grant (JAG)	**$134.5**	**$33.7**
Substance abuse treatment	44.4	22.6
Evidence-based probation	45.0	5.9
Anti-drug abuse task forces	19.8	2.6
Parolee reentry courts	10.0	0.1
CA multi-jurisdictional meth enforcement	4.5	0.9
Anti-human trafficking	3.8	0.4
Firearms trafficking	3.3	0.1
Regional anti-gang intelligence	2.1	0.4
Victim information and notification	1.5	0.6
Drug task force training	0.2	0.0
Victims of Crime Act (VOCA)	**$2.8**	**$2.6**
Child abuse treatment	0.7	0.7
Domestic violence assistance	0.2	0.2
Sexual assault program	0.7	0.7
Special emphasis victim assistance	0.1	0.1
Victim/witness assistance	1.1	0.9
Violence Against Women Act (VAWA)	**$12.0**	**$9.8**
Domestic violence assistance	1.5	1.5
Medical training center	0.6	0.4
Farmworker women program	0.4	0.2
Equality in prevention for domestic abuse	0.4	0.3
Native American training	0.6	0.5
Court education and training	0.6	0.5
Law enforcement training	0.3	0.1
Prosecutor training	0.3	0.2
Probation specialized unit	1.2	1.0
Sexual assault program	1.8	1.8
Victim/witness assistance	0.7	0.6
Special emphasis victim assistance	0.1	0.1
Sexual assault specialized response	1.2	0.7
Sexual assault training	0.3	0.1
Vertical prosecution	2.0	1.8

Note: In millions of dollars.

Proposal. The CalEMA requests $592,000 in federal fund authority in 2011-12 to continue to administer ARRA JAG funds.

Staff Comments. The level of funding requested is consistent with the amount authorized by the Legislature last year.

The committee may wish to use this opportunity to receive an update from CalEMA on its progress administering the stimulus funds. While 83 percent of the VOCA and VAWA stimulus dollars have been expended to date, only 25 percent of the JAG dollars have been expended.

Staff Recommendation. Approve as budgeted.

Issue 2 – John R. Justice Grant

Background. The CalEMA was awarded $1,046,000 in September 2010 from the federal Department of Justice for the John R. Justice Grant (JRJ). This program provides loan repayment assistance for local, state, and federal public defenders and local and state prosecutors who commit to new or continued employment as public defenders or prosecutors for at least three years.

Proposal. The CalEMA requests $1,046,000 in Federal Trust Fund authority to administer the federal John R. Justice Grant Program. Of this amount, $52,000 (5 percent) will be retained for state administration costs. There is no state match requirement.

The CalEMA will collaborate with the California Student Aid Commission in distributing these funds. The Commission will also retain about 5 percent of the total federal award for its administrative costs. The department plans to award up to 188 applicants approximately $5,000 each, equally dividing the funds between eligible prosecutors and public defenders.

Staff Comments. It is typical for departments to retain between 5 and 10 percent of grant funding for administrative costs.

Staff Recommendation. Approve as budgeted.

CA Victim Compensation and Government Claims Board (1870)

Department Overview. The governing body of the California Victim Compensation and Government Claims Board (VCGCB) consists of three members: the Secretary of the State and Consumer Service Agency who serves as the chair, the State Controller, and a public member appointed by the Governor. The VCGCB provides responsive financial compensation to remedy the financial burdens of victims of crime through a stable Restitution Fund, and for those with claims against the State, an opportunity to resolve those claims or proceed with other remedies. The primary objectives of the VCGCB are to:

- Compensate victims of violent crime and eligible family members for certain crime-related financial losses.
- Review and act upon civil claims against the state for money or damages.
- Resolve bid protests with respect to the awarding of state contracts for the procurement of goods and services. Provide for reimbursement of counties' expenditures for special elections called for by the Governor to fill vacant seats in the Legislature and Congress.
- Determine the eligibility of individuals for compensation for pecuniary injury sustained through erroneous conviction and imprisonment.
- Process claims for the Missing Children Reward Program to assist local law enforcement agencies or other parties involved in the identification and recovery of missing children in California.
- Assist with the administration of the California State Employees Charitable Campaign.
- Process claims through the Good Samaritan Program to private citizens who are injured rescuing another person, preventing a crime, or assisting a law enforcement officer.

Budget Overview. The Board has a proposed budget of $155.2 million in 2011-12, an increase of about $3.9 million over the current year. The Restitution Fund makes up about three-quarters of the department's budget expenditure authority. The department has no General Fund. The Board is authorized for about 283 positions in the budget year.

Issue 1 – Restitution Fund Insolvency

Background. Victims of crime and their families are eligible to receive state funding for crime-related financial costs through the Restitution Fund. The Restitution Fund also funds other crime-related programs, including $15.2 million to support local anti-gang grants and the Internet Crimes Against Children Task Force administered by CalEMA, as well as the Witness Protection Program administered by the Department of Justice. The Restitution Fund also funds $11.6 million for 161.5 positions in 20 Joint Powers local claims processing units and $1.3 million for 44 restitution specialists in the offices of 25 district and city attorneys. These specialists – mostly paralegal and support staff – work with local officials to pursue the imposition of and promote the collection of restitution fines and orders. To encourage collection of restitution, the law provides a 10 percent rebate to counties.

Proposal. The Board proposes several changes designed to ensure the solvency of the Restitution Fund through 2011-12. In total, these changes would reduce Restitution Fund expenditures by $5,827,000 and increase Federal Trust Fund expenditures by $500,000. More specifically, the changes proposed by the Board are as follows:

- Reduce operating expenditures by $2.2 million in 2011-12 (and $3.5 million in 2010-11).
- Limit growth in Restitution Fund claim payments to 2.5 percent by reducing the rate of payment for mental health interns and a more stringent review of additional sessions authorized via an Additional Treatment Plan (ATP).
- Shift $500,000 in Restitution Fund claim payment expenditures to federal funds in the current and budget years.
- Reduce Joint Powers claims processing and restitution specialist contracts by 5 percent ($707,000).
- Reduce the baseline budget for the 10 percent county rebates by $2.4 million to more closely align with actual expenditures.

Staff Comments. The fiscal health of the Restitution Fund has oscillated over the years from periods that included high fund balances to periods of projected insolvency. According to the Board, the fund has periodically faced fiscal challenges because there is no direct association or control between the Restitution Fund revenues and program expenditures. So, for example, in 1993 the Legislature decided to provide the Fund with a $44 million loan from the General Fund. More recently, the Restitution Fund provided an $80 million transfer to the General Fund.

In recent years, the Restitution Fund has been heading for insolvency because its annual expenditures exceed its annual revenues. The table below shows the Fund's projected expenditures, revenues, and year-end balance assuming approval of this request.

Restitution Fund Condition
(In millions of dollars)

Fiscal Year	Beginning Balance	Revenues	Expenditures	Ending Balance
2009-10	$51.8	$117.3	$123.4	$45.8
2010-11	$45.8	$113.3	$131.7	$27.4
2011-12	$27.4	$112.3	$134.8	$4.9

As shown in the figure above, Restitution Fund revenues are declining, while expenditures are climbing. In 2011-12, the projected revenues are $22.5 million less than projected expenditures, even with the changes proposed in this request. This raises fundamental questions about the long-term health of the Restitution Fund.

Addressing the long-term solvency of the Restitution Fund involves two questions: (1) how can restitution revenues be increased, and (2) how can expenditures be decreased? It is unclear why restitution revenues are decreasing, though one possibility is that, given the state's economy, offenders are less able to pay fines and penalties and/or judges are ordering less. Another possibility is that due to state and local budget cuts, counties and courts have had to reduce their collection efforts.

According to the Board, the main driver of increased Restitution Fund costs are the number of claims filed. The following table shows the increase in applications received and allowed over the past three years.

Restitution Applications and Payments

Fiscal Year	Applications Received	Bills Received	Total Payments
2007-08	53,693	243,043	$81,209,610
2008-09	54,572	308,057	$94,027,080
2009-10	57,254	206,315	$96,575,800

It is also worth noting that in 2008, both the Legislative Analyst's Office and the Bureau of State Audits issued reports that, among other findings, identified what appeared to be excessive administrative costs in the department. The LAO found that in 2006-07, administrative costs equaled 31 percent of the total state and federal funding for the program, an amount significantly higher than several other states. Similarly, the BSA found that administrative costs ranged between 26 and 42 percent of Restitution Fund disbursements annually.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Even with this proposal to reduce some costs, the Board projects Restitution Fund expenditures to increase by a total of $3.1 million in 2011-12. Why?

- What are the operational changes being implemented to achieve the $2.2 million in 2011-12 (and $3.5 million in 2010-11)?
- What progress has the Board made in reducing administrative costs?
- Will the reduction in restitution specialists contracts reduce the amount of restitution revenues collected?
- What steps is the Board considering to ensure the long-term solvency of the Restitution Fund? More specifically, what viable options are available to (1) increase revenue, and (2) reduce costs?
- How does California compare to other states with respect to our ability to collect restitution from offenders?

Staff Recommendation. Deny without prejudice. Holding this issue over until this Spring will provide the subcommittee with more time to consider this request, as well as an opportunity to consider possible alternatives to address the longer-term fiscal insolvency of the Restitution Fund.

Judicial Branch (0250)

Departmental Overview. The California Constitution vests the state's judicial power in the Supreme Court, the Court of Appeals, and the trial courts. The Supreme Court, the six Courts of Appeal, and the Judicial Council of California, which is the administrative body of the judicial system, are entirely state supported. Chapter 850, Statutes of 1997 (AB 233, Escutia and Pringle), shifted fiscal responsibility for the trial courts from the counties to the state. California has 58 trial courts, one in each county. The Trial Court Funding program provides state funds (above a fixed county share) for support of the trial courts.

The Judicial Branch consists of two components: (1) the judiciary program (the Supreme Court, Courts of Appeal, Judicial Council, and the Habeas Corpus Resource Center), and (2) the Trial Court Funding program, which funds local superior courts. The 2005-06 Budget Act merged funding for the judiciary and Trial Court Funding programs under a single "Judicial Branch" budget item. It also shifted local assistance funding for a variety of programs, and the Equal Access Fund from the Judicial Council budget to the Trial Court Funding budget.

Budget Overview. The Governor's budget provides a total of $2.8 billion (includes net reduction from $860 million offset from the Governor's proposed redevelopment agency shift) in 2011-12. Historically, the General Fund has provided about half of the total funding for the Judicial Branch.

The Branch is authorized for 2,039 state positions, primarily for the Courts of Appeal and Judicial Council. This figure does not include trial court employees throughout the state.

In addition to the proposals described below, the administration proposes to use $860 million in funds that historically would have gone to redevelopment agencies to offset trial court General Fund costs in 2011-12.

Issue 1 – $200 Million Unallocated Reduction

Proposal. The Governor's budget includes an ongoing $200 million unallocated reduction in General Fund support of the Judicial Branch.

Staff Comments. The Governor's budget does not specify how the courts will be expected to achieve this unallocated reduction, but the administration indicates that it intends to work with stakeholders to identify ways to implement the reduction in a manner that is least harmful to the courts and preserves service levels provided to the public. In previous years when unallocated reductions were included in the Branch's budget, the Branch was able to utilize balances in its special funds and trial court reserves to offset at least part of the budget reductions allocated to the Branch. The table below shows the projected balances for select special funds and trial court reserves at the end of the budget year. It should be noted that some amount of the trial court reserves are already designated for specific purposes and may not all be available for other purposes.

2011-12 Year-End Special Fund Balances
(In millions of dollars)

Fund	Projected Fund Balance or Reserves
Trial Court Reserves – Non-TCTF*	$293.2
Trial Court Reserves – TCTF*	$205.6
Immediate and Critical Needs Account	$186.8
Trial Court Trust Fund	$15.2
Trial Court Improvement Fund	$3.6

** Data for year-end 2009-10.*
TCTF: Trial Court Trust Fund

The LAO has issued a report recommending a combination of seven changes for the Legislature to consider in implementing reductions to the judicial branch. In total, the LAO's recommended changes would result in $356 million in savings in the budget year. While some of the recommended budget solutions are one-time in nature, others would increase in out-years, resulting in about $300 million in ongoing savings when fully implemented. The LAO recommended options are listed below.

LAO Recommendations for Cost Savings in Judicial Branch

(In Millions)

Recommendation	2011-12	2012-13	Full Implementation
Implement electronic court reporting	$13	$34	$113
Ensure courts charge for civil court reporters	23	21	12
Implement competitive bidding for court security	20	40	100
Reduce trial court funding based on workload analysis	35	45	60
Contract out interpreting services	15	15	15
Reduce funding to account for trial court reserves	150	—	—
Transfer from Immediate and Critical Needs Account	100	50	—
Totals	**$356**	**$205**	**$300**

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Is utilization of special fund or trial court reserves the best option for absorbing the proposed unallocated reduction? How would this impact operation of the courts?
- What other options does the Judicial Branch have to absorb the proposed unallocated reduction?
- How would implementation of the LAO's recommendations affect operation of the courts?

Staff Recommendations. Hold open. The Judicial Branch, administration, Legislature, and stakeholders need to continue discussions to determine how this level of reduction could be accomplished and how it would impact operation of the court system.

Issue 2 – Construction Fund Loan

Background. The State Court Facilities Construction Fund was created to deposit state court construction penalty assessments, surcharges on parking offenses, and filing fee surcharges on civil actions to pay to acquire, rehabilitate, construct, and finance court facilities.

Proposal. The Governor's budget includes a one-time loan of $350 million to the General Fund from the State Court Facilities Construction Fund. The loan is to be repaid, without interest, within three years.

Staff Comments. The Fund has a projected balance of $342 million at the end of the current year and is projected to have a year-end balance of $62 million in the budget year even with the proposed loan. The fund balance is projected to remain positive until the $350 million is repaid. Accordingly, it appears that the fund has a healthy enough balance to sustain this borrowing proposal.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Will the proposed loan affect the construction of any currently planned projects?

Staff Recommendation. Approve as budgeted.

Issue 3 – Conservatorship Program Repeal

Background. The Conservatorship and Guardianship Reform Act of 2006 (AB 1363, Jones) was designed to increase court oversight of the conservatorship and guardianship system. Among other change, the Act requires Judicial Council to develop qualifications and continuing education requirements for probate court judges, attorneys, and court investigators and to establish uniform standards for conservatorships and guardians. It also requires the probate court to review conservatorships at a noticed hearing six months after appointment of the conservator and annually thereafter. Due to budget constraints, the state budget has delayed funding this program on a one-year basis each year since the Act was passed.

Proposal. The Governor's budget assumes a permanent decrease of $17.4 million to reflect the elimination of statutory requirements to implement the Act. The proposed change would relieve the courts of the mandated responsibilities under the Act, but would still allow for individual courts who have been implementing parts of the Act to continue to do so. The Legislature has not yet received the administration's proposed trailer bill language.

Staff Comments. Given the state's General Fund condition, it would not be prudent to begin funding a new program such as the Conservatorship and Guardianship Act in the coming fiscal year. A question for the Legislature is whether to actually repeal the requirements of the Act or simply delay its funding, as has been the approach adopted in past years.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Should the Act be repealed, the activities made discretionary rather than required, or the funding simply delayed for another year?
- Under the Governor's proposal to repeal the Act, to what extent would trial courts continue to conduct any of the activities authorized by the Act?

Staff Recommendations. Hold open pending receipt and review of the administration's trailer bill language.

Issue 4 – Civil Representation Budget Bill Language

Background. In 2009, the Legislature enacted AB 590 (Feuer, Chapter 457) which, among another changes, requires the Judicial Council to develop one or more model pilot projects to provide legal counsel to low-income parties in certain civil matters. The bill also increased by $10 fees for certain court services, such as issuing an abstract of judgment and registering a license or certificate.

Proposal. The administration proposes Budget Bill Language to support implementation of the Civil Representation Pilot Program. The language will provide for increased expenditure authority in the Trial Court Trust Fund for full expenditure of any revenues collected for this program, consistent with the requirements of AB 590. The language also allows $500,000 to be retained for administrative activities by the Administrative Office of the Courts.

Staff Comments. According to the AOC, fee revenues are expected to be about $10.2 million. The proposed language would allow the Branch the flexibility to spend more on the program if a higher level of revenue were to materialize. The amount of funding designated for administration – about 5 percent - seems reasonable. The Branch reports that the administrative activities will include project oversight, technical assistance, and preparation of legislatively required reports.

The committee may wish to use this opportunity to ask the Judicial Branch about its progress implementing the pilot program.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- What pilot sites have been chosen? How close are those courts to implementing this program?
- What services will be provided under this program? How many low-income clients are expected to receive these services?

Staff Recommendations. Approve as budgeted.

Issue 5 – CFTF Appropriation Adjustment

Background. The Trial Court Facilities Act (Chapter 1082, Statutes of 2002) transferred responsibility for operation and maintenance of court facilities to the state. The Act established a process by which counties provide funding for facilities operation and maintenance costs based on historic funding patterns through a county facility payment (CFP) to the state.

Proposal. The Judicial Branch requests an adjustment to the Court Facilities Trust Fund of $8,205,000, which includes $3,210,000 in reimbursement authority for the amount of additional funding coming from counties. The proposed increase in funding authority supports ongoing operations and maintenance of court facilities transferred to state responsibility.

Staff Comments. This is a standard adjustment made as court facilities are transferred to the state and new courts are constructed to replace old facilities.

Staff Recommendation. Approve as budgeted

Issue 6 – Court Appointed Counsel Budget Bill Language

Background. California has a constitutional mandate to provide adequate legal services to indigents in criminal and juvenile matters before the Courts of Appeal. Private attorneys are appointed by the courts of appeal to provide representation to these appellants. Statewide, the attorneys are selected, trained, and mentored by five non-profit appellate projects that contract with the Courts of Appeal to oversee the attorneys' work on each individual case and ensure competency, efficiency, and cost-effectiveness.

Proposal. The Judicial Branch requests Budget Bill Language authorizing the Branch to submit a deficiency request to address a shortfall in the Courts of Appeal Court Appointed Counsel Program should one occur in 2011-12. The language also specifies that the Branch is authorized to accrue current year claims when the appropriated funding is insufficient.

Staff Comments. This program has had funding shortfalls in each of the past three years, ranging from $3.8 million to $7.5 million. The following table shows the shortfall over each of the past few years.

Court-Appointed Counsel Shortfalls
(In millions of dollars – General Fund)

Fiscal Year	Expenditures	Budget Authority	Savings/(Shortfall)
2006-07	$52.4	$52.7	$0.2
2007-08	$60.9	$57.1	($3.8)
2008-09	$67.0	$58.8	($7.5)
2009-10	$63.8	$58.8	($5.0)

According to data provided by the Judicial Branch, it appears that total project costs have risen in recent years primarily due to increases in the number of appointments and hourly rates paid. However, costs did decrease in 2009-10.

While the Branch is currently projecting a shortfall in 2011-12, the decrease in project costs in 2009-10 suggests the possibility that the trend may be reversing, raising uncertainty about whether a budget year deficiency is to be expected. This uncertainty is particularly true considering that, at the time the Branch's request was prepared, it only had one month of actual data for the current year. Therefore, it may be worth waiting a few more months during the current year to see actual current year cost trends for this program.

Additionally, staff notes the requested language may set unusual precedents. Specifically, departments are expected to either request additional funding or identify ways to absorb new costs when they foresee increased costs in the budget year. Asking for language to allow the Branch to incur a deficiency is, therefore, unusual.

Also, it is unclear why the Branch would seek to accrue current year claims to be paid in the following budget year. Standard budgeting practice is for claims to be charged to the fiscal year in which they were incurred.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- In anticipating a budget year shortfall in this program, what steps has the Branch considered to either reduce or otherwise absorb program costs so as not to incur a deficiency?
- Why is the Branch not proposing an increase in base funding if it anticipates a funding shortfall in the budget year?
- Why is the Branch requesting language that would allow it to accrue current year claims? Won't this simply push the problem to the next year?

Staff Recommendations. Deny without prejudice in order to see how current-year program costs trend. Request the Judicial Branch examine possible ways to reduce or otherwise absorb program costs within its existing budget.

Issue 7 – Capital Outlay Requests

Background. The Immediate and Critical Needs Account (ICNA) was established under current law for the purpose of constructing additional courthouses throughout the state. The revenue from these funds comes primarily from increased fines and court fees.

Proposals. The Governor's budget includes funding for working drawings and/or construction of 17 new courthouses and 2 courthouse renovation projects. These projects are lease-revenue bond funded projects with lease-revenue payments coming from the ICNA. The table below identifies information about each of these 19 projects.

Courthouse Construction Projects
(Dollars in millions)

Project	**Phase***	**Requested Amount**	**Total Project Cost Estimate**
New Delano (Kern)	W	$2.533	$41.425
New Los Banos (Merced)	W	$1.974	$32.208
New Hanford (Kings)	W	$8.342	$136.460
New Yreka (Siskiyou)	W	$5.861	$95.370
Renovate Fresno (Fresno)	W	$6.142	$113.348
Renovate Juvenile Justice Center (San Joaquin)	W, C	$3.633	$3.877
New Sonora (Tuolumne)	W	$4.268	$69.236
New San Diego Central (San Diego	W	$32.367	$642.596
New Family Justice Center (Santa Clara)	W	$14.637	$241.950
New Sacramento Criminal (Sacramento)	W	$22.924	$437.519
New El Centro (Imperial)	W	$3.496	$59.484
New Red Bluff (Tehama)	W	$3.982	$72.313
New Lakeport (Lake)	W	$3.646	$55.967
New Redding (Shasta)	W	$9.055	$170.598
New Indio Juvenile and Family (Riverside)	W	$3.789	$65.682
New Yuba City (Sutter)	W	$4.693	$73.906
New South Monterey (Monterey)	W	$2.985	$49.061
New Woodland (Yolo)	W	$9.639	$167.374
New North Butte (Butte)	W	$4.358	$76.947

** W = Working drawings; C = Construction*

Staff Comments. Earlier phases of each of these projects have all been approved by the Legislature in past years in recognition of the benefits of constructing new courthouses to address capacity, programmatic, and facility safety issues.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- What is the current status of site acquisition and preliminary planning for these projects?
- What is the long-term projected fund balance for the ICNA?

Staff Recommendations. Hold open. Staff raises no technical concerns with proposals, but recommends holding proposals open in light of statewide budget problem and pending further budget deliberations.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

Thursday, January 27, 2011
10:00 a.m. (or upon adjournment)
Room 113

Consultant: Brian Brown

OUTCOMES

Item Number and Title **Page**

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

California Gambling Control Commission (0855)

Issue 1 – Gambling Control Licenses

Denied. 3-0

Issue 2 – Remote Caller Bingo

Denied without prejudice. 3-0

California Emergency Management Agency (0690)

Issue 1 – Federal Justice Assistance Grant

Approved as budgeted. 3-0

Issue 2 – John R. Justice Grant

Approved as budgeted. 3-0

CA Victim Compensation and Government Claims Board (1870)

Issue 1 – Restitution Fund Insolvency

Hold open.

Judicial Branch (0250)

Issue 1 – $200 Million Unallocated Reduction

Hold open.

Issue 2 – Construction Fund Loan

Approved as budgeted. 2-1 (Hancock, Wolk – Yes; Anderson - No)

Issue 3 – Conservatorship Program Repeal

Hold open.

Issue 4 – Civil Representation Budget Bill Language

Approved as budgeted. 2-1 (Hancock, Wolk – Yes; Anderson – No)

Issue 5 – CFTF Appropriation Adjustment

Approved as budgeted 3-0

Issue 6 – Court Appointed Counsel Budget Bill Language

Denied without prejudice. 3-0

Issue 7 – Capital Outlay Requests

Hold open.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

Tuesday, February 1, 2011
1:30 p.m.
Room 113

Consultant: Kris Kuzmich

Item Number/Title

7100	Employment Development Department
7350	Department of Industrial Relations
CS 3.90	Employee Compensation

(See Table of Contents on page 2 for a More Specific Listing of Issues)

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AGENDA – DISCUSSION / VOTE ITEMS

Employee Compensation (Control Section 3.90)

Background. Currently the state employs about 358,000 employees at a salary cost of approximately $23.6 billion (all funds). This total includes the Executive Branch, Judicial Branch, UC and CSU, and elected members of the Legislature; this total does not include legislative staff. About two-thirds of these employees work in the Executive Branch, with the employees of the California Department of Corrections and Rehabilitation accounting for approximately 30 percent of those employees in the Executive Branch. About 83 percent of Executive Branch employees are represented by one of the state's 21 bargaining units. Most of the remaining 17 percent of the Executive Branch workforce are managers, supervisors, and Governor appointees. Executive Branch employee compensation accounts for about 12 percent of projected GF expenditures in 2011-12, including $7 billion in salaries and $3.4 billion in benefits. The employees of the California Department of Corrections and Rehabilitation represent roughly two-thirds of all GF salary costs.

Issue Proposed for Discussion Only

Issue 1 – Bargaining Units with Expired Contracts; Salary Reductions

Governor's Budget Request. The January budget reflects savings of $308.4 million GF ($207 million other funds), representing a ten percent reduction for employees represented by the six bargaining units that do not currently have contracts with the state. These savings will be achieved through collective bargaining or other administrative actions and are intended to be commensurate with savings achieved in the 2010 ratified agreements.

Background. The six bargaining units currently not under contract represent roughly 25 percent of the Executive Branch employees and include the following: Attorneys (CASE); Correctional Peace Officers (CCPOA); Protective Services and Public Safety (CSLEA); Professional Engineers (PECG); Professional Scientific (CAPS); and Stationary Engineers (IUOE). These bargaining units remain on a 3-day-per-month furlough through June 30, 2011.

The labor agreements reached in 2010, covering 15 of the state's 21 bargaining units, contained compensation concessions ranging in a reduction to take-home pay between eight and ten percent for most of the state workforce.

LAO Comment. The MOUs negotiated in 2010 achieved eight to ten percent savings in employee compensation. Unless the contracts with the remaining six bargaining units achieve savings at the top end of this spectrum, the state will not realize the saving anticipated in the budget. If the contracts provide eight percent savings, for example, over $60 million in assumed GF savings ($40 million other funds) would not be realized.

The LAO proposes the following alternatives for the Legislature's consideration in 2011-12:

- *Enhance Savings Through Collective Bargaining and Administrative Actions*. The Legislature could increase the level of proposed savings associated with employees with expired contracts. For example, approving MOUs or authorizing administrative actions that continue the current level of savings associated with these employees could reduce GF costs by over $100 million in 2011-12.

- *Authorize Furloughs at End of Personal Leave Program (PLP)*. The Legislature could authorize administrative actions that impose a one-day per month furlough at the conclusion of the 12-month PLP for employees represented by Bargaining Units 1, 3, 4, 11, 12, 14, 15, 16, 17, 20, and 21, and for employees not represented by a union. This option is not authorized under MOUs for the other bargaining units currently under contract. This solution could save the state $147 million GF ($175 million other funds) in 2011-12.

- *Reduce Employee Salary*. Reducing employee salary offers the greatest legislative flexibility. Collective bargaining is largely a process of quid pro quo, and right now the state has little or nothing to give employees. Under the Ralph C. Dills Act, the Legislature has reserved the right for itself its constitutional powers to appropriate funds and, therefore, the right to set salary levels for represented employees at the level it desires.

Committee Questions. Based on the above information, the Committee may wish the Administration to provide responses to the following questions:

1. What is the status of negotiations with the six bargaining units that are without contracts?
2. What is the Administration's timeframe for these negotiations? When can the Legislature expect to see MOU bills that reflect the ten percent savings?

Staff Recommendation: None; information item only.

Issue Proposed for Discussion / Vote

Issue 2 – Proposed Trailer Bill Language; Core Health Care Plan Option

Governor's Budget Request. The January budget reflects savings of $72 million GF ($36 million other funds) from the: (1) addition of a core health care plan option to the current health benefit plan options to provide fundamental coverage at a lower premium to benefit both the employee and the state; and (2) identification of additional efficiencies.

Background. State employer health and dental care benefit costs in 2010-11 for active employees and retirees total approximately $3.6 billion ($2.4 billion GF). To reduce the escalating cost of state employee and retiree health care, the Administration proposes the addition of a core health plan to the current benefit plan options for savings of $72 million GF from the projected increase in the 2012 calendar year health rates. Through proposed budget trailer bill language, the Administration proposes that the California Public Employees' Retirement System (CalPERS) be directed to: (1) negotiate and add a core health plan option to the existing portfolio of health plans; and (2) include a state representative in the health contract negotiations for the purpose of shaping the core health plan option and identifying and advocating for more economical options within existing plans.

LAO Comment. The state's contribution to employee health care is based on the average cost of the four health plans with the most enrolled state employees. Beginning in the 2012 calendar year, the Administration proposes adding a new health plan that provides somewhat less coverage at a lower premium. The 2011-12 budget assumes that this plan will attract enough employees so that the state will realize the savings noted above. A plan that is less expensive than the current health plans will likely have less coverage. Because the state workforce is aging, the LAO is cautious in assuming that many employees would be attracted to a plan with fewer benefits.

Staff Comment. Generally speaking, establishing an additional choice, including one that provides fundamental coverage at a lower premium, is a reasonable proposal from a policy perspective. This proposal is also different in its approach when compared to the proposals of the prior Administration. The prior Administration sought to contract for lower-cost health care coverage either directly from an insurer or through CalPERS. The current Administration instead proposes to direct CalPERS to add the low cost option to its current plan offerings. The Administration also indicates that approximately 20 percent of active state employees do not utilize the health care coverage offered through their employer.

Committee Questions. Based on the above information, the Committee may wish to ask the Administration to provide responses to the following questions:

1. How will the Administration attract employees to the new plan? Will some portion of the premium savings flow to employees to encourage enrollment?
2. If established, should the new core health care plan option be approved on a trial basis to allow its impacts to be ascertained before making the option permanent?
3. Does the Administration have a concern that dividing the pools could potentially make the richer benefit plans "sicker;" i.e., if younger/healthier active employees are attracted to the lower-cost plan, what would the effect be on the pools of the other plans?
4. How does this proposal intersect with federal health care reform and the requirements therein which mandate an "essential benefit design?"
5. The $72 million in savings is from the: (a) addition of a core health care plan option and (b) identification of "additional efficiencies." What are the "additional efficiencies" that the Administration is referencing here?
6. The proposed trailer bill would include a state representative in CalPERS' health contract negotiations. Health negotiations are and must be confidential. Is the Administration proposing to insulate the state representative from Open Records Act requests?

Staff Recommendation: Approve placeholder trailer bill language as described in the background section above.

Vote:

Employment Development Department (7100)

Department and Budget Overview. The Employment Development Department (EDD) administers services to employers, employees, and job seekers. The EDD pays benefits to eligible workers who become unemployed or disabled, collects payroll taxes, administers the Paid Family Leave Program, and assists job seekers by providing employment and training programs under the federal Workforce Investment Act of 1998. In addition, the EDD collects and provides comprehensive labor market information concerning California's workforce.

	2009-10 (actual)	2010-11 (estimated)	2011-12 (proposed)
Expenditures	$30,883,630,000	$23,471,859,000	$25,963,988,000
General Fund	$24,983,000	$33,107,000	$403,826,000
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Issues Proposed for Discussion / Vote

Issue 1 – Automated Collection Enhancement System (ACES)

Governor's Budget Request. The Governor requests $21.9 million ($19.5 million GF and various special funds) and 49.3 positions to fund year six of the Automated Collection Enhancement System (ACES), an information technology project intended to improve EDD's ability to track, collect, and audit the payment of employer payroll taxes, including UI and personal income taxes. This request also includes a reduction of 18 baseline positions for support of the ongoing Tax Accounting System (TAS) that will no longer be needed post implementation of ACES.

2010-11 Budget. The 2010-11 Budget included a one-time augmentation of $31.4 million (GF and Unemployment Insurance Fund) and 65 positions for the ACES project.

Background. EDD's Tax Branch is a major revenue collection organization for the state, receiving and processing approximately $50 billion annually from over 1.2 million registered California employers. In 1986, TAS was implemented to provide an accounting system to handle employer contributions and employee withholdings for California's payroll taxes. However, TAS is an antiquated system, written in Common Business-Oriented Language (COBOL), with significant functional limitations which, twenty-five years later, place the state at risk for system failure.

In the 2006 budget, the Legislature approved and started funding the ACES project. The ACES project is modeled after the systems currently used by the Franchise Tax

Board and Board of Equalization. ACES is a new collection system that will increase the effectiveness of the EDD tax collection operations. ACES will also collect penalties and back-wages that are due to the Department of Industrial Relations (currently collected by the Franchise Tax Board). ACES began implementation on January 18, 2011.

The ACES project is a benefits-based procurement, whereby the additional revenue generated by the project will offset all project costs thereby minimizing risk for the state. The ACES solution is expected to increase GF revenue by $27 million in 2011-12 by improving collection capabilities for delinquent accounts. The majority of the 2011-12 costs is a one-time augmentation of $18.7 million for the estimated Prime Solution Provider payment if sufficient revenue is collected with the new system.

Staff Comment. The ACES project is on-time and on-budget. Project roll-out and implementation began as scheduled on January 18, 2011. At a future time, i.e., when the ACES system is fully operational, clean-up trailer bill language will need to be adopted to remove from statute the Franchise Tax Board's authority to collect delinquent accounts for the Department of Industrial Relations.

Staff Recommendation: Approve the budget request.

Vote:

Issue 2 – Disability Insurance Automation (DIA) Project

Governor's Budget Request. The Governor requests a one-time augmentation of $38.9 million (Disability Insurance Fund) to fund 16.1 new positions and 47 existing positions for the DIA Project. The resources will be used to continue the design, development, and implementation phase of the DIA project.

2010-11 Budget. The 2010-11 budget included a one-time augmentation of $34.047 million (Disability Insurance Fund) and 47 positions to continue the development of the DIA project, including year two of Systems Integration vendor activities to continue the design, development, and implementation phase of the project.

Background. Initially funded in the 2006 Budget, the DIA project will provide greater access to services for claimants, medical providers, and employers by allowing these individuals to use the Internet to submit claims data using a direct electronic interface or through web-based intelligent forms. This will simplify and automate the numerous manual work processes involved when a Disability Insurance claim is filed with EDD. Further, scanning/optical character recognition will be implemented to convert remaining paper claims to electronic format. Automated business logic will allow "in pattern" claims to be paid automatically, further increasing service delivery.

Staff Recommendation: Approve the budget request.

Vote:

Issue 3 – Unemployment Insurance Loan Interest

Governor's Budget Request. The Governor requests an increase of $362.3 million GF to make the first interest payment due to the federal government for the quarterly loans the EDD has been obtaining from the federal government since January 2009 to cover the Unemployment Insurance (UI) fund deficit. The Governor proposes that this expenditure be offset by a transfer from the Disability Insurance (DI) Fund to the GF, resulting in no net GF cost in 2011-12. Proposed budget provisional language requires that the loan from the DI Fund to the GF be repaid by the GF with interest over the next four years.

Background. California's UI fund was depleted on January 26, 2009, and at that time the EDD began borrowing funds from the Federal Unemployment Account in order to continue paying UI benefits to qualifying unemployment claimants. The UI fund deficit was $10.3 billion at the end of 2010 and is expected to increase to $13.4 billion at the end of 2011. The federal loans have permitted California to make payments to UI claimants without interruption. Generally, loans lasting more than one year require interest payments; the federal American Recovery and Reinvestment Act (ARRA) of 2009 provided temporary relief to states from making interest payments on UI loans through December 31, 2010. With the expiration of the ARRA provisions, the first interest payment to the federal government is due in September 2011 with growing interest obligations in the out years. Federal law requires that the interest payment come from state funds; i.e., the payment cannot be paid by the Unemployment Fund or by a state's UI administrative grant.

Federal law includes provisions to ensure that a state does not continue to incur loans over an extended period. Specifically, if a state has an outstanding loan balance on January 1 for two consecutive years, the full amount of the loan must be repaid before November of the second year or employers face higher federal UI taxes. Due to California carrying an outstanding loan balance for two consecutive years, the federal unemployment tax credit will decrease from 5.4 percent to 5.1 percent on January 1, 2012. This will result in employers paying a federal tax rate of 1.1 percent in calendar year 2012. This translates to an increase of $21 per employee per year; the aggregate increase in employer costs in 2012 is $325 million.

The DI program is a component of State Disability Insurance (SDI) and provides benefits to workers who are unable to work due to pregnancy or a non-work related illness or injury. The SDI program taxes covered employees up to a statutory ceiling, which is projected to increase to $93,316 in 2011. The statutory formula for calculating the SDI contribution rate helps to maintain an adequate DI Fund balance. While contributions account for the majority of total receipts to the DI Fund, interest earnings and other receipts are also included in the DI Fund balance.

Staff Comment. The DI Fund is projected to have a fund balance of $1.6 billion at the end of 2011. The Administration proposes this fund source to pay the federal interest due, as opposed to the EDD Contingent Fund or the EDD Benefit Audit Fund, because those funds do not have sufficient balances to pay off the interest due for the outstanding loan balance (together, the 2011-12 projected fund balance for these two funds excluding scheduled transfers to the GF is $63.3 million).

This request is accompanied by proposed budget provisional language to: (1) authorize the Department of Finance to increase/decrease the actual amount paid/borrowed from the DI fund based on a more precise calculation of the interest due; and (2) specify that the annual contribution rates for the DI fund shall not increase as the result of any loan made to the GF (in calculating the annual disability insurance tax rate each year, the EDD shall treat outstanding DI loans as available cash in the DI Fund). This latter provision is key to preventing any potential increase in employee paid DI taxes as a result of the loan from the DI Fund to the GF.

Finally, staff notes that the out year GF implications of not addressing the insolvency of the UI Fund are significant. The estimated September 12, 2012, interest liability is $592.8 million. This figure does not include the roughly $90.6 million that the GF will be required to pay out to the DI fund over the next four fiscal years as payment for the 2011-12 loan. The Governor’s January budget did not include a proposal to address the underlying insolvency of the UI fund.

Staff Recommendation: Approve the budget request.

Vote:

Issue 4 – Federal Extended Unemployment Benefits; Statutory Changes for "Three-year Look-Back"

Background. Federal extended unemployment benefits (FedEd) is a federally-funded emergency benefits program for high unemployment states, including California. The extended benefits are designed to provide further income support to eligible unemployed workers who have been out of work for a long period of time. The chart below illustrates the maximum weeks available under each level of unemployment benefits. Generally speaking, when combined with the 26 weeks of initial state unemployment benefits and the four tiers of extended benefits totaling 53 weeks, FedEd allows eligible claimants to receive up to an additional 20 weeks of benefits, for a maximum of up to 99 weeks of unemployment benefits.

Unemployment Benefit Extensions

Benefit Period	**Weeks of Benefits**
Initial Benefits	26 weeks
Tier 1	Up to 20 weeks
Tier 2	Up to 14 weeks
Tier 3	Up to 13 weeks
Tier 4	Up to 6 weeks
FedEd	Up to 20 weeks
Maximum	**Up to 99 weeks**

Current federal law establishes "on" or "off" indicators to determine when FedEd benefits begin and end in a state. To ensure that FedEd is only payable during periods of high and rising unemployment, both the mandatory indicator based on the insured unemployment rate and the optional indicator based on the total unemployment rate include look-back requirements. Prior to December 2010, the look-back compares current unemployment rates to rates in the previous two years. However, in December 2010, Congress adopted legislation that permits states to amend their laws to temporarily modify the provisions dictating FedEd "on" and "off" indicators. Specifically, and through the end of 2011, the federal government is allowing states to make determinations of whether there is a FedEd "on" or "off" indicator by comparing current unemployment rates to the unemployment rates for the corresponding period in the three preceding years. This modification will enable many states, including California, to remain on FedEd longer.

Unless the three-year look-back modification is authorized, it is estimated that California will trigger off FedEd in Spring 2011. The impact of such a trigger off on UI claimants would be significant. The EDD estimates that between 263,000 and 500,000 claimants would potentially be impacted with a loss of their FedEd benefits. This figure does not include the claimants currently collecting regular California UI benefits who could be potentially eligible to file a FedEd extension if California's trigger remained "on" through the end of 2011. A rough estimate of the benefit to unemployed Californians of adopting the three-year look-back, ensuring the provision of federally funded extended UI benefits, totals between $1.0 billion to $2.6 billion. The range is large because UI claimants could be anywhere within the benefit tiers and therefore does not clearly equate to 20 additional weeks of benefits.

Staff Comment. In adopting the three-year look-back modification, the federal government acknowledged that while many states' unemployment rates are no longer increasing, the unemployment rate is also not decreasing markedly. By allowing a three-year look-back, an additional cushion is being provided for UI claimants and for states experiencing sustained levels of high unemployment.

Staff also notes that should the three-year look-back modification not be adopted prior to California triggering off FedEd under current law, and then subsequent action was taken to adopt the three-year look-back and trigger back on, EDD's administration of the UI program would be impacted negatively as resources would have to be redirected internally to ensure the timely provision of UI benefits. Staff expects that this redirection could negatively impact several high priority information technology projects at EDD by causing delays due to loss of staffing resources being redirected to the programming changes necessary to trigger off and then trigger back on.

Staff Recommendation: Approve trailer bill language to adopt the three-year look-back statutory changes related to determination of state eligibility for FedEd extended unemployment benefits.

Vote:

Issue 5 – Workforce Investment Act (WIA) Adjustments

Governor's Request. The Governor's January Budget proposes several adjustments to the Workforce Investment Act (WIA) Program (federal funds), including a decrease of $625,000 in Special Grants and $847,000 in WIA Administration and Program Services.

Background. The goal of WIA is to strengthen coordination among various employment, education, and training programs. Under federal law, generally 85 percent of the state's total WIA funds are allocated to local Workforce Investment Boards (WIBs) and the remaining 15 percent of WIA funds ($69.1 million in 2010-11) is available for state discretionary purposes such as administration, statewide initiatives, and competitive grants for employment and training programs. Federal law also states that all WIA funds "shall be subject to appropriation by the state Legislature."

With regard to the Governor's January Budget, the reduction in Special Grant funding is a result of the fact that these funds were one-time in 2010-11, so it is typical to see a lower amount in 2011-12 (as compared to 2010-11). The reduction in WIA Administration and Program Services is a result of the 2010-11 workforce cap that reduced personnel expenses across all departments by five percent.

Staff Comment. Historically, WIA state discretionary expenditures and adjustments are considered post-May Revision. Further, these expenditures depend on gubernatorial and legislative priorities. Therefore, the LAO has consistently recommended that the Legislature review and potentially modify the Administration's WIA 15 Percent State Discretionary plan to meet legislative priorities.

Given the accelerated budget adoption process this year, a review of the Administration's plan is not possible at the time of this hearing because the plan is not yet finalized. Therefore, to preserve the Legislature's prerogative, the Subcommittee may wish to approve and accept the WIA Program Adjustments contained in the 2011-12 budget but withhold approval and authorization of the Governor's proposed expenditure and distribution of 15 Percent funds until the Spring 2011 budget process.

Staff Recommendation. Approve and accept the 2011-12 WIA Program Adjustments but deny without prejudice approval and authorization of the Governor's proposed expenditures and distribution of 15 Percent funds and consider the 15 Percent funds proposed expenditure and distribution during the Spring 2011 budget process.

Vote:

Department of Industrial Relations (7350)

Department and Budget Overview. The objective of the Department of Industrial Relations (DIR) is to protect the workforce in California; improve working conditions; and advance opportunities for profitable employment. The DIR enforces workers' compensation insurance laws and adjudicates workers' compensation insurance claims; works to prevent industrial injuries and deaths; promulgates and enforces laws relating to wages, hours, and conditions of employment; promotes apprenticeship and other on-the-job training; assists in negotiations with parties in dispute when a work stoppage is threatened; and analyzes and disseminates statistics which measure the condition of labor in the state.

	2009-10 (actual)	2010-11 (estimated)	2011-12 (proposed)
Expenditures	$358,567,000	$393,185,000	$418,131,000
General Fund	$24,077,000	$4,664,000	$4,811,000
Personnel Years	2,588.8	2,656.7	2,725.1

Issue Proposed for Discussion / Vote

Issue 1 – Reimbursement for Ancillary Mediation Services

Governor's Budget Request. The Governor requests to extend a limited-term position through June 30, 2013, utilizing existing reimbursement authority to fund the $75,000 cost of this position, for the State Mediation and Conciliation Service (SMCS).

Background. The SMCS was established in 1947, beginning as a service to help employers and unions in the private sector avoid strikes and other disruptions to commerce through the use of neutral mediators. In the 1970s, the law was changed to have SMCS take on the responsibility of mediating labor disputes in the schools, community colleges, public higher education, local government, state government, transit, and (in recent years) the trial courts. The Federal Mediation and Conciliation Service took over most of the private sector mediation work.

While the core of SMCS' public interest mission, to provide dispute resolution mediation services to labor and management parties, remains free to the parties, in 2009 statute was changed to authorize SMCS to charge fees for certain services. Further, in the 2009-10 budget, SMCS was granted two limited-term positions for two years based on the inauguration of SMCS' reimbursed services program. Regulations adopted in June 2010 established the fee structure; fees are now charged in three limited areas: (1) election services; (2) training and facilitation services; and, (3) arbitration services. Because of lag time in developing and then finalizing the regulations, the Department indicates that it needs more time to determine the degree to which the following revenue projections can actually be achieved and sustained: (1) $166,000 for election services; (2) $47,000 for training and facilitation services; and, (3) $62,000 for arbitration services.

Staff Comment. Extending the term of one position for another two years will allow the Department time to evaluate the demand for service and sustainability of the revenue stream. Staff notes that this request is for only one of the two limited-term positions approved in 2009-10; the other position will expire as scheduled on June 30, 2011.

Staff Recommendation: Approve the budget request.

Vote:

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

Tuesday, February 1, 2011
1:30 p.m.
Room 113

Consultant: Kris Kuzmich

OUTCOMES

Item Number/Title

7100	Employment Development Department
7350	Department of Industrial Relations
CS 3.90	Employee Compensation

(See Table of Contents on page 2 for a More Specific Listing of Issues)

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2. What is the Administration's timeframe for these negotiations? When can the Legislature expect to see MOU bills that reflect the ten percent savings?

Staff Recommendation: None; information item only.

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Vote: Issue held open.

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Governor's Budget Request. The Governor requests $21.9 million ($19.5 million GF and various special funds) and 49.3 positions to fund year six of the Automated Collection Enhancement System (ACES), an information technology project intended to improve EDD's ability to track, collect, and audit the payment of employer payroll taxes, including UI and personal income taxes. This request also includes a reduction of 18 baseline positions for support of the ongoing Tax Accounting System (TAS) that will no longer be needed post implementation of ACES.

2010-11 Budget. The 2010-11 Budget included a one-time augmentation of $31.4 million (GF and Unemployment Insurance Fund) and 65 positions for the ACES project.

Background. EDD's Tax Branch is a major revenue collection organization for the state, receiving and processing approximately $50 billion annually from over 1.2 million registered California employers. In 1986, TAS was implemented to provide an accounting system to handle employer contributions and employee withholdings for California's payroll taxes. However, TAS is an antiquated system, written in Common Business-Oriented Language (COBOL), with significant functional limitations which, twenty-five years later, place the state at risk for system failure.

In the 2006 budget, the Legislature approved and started funding the ACES project. The ACES project is modeled after the systems currently used by the Franchise Tax

Board and Board of Equalization. ACES is a new collection system that will increase the effectiveness of the EDD tax collection operations. ACES will also collect penalties and back-wages that are due to the Department of Industrial Relations (currently collected by the Franchise Tax Board). ACES began implementation on January 18, 2011.

The ACES project is a benefits-based procurement, whereby the additional revenue generated by the project will offset all project costs thereby minimizing risk for the state. The ACES solution is expected to increase GF revenue by $27 million in 2011-12 by improving collection capabilities for delinquent accounts. The majority of the 2011-12 costs is a one-time augmentation of $18.7 million for the estimated Prime Solution Provider payment if sufficient revenue is collected with the new system.

Staff Comment. The ACES project is on-time and on-budget. Project roll-out and implementation began as scheduled on January 18, 2011. At a future time, i.e., when the ACES system is fully operational, clean-up trailer bill language will need to be adopted to remove from statute the Franchise Tax Board's authority to collect delinquent accounts for the Department of Industrial Relations.

Staff Recommendation: Approve the budget request.

Vote: Budget request approved 2-0; Senator Anderson absent.

Issue 2 – Disability Insurance Automation (DIA) Project

Governor's Budget Request. The Governor requests a one-time augmentation of $38.9 million (Disability Insurance Fund) to fund 16.1 new positions and 47 existing positions for the DIA Project. The resources will be used to continue the design, development, and implementation phase of the DIA project.

2010-11 Budget. The 2010-11 budget included a one-time augmentation of $34.047 million (Disability Insurance Fund) and 47 positions to continue the development of the DIA project, including year two of Systems Integration vendor activities to continue the design, development, and implementation phase of the project.

Background. Initially funded in the 2006 Budget, the DIA project will provide greater access to services for claimants, medical providers, and employers by allowing these individuals to use the Internet to submit claims data using a direct electronic interface or through web-based intelligent forms. This will simplify and automate the numerous manual work processes involved when a Disability Insurance claim is filed with EDD. Further, scanning/optical character recognition will be implemented to convert remaining paper claims to electronic format. Automated business logic will allow "in pattern" claims to be paid automatically, further increasing service delivery.

Staff Recommendation: Approve the budget request.

Vote: Budget request approved 2-0; Senator Anderson absent.

Issue 3 – Unemployment Insurance Loan Interest

Governor's Budget Request. The Governor requests an increase of $362.3 million GF to make the first interest payment due to the federal government for the quarterly loans the EDD has been obtaining from the federal government since January 2009 to cover the Unemployment Insurance (UI) fund deficit. The Governor proposes that this expenditure be offset by a transfer from the Disability Insurance (DI) Fund to the GF, resulting in no net GF cost in 2011-12. Proposed budget provisional language requires that the loan from the DI Fund to the GF be repaid by the GF with interest over the next four years.

Background. California's UI fund was depleted on January 26, 2009, and at that time the EDD began borrowing funds from the Federal Unemployment Account in order to continue paying UI benefits to qualifying unemployment claimants. The UI fund deficit was $10.3 billion at the end of 2010 and is expected to increase to $13.4 billion at the end of 2011. The federal loans have permitted California to make payments to UI claimants without interruption. Generally, loans lasting more than one year require interest payments; the federal American Recovery and Reinvestment Act (ARRA) of 2009 provided temporary relief to states from making interest payments on UI loans through December 31, 2010. With the expiration of the ARRA provisions, the first interest payment to the federal government is due in September 2011 with growing interest obligations in the out years. Federal law requires that the interest payment come from state funds; i.e., the payment cannot be paid by the Unemployment Fund or by a state's UI administrative grant.

Federal law includes provisions to ensure that a state does not continue to incur loans over an extended period. Specifically, if a state has an outstanding loan balance on January 1 for two consecutive years, the full amount of the loan must be repaid before November of the second year or employers face higher federal UI taxes. Due to California carrying an outstanding loan balance for two consecutive years, the federal unemployment tax credit will decrease from 5.4 percent to 5.1 percent on January 1, 2012. This will result in employers paying a federal tax rate of 1.1 percent in calendar year 2012. This translates to an increase of $21 per employee per year; the aggregate increase in employer costs in 2012 is $325 million.

The DI program is a component of State Disability Insurance (SDI) and provides benefits to workers who are unable to work due to pregnancy or a non-work related illness or injury. The SDI program taxes covered employees up to a statutory ceiling, which is projected to increase to $93,316 in 2011. The statutory formula for calculating the SDI contribution rate helps to maintain an adequate DI Fund balance. While contributions account for the majority of total receipts to the DI Fund, interest earnings and other receipts are also included in the DI Fund balance.

Staff Comment. The DI Fund is projected to have a fund balance of $1.6 billion at the end of 2011. The Administration proposes this fund source to pay the federal interest due, as opposed to the EDD Contingent Fund or the EDD Benefit Audit Fund, because those funds do not have sufficient balances to pay off the interest due for the outstanding loan balance (together, the 2011-12 projected fund balance for these two funds excluding scheduled transfers to the GF is $63.3 million).

This request is accompanied by proposed budget provisional language to: (1) authorize the Department of Finance to increase/decrease the actual amount paid/borrowed from the DI fund based on a more precise calculation of the interest due; and (2) specify that the annual contribution rates for the DI fund shall not increase as the result of any loan made to the GF (in calculating the annual disability insurance tax rate each year, the EDD shall treat outstanding DI loans as available cash in the DI Fund). This latter provision is key to preventing any potential increase in employee paid DI taxes as a result of the loan from the DI Fund to the GF.

Finally, staff notes that the out year GF implications of not addressing the insolvency of the UI Fund are significant. The estimated September 12, 2012, interest liability is $592.8 million. This figure does not include the roughly $90.6 million that the GF will be required to pay out to the DI fund over the next four fiscal years as payment for the 2011-12 loan. The Governor's January budget did not include a proposal to address the underlying insolvency of the UI fund.

Staff Recommendation: Approve the budget request.

Vote: Budget request approved 2-0; Senator Anderson absent.

Issue 4 – Federal Extended Unemployment Benefits; Statutory Changes for "Three-year Look-Back"

Background. Federal extended unemployment benefits (FedEd) is a federally-funded emergency benefits program for high unemployment states, including California. The extended benefits are designed to provide further income support to eligible unemployed workers who have been out of work for a long period of time. The chart below illustrates the maximum weeks available under each level of unemployment benefits. Generally speaking, when combined with the 26 weeks of initial state unemployment benefits and the four tiers of extended benefits totaling 53 weeks, FedEd allows eligible claimants to receive up to an additional 20 weeks of benefits, for a maximum of up to 99 weeks of unemployment benefits.

Unemployment Benefit Extensions

Benefit Period	Weeks of Benefits
Initial Benefits	26 weeks
Tier 1	Up to 20 weeks
Tier 2	Up to 14 weeks
Tier 3	Up to 13 weeks
Tier 4	Up to 6 weeks
FedEd	Up to 20 weeks
Maximum	**Up to 99 weeks**

Current federal law establishes "on" or "off" indicators to determine when FedEd benefits begin and end in a state. To ensure that FedEd is only payable during periods of high and rising unemployment, both the mandatory indicator based on the insured unemployment rate and the optional indicator based on the total unemployment rate include look-back requirements. Prior to December 2010, the look-back compares current unemployment rates to rates in the previous two years. However, in December 2010, Congress adopted legislation that permits states to amend their laws to temporarily modify the provisions dictating FedEd "on" and "off" indicators. Specifically, and through the end of 2011, the federal government is allowing states to make determinations of whether there is a FedEd "on" or "off" indicator by comparing current unemployment rates to the unemployment rates for the corresponding period in the three preceding years. This modification will enable many states, including California, to remain on FedEd longer.

Unless the three-year look-back modification is authorized, it is estimated that California will trigger off FedEd in Spring 2011. The impact of such a trigger off on UI claimants would be significant. The EDD estimates that between 263,000 and 500,000 claimants would potentially be impacted with a loss of their FedEd benefits. This figure does not include the claimants currently collecting regular California UI benefits who could be potentially eligible to file a FedEd extension if California's trigger remained "on" through the end of 2011. A rough estimate of the benefit to unemployed Californians of adopting the three-year look-back, ensuring the provision of federally funded extended UI benefits, totals between $1.0 billion to $2.6 billion. The range is large because UI claimants could be anywhere within the benefit tiers and therefore does not clearly equate to 20 additional weeks of benefits.

Staff Comment. In adopting the three-year look-back modification, the federal government acknowledged that while many states' unemployment rates are no longer increasing, the unemployment rate is also not decreasing markedly. By allowing a three-year look-back, an additional cushion is being provided for UI claimants and for states experiencing sustained levels of high unemployment.

Staff also notes that should the three-year look-back modification not be adopted prior to California triggering off FedEd under current law, and then subsequent action was taken to adopt the three-year look-back and trigger back on, EDD's administration of the UI program would be impacted negatively as resources would have to be redirected internally to ensure the timely provision of UI benefits. Staff expects that this redirection could negatively impact several high priority information technology projects at EDD by causing delays due to loss of staffing resources being redirected to the programming changes necessary to trigger off and then trigger back on.

Staff Recommendation: Approve trailer bill language to adopt the three-year look-back statutory changes related to determination of state eligibility for FedEd extended unemployment benefits.

Vote: Staff recommendation approved 2-0; Senator Anderson absent.

Issue 5 – Workforce Investment Act (WIA) Adjustments

Governor's Request. The Governor's January Budget proposes several adjustments to the Workforce Investment Act (WIA) Program (federal funds), including a decrease of $625,000 in Special Grants and $847,000 in WIA Administration and Program Services.

Background. The goal of WIA is to strengthen coordination among various employment, education, and training programs. Under federal law, generally 85 percent of the state's total WIA funds are allocated to local Workforce Investment Boards (WIBs) and the remaining 15 percent of WIA funds ($69.1 million in 2010-11) is available for state discretionary purposes such as administration, statewide initiatives, and competitive grants for employment and training programs. Federal law also states that all WIA funds "shall be subject to appropriation by the state Legislature."

With regard to the Governor's January Budget, the reduction in Special Grant funding is a result of the fact that these funds were one-time in 2010-11, so it is typical to see a lower amount in 2011-12 (as compared to 2010-11). The reduction in WIA Administration and Program Services is a result of the 2010-11 workforce cap that reduced personnel expenses across all departments by five percent.

Staff Comment. Historically, WIA state discretionary expenditures and adjustments are considered post-May Revision. Further, these expenditures depend on gubernatorial and legislative priorities. Therefore, the LAO has consistently recommended that the Legislature review and potentially modify the Administration's WIA 15 Percent State Discretionary plan to meet legislative priorities.

Given the accelerated budget adoption process this year, a review of the Administration's plan is not possible at the time of this hearing because the plan is not yet finalized. Therefore, to preserve the Legislature's prerogative, the Subcommittee may wish to approve and accept the WIA Program Adjustments contained in the 2011-12 budget but withhold approval and authorization of the Governor's proposed expenditure and distribution of 15 Percent funds until the Spring 2011 budget process.

Staff Recommendation. Approve and accept the 2011-12 WIA Program Adjustments but deny without prejudice approval and authorization of the Governor's proposed expenditures and distribution of 15 Percent funds and consider the 15 Percent funds proposed expenditure and distribution during the Spring 2011 budget process.

Vote: Staff recommendation approved 2-0; Senator Anderson absent.

Department of Industrial Relations (7350)

Department and Budget Overview. The objective of the Department of Industrial Relations (DIR) is to protect the workforce in California; improve working conditions; and advance opportunities for profitable employment. The DIR enforces workers' compensation insurance laws and adjudicates workers' compensation insurance claims; works to prevent industrial injuries and deaths; promulgates and enforces laws relating to wages, hours, and conditions of employment; promotes apprenticeship and other on-the-job training; assists in negotiations with parties in dispute when a work stoppage is threatened; and analyzes and disseminates statistics which measure the condition of labor in the state.

	2009-10 (actual)	2010-11 (estimated)	2011-12 (proposed)
Expenditures	$358,567,000	$393,185,000	$418,131,000
General Fund	$24,077,000	$4,664,000	$4,811,000
Personnel Years	2,588.8	2,656.7	2,725.1

Issue Proposed for Discussion / Vote

Issue 1 – Reimbursement for Ancillary Mediation Services

Governor's Budget Request. The Governor requests to extend a limited-term position through June 30, 2013, utilizing existing reimbursement authority to fund the $75,000 cost of this position, for the State Mediation and Conciliation Service (SMCS).

Background. The SMCS was established in 1947, beginning as a service to help employers and unions in the private sector avoid strikes and other disruptions to commerce through the use of neutral mediators. In the 1970s, the law was changed to have SMCS take on the responsibility of mediating labor disputes in the schools, community colleges, public higher education, local government, state government, transit, and (in recent years) the trial courts. The Federal Mediation and Conciliation Service took over most of the private sector mediation work.

While the core of SMCS' public interest mission, to provide dispute resolution mediation services to labor and management parties, remains free to the parties, in 2009 statute was changed to authorize SMCS to charge fees for certain services. Further, in the 2009-10 budget, SMCS was granted two limited-term positions for two years based on the inauguration of SMCS' reimbursed services program. Regulations adopted in June 2010 established the fee structure; fees are now charged in three limited areas: (1) election services; (2) training and facilitation services; and, (3) arbitration services. Because of lag time in developing and then finalizing the regulations, the Department indicates that it needs more time to determine the degree to which the following revenue projections can actually be achieved and sustained: (1) $166,000 for election services; (2) $47,000 for training and facilitation services; and, (3) $62,000 for arbitration services.

Staff Comment. Extending the term of one position for another two years will allow the Department time to evaluate the demand for service and sustainability of the revenue stream. Staff notes that this request is for only one of the two limited-term positions approved in 2009-10; the other position will expire as scheduled on June 30, 2011.

Staff Recommendation: Approve the budget request.

Vote: Budget request approved 2-0; Senator Anderson absent.

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

Thursday, February 3, 2011
10:00 a.m. (or upon adjournment)
Room 113

Consultant: Brian Brown

Item Number and Title **Page**

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

Department of Justice (0820)

Departmental Overview. The Attorney General is the chief law officer of the state and has the responsibility to see that the laws of California are uniformly and adequately enforced. This mission is fulfilled through the diverse mission of the Department of Justice (DOJ).

The DOJ is responsible for providing legal services on behalf of the people of California. The Attorney General represents the people in all matters before the Appellate and Supreme Courts of California and the United States; serves as legal counsel to state officers, boards, commissions, and departments; represents the people in actions to protect the environment and to enforce consumer, antitrust, and civil rights laws; and assists county district attorneys in the administration of justice.

The DOJ also coordinates efforts to address the statewide narcotic enforcement problem; assists local law enforcement in the investigation and analysis of crimes; provides person and property identification and information systems to criminal justice agencies; supports the telecommunications and data processing needs of the California criminal justice community; and pursues projects designed to protect the people of California from fraudulent, unfair, and illegal activities.

Budget Overview. The 2011-12 budget proposal provides $776 million for DOJ. This is an increase of $51 million over projected expenditures for the current year. The Governor's proposed budget includes about $255 million in General Fund support for DOJ. The department is funded for 4,997 positions, the same level as the current year.

Issue 1 – DOJ Billable Services Conversion

Background. The DOJ represents state departments in various court matters. Under current law, Special Fund departments reimburse DOJ for legal work on a billable hours basis. These payments are deposited into DOJ's Legal Services Revolving Fund (LSRF).

General Fund (GF) departments, however, do not pay DOJ for legal representation. Instead, DOJ has its own GF appropriation of $53.9 million in 2010-11 with which it funds this legal work. With this appropriation, DOJ has a team of legal staff with which to represent GF client departments. In recent years, the amount of GF workload on DOJ attorneys has been higher than they can absorb with existing resources, including the use of overtime. Therefore, the Attorney General has sometimes been directing GF departments to obtain outside counsel, sometimes at greater hourly cost than what DOJ charges to its billable clients.

Proposal. The DOJ requests authority to bill General Fund clients for legal work as it does for Special Fund clients. In order to accomplish, the Governor's budget includes a number of technical changes. Those changes are as follows:

- Reduces DOJ's GF authority by $50.1 million.
- Allocates $55.6 million GF authority to eleven other state departments with which to reimburse DOJ for legal representation. (Note that there is also a $2.2 million GF request in the Department of Mental Health that is separate from this request.)
- Includes budget bill language that allows DOJ to retain a pool of $1.5 million GF that would be transferred to the LSRF for legal workload on behalf of state departments that historically have driven only a small amount of legal workload each.
- Includes budget bill language that retains $3.1 million GF that would be transferred to the LSRF for the representation of public rights division clients that historically have used more than 1,000 hours of legal workload.
- Increases DOJ's LSRF by $60.8 million to provide the additional budget authority necessary to accept the reimbursements from other state departments, as well as for the amount retained for the public rights division clients.
- Proposes trailer bill language to eliminate the current law restriction on billing GF clients, as well as makes other technical changes related to how the Controller transfers funds for this purpose and how billing disputes are resolved.

These changes will allow DOJ to begin billing GF departments for its legal work. In so doing, DOJ's legal staff will not be required to absorb workload in excess of their existing staffing levels. Instead, client departments will have to reimburse DOJ for the amount of legal workload sent to DOJ. To the extent that departments send more legal workload than they have historically, DOJ can use the higher reimbursement level to hire more legal staff.

For each of the eleven General Fund clients which are receiving GF allocations under the Governor's budget proposal, the table below shows the number of hours of legal representation they received in 2009-10 and their 2010-11 GF allocation. The Department of Finance adjusted some department allocations to account for the likelihood that some of the legal workload could be billed to Special Funds within those departments. Also, while the figure below shows CDCR's actual hours for 2009-10, the Department of Finance calculated CDCR's share of the costs based on its 2008-09 hours, discounted by 15 percent based on an assumption that CDCR could achieve some efficiencies. CDCR's hours and costs also include those historically associated with Governor's Office legal workload associated with reviewing parole decisions.

Proposed Billable GF Hours and Allocations by Client
(Dollars in millions)

	Department	Hours	Costs
1	Corrections and Rehabilitation[1]	270,736	$45.9
2	Franchise Tax Board	19,585	3.2
3	Forestry and Fire Protection	17,415	2.8
4	Board of Equalization	12,082	2.0
5	State Water Resources Control Board	10,895	0.3
6	State Controller's Office	5,829	0.3
7	Parks and Recreation	5,471	0.3
8	Finance	3,811	0.3
9	Secretary of State	1,680	0.1
10	Fair Employment and Housing	1,612	0.3
11	Developmental Services	1,182	0.1
	Total, All Departments[2]	*401,931*	*$55.6*

1. *Hours for CDCR include Governor's office work related to Board of Parole Hearings issues.*
2. *Does not include current-year and budget-year adjustments to Department of Mental Health.*

Since releasing the budget proposal, the administration has notified staff of a couple of requested changes to their proposal. The requested changes are the following:

- To increase the LSRF augmentation by $1.5 million to account for the amount that will be transferred for the GF departments with historically small legal workload. This adjustment was inadvertently left out. This adjustment has no GF impact.
- To remove the proposed budget bill language designating $3.1 million to be transferred on behalf of public rights division clients with workload in excess of 1,000 hours. This is to keep these departments as direct GF clients of DOJ.

This change will have no GF impact but does require that a reduction of $3.1 million be made to the LSRF.

Staff Comments. The concept of making General Fund departments pay DOJ for its legal services has merit. Making client departments bear the cost of litigation could provide them with fiscal incentives that they do not have currently to consider the full costs associated with litigation. This may be particularly true for departments that face a lot of litigation and should probably weigh the relative strengths of different cases before they decide which to litigate and which to settle, for example.

In addition, moving General Fund clients to a billable system, each with its own General Fund appropriation for legal costs, would mean that these legal costs would be reflected in the budget of the client department, rather than in DOJ's budget. This is probably a more accurate and transparent budgeting approach and would further mean that departments would have to come to the Legislature directly if they required additional resources for new legal cases that might arrive. This, in turn, would give the Legislature an opportunity to decide if those litigation costs are a high enough priority to fund.

While the proposal has merit, an area of concern is that the proposal results in a net increase in General Fund authority of $5.5 million. This is because the amount of General Fund authority being allocated to client departments is that amount greater than the reduction in DOJ's current GF authority. This discrepancy reflects the difference between DOJ's actual historical workload and the department's actual historical level of funding. Based on its current billing rate, DOJ has been absorbing about $5.5 million of workload, generally by having staff work overtime. While it is true that DOJ has been forced to absorb more workload than it has been budgeted, it is unclear if the General Fund can accommodate an augmentation during these fiscal times.

Options to reduce the overall GF augmentation would be to reduce the amount of GF allocated to all or some departments or to direct DOJ to change the billing rates that it charges to client agencies. A reduction to the GF allocations to client agencies' budgets could be done proportionately which would amount to roughly 10 percent each.

The LAO also raises concerns with the $5.5 million GF augmentation and recommends reducing CDCR's GF allocation by that amount. According to the LAO, this would reflect approximately a 10 percent decrease compared to the amount of workload sent by the department to DOJ in 2009-10. This reduction would reflect the achievement of greater efficiencies in how CDCR chooses to allocate workload to DOJ, one of the proposed intentions of this proposal.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- What options are there to reduce the net General Fund augmentation of $5.5 million? Would it be appropriate to reduce the amounts allocated to client departments by that amount? If so, should the reduction be applied proportionately across all departments?
- Alternatively, should DOJ reduce their billable rates to bring costs in line with historical costs?

Staff Recommendation. Approve proposal with the following modifications from what is in the Governor's budget:

- Reduce CDCR's GF augmentation by $5.5 million so that this proposal has no net costs to the General Fund (action to 5225-005-0001).
- Remove proposed budget bill language designating $3.1 million for public rights division clients, at the request of DOJ.
- Reduce the LSRF augmentation by a net of $7.1 million to account for (1) inadvertently not including the small client workloads, (2) removal of public rights division clients from billable, and (3) the $5.5 million GF reduction.

CA Department of Corrections and Rehabilitation (5225)

Departmental Overview. Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created pursuant to the Governor's Reorganization Plan 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include YACA, the California Department of Corrections, Youth Authority, Board of Corrections, Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training.

According to the department's website, its mission is to "enhance public safety through the safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities."

The CDCR is responsible for the incarceration, training, education, and care of adult felons and nonfelon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and reincarceration of those parolees who commit new offenses or parole violations. The department also sets minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides local assistance in the form of grants to local governments for crime prevention and reduction programs.

The department operates 33 adult prisons, including 12 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates five juvenile correctional facilities, including two reception centers. In addition, CDCR operates dozens of adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and nearly 200 parole offices, as well as contracts to house inmates in several in-state and out–of–state correctional facilities.

Budget Overview. The Governor proposes a CDCR budget of $9.3 billion, of which $9.1 billion is General Fund. General Fund spending is proposed to be a slight decrease - $7 million – compared to the current year projected expenditure level. Note, however, that this proposed funding level does not fully account for the budgetary impact of the Governor's realignment proposals which are currently being considered by the Legislature. In total, about $8.1 billion of the CDCR budget is for operation of the state prisons with the remaining funding adult parole, juvenile justice, the Board of Parole Hearings, the Corrections Standards Authority, and department administration.

Issue 1 – Population Request

Background. As part of the Governor's budget each year, as well as part of the May Revision, the Governor proposes adjustments to CDCR's budget based on projected changes in the department's caseloads. This includes adjustments based on costs associated with changes in the inmate, parole, and juvenile populations supervised by CDCR. It also includes budget revisions based on associated workload changes associated with or population-related workloads, including parole revocations, mentally ill inmates, contracted beds, and local assistance to reimburse jails for housing parole violators.

Proposal. The Governor's 2011-12 Budget includes an augmentation of $360.8 million for 2011-12. This request is almost entirely General Fund.

The budget is based on an assumption that the inmate population will average 163,681 in the budget year, and the adult parole population will be 104,779. The budget assumes that the juvenile facility population will be 1,269 at the end of the budget year, and the juvenile parole population will be 1,464. Each of these projections reflects as reduction as compared to what was assumed in the 2010-11 Budget Act. None of these projections take into account the impact of the Governor's realignment proposals which are accounted for separately.

The table below summarizes the Governor's population caseload budget request by category for 2011-12, as well as shows the projected decrease for each population group supervised by the department. The table also shows those same projected adjustments for 2010-11.

Major Components of CDCR's Population Request
(Dollars in millions)

Category	2010-11	2011-12
Adult Prisons	**-$13.8**	**-$4.8**
Projected population change	***-118***	***-529***
General population	7.3	-11.9
Stark closure	-15.3	0.0
CCF closures	-10.0	-10.0
Out-of-state beds	-2.7	0.0
Mental health staffing	5.7	15.9
Miscellaneous adjustments	1.1	1.3
Adult Parole and Revocations	**$60.9**	**$134.9**
Projected population change	***-4,312***	***-12,053***
Parole population	55.5	41.2
Mental health	-0.3	0.4

Family Foundation	-0.4	-0.8
Leased jail beds	-0.5	0.0
Local assistance	0.0	88.9
Revocation workload	6.7	5.3
Juvenile Justice	**-$9.9**	**-$29.6**
Projected population change	***-95***	***-130***
DJJ facilities	-9.6	-29.3
DJJ parole	-0.3	-0.3
Miscellaneous Adjustments	**$261.1**	**$261.1**
Unallocated reversal	200.0	200.0
SB 678	30.0	30.0
Parole reentry courts	10.0	10.0
Alternative sanctions	21.1	21.1
Totals	***$298.6***	***$360.8***

Staff Comments. In most years, the budget committee would wait until the May Revision before taking any actions on the population request. This is because the department frequently uses the May Revision to make necessary corrections, as well as additional adjustments based on updated population projections. However, given efforts to reach an early budget this year, the committee may want to consider whether it makes sense to make any adjustments it believes necessary now rather than waiting until after the May Revision, particularly on any large savings adjustments that might allow the preservation of programs elsewhere in the state budget.

In reviewing the population budget request, staff notes the following areas of questions or concerns:

- ***Adult Prison – General Adjustment (-$11.9 million).*** The administration's proposal assumes a budget-year inmate population of 163,681. The actual population as of December 31, 2010 was 162,821 (a difference of 860) and has been declining consistently for over a year. It is not possible to say with any certainty that the population will continue to decline, but if the budget were to assume that the inmate population stayed at its current level next year, this would result in about $20 million in additional savings. Staff would not recommend making an adjustment to this issue at this time. It is better to make this adjustment in May Revision with several more months of actual data.
- ***Mental Health Staffing ($12.5 million).*** The budget includes $12.5 million for additional clinical staffing based on projections of the mentally ill inmate population. This projection is based on both projections of the total inmate

population, as well as the prevalence of mentally ill inmates within the total inmate population. Staff has requested and is still awaiting backup information on how the department calculated this request. The prevalence of mental illness has been steadily increasing in the inmate population in recent years. However, the overall projected decline in the prison population could largely offset that trend.

- ***Parole Population ($41.2 million).*** The department's population projections assume that the parole population will decline by 12,053 parolees. Despite the decrease in population, the administration is requesting an increase in funding. This appears to be related to updated projections of fewer parolees being placed on non-revocable parole and instead being placed on active caseloads. Staff would not recommend making any adjustments to this component of the population request at this time. It will be updated as part of the May Revision when projections will be more current.

- ***Local Assistance ($88.9 million).*** The department requests $88.9 million for local assistance payments to counties as repayment for costs to house parole violators in county jails while they await revocation hearings. The amount requested would fund 2009-10 local assistance costs, as well as any backlog of payments from prior years. Staff has requested and is still awaiting backup information on how the new request was calculated and what is driving these costs which appear as though they may be higher than prior year levels. *(Note: the Department of Finance has notified staff that the $88.9 million figure was an error in the department's backup documents. The state budget reflects the correct estimated costs of $49.3 million.)*

- ***Parole Reentry Courts ($10 million).*** In the 2009-10 Budget Act, the Legislature approved an allocation of $10 million from federal stimulus (American Recovery and Reinvestment Act – ARRA) funds to create pilot reentry courts for parolees. These programs were designed to provide an alternative approach for managing parole violators, similar to drug or mental health courts. The budget previously included an estimated savings of $10 million for this program. The Governor's budget removes this savings estimate based on the assumption that any impact of this program on the parole violator population would already be accounted for in the underlying population trends reflected in the department's population projections. However, the programs are only now beginning to be implemented in the field. Therefore, program impacts could not yet be in trend. The committee may want to remove this augmentation to account for the projected impact of this evidence-based pilot program.

- ***Alternative Sanctions ($21.1 million).*** The budget includes an augmentation of $21 million associated with the implementation of GPS supervision for parole violators. Funding was added for this program in the 2009-10 budget because it was believed that it would provide a useful alternative sanction tool that would result in net savings by keeping parole violators out of state prison. This proposal reverses the level of assumed savings based on the assumption that any impact on the number of parole violators is now accounted for in the department's population projections. In other words, this reversal removes the possibility of double-counting savings associated with this activity. Staff has requested and is still awaiting additional backup information from the department on how this augmentation was calculated. It is unclear whether this proposal results in savings as originally budgeted.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Does the committee wish to make adjustments to the population budget request at this stage of the process, or would it be more appropriate to wait until after the May Revision when the administration will release its own adjustments?
- What, if any, reductions should the committee make to this budget request based on the staff comments made above, as well as any recommendations by the LAO?

Staff Recommendation. Hold open. Direct the department and the Department of Finance to work with committee staff and the LAO to address the staff comments and committee questions with the intention of making any necessary adjustments in the May Revision.

Issue 2 – CIW CTC Activation

Background. Utilizing funding authorized under AB 900 (Solorio, Chapter 7, Statutes of 2007), the department is currently constructing a Correctional Treatment Center (CTC) at the California Institution for Women (CIW). CTC facilities provide both acute and intermediate level of care mental health treatment programs for inmate-patients. The project at CIW will add 45 licensed clinical beds to an existing 18-bed CTC, for a total of 63 CTC beds.

The table below provides a list of the different mental health classifications in CDCR that require specialized housing, including the number of inmates meeting those classifications, as well as the number of beds and wait lists for those beds.

CDCR Mental Health Services Delivery System
(As of January 10, 2011)

Category	Inmates	Capacity	Wait List
Enhanced Outpatient Program (EOP)	4,881	4,269	154
Psychiatric Services Unit (PSU)	367	394	121
Mental Health Crisis Beds (MHCB)	340	373	17
Intermediate Care Facilities (ICF)	606	732	375

Proposal. The Governor's budget requests a total of $1.5 million General Fund and 11.6 positions in 2010-11 and $10.1 million General Fund and 106.4 positions in 2011-12 (growing to $12.5 million and 135.4 positions in 2012-13) to provide staffing required for a this 45-bed inpatient accredited facility, as well as seek accreditation for the facility. The request is summarized in the table below.

CIW Correctional Treatment Center Budget Request

Fiscal Year	CTC Activation	Accreditation	Totals
2010-11	$905,000	$597,000	$1,502,000
2011-12	$8,909,000	$1,195,000	$10,104,000
2012-13	$11,314,000	$1,195,000	$12,509,000

The 45-bed CTC at CIW is scheduled for completion in December 2011. In order to comply with the *Coleman* Court Order, new staff is proposed to be hired by mid-October 2011, at least three months prior to the required licensing survey conducted by the Department of Public Health (DPH). The facility must pass this initial licensing inspection prior to the housing of inmate-patients in the facility.

Typically, the Department of Mental Health (DMH) operates CTCs in California's prisons. However, the department has determined that it intends to begin managing and operating its CTCs. This CTC at CIW is the first such facility proposed to be operated by CDCR and not DMH. Accordingly, the department will seek provisional Joint Commission Accreditation for the facility. The department states that accreditation will help ensure that it has the appropriate staffing, policies, and procedures in place to take on this new responsibility, as well as demonstrate to the *Coleman* court that it is prepared to do so effectively. Requirements associated with obtaining accreditation by the Joint Commission exceed those of State licensure by DPH. In order to prepare for this accreditation, the department is requesting nine headquarter positions and $1.2 million ongoing to obtain and maintain Joint Commission Accreditation for the CIW facility and for other inpatient facilities that will be constructed over the next four years, including the inpatient facilities at California Medical Facility and Correctional Health Care Facility.

Staff Comments. The activation of this facility is consistent with the department's long-range plans to provide sufficient housing and treatment for seriously mentally ill inmates. The Legislature has already approved the construction of this facility knowing that there would be additional ongoing operating costs.

The LAO raises a concern with four of CDCR's budget requests related to the activation of new facilities, including the CTC at CIW. The LAO's concern is that the funding requests for activation of these new beds does not account for the offsetting savings that should occur from taking down beds in other facilities. The LAO recommends that the department report at budget hearings to detail the level of offsetting savings that would be incurred, an amount which should total a couple of millions of dollars in 2012-13, growing to tens of millions of dollars in 2012-13, for all four projects.

Staff agrees with the LAO's analysis which is consistent with committee actions taken in prior years when the department has activated new facilities.

The committee may also want to consider whether it wishes to fund the additional staffing requested for headquarters accreditation staffing. While it is certainly the case that this facility must meet basic licensing standards, accreditation is not required. The department does report, however, that national accreditation is likely to be an important step in demonstrating to the *Coleman* court that the department can effectively manage its mental health programs and, eventually, end federal court oversight. Though this may be a laudable goal, the committee may want to consider whether this accreditation work is something the department should do with existing resources, particularly in light of the state's overall fiscal problems.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- What offsetting savings should the department experience from activating this facility? How did the LAO arrive at its conclusion that savings should reach a couple of millions of dollars in the budget year?

- Has the administration and LAO agreed upon a reasonable level of offsetting savings?
- Can the department effectively run this CTC, a type of facility that is operated by DMH in all other CDCR prisons where such facilities are located?
- How important is it that the department seek accreditation of this facility?
- If the department does seek accreditation, should it use its existing resources rather than requesting $1.2 million for this purpose?
- How long is accreditation staff needed? If approved, should they be limited term?

Staff Recommendation. Hold open, unless the administration and LAO have identified an agreed upon level of offsetting savings. If they have identified such an amount, the committee may wish to adopt the proposal inclusive of those savings.

In addition, staff recommends deletion of the $1.2 million related to headquarters staff to achieve accreditation of this and other facilities. Staff agrees that seeking accreditation is a worthwhile goal that should be pursued but believes that the department should utilize existing headquarters resources for this purpose. While the department does not have existing staff specifically dedicated to seeking accreditation, its existing staff already has the responsibility of designing effective procedures and protocols.

Issue 3 – CMF ICF Activation

Background. The CDCR is scheduled to open a new Intermediate Care Facility (ICF) at the California Medical Facility (CMF – Vacaville) in October 2011. The ICF will house seriously mentally ill inmates in need of longer-term inpatient treatment. Construction of the project was funded through AB 900 and is consistent with the *Coleman* court's direction to increase ICF capacity in the prison system. The Department of Mental Health will provide the clinical staffing for this facility. CDCR is responsible for providing the security staffing.

Proposal. The CDCR is requesting $1.958 million and 20.0 PYs in 2011-12, growing to $2.35 million and 25.1 PY in 2012-13 to provide custody staffing for the activation and operation of the 64-bed ICF at CMF.

Staff Comments. The activation of this facility is consistent with the department's long-range plans to provide sufficient housing and treatment for seriously mentally ill inmates. The Legislature has already approved the construction of this facility knowing that there would be additional ongoing operating costs.

The LAO raises a concern with four of CDCR's budget requests related to the activation of new facilities, including the ICF at CMF. The LAO's concern is that the funding requests for activation of these new beds does not account for the offsetting savings that should occur from taking down beds in other facilities. The LAO recommends that the department report at budget hearings to detail the level of offsetting savings that would be incurred, an amount which should total a couple of millions of dollars in 2012-13, growing to tens of millions of dollars in 2012-13, for all four projects.

Staff agrees with the LAO's analysis which is consistent with committee actions taken in prior years when the department has activated new facilities.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- What offsetting savings should the department experience from activating this facility? How did the LAO arrive at its conclusion that savings should reach a couple of millions of dollars in the budget year?
- Has the administration and LAO agreed upon a reasonable level of offsetting savings?

Staff Recommendation. Hold open, unless the administration and LAO have identified an agreed upon level of offsetting savings. If they have identified such an amount, the committee may wish to adopt the proposal inclusive of those savings.

Issue 4 – CMC MHCB Activation

Background. The department is currently constructing a 50-bed Mental Health Crisis Bed (MHCB) unit at the California Men's Colony (CMC – San Luis Obispo) with a scheduled completion date of July 2012. It is expected that it will obtain licensure in September 2012 and will immediately initiate the admission process of inmate-patients. This project is consistent with the activation plan approved by the *Coleman* court.

The goal of the MHCB program is designed a short-term housing and treatment program to provide services for conditions which require an inpatient setting to improve acute mental health symptoms, including suicidal behavior. The MHCB program operates 24 hours a day, 7 days a week. An inmate-patient admitted to the MHCB for mental health treatment may have acute symptoms of a serious mental disorder or may be suffering from a significant or life-threatening disability. Many conditions may precipitate a mental health crisis during institution confinement. Such factors as the restrictions of confinement, pressures to conform to the prison lifestyle, and fear of more predatory inmates may disrupt an inmate's coping abilities. An inmate with no known mental health history may suffer acute symptoms, while another with mental illness in remission may have recurring symptoms.

Proposal. The Governor's budget proposes $1 million General Fund and 9.1 positions in 2011-12 (growing to $18.9 million General Fund and 182.8 positions in 2012-13) for implementation of a 50-bed licensed MHCB unit at CMC in compliance with a *Coleman* Court order.

Positions are necessary in order to meet mandated licensing requirements for this facility within court ordered timelines. This will enable CDCR to comply with the March 31, 2010 *Coleman* Court order to reduce or eliminate the wait lists for inpatient care and, in the interim, to better serve the treatment needs of *Coleman* class members placed on such list.

Staff Comments. The activation of this facility is consistent with the department's long-range plans to provide sufficient housing and treatment for seriously mentally ill inmates. The Legislature has already approved the construction of this facility knowing that there would be additional ongoing operating costs.

The LAO raises a concern with four of CDCR's budget requests related to the activation of new facilities, including the MHCB at CMC. The LAO's concern is that the funding requests for activation of these new beds does not account for the offsetting savings that should occur from taking down beds in other facilities. The LAO recommends that the department report at budget hearings to detail the level of offsetting savings that would be incurred, an amount which should total a couple of millions of dollars in 2012-13, growing to tens of millions of dollars in 2012-13, for all four projects.

Staff agrees with the LAO's analysis which is consistent with committee actions taken in prior years when the department has activated new facilities.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- What offsetting savings should the department experience from activating this facility? How did the LAO arrive at its conclusion that savings should reach a couple of millions of dollars in the budget year?
- Has the administration and LAO agreed upon a reasonable level of offsetting savings?

Staff Recommendation. Hold open, unless the administration and LAO have identified an agreed upon level of offsetting savings. If they have identified such an amount, the committee may wish to adopt the proposal inclusive of those savings.

Issue 5 – Northern California Re-Entry Facility Warm Shutdown

Background. The Northern California Reentry Facility (NCRF – Stockton) is the first reentry facility constructed under AB 900. The NCRF is located on the previous site of the Northern California Women's Facility. The existing infrastructure is being repurposed to accommodate 500 male re-entry inmates. The renovations are scheduled to be completed and activation begin by December 2012.

Proposal. The Governor's budget proposes to not activate NCRF as originally planned. Instead, the administration proposes a "warm shutdown" of NCRF. A warm shutdown requires maintaining a small staffing level at the facility to ensure proper maintenance of the facility. Without this staff, in the infrastructure of the facility could fall into disrepair, requiring more expensive renovations when the facility is opened.

This request results in no net funding change because the department was already authorized for some early activation staff and funding. The administration proposes to repurpose those resources for the warm shutdown. Specifically, the facility had been authorized for seven positions and $880,000. The department is requesting to convert that funding to five positions, as well as funding for operating expenses and equipment for the warm shut down. Specifically, CDCR is requesting the following resources for the warm shutdown:

- Correctional Plant Manager I – to manage the maintenance of the facility to ensure the State's assets are protected.
- Office Technician – for typing and record keeping.
- Lead Groundskeeper - to maintain grounds, sanitation, drainage, and erosion control for the facility.
- Stationary Engineer – to maintain the facility's mechanical systems.
- Water and Sewage Plant Supervisor – to maintain the facility's mechanical systems and water treatment system.
- $475,000 for operating expenses and equipment.

The warm shut down at NCRF includes the following types of activities:

Component / System	Activities
Potable Water Distribution	Maintain water treatment facility & systems. This system supplies potable water for neighboring California Department of Forestry camps. This system should be maintained to prevent bacterial

	contamination resulting in the eventual disinfection of the system. All plumbing fixtures and valves should be cycled / serviced periodically to ensure proper functionality. All backflow devices should be maintained and tested for compliance with health and safety requirements.
Steam / Hot Water Distribution System	Maintain high pressure boiler operation to supply steam and hot water to all structures of the facility at a reduced capacity. This will ensure all steam systems are maintained throughout the institution to prevent equipment failure, corrosion and possible ruptured piping due to below freezing temperatures during winter months.
Wastewater / Sewage System	The system should be operated/flushed monthly to compensate for evaporation in pipelines that could result in methane gas build up. Treat sewage lines for root intrusion quarterly. Service lift station pumps monthly.
HVAC & Refrigeration Systems	All buildings / housing units should have some form of air flow to deter mold growth as a result of moisture & stagnant air in a closed environment. HVAC units can be shut down but should be cycled / serviced at least semi-annually. Walk-in Refrigerator and Freezer units can be shut down but should be operated and serviced every 1-2 months. Electrical power should be maintained at all refrigeration compressors with oil heater to avoid potential oil migration.
Electrical Systems – Emergency Generators	The Paso Facility operates one emergency generator with six back-up generators on hand. This unit should be tested monthly and is under contract for preventive maintenance and semi-annual service.
Electrical Systems	Periodic service of computerized alarm system with staff tracking capability, a CCTV extensive LAN/WAN, fiber optic and phone systems to ensure proper functionality prior to re-activation.
Fire Alarm Systems	State law requires a functioning fire alarm system be maintained on all buildings unless they are occupied with trained staff. These system's control panels should be serviced at least quarterly.
Grounds Keeping and Vector Control	Maintaining grounds helps control insect and rodent / vector infestation of vacant areas and buildings. A pest control contract would ensure insect & vector populations are maintained at a minimum.

Staff Comments. This proposal raises two issues for legislative review. First, does the Legislature agree with the administration's proposal to put this facility on warm shutdown to reduce the additional GF costs that would otherwise occur, even in light of ongoing overcrowding in state prisons?

Second, is the level of staffing requested appropriate to effectively maintain the warm shutdown? The LAO finds that the department has not provided sufficient justification for the $475,000 for operating expenses and equipment. The LAO, therefore, recommends reducing this request by $475,000. The Department of Finance has indicated to staff that it is currently reviewing this request to see if further savings can be achieved.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Should NCRF be placed on warm shutdown given the state's budget problems, even in light of ongoing prison overcrowding problems?
- If NCRF is placed on warm shutdown, when will it be activated?
- Should the proposal be reduced by $475,000, as recommended by the LAO?

Staff Recommendation. Hold open pending further review by the Department of Finance and LAO to determine if the requested positions and funding can be further reduced.

Issue 6 – ISP HVAC Project – Capital Outlay

Proposal. The Governor's budget proposes $6.1 million General Fund for the working drawings phase of a project to replace the heating, ventilation, and air conditioning (HVAC) system at Ironwood State Prison (ISP – Blythe). Total estimated cost of this project is $143.2 million.

This project will replace the existing evaporative cooling system (sometimes referred to as "swamp coolers") with a heating, ventilation, and closed loop chilled water air conditioning for the prison's 20 housing units and a majority of the other institutional support facilities. The project will also install an energy saving roof membrane with insulation, as well as build a new central chiller plant and install a dedicated emergency power back-up generator to operate the central chiller plant during power outages. Preliminary plans for this project were funded in the 2008 Budget Act and were approved by the Public Works Board in November 2010.

The institution "swamp cooler" type air handling units at ISP have deteriorated and prematurely reached the end of their useful life. Despite continued maintenance and repair efforts, the units continue to corrode and are unreliable. Corrosive salt laden water generated by and leaking from the air handling units has caused extensive damage to areas surrounding roofs and walls.

From July to October, temperatures frequently range from 93 to 105 degrees Fahrenheit inside and 110 to 130 degrees Fahrenheit outside.

Staff Comments. The LAO recommends approval of the project request but inclusion of budget bill language that will allow this project to be funded through the reversion of an equivalent amount of capital outlay funds (GF) already authorized for infrastructure projects in AB 900. That bill authorized $300 million for this purpose, and $177 million of that amount is currently unspent. Taking this action would save the General Fund $6.1 million, and is consistent with actions adopted in the budget for similar projects in each of the past two fiscal years.

Staff Recommendation. Approve proposal with addition of budget bill language authorizing the reversion of the AB 900 General Fund appropriation of $6.1 million. Action will save $6.1 million General Fund.

Issue 7 – Statewide Budget Packages and Advanced Planning – Capital Outlay

Background. The development of well documented and justified capital outlay requests for funding consideration in the annual Budget Act requires the development of budget packages. Additionally, the need arises during the fiscal year to perform advance planning functions such as environmental reviews and site assessments to determine the feasibility of future capital outlay requests. To perform these functions, the CDCR has been provided with a Statewide Budget Packages and Advance Planning appropriation in the annual Budget Act.

Proposal. The Governor's budget proposes $750,000 General Fund to perform advance planning and prepare budget packages for capital outlay projects. Provisional language is included with this appropriation limiting it to projects that meet both of the following criteria: 1) the project being studied has not already received funding from the Legislature; and, 2) the project is being prepared for funding consideration in either of the next two state Budget Acts

Staff Comments. The LAO recommends approval of the project request but inclusion of budget bill language that will allow this project to be funded through the reversion of an equivalent amount of capital outlay funds (GF) already authorized for infrastructure projects in AB 900. That bill authorized $300 million for this purpose, and $177 million of that amount is currently unspent. Taking this action would save the General Fund $750,000, and is consistent with actions adopted in the budget for similar projects in each of the past two fiscal years.

Staff Recommendation. Approve proposal with addition of budget bill language authorizing the reversion of the AB 900 General Fund appropriation of $750,000. Action will save $750,000 General Fund.

Issue 8 – Minor Capital Outlay Projects

Proposal. The Governor's budget proposes $1.195 million for the construction of three minor capital outlay projects. This total also includes a ten percent contingency amount to cover possible cost overages. The three projects are:

1. **California State Prison – Solano, Closed Circuit Cooling Tower ($352,000)**. This proposal requests funding to install a closed circuit cooling tower in parallel with the existing steam heat exchangers in order to maintain indoor temperatures at or below 90 degrees Fahrenheit.

2. **N.A. Chaderjian Youth Group Recreation Area for Intensive Behavior Program ($338,000)**. This proposal requests funding for the construction of a fenced outdoor group recreation area for the youth assigned to the Sacramento Intensive Behavior Treatment Program. The group recreation area will be constructed in a location adjacent to the living unit.

3. **Wasco State Prison, Additional Blast-Chill Units for Main Kitchen ($396,000)**. This proposal requests funding to purchase and install two additional blast-chill units in the Main Kitchen at Wasco State Prison. These projects will resolve long-standing operational and equipment issues resulting from population increases.

Staff Comments. The LAO recommends approval of the project request but inclusion of budget bill language that will allow this project to be funded through the reversion of an equivalent amount of capital outlay funds (GF) already authorized for infrastructure projects in AB 900. That bill authorized $300 million for this purpose, and $177 million of that amount is currently unspent. Taking this action would save the General Fund $1.2 million, and is consistent with actions adopted in the budget for similar projects in each of the past two fiscal years.

Staff Recommendation. Approve proposal with addition of budget bill language authorizing the reversion of the AB 900 General Fund appropriation of $1.2 million. Action will save $1.2 million General Fund.

Issue 9 – CMC Central Kitchen Replacement – Capital Outlay Reappropriation

Background. The 2008 Budget Act authorized $15,263,000 (lease-revenue) for the working drawings and construction phases of a new central services kitchen and two satellite dining facilities at the California Men's Colony (CMC – San Luis Obispo). The contract for this project was never awarded due to the suspension of project activities in December 2008, pursuant to DOF's Budget Letter 08-33 which notified state departments of the action of the Pooled Money Investment Board to freeze all disbursements from the Pooled Money Investment Account, thereby restricting freezing construction loans. The encumbrance period for this appropriation expires at the end of the current fiscal year.

Proposal. The administration requests reappropriation of the $15,263,000 originally authorized for the central kitchen replacement project at CMC. This project is to be funded from lease-revenue bonds.

Staff Comments. Staff raises no concerns with this project. The construction was previously authorized by the Legislature, and reappropriation of already authorized funds will add no additional General Fund costs above what was previously approved.

Staff Recommendation. Approve as budgeted.

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

OUTCOMES
Thursday, February 3, 2011
10:00 a.m. (or upon adjournment)
Room 113

Consultant: Brian Brown

Item Number and Title **Page**

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

Department of Justice (0820)

Issue 1 – DOJ Billable Services Conversion

Approved proposal with the following modifications from what is in the Governor's budget:

- Reduced CDCR's GF augmentation by $5.5 million so that this proposal has no net costs to the General Fund (action to 5225-005-0001).
- Removed proposed budget bill language designating $3.1 million for public rights division clients, at the request of DOJ.
- Reduced the LSRF augmentation by a net of $7.1 million to account for (1) inadvertently not including the small client workloads, (2) removal of public rights division clients from billable, and (3) the $5.5 million GF reduction.
- Added budget bill language authorizing CDCR to move funds from its main General Fund appropriation to Item 5225-005-0001.

2-1 (Hancock, Wolk Yes; Anderson No)

CA Department of Corrections and Rehabilitation (5225)

Issue 1 – Population Request

Held open, pending May Revision. 3-0

Issue 2 – CIW CTC Activation

Held open. 3-0

Issue 3 – CMF ICF Activation

Held open. 3-0

Issue 4 – CMC MHCB Activation

Held open. 3-0

Issue 5 – Northern California Re-Entry Facility Warm Shutdown

Denied without prejudice. 3-0

Issue 6 – ISP HVAC Project – Capital Outlay

Approved proposal with addition of budget bill language authorizing the reversion of the AB 900 General Fund appropriation of $6.1 million. Action will save $6.1 million General Fund.

3-0

Issue 7 – Statewide Budget Packages and Advanced Planning – Capital Outlay

Approved proposal with addition of budget bill language authorizing the reversion of the AB 900 General Fund appropriation of $750,000. Action will save $750,000 General Fund.

3-0

Issue 8 – Minor Capital Outlay Projects

Approved proposal with addition of budget bill language authorizing the reversion of the AB 900 General Fund appropriation of $1.2 million. Action will save $1.2 million General Fund.

3-0

Issue 9 – CMC Central Kitchen Replacement – Capital Outlay Reappropriation

Approved as budgeted. 2-1 (Hancock, Wolk Yes; Anderson No)

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

Tuesday, February 8, 2011
1:30 p.m.
Room 3191

Consultant: Brian Brown

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

Agenda Outline

Department of Corrections and Rehabilitation

CA Department of Corrections and Rehabilitation (5225)

Departmental Overview. Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created pursuant to the Governor's Reorganization Plan 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include YACA, the California Department of Corrections, Youth Authority, Board of Corrections, Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training.

According to the department's website, its mission is to "enhance public safety through the safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities."

The CDCR is responsible for the incarceration, training, education, and care of adult felons and nonfelon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and reincarceration of those parolees who commit new offenses or parole violations. The department also sets minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides local assistance in the form of grants to local governments for crime prevention and reduction programs.

The department operates 33 adult prisons, including 12 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates five juvenile correctional facilities, including two reception centers. In addition, CDCR operates dozens of adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and nearly 200 parole offices, as well as contracts to house inmates in several in-state and out–of–state correctional facilities.

Budget Overview. The Governor proposes a CDCR budget of $9.3 billion, of which $9.1 billion is General Fund. General Fund spending is proposed to be a slight decrease - $7 million – compared to the current year projected expenditure level. Note, however, that this proposed funding level does not fully account for the budgetary impact of the Governor's realignment proposals which are currently being considered by the Legislature. In total, about $8.1 billion of the CDCR budget is for operation of the state prisons with the remaining funding adult parole, juvenile justice, the Board of Parole Hearings, the Corrections Standards Authority, and department administration.

Issue 1 – Estrella Infill Beds

Background. The Estrella Correctional Facility project is the re-purposing of the Division of Juvenile Justice Facility previously known as El Paso De Robles Youth Correctional Facility (Paso Robles). This project is included in the CDCR's long-range plan for medical and mental health beds provided to the *Coleman* Court in November 2009.

The project includes housing, programming, health care facilities, inmate visiting and support facilities. The Estrella conversion will include a total of 1,000 beds for the following categories of inmates: 207 Specialized General Population, 292 General Population, 150 Enhanced Outpatient Program (EOP), 40 EOP Administrative Segregation, and 311 Inmate Work Crew.

Assembly Bill 900 (Public Safety and Offender Rehabilitation Services Act of 2007) authorized construction of infill beds and support program space at existing prison facilities. The CDCR, working collaboratively with the Federal Receiver filed a long-range Integrated Strategy Plan to reduce overcrowding and provide for increased medical and mental health beds. The *Coleman* court approved this plan.

The requested resources are based on a rollout schedule that projects facility activation beginning September 14, 2012 (though the Receiver's Office reports that minor delays have occurred, and construction is now assumed to be completed on October 4, 2012).

Proposal. The Governor's budget proposes $2.7 million GF and 21.4 positions in 2011-12 (growing to $41.5 million GF and 442.6 positions in 2012-13 and ongoing) to support the pre-activation, activation, and ongoing operation of the new Estrella Correctional Facility.

The LAO recommends the Legislature reduce the Governor's proposal to account for cost reductions that would be incurred at other facilities resulting from the activation of the four new prison facilities.

Staff Comments. This project is a component of the department's long-range bed plan to address prison overcrowding and provide appropriate housing for inmates with mental illness or other specialized needs (in the case of the specialized general population inmates). Moreover, the Joint Legislative Budget Committee reviewed and concurred with the construction of this project.

The LAO is right to note that there should be some offsetting savings when this facility activates because it will free up beds elsewhere in the prison system. However, this facility does not activate until 2012-13. So, there will be no offsetting savings in the budget year. In response to the LAO's questions, the department estimates that the offsetting savings in 2012-13 will be about $5.4 million and 112 positions. This amount will increase in 2013-14 when the facility is fully activated for the entire fiscal year.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Does the Legislature still support activation of the Estrella project to relieve overcrowding and address current shortages of mental health beds?
- In the future, should CDCR's budget requests for activation of new facilities identify or otherwise incorporate the estimated level of offsetting savings associated with bringing down other beds in the system?

Staff Recommendation. Approve as budgeted. Also, direct the department to incorporate estimates of offsetting savings for this project in its future population budget requests and to incorporate offsetting savings estimates in future budget proposals related to activations of all new facilities.

Issue 2 – Correctional Health Care Facility

Background. The Correctional Health Care Facility (CHCF - Stockton) is being constructed on the site of the Northern California Youth Correctional Center and will include 1,722 beds of all security levels, along with all necessary support and rehabilitation program space. This project will replace temporary beds currently in use, and it is included in CDCR's long-range plan for medical and mental health beds provided to the *Coleman* court. It includes 337 high acuity or Correctional Treatment Beds, 673 low acuity or Outpatient Housing unit beds, 137 Mental Health Crisis Beds, 475 Department of Mental Health Intermediate Care Facility beds, and 100 Inmate Work Crew beds. In total, 949 of the 1,722 beds will require licensure under Title 22. The facility is scheduled to begin activation in July 2013. The facility is expected to be fully activated by December 2013.

Proposal. The Governor's budget proposes $948,000 and 5 positions in 2011-12 ($1.9 million and 10 positions in 2012-13 and ongoing) to provide resources for a core Pre-Activation Management Team for CHCF.

The CDCR and California Prison Health Care Services is requesting these positions effective January 1, 2012 which is 18 months in advance of the activation of the CHCF. According to the department and Receiver's Office, this amount of pre-activation time is longer than for most new CDCR facilities but is necessary because of the size and complex mission of the facility, as well as to achieve required licensure. These positions are comprised primarily of the facility's executive management staff (warden, chief medical officer), as well as some support staff.

Staff Comments. This project is a component of the department's long-range bed plan to address prison overcrowding and provide appropriate housing for inmates with mental illness or other medical problems that make living in a prison's general population difficult or dangerous. Moreover, the Joint Legislative Budget Committee reviewed and concurred with the construction of this project. Major facilities typically employ a phased activation of staffing that starts with the management team that will operate it. The ten positions requested in this proposal will form the leadership team for CHCF, carrying out pre-activation activities, then deploying to the facility to conduct its ongoing operations.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Does the Legislature still support activation of this project to relieve overcrowding and address current shortages of medical and mental health beds?
- What is the department's estimate of what level of offsetting savings will be achieved when this project is activated?

Staff Recommendation. Approve as budgeted.

Issue 3 – Medication Management

Background. Providing timely access to the full continuum of care, including access to prescribed medications, treatment modalities, and appropriate levels of care, is an essential component of the Receiver's Turnaround Plan of Action. At the same time, it is also incumbent on California Prison Health Care Services to mitigate health care expenditures.

Medication administration falls under the purview of nursing care. Each institution utilizes Registered Nurses (RN), Licensed Vocational Nurses (LVN), and Certified Nursing Assistants (CNA) to provide nursing care. While RNs are responsible for assessing, planning, implementing, and evaluating patient care, and CNAs perform simple nursing tasks associated with activities of daily living, it is the LVN who is responsible for administering most medications in the prison setting. Currently, only individuals who have completed the licensure requirements for RN or LVN may administer medications. RNs typically are not used to administer medications in outpatient health care settings because of the associate labor costs. The LVN is the lowest cost provider that can perform medication administration functions.

Proposal. The Governor's budget proposes $11.9 million GF and 211.3 two-year limited term Licensed Vocational Nurse (LVN) positions in 2011-12 to perform medication management functions in outpatient clinics.

Staff Comments. Staff notes that last year the Receiver's Office was provided with $10.1 million General Fund and 145 LVN positions to perform medication management functions in outpatient clinics. The 2009-10 budget assumed that provision of these staff positions would result in a reduced reliance on nursing overtime and registry, resulting in net savings to the department. The Receiver’s Office reports that those authorized positions had not yet been filled as of January.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- How many of the positions authorized in the current year budget have been filled to date?
- Have we had an opportunity to learn anything yet about the impact of hiring new staff on the reduction on overtime and registry costs?

Staff Recommendation. Deny without prejudice. Waiting until Spring to consider this proposal will allow the Legislature to see if the positions provided in the current year budget are filled and result in the type and magnitude of savings anticipated. If so, that may suggest that the additional positions proposed are warranted as a more cost-effective approach to medication management.

Issue 4 – Receiver Unallocated Reduction

Background. The current-year budget included an $820 million reduction to the budget for inmate health care. This estimate was based on the previous administration's estimate of the savings that would be achieved if CDCR's per capita inmate health care costs were reduce to the same level as in the state of New York.

Proposal. The Governor's budget modifies the ongoing reduction to the budget for inmate health care to $163.2 million in the budget year ($82.6 million in 2010-11). This ongoing reduction represents approximately a 10 percent reduction.

Staff Comments. According to the Receiver's office, the analysis of the previous administration was faulty in that the comparison with New York's prison spending did not include many of the same types of administrative, contracting, and other expenditures as incurred within CDCR's budget for inmate health care. The Receiver reports that the current proposal is much more realistic and consistent with his goal of providing constitutionally adequate inmate health care services in a more cost-effective manner. To date, the Receiver's office has not identified a specific plan for how it will achieve these reductions.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- What types of efforts is the Receiver's Office considering as ways to achieve this unallocated cut?
- Will the Receiver's Office have a more detailed plan for how it will achieve these cuts by the spring that it could share with the Legislature?
- Is the Receiver's Office confident that these cuts can be achieved without delaying its ability to bring CDCR's inmate medical program up to constitutional levels?

Staff Recommendation. Approve as budgeted.

Issue 5 – Headquarters and Licensure Positions

Background. Assembly Bill 900 (Public Safety and Offender Rehabilitation Services Act of 2007) authorized construction of infill beds, and support program space at existing prison facilities. CDCR, working collaboratively with the Federal Receiver filed a Long-Range Integrated Strategy Plan to reduce overcrowding and provide for increased medical and mental health beds. In total, this bed plan assumes that by 2015 the department will activate about 9,900 new prison beds (not including reentry facilities), many of which will serve medically or mentally ill inmates.

Proposal. The Governor's budget proposes $5.1 million GF and 17 headquarters positions in 2011-12 ($5.0 million and 17 positions in 2012-13) to support the activations of the new facilities funded through AB 900.

The CDCR and California Prison Health Care Services (CPHCS) anticipate pre-activation activities will continue for 4-5 years. The CDCR and CPHCS have established a core Facilities Planning and Activation Management Team made up of various executive and administrative support positions. Responsibilities of this new staff would include facility planning and activation management, meeting licensure requirements, recruitment, acquisition and procurement, and labor negotiations.

Staff Comments. The LAO finds that while CDCR has identified an increase in workload that will result from the planning for the activation of new prison facilities, their analysis indicates that the department currently has unutilized resources within its central administration budget that could be used for such planning activities. This is because the department currently has vacancies in several of the employee classification categories for which it is requesting additional positions and funding. For example, CDCR is requesting two additional program analysts in central administration despite the fact that the department currently has over 100 vacancies in this classification. Furthermore, in 2009-10, CDCR had $43 million in savings in its budget for central administration at the end of that year. The fact that the Department has not spent all of its allocated funding for administration in the past suggests that there could be savings in other central administration functions that the Department has not identified which could support the above facility activation planning activities. In view of the above, the LAO recommends that the Legislature reject the Governor’s proposal.

Additionally, the Receiver’s Office testified to the Assembly budget subcommittee that heard this issue that it could absorb its share of the requested positions.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Can the state afford to provide the department with more administrative positions in light of the state's budget problems?
- What headquarters positions does CDCR already have that can help manage the activation of these facilities?
- To what extent do the positions being requested overlap with the functions that are to be performed by pre-activation staff being requested in other budget requests (such as Estrella and CHCF)?

Staff Recommendation. Deny. While the activation of new facilities will drive additional workload for the department, staff recommends that the department be required to absorb this workload within existing resources. As the LAO notes, there have been unfilled vacant positions resulting in significant headquarters savings in recent years. Moreover, in light of the state's general budget problems, the additional of additional administrative positions does not seem warranted at this time.

Issue 6 – Custody and Mental Health Collaboration Training

Background. The *Coleman* lawsuit resulted in a finding against the State and the appointment of a Special Master to monitor mental health services delivery in CDCR to achieve a constitutional level of care as determined by the court. The *Coleman* Court monitors have consistently, over sixteen years, noted discord between custody and mental health staff. This is not uncommon within prison systems based on the different missions of custody and mental health treatment providers. Based on these ongoing concerns, the Court ordered the CDCR to develop a training program to enhance collaboration between custody and mental health staff who assess needs and provide care for inmate-patients with mental illness.

The court order mandates training for custody, nursing and mental staff at the following institutions: California State Prison, Corcoran (COR), California State Prison, Los Angeles County (LAC), Richard J. Donovan Correctional Facility (RJD), California State Prison, Sacramento (SAC), Substance Abuse Treatment Facility (SATF), California State Prison, San Quentin (SQ) and Salinas Valley State Prison (SVSP).

Proposal. The Governor's budget proposes $1.2 million General Fund in 2011-12 (growing to $1.9 million General Fund in 2012-13) to provide court-ordered training sessions to custody and mental health staff training at select institutions.

To comply with the court order, funding is required to:

- Provide relief coverage for the regularly assigned duties of custody and nursing staff at seven institutions so they can attend the eight-hour training (approximately 9,964 of the 11,090 staff to be trained are in posted positions);
- Cover the travel expenses that must be incurred by Division of Correctional Health Care Services (DCHCS) and the Mental Health Program; and,
- Provide for necessary supplies and course materials.

Staff Comments. Staff raises no specific concerns with this proposal. The training is court-ordered, and estimated costs seem reasonable. The costs are not proposed to be ongoing.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Why did the court mandate this collaboration training for only select institutions and not statewide?

- Does the department have any plans to take this or similar training to staff in other institutions?
- In what ways has correctional officer training for new cadets in the Academy been shaped by the court lawsuits related to inmate health care? To what extent does that training focus on custody and health care staff collaboration, if at all?

Staff Recommendation. Approve as budgeted.

Issue 7 – San Quentin Condemned Extended EOP

Background. The EOP Condemned program at San Quentin State Prison (SQ) provides mental health services to 25 inmate-patients with serious and persistent mental illness on California's death row. This program consists of mental health staffing and additional out-of-cell time for these inmates Monday through Friday. According to the department, when not treated appropriately, this population frequently requires suicide watch and/or admission to higher levels of care. Six out of the last seven suicides at SQ occurred in this population.

Proposal. The Governor's budget proposes $603,000 General Fund and 5.7 positions to extend the Enhanced Outpatient Program (EOP) to seven days a week for condemned inmates at SQ.

According to the department, this request will provide more intensive EOP services and assist these inmates to better adapt to life within the Condemned Housing Unit. In so doing, the department believes it will reduce the likelihood that inmates' mental health condition will decompensate on days when services are not available which then requires more intensive and expensive care. For example, housing inmates in an Intermediate Care Facility (ICF) costs approximately $200,000 per inmate per year.

In order to provide the extended level of service in the condemned EOP program, the staffing complement is proposed to be extended to a seven day per week schedule. Existing staffing models were used to calculate staffing for a 5-day per week program level. This staffing level was increased to account for the increase from 5 to 7-day service and to maintain continuity of care. With the increase in number of days of service, and number of hours of programming, there is an increase in demand for guarding and escort officers. During the time that the Extended Condemned EOP Program is in operation custody staff must also ensure all mandated programs are being successfully met (e.g., legal appointments, religious services, medical appointments, showers, exercise yard and distribution of medication).

Staff Comments. Since release of the Governor's budget, the administration has identified an error in its budget calculations. Specifically, the department's estimates assumed a count of 40 inmates requiring EOP services on death row. In fact, the correct number is 25. Consequently, the administration is revising its request to $445,000 and 4.3 positions.

Staff notes that an additional correction needs to be made to reduce the request by an additional $54,000 and 0.6 positions. This is because of a technical error calculating the security coverage.

Aside from these technical issues, staff raises a concern that it is not clear from the department's proposal how significant of a problem decompensation of EOP condemned inmates actually is. For example, the proposal does not identify how frequently these inmates decompensate and require a higher and more expensive level of treatment, or how often that happens at least in part due to the lack of mental health services on weekends. In addition, the proposal asserts that when inmates do decompensate and are placed in higher levels of treatment, this is very expensive – perhaps as much as $200,000 per inmate per year for an ICF bed. While it is almost certainly true that housing an inmate in an ICF is significantly more expensive than EOP level treatment, the department's proposal does not include a cost comparison that accounts for factors such as length of stay.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- How many suicide attempts have there been among the EOP population on death row over each of the past few years?
- Is this proposal in response to a direct court order?
- How often do condemned EOP inmates decompensate to the point of needing to be transferred to a higher level of care? Has the department determined that this happens more frequently due to the lack of mental health services over the weekends?
- Has the department determined that the proposed approach is definitely the more cost-effective approach to managing this population?

Staff Recommendation. Reject without prejudice. This request may very well be a more cost-effective and sound correctional approach to treating the condemned EOP inmates. However, it is not entirely clear that that is the case based on the information currently provided by the department. Rejecting without prejudice will allow the committee more time to review whether this staffing request is warranted based on actual operational need at SQ, as well as determine if it is a cost-effective approach.

Issue 8 – Structural Shortfall

Background. The administration finds that CDCR has chronic structural budget problems driven by a number of factors. In prior years, the Department absorbed ever-increasing costs by redirecting resources away from other programs and priorities. Consequently, there was reduced operation of inmate education and work programs, reductions in non-custody support staff, freezes placed on purchasing and training, increased equipment and physical plant failures due to deferred maintenance, and positions being held vacant to divert salary savings to cover shortfalls. Due to unallocated budget cuts and reductions in program funding, the department finds that it has fewer funds available to redirect existing resources to offset its structural shortfall.

Proposal. The Governor's Budget proposes $395.2 million General Fund to address ongoing structural imbalances within CDCR's budget. This total includes five distinct requests.

(A) Fund Salaries Three-Quarters Step ($266.5 million). In 2003-04, the Department of Finance approved that new positions be funded at the mid-step. However, CDCR finds that most custody staff is currently paid at or near the top step of the salary range. A comparison of mid-range salary funding to actual staffing costs for all institutions' reflects a $266.5 million shortfall. Consequently, CDCR requests funding prison custody staff – correctional officers, sergeants, and lieutenants – at the three-quarters step of their salary ranges.

(B) Medical Guarding and Transportation Workload ($55.2 million). The CDCR is mandated to provide appropriate, timely, and adequate medical care to all inmates. Court decisions such as *Coleman v. Schwarzenegger* and *Plata v. Schwarzenegger* have resulted in significant increases in the provision of outside medical care, a trend which has increased custody costs associated with transporting and guarding inmates when receiving health care treatment outside of the prisons. The base funding level for Medical Guarding and Transportation (MGT) is $66.4 million. The CDCR has actually been incurring costs totaling $137.6 million for MGT, or $71.2 million more than budgeted. The department projects that these costs will decline in coming years due to efforts by the Receiver but still estimates that CDCR will need an augmentation of $55.2 million in 2011-12 and ongoing to fund MGT operations.

(C) Unfunded Swing Space ($17.3 million). Appropriate housing has to be found for all inmates. This can be challenging due to all of the factors that go into determining a safe and appropriate housing option for each inmate. These factors include security classification, offense history, mental health need, medical conditions, gang affiliations, known enemies, infectious diseases, developmental disabilities, and physical disabilities. According to the department, these factors make it unreasonable to assume that every funded prison bed is filled each day of the year. Therefore, the department finds that funding for "swing space" should be provided.

The department requests $17.3 million to fund swing space in the prisons. Essentially, this proposal will provide additional funding over and above what is provided through the normal caseload budgeting process. This is proposed to be done by providing funds for unfilled prison beds. More specifically, the department is proposing to provide funding for 913 unfilled beds statewide. This estimate was based on providing the funding equivalent of an additional 0.5 percent of their general inmate population, while reception center institutions would be funded at an additional 1 percent of their population.

(D) Overtime Funding Not Adjusted for Employee Compensation ($35.7 million). Although significant increases (34.23%) to Bargaining Unit 6 base salaries have occurred over the past several fiscal years, the declared base budget for custody staff overtime has not been adjusted to reflect those increases. The department estimates that these higher salary levels contribute $35.7 million to its structural shortfall. The department reports that its base budget for custody overtime is $104.3 million.

(E) Legal Settlements and Outside Counsel ($20.5 million). The department estimates that CDCR needs $20.5 million to account for shortfalls in its Office of Legal Affairs (OLA) budget. This request is based on historical increases in the cost of legal settlements and judgments, use of outside counsel, and special master and expert witness fees from class action lawsuits. According to the department, these costs have been driven, in particular, by court mandates in various class action lawsuits. The department's current budget for OLA is $60.4 million. The CDCR finds that actual expenditures exceed its base budget by $20.5 million.

Budget Bill Language. The administration also proposes budget bill language requiring that three times during the budget year the department submit a report to the Department of Finance detailing how each prison's expenditures are tracking compared to its approved budget allotments. The language further requires the department to detail the reasons behind any projected overspending.

Staff Comments. The department has, in fact, suffered from shortfalls in various areas of its budget. In some years, this has resulted in a deficiency request. In other years, the department has managed to shift resources within it budget to cover those shortfalls. For example, the department reports than in some years savings – primarily salary savings resulting from vacant positions – in its administration, adult programs, and administration budget programs were used to offset shortfalls. Over the past couple of years, the department has seen its budgets for adult programs reduced by $250 million, and taken an additional $100 million unallocated reduction as part of the broader effort to balance the state's budget. These reductions have reduced the flexibility the department has to shift money internally. In 2010-11, the department overspent its budget and, as a consequence, was unable to pay some vendors, requiring those vendors to go to the Government Claims Board for reimbursement for services provided to the department.

Given this history, staff suggests that this effort to accurately and appropriately budgeting CDCR has merit. It will provide a more truthful reflection of their actual costs. In addition, it should mean that the department does not have to shift money around from one budget program to another nearly as often to cover shortfalls. This means, for example, that CDCR should have no reason to keep rehabilitation program positions vacant to generate salary savings, and instead should be expected to fully operate its programs as budgeted by the Legislature. It also means that the Legislature should be able to look at areas where CDCR has historically been able to operate with high savings levels, such as central administration to identify ongoing reductions.

So, while the committee should consider each of this proposal's components on its merits, the committee may want to consider how to implement this request in such a way as to ensure appropriate level of oversight and accountability of the department's expenditures. It is not always clear that the department as a whole or individual institutions and programs have managed their budgets as efficiently as they can. And while providing some or all of the funding requested here may be a more accurate reflection of true costs in CDCR, this alone does not guarantee effective fiscal management.

(A) Fund Salaries Three-Quarters Step ($266.5 million). Staff raises two concerns for committee consideration with this component of the proposal. First, there may be a minor technical issue with how this part of the shortfall was calculated. Staff has asked for more information regarding how CDCR calculated its base funding for salaries as it appears that the department may actually be overstating their base funding level.

Second, and the more substantial policy question, is whether funding CDCR custody positions at the three-quarters step will set a precedent for other classifications in CDCR or employees in other state agencies. State agencies generally can manage their resources if employee salaries start averaging something higher than the mid-step by keeping other positions vacant and using salary savings to offset the higher costs. However, this is not as easy in prisons which are 24-hour institutions with many posted positions. Keeping custody positions vacant only drives more overtime costs. So, approving this funding request may be a more accurate way to reflect CDCR's true salary costs. On the other hand, there are other state agencies that operate 24-hour institutions, such as the Department of Mental Health, that potentially face similar challenges and could come forward with similar budget requests in the future if their average costs increase significantly above the mid-step.

(B) Medical Guarding and Transportation Workload ($55.2 million). The department's costs for medical guarding and transportation have increased markedly in recent years, in particular due to the efforts of the federal Receiver to ensure better access to medical care. Now that the Receiver has begun to improve the provision of health care within the prisons and implemented utilization management programs, those costs have begun to come back down. In light of that, CDCR built in an assumed decrease in medical guarding costs compared to prior year levels. However, staff finds on a technical basis that the 23 percent reduction was applied incorrectly and the requested augmentation can be reduced by $15,614,000.

(C) Unfunded Swing Space ($17.3 million). It makes sense that the department has to operate with an amount of swing space to accommodate all the movement of inmates that has to occur in the prisons on a daily basis as inmates move in and out of receptions centers, general population facilities, health and mental health care units, and disciplinary housing units. However, it is unclear that this is a funding issue as much as it is an issue about having sufficient numbers of beds of the different types available throughout the system. Moreover, given current overcrowding levels, it is unclear that the department can operate sufficient swing space.

(D) Overtime Funding Not Adjusted for Employee Compensation ($35.7 million). Staff raises no specific concerns with how this request was calculated. However, staff would note that the department proposed this same funding request in the budget two years ago. The committee rejected the proposal at that time, in particular because it found that the department did not have a plan for how it would contain and reduce overtime costs going forward. At that time, the committee adopted budget bill language requiring CDCR to develop such a plan and suggested that it would revisit this proposal after such a plan was developed and shared with the Legislature. Governor Schwarzenegger vetoed that language. Whether it approves this component of this proposal or not, the committee may want to consider adopting similar language again or otherwise present a plan to the committee.

(E) Legal Settlements and Outside Counsel ($20.5 million). It is unclear the degree to which CDCR might be better able to contain its legal costs. While its costs for settlements and judgments reached $33.8 million in 2009-10, it was only $19.4 million in 2006-07. Of course, much of these costs are driven by court decisions largely beyond the control of the department. On the other hand, these costs are frequently driven by ineffective department operations that result in lawsuits, its trouble rapidly correcting deficiencies alleged and sustained by courts, and potentially decisions to take some issues to trial that may not reflect cost-effective approaches to resolving disputes.

LAO Comments and Recommendations. While the LAO finds that the department's budget shortfalls are a persistent problem that merit being addressed, it has several concerns with this proposal. In summary, the LAO finds that this proposal does not, in fact, reflect a true accounting of the department's budget. It identifies certain areas of structural shortfall, but does not account for areas where the department historically has unspent moneys, such as parole and administration. Moreover, the budget does include budget reductions that are likely to be difficult for the department to meet, specifically the workforce cap and unallocated reduction to the Receiver's budget. The LAO also raises the concern that the proposal does not provide for any specific cost control measures or guarantees that the department will not overspend again in the future. Consequently, the LAO recommends that the Legislature reject this proposal and require the administration provide a more comprehensive accounting of its fiscal needs.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- What efforts is the department or administration taking to ensure better fiscal management and control within CDCR? What additional steps should the Legislature take in its oversight capacity?
- While potentially a more accurate reflection of actual salary costs, does the Legislature want to set the precedent of funding positions at three-quarters step in CDCR?
- Why does the department need additional funding for swing space? Is the need really for money or bed capacity?
- Should the Legislature adopt budget bill language again requiring CDCR to develop a plan for how it is going to control and manage overtime costs in the future?
- What efforts has the department made to reduce or contain the number of lawsuits and the costs associated with lawsuits?

Staff Recommendation. Hold open.

Issue 9 – Armstrong Effective Communication

Background. In October 2009, the United States District Court of California mandated through the *Armstrong* court order that CDCR must provide sufficient certified sign language interpreters at institutions where hearing impaired inmates are housed. This court order enforces compliance with the Americans with Disabilities Act (ADA).

The CDCR provides educational and substance abuse programs in prisons throughout California. The CDCR houses hearing impaired inmates at four prisons – California Institution for Men (Chino), High Desert State Prison (Susanville), California Medical Facility (Vacaville), and the Substance Abuse Treatment Facility (Corcoran) – where these inmates are currently unable to participate in these programs.

Proposal. The Governor's budget proposes $279,000 General Fund for sign language interpreter contract services. These services are for hearing impaired inmates participating in educational and substance abuse treatment programs at the four prisons identified above. This funding will be used to hire contract interpreter staff.

Staff Comments. It is unclear how CDCR estimated the number of inmates requiring these services, as well as the amount of funding being requested.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Has the *Armstrong* court specifically ordered that the department provide sign language interpreters for hearing impaired inmates at these facilities?
- Does it make sense to provide these services if CDCR’s budget is to be reduced by another $150 million as proposed in the Governor’s budget?

Staff Recommendation. Deny without prejudice. It may not make sense to approve this funding if funding for CDCR prison programs are reduced by $150 million. Therefore, it may make sense to wait until later in the spring to determine how much program funding is ultimately going to be provided in CDCR’s budget.

Issue 10 – AB 1844 Chelsea King Predator Prevention Act

Background. Assembly Bill 1844 (Chapter 219, Statutes of 2010 - Fletcher), also known as the Chelsea King Child Predator Prevention Act of 2010 or Chelsea's Law, targets dangerous, sexually violent criminals. It toughens prison sentences, lengthens the time that violent sex offenders who are released from prison must remain on parole, improves methods used by the state to evaluate the dangerousness of these offenders, requires polygraph tests of all sex offenders on parole or probation, and improves the state's online sex-offender database. The bill also authorized the collection of fees from service providers of sex offender treatment programs to cover the costs associated with certification.

Governor Schwarzenegger directed the California Sex Offender Management Board (CASOMB) to determine where systemic changes or improvements can be made in order to protect the public. Following the board's review, the Governor directed his administration to take action on the recommendations provided by the board including the implementation of the sex offender containment model included in Chelsea's Law.

Proposal. The Governor's budget proposes $1 million ($98,000 General Fund and $925,000 Special Deposit Fund) and six three-year limited term positions for the CDCR to meet the provisions of Assembly Bill 1844. Specifically, the request is designed to accomplish the following activities as required by AB 1844:

- The development of standards for certification of sex offender management professionals, as well as management of the certification process.
- Fingerprinting of treatment providers seeking certification to provide sex offender treatment.
- Train staff on the use of sex offender assessment instruments chosen by the CASOMB.
- A contract for measuring program performance.

The table below summarizes the staff and funding requested for each of these purposes.

Summary of Request

Purpose	Positions	Funding	Fund Source
Certification standards & implementation	6	$519,000	Special Deposit Fund
Fingerprinting treatment providers	0	$406,000	Special Deposit Fund
Staff training	0	$68,000	General Fund
Contract to develop evaluations	0	$30,000	General Fund
Totals	***6***	***$1,023,000***	

Staff Comments. Staff raises no specific concerns with this request. The AB 1844 placed new responsibilities on the department that drive additional workload. Most of this additional workload is funded from the Special Deposit Fund, not the General Fund.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- What progress has the department made to date in developing or choosing risk assessment tools for sex offenders?
- What progress has the department made to date in implementing sex offender supervision and treatment for parolees consistent with the containment model as also required by this bill?

Staff Recommendation. Approve as budgeted.

Issue 11 – Technical Adjustment

Background. Effective for the first time in the current-year budget, CDCR's budget is broken out into 21 distinct budget programs. The table below lists those budget programs and the amount of funding estimated and proposed for the current year and budget year, respectively.

Summary of CDCR's Budget Programs and Authority
(In millions of dollars)

Budget Program	2010-11 (Estimated)	2011-12 (Proposed)
Administration	$403.0	$459.5
Corrections Standards Authority	79.4	86.0
Juvenile facility operations	244.9	198.0
Juvenile education	40.4	27.1
Juvenile parole	27.6	18.1
Juvenile health care	57.2	39.7
Adult prisons – security	2,723.8	3,041.4
Adult prisons – security overtime	104.3	141.1
Adult prisons – inmate support	1,340.3	1,375.3
Adult prisons – contracted facilities	409.8	224.3
Adult prisons – administration	383.0	457.0
Adult parole – supervision	566.8	457.1
Adult parole – community programs	187.5	188.7
Adult parole – administration	110.3	113.9
Board of Parole Hearings – hearings	103.3	98.5
Board of Parole Hearings – administration	6.9	7.3
Adult programs – education	145.7	102.1
Adult programs – substance abuse	191.6	141.2
Adult programs – activities	65.5	65.9
Adult programs – administration	31.3	31.0
Adult health care services	2,130.8	2,064.0
Totals	***$9,353,4***	***$9,337.2***

Proposal. The California Department of Corrections and Rehabilitation (CDCR) requests authority to permanently realign funding for a number of its budget programs and divisions beginning in 2010-11. The department finds that in various instances, certain activities have been budgeted in one part of their budget but are really more appropriately budgeted in another. The department says that this proposal does not change in any way what positions are authorized or where they work – for example, in the field or headquarters. The request only changes where the positions and funding are allocated within the department's budget.

The net result of this request is summarized in the table below.

Summary of Technical Adjustment Proposal – 2011-12

Budget Program	Change in Funding	Change in Positions
Central administration	-$4,005,601	317
Corrections Standards Authority	18,094	-4
Division of Juvenile Justice	-1,435,065	-16
Adult prisons	16,150,632	-167
Adult parole	-2,033,789	-25
Board of Parole Hearings	-772,082	-11
Adult programs	-1,658,361	-22
Inmate health care	-6,263,828	-71
Net Totals	***$0***	***0***

This budget request includes 14 distinct budget adjustments across more than 20 budget programs. Some examples of the adjustments proposed include the following:

- Transferring $5.6 million from the inmate health care program to the adult prison program to account for a misallocation of funding for custody positions to the health care budget associated with the activation of a Mental Health Crisis Bed Unit at the California Medical Facility.
- Transfers a total of $14.9 million from various budget programs to the budget for central administration in accordance with a directive by the Office of the Chief Information Officer that all department IT functions have a direct reporting relationship to the department's Chief Information Officer.
- Reallocation of $96.7 million within the adult parole budget programs to align funding with the authorized purposes, specifically by increasing the allotments for community based programs for parolees.

Staff Comments. Staff raises no concerns with this proposal.

Staff Recommendation. Approve as budgeted.

Issue 12 – Academy and OPOS Support

Background. In June 2010, the CDCR received approval from the Public Works Board for three major infill projects planned as part of the Long Range Integrated Strategy Plan for AB 900, including the California Health Care Facility in Stockton, the DeWitt Conversion in Stockton, and the Estrella Conversion in Paso Robles. The projected hiring need for the AB 900 facilities includes approximately 1,081 peace officer staff beginning in July 2012 through June 2016. This information along with the revised projected hiring needs from Division of Adult Institutions (DAI) was utilized to determine that 2,968 correctional officers (CO) need to be hired over the next two years. In order to meet these needs, CDCR projects that it will need to hire 1,484 cadets per year each of the next two years.

In 2009-10, the number of academy cadets was reduced from 1940 to 799, with a corresponding reduction in funding ($20 million). Additionally, in 2009-10, staffing for the department's Office of Peace Officer Selection (OPOS) was reduced from 221 positions to 103 positions. The OPOS is responsible for correctional officer recruitment and conducting pre-hiring assessments of applicants.

Proposal. The Governor's Budget proposes $13.3 million and 18 positions in 2010-11 (growing to 13.9 million in 2011-12) to increase the number of correctional officer cadets to meet the projected correctional officer hiring needs. This request has the following two components:

- Requests $11.4 million to increase the budgeted capacity of Basic Correctional Officer Academy. This would allow the department to increase the number of cadets in the Academy from 799 to 1484 annually. This expansion will address the CO hiring needs for the AB 900 facilities as well as address retirements and attrition.

- Requests 18.0 positions and $1.9 million in 2010-11 and $2.4 million in 2011-12 for the Office of Peace Officer Selection (OPOS) to process approximately 26,000 CO applications annually. This funding includes resources to do the following process the following application components for each applicant: online application, written examination, background investigation, psychological written, psychological oral examination, pre-employment medical clearance, and physical ability testing.

The department notes that if the Governor's realignment proposal regarding Low Level Offenders is adopted, the funding and position authority requested in this proposal would be unnecessary.

Staff Comments. The CDCR needs to operate an Academy at sufficient capacity to meet its ongoing needs for correctional officers, as well as other custody classifications such as sergeants, lieutenants, and parole agents. Vacancies in these positions drive overtime costs and potentially make it more difficult for the department to run safe and effective operations.

In light of the Governor's current proposals to realign significant numbers of state inmates, as well as parolees and juvenile wards, to local correctional agencies, it is probably premature to decide whether this request is going to be necessary.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- What is the current vacancy rate of correctional officers, as well as other custody classifications, and how has that changed in recent years?
- What is the rate of attrition of custody staff?
- How will realignment affect the short and long-term hiring needs of the department?

Staff Recommendation. Deny without prejudice.

Issue 13 – SB 678 Community Corrections Performance Incentive Grants

Background. In an effort to stem the flow of felony probationers being sent to state prison, the Legislature approved two distinct measures aimed at improving felon outcomes. First, the Budget Act of 2009 included a $45 million appropriation of federal Edward Byrne Justice Assistance Grant (JAG) funds that was distributed to all 58 county probation departments. This funding is being used by counties to provide evidence-based supervision, programs, or services to adult felon probationers.

The purpose of the JAG funding was to provide immediate funding to county probation departments to jumpstart development of evidence-based probation supervision practices in order to improve felony probation performance and reduce the likelihood that these probationers will commit new crimes or other violations and be sent to state prison.

Second, the California Community Corrections Performance Incentive Act of 2009 (SB 678, Leno) builds upon the initial allocation of JAG funding by establishing a system of performance-based funding for adult probation departments statewide. This bill was designed to achieve the dual purpose of reducing criminal behavior by adult felony probationers, as well as use state correctional resources more efficiently. This is accomplished through a complicated formula that for each county counts the number of adult felony probations sent to state prison each year compared that counties historical average. To the extent that counties are effective at reducing reoffending among this population, the state provides a payment to the county equivalent to 45 percent of the state’s savings that accrue from the reduced state prison population. Counties are then required to invest that funding in evidence-based probation practices, including supervision, evaluation, treatment services, and sanctions.

In effect, SB 678, along with the initial funding provided through the JAG funds, provides more funding to the front end of the correctional system where it can be used more effectively and efficiently to reduce crime. At the same time, it reduces state corrections costs.

Proposal. The Governor's budget estimates that $55.2 million General Fund will be paid to counties pursuant to the California Community Corrections Performance Incentive Act of 2009 (SB 678).

Also, the administration is requesting trailer bill language that would accomplish the following objectives:

- Make technical changes to clarify that the State Community Corrections Performance Incentive Fund comes from a transfer from the General Fund, and requiring the State Controller to distribute the funding from the State

Performance Incentive Fund to each county's Performance Incentive Fund, as prescribed by DOF.

- Modify the formula for SB 678 to change how each county's baseline probation failure rate is calculated so that more recent years are weighted more heavily.

Staff Comments. The administration's proposal is consistent with the intent of SB 678 and is based on an estimate that counties sent 4,079 fewer probation failures to state prison in 2010 as compared to before the law was passed. This represents savings to the state of more than $100 million.

While the administration's estimate of these savings appears reasonable, it is based on only the first two quarters of 2010 data. The administration will provide updated estimates as part of the May Revision based on the full year of actual data for 2010.

These proposed trailer bill change related to the funding formula merits further discussion. The administration finds that the current formula defining the historical average of probation failures in each county results in an overestimate. This is because there was a trend of declining probation failures sent to the state. To attempt to correct for this, the administration proposes to weight more recent years more heavily in the formula. This results in a decrease in the amount of funding that will be sent to counties but may more accurately reflect the actual impact of SB 678. This change would not affect the amount of additional funding counties would receive if they continue to reduce their probation failure numbers in 2011 and beyond compared to their success in 2010.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Is the change to the SB 678 formula as proposed by the administration a fair and appropriate reflection of the Legislature's intent?
- To what extent would doing changing the formula affect county probation departments' ability to implement effective programs?
- How will realignment, as proposed by the Governor affect the program created by SB 678? Are there ways to incorporate incentives for best practices and cost-effective use of resources into realignment, consistent with the approach of SB 678?

Staff Recommendation. Hold open the funding request pending May Revision. Deny without prejudice the administration's proposed trailer bill language.

Issue 14 – Budget Cut to Rehabilitation Programs

Background. The Governor's budget estimates the department will spend about $452 million on inmate and parole rehabilitation programs in the current year. This amounts to about 5 percent of CDCR's budget. The table below summarizes this spending:

Current-Year Spending (GF) on Inmate and Parolee Rehabilitation Programs

Program	**Spending** *(In millions)*	**Spending per Inmate/Parolee**
Inmate Education	$109.5	$670
Inmate Vocational Training	24.3	$148
Inmate Substance Abuse Treatment	41.4	$252
Parolee Substance Abuse Treatment	141.3	$1,256
Parolee Programs – various	135.6	$1,205
Total	***$452.1***	

It costs approximately $4,000 to have an inmate in a full-time education or vocational training classroom for a year. It costs approximately $7,000 to put a parolee into residential substance abuse treatment for 90 days. According to studies, only about one-quarter of state inmates are able to read a high school level, and 56 percent of inmates are in high need of drug abuse treatment and 43 of prison inmates are in high need for treatment for alcohol abuse. (There may be some overlap between these two populations.)

Proposal. The Governor's budget includes a cut of $150 million to CDCR's inmate and parolee rehabilitation programs. The department is still in the process of determining how that reduction will be implemented and allocated among its various education, vocation, substance abuse, and parolee programs. This reduction is one-time in nature and is proposed to be restored in 2012-13.

The administration suggests that these reductions are appropriate given the proposal to realign many offenders to county jurisdictions. It finds the department will have to reevaluate how it operates its offender programs based on the shift of population and determine the most appropriate types of programs to offer the remaining population.

Staff Comments. Staff raises a couple of concerns with this proposal. First, there could be a negative public safety impact to this proposal. Research consistently finds that effectively designed and operated rehabilitation programs are an effective tool to reducing reoffending when inmates are released from prison. For example, the Washington State Institute for Public Policy (WSIPP) has conducted meta-analyses which compile and consolidate the findings of numerous other reports and concluded that inmate education and vocational programs reduce recidivism by 7 percent and 9 percent, respectively. Prison and community substance abuse treatment reduces recidivism by 6 percent and 9 percent, respectively. Moreover, WSIPP found that the savings to taxpayers and the public from providing these programs far outweighs the costs to provide them. In their report, WSIPP estimated that these programs resulted in net savings ranging from $7,800 to $13,700 per participant. These findings suggest that reducing funding for these programs not only affects public safety, but can be a short-sighted budget solution.

Second, while the administration is correct to note that significant realignment will probably require a reshaping of the department's programs, staff would note that this would not occur on a large scale in the budget year. The administration's realignment proposals are to be implemented prospectively. Therefore, inmates and parolees already in CDCR prisons and on CDCR caseloads would continue to be there and would continue to benefit from programs in the budget year.

While staff finds significant concerns with this proposal, it does comprise a significant one-time budget solution. Therefore, staff recommends that the Legislature seek offsetting budget solutions should it seek to restore some or all of this proposed cut.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Is light of both the research on the effectiveness or correctional rehabilitation programs, as well as the state's fiscal problems, is this cut a reasonable budget solution?
- What options does the Legislature have to provide offsetting budget solutions in order to restore some or all of this cut on a one-time basis?
- To what extent is the department able to determine how effectively it operates its inmate and parolee rehabilitation programs?

Staff Recommendation. Hold open.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

Thursday, February 10, 2011
10:00 a.m. (or upon adjournment)
Room 113

Consultants: Brian Brown

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

Vote Only Items

	Issue	2011-12 Amount	Fund Source	Staff Recommendation
	Judicial Branch (0250)			
1	Conservatorship program	-	Trailer bill language	Approve as proposed
	Department of Corrections and Rehabilitation (5225)			
1	CMF ICF Activation	$1,958,000	General Fund	Reduce by $714,000
2	CMC MHCB Activation	$1,087,000	General Fund	Approve as budgeted
3	Correctional Health Care Facility	$948,000	General Fund	Approve as budgeted
4	Medication management	$11,869,000	General Fund	Reject without prejudice
5	Receiver unallocated reduction	-$163,200,000	General Fund	Approve as budgeted
6	Custody and mental health collaboration	$1,239,000	General Fund	Approve as budgeted
7	Armstrong Effective Communication	$279,000	General Fund	Reject without prejudice
8	AB 1844 Implementation	$1,023,000	General Fund	Approve as budgeted
9	Technical adjustment	$0	General Fund	Reject without prejudice
10	Academy and OPOS Support	$13,884,000	General Fund	Reject without prejudice

Vote Only Items – Issue Descriptions

Judicial Branch (0250)

VO Issue 1 – Conservatorship Program Trailer Bill Language

Background. The Conservatorship and Guardianship Reform Act of 2006 (AB 1363, Jones) was designed to increase court oversight of the conservatorship and guardianship system. Among other change, the Act requires Judicial Council to develop qualifications and continuing education requirements for probate court judges, attorneys, and court investigators and to establish uniform standards for conservatorships and guardians. It also requires the probate court to review conservatorships at a noticed hearing six months after appointment of the conservator and annually thereafter. Due to budget constraints, the state budget has delayed funding this program on a one-year basis each year since the Act was passed.

Proposal. The Governor's budget assumes a permanent decrease of $17.4 million to reflect the elimination of statutory requirements to implement the Act. The proposed change would relieve the courts of the mandated responsibilities under the Act, but would still allow for individual courts who have been implementing parts of the Act to continue to do so.

Staff Comments. When this issue was previously before the committee, the committee held this issue open pending receipt of the administration's trailer bill language which has subsequently been provided.

Staff Recommendations. Approve as proposed.

CA Department of Corrections and Rehabilitation (5225)

VO Issue 1 – CMF ICF Activation

Background. The CDCR is scheduled to open a new Intermediate Care Facility (ICF) at the California Medical Facility (CMF – Vacaville) in October 2011. The ICF will house seriously mentally ill inmates in need of longer-term inpatient treatment. Construction of the project was funded through AB 900 and is consistent with the *Coleman* court's direction to increase ICF capacity in the prison system. The Department of Mental Health will provide the clinical staffing for this facility. CDCR is responsible for providing the security staffing.

Proposal. The CDCR is requesting $1.958 million and 20.0 PYs in 2011-12, growing to $2.35 million and 25.1 PY in 2012-13 to provide custody staffing for the activation and operation of the 64-bed ICF at CMF.

Staff Comments. When previously heard in front of the committee, the LAO raised a concern the funding request for activation of these new beds does not account for the offsetting savings that should occur from taking down beds in other facilities. Since that time, CDCR has provided information that the offsets should be $714,000 in the budget year, growing to $1,507,000 the following year when the facility is fully activated for a full year.

Staff Recommendation. Reduce request by $714,000.

VO Issue 2 – CMC MHCB Activation

Background. The department is currently constructing a 50-bed Mental Health Crisis Bed (MHCB) unit at the California Men's Colony (CMC – San Luis Obispo) with a scheduled completion date of July 2012. It is expected that it will obtain licensure in September 2012 and will immediately initiate the admission process of inmate-patients. This project is consistent with the activation plan approved by the *Coleman* court.

The goal of the MHCB program is designed a short-term housing and treatment program to provide services for conditions which require an inpatient setting to improve acute mental health symptoms, including suicidal behavior. The MHCB program operates 24 hours a day, 7 days a week. An inmate-patient admitted to the MHCB for mental health treatment may have acute symptoms of a serious mental disorder or may be suffering from a significant or life-threatening disability. Many conditions may precipitate a mental health crisis during institution confinement. Such factors as the restrictions of confinement, pressures to conform to the prison lifestyle, and fear of more predatory inmates may disrupt an inmate's coping abilities. An inmate with no known mental health history may suffer acute symptoms, while another with mental illness in remission may have recurring symptoms.

Proposal. The Governor's budget proposes $1 million General Fund and 9.1 positions in 2011-12 (growing to $18.9 million General Fund and 182.8 positions in 2012-13) for implementation of a 50-bed licensed MHCB unit at CMC in compliance with a *Coleman* Court order.

Positions are necessary in order to meet mandated licensing requirements for this facility within court ordered timelines. This will enable CDCR to comply with the March 31, 2010 *Coleman* Court order to reduce or eliminate the wait lists for inpatient care and, in the interim, to better serve the treatment needs of *Coleman* class members placed on such list.

Staff Comments. When previously heard in front of the committee, the LAO raised a concern the funding request for activation of these new beds does not account for the offsetting savings that should occur from taking down beds in other facilities. Since that time, CDCR has provided information that suggesting that there are not offsetting savings to MHCB's. This is because inmates are only placed in these beds for short periods and staffing levels are not adjusted for the short period that inmates are in MHCB.

Staff Recommendation. Approve as budgeted.

VO Issue 3 – Correctional Health Care Facility

Background. The Correctional Health Care Facility (CHCF - Stockton) is being constructed on the site of the Northern California Youth Correctional Center and will include 1,722 beds of all security levels, along with all necessary support and rehabilitation program space. This project will replace temporary beds currently in use, and it is included in CDCR's long-range plan for medical and mental health beds provided to the *Coleman* court. It includes 337 high acuity or Correctional Treatment Beds, 673 low acuity or Outpatient Housing unit beds, 137 Mental Health Crisis Beds, 475 Department of Mental Health Intermediate Care Facility beds, and 100 Inmate Work Crew beds. In total, 949 of the 1,722 beds will require licensure under Title 22. The facility is scheduled to begin activation in July 2013. The facility is expected to be fully activated by December 2013.

Proposal. The Governor's budget proposes $948,000 and 5 positions in 2011-12 ($1.9 million and 10 positions in 2012-13 and ongoing) to provide resources for a core Pre-Activation Management Team for CHCF.

The CDCR and California Prison Health Care Services is requesting these positions effective January 1, 2012 which is 18 months in advance of the activation of the CHCF. According to the department and Receiver's Office, this amount of pre-activation time is longer than for most new CDCR facilities but is necessary because of the size and complex mission of the facility, as well as to achieve required licensure. These positions are comprised primarily of the facility's executive management staff (warden, chief medical officer), as well as some support staff.

Staff Comments. This project is a component of the department's long-range bed plan to address prison overcrowding and provide appropriate housing for inmates with mental illness or other medical problems that make living in a prison's general population difficult or dangerous. Moreover, the Joint Legislative Budget Committee reviewed and concurred with the construction of this project. Major facilities typically employ a phased activation of staffing that starts with the management team that will operate it. The ten positions requested in this proposal will form the leadership team for CHCF, carrying out pre-activation activities, then deploying to the facility to conduct its ongoing operations.

Staff Recommendation. Approve as budgeted.

VO Issue 4 – Medication Management

Background. Providing timely access to the full continuum of care, including access to prescribed medications, treatment modalities, and appropriate levels of care, is an essential component of the Receiver's Turnaround Plan of Action. At the same time, it is also incumbent on California Prison Health Care Services to mitigate health care expenditures.

Medication administration falls under the purview of nursing care. Each institution utilizes Registered Nurses (RN), Licensed Vocational Nurses (LVN), and Certified Nursing Assistants (CNA) to provide nursing care. While RNs are responsible for assessing, planning, implementing, and evaluating patient care, and CNAs perform simple nursing tasks associated with activities of daily living, it is the LVN who is responsible for administering most medications in the prison setting. Currently, only individuals who have completed the licensure requirements for RN or LVN may administer medications. RNs typically are not used to administer medications in outpatient health care settings because of the associate labor costs. The LVN is the lowest cost provider that can perform medication administration functions.

Proposal. The Governor's budget proposes $11.9 million GF and 211.3 two-year limited term Licensed Vocational Nurse (LVN) positions in 2011-12 to perform medication management functions in outpatient clinics.

Staff Comments. Staff notes that last year the Receiver's Office was provided with $10.1 million General Fund and 145 LVN positions to perform medication management functions in outpatient clinics. The 2009-10 budget assumed that provision of these staff positions would result in a reduced reliance on nursing overtime and registry, resulting in net savings to the department. The Receiver’s Office reports that those authorized positions had not yet been filled as of January.

Staff Recommendation. Deny without prejudice. Waiting until Spring to consider this proposal will allow the Legislature to see if the positions provided in the current year budget are filled and result in the type and magnitude of savings anticipated. If so, that may suggest that the additional positions proposed are warranted as a more cost-effective approach to medication management.

VO Issue 5 – Receiver Unallocated Reduction

Background. The current-year budget included an $820 million reduction to the budget for inmate health care. This estimate was based on the previous administration's estimate of the savings that would be achieved if CDCR's per capita inmate health care costs were reduce to the same level as in the state of New York.

Proposal. The Governor's budget modifies the ongoing reduction to the budget for inmate health care to $163.2 million in the budget year ($82.6 million in 2010-11). This ongoing reduction represents approximately a 10 percent reduction.

Staff Comments. According to the Receiver's office, the analysis of the previous administration was faulty in that the comparison with New York's prison spending did not include many of the same types of administrative, contracting, and other expenditures as incurred within CDCR's budget for inmate health care. The Receiver reports that the current proposal is much more realistic and consistent with his goal of providing constitutionally adequate inmate health care services in a more cost-effective manner. To date, the Receiver's office has not identified a specific plan for how it will achieve these reductions.

Staff Recommendation. Approve as budgeted.

VO Issue 6 – Custody and Mental Health Collaboration Training

Background. The *Coleman* lawsuit resulted in a finding against the State and the appointment of a Special Master to monitor mental health services delivery in CDCR to achieve a constitutional level of care as determined by the court. The *Coleman* Court monitors have consistently, over sixteen years, noted discord between custody and mental health staff. This is not uncommon within prison systems based on the different missions of custody and mental health treatment providers. Based on these ongoing concerns, the Court ordered the CDCR to develop a training program to enhance collaboration between custody and mental health staff who assess needs and provide care for inmate-patients with mental illness.

The court order mandates training for custody, nursing and mental staff at the following institutions: California State Prison, Corcoran (COR), California State Prison, Los Angeles County (LAC), Richard J. Donovan Correctional Facility (RJD), California State Prison, Sacramento (SAC), Substance Abuse Treatment Facility (SATF), California State Prison, San Quentin (SQ) and Salinas Valley State Prison (SVSP).

Proposal. The Governor's budget proposes $1.2 million General Fund in 2011-12 (growing to $1.9 million General Fund in 2012-13) to provide court-ordered training sessions to custody and mental health staff training at select institutions.

To comply with the court order, funding is required to:

- Provide relief coverage for the regularly assigned duties of custody and nursing staff at seven institutions so they can attend the eight-hour training (approximately 9,964 of the 11,090 staff to be trained are in posted positions);
- Cover the travel expenses that must be incurred by Division of Correctional Health Care Services (DCHCS) and the Mental Health Program; and,
- Provide for necessary supplies and course materials.

Staff Comments. Staff raises no specific concerns with this proposal. The training is court-ordered, and estimated costs seem reasonable. The costs are not proposed to be ongoing.

Staff Recommendation. Approve as budgeted.

VO Issue 7 – Armstrong Effective Communication

Background. In October 2009, the United States District Court of California mandated through the *Armstrong* court order that CDCR must provide sufficient certified sign language interpreters at institutions where hearing impaired inmates are housed. This court order enforces compliance with the Americans with Disabilities Act (ADA).

The CDCR provides educational and substance abuse programs in prisons throughout California. The CDCR houses hearing impaired inmates at four prisons – California Institution for Men (Chino), High Desert State Prison (Susanville), California Medical Facility (Vacaville), and the Substance Abuse Treatment Facility (Corcoran) – where these inmates are currently unable to participate in these programs.

Proposal. The Governor's budget proposes $279,000 General Fund for sign language interpreter contract services. These services are for hearing impaired inmates participating in educational and substance abuse treatment programs at the four prisons identified above. This funding will be used to hire contract interpreter staff.

Staff Comments. It is unclear how CDCR estimated the number of inmates requiring these services, as well as the amount of funding being requested.

Staff Recommendation. Deny without prejudice. It may not make sense to approve this funding if funding for CDCR prison programs are reduced by $150 million. Therefore, it may make sense to wait until later in the spring to determine how much program funding is ultimately going to be provided in CDCR's budget.

VO Issue 8 – AB 1844 Chelsea King Predator Prevention Act

Background. Assembly Bill 1844 (Chapter 219, Statutes of 2010 - Fletcher), also known as the Chelsea King Child Predator Prevention Act of 2010 or Chelsea's Law, targets dangerous, sexually violent criminals. It toughens prison sentences, lengthens the time that violent sex offenders who are released from prison must remain on parole, improves methods used by the state to evaluate the dangerousness of these offenders, requires polygraph tests of all sex offenders on parole or probation, and improves the state's online sex-offender database. The bill also authorized the collection of fees from service providers of sex offender treatment programs to cover the associated costs.

Governor Schwarzenegger directed the California Sex Offender Management Board (CASOMB) to determine where systemic changes or improvements can be made in order to protect the public. Following the board's review, the Governor directed his administration to take action on the recommendations provided by the board including the implementation of the sex offender containment model included in Chelsea's Law.

Proposal. The Governor's budget proposes $1 million ($98,000 General Fund and $925,000 Special Deposit Fund) and six three-year limited term positions for the CDCR to meet the provisions of Assembly Bill 1844. Specifically, the request is designed to accomplish the following activities as required by AB 1844:

- The development of standards for certification of sex offender management professionals, as well as management of the certification process.
- Fingerprinting of treatment providers seeking certification to provide sex offender treatment.
- Train staff on the use of sex offender assessment instruments chosen by the CASOMB.
- A contract for measuring program performance.

The table below summarizes the staff and funding requested for each of these purposes.

Summary of Request

Purpose	Positions	Funding	Fund Source
Certification standards & implementation	6	$519,000	Special Deposit Fund
Fingerprinting treatment providers	0	$406,000	Special Deposit Fund
Staff training	0	$68,000	General Fund
Contract to develop evaluations	0	$30,000	General Fund
Totals	***6***	***$1,023,000***	

Staff Comments. Staff raises no specific concerns with this request. The AB 1844 placed new responsibilities on the department that drive additional workload. Most of this additional workload is funded from the Special Deposit Fund, not the General Fund.

Staff Recommendation. Approve as budgeted.

VO Issue 9 – Technical Adjustment

Proposal. The California Department of Corrections and Rehabilitation (CDCR) requests authority to permanently realign funding for a number of its budget programs and divisions beginning in 2010-11. The department finds that in various instances, certain activities have been budgeted in one part of their budget but are really more appropriately budgeted in another. The department says that this proposal does not change in any way what positions are authorized or where they work – for example, in the field or headquarters. The request only changes where the positions and funding are allocated within the department's budget.

The net result of this request is summarized in the table below.

Summary of Technical Adjustment Proposal – 2011-12

Budget Program	Change in Funding	Change in Positions
Central administration	-$4,005,601	317
Corrections Standards Authority	18,094	-4
Division of Juvenile Justice	-1,435,065	-16
Adult prisons	16,150,632	-167
Adult parole	-2,033,789	-25
Board of Parole Hearings	-772,082	-11
Adult programs	-1,658,361	-22
Inmate health care	-6,263,828	-71
Net Totals	***$0***	***0***

This budget request includes 14 distinct budget adjustments across more than 20 budget programs. Some examples of the adjustments proposed include the following:

- Transferring $5.6 million from the inmate health care program to the adult prison program to account for a misallocation of funding for custody positions to the health care budget associated with the activation of a Mental Health Crisis Bed Unit at the California Medical Facility.
- Transfers a total of $14.9 million from various budget programs to the budget for central administration in accordance with a directive by the Office of the Chief Information Officer that all department IT functions have a direct reporting relationship to the department's Chief Information Officer.
- Reallocation of $96.7 million within the adult parole budget programs to align funding with the authorized purposes, specifically by increasing the allotments for community based programs for parolees.

Staff Recommendation. Reject without prejudice. Revisiting this proposal in the Spring will allow the Legislature more time to review the specific adjustments proposed in light of realignment and administration efforts to reduce headquarters positions.

VO Issue 10 – Academy and OPOS Support

Background. In June 2010, the CDCR received approval from the Public Works Board for three major infill projects planned as part of the Long Range Integrated Strategy Plan for AB 900, including the California Health Care Facility in Stockton, the DeWitt Conversion in Stockton, and the Estrella Conversion in Paso Robles. The projected hiring need for the AB 900 facilities includes approximately 1,081 peace officer staff beginning in July 2012 through June 2016. This information along with the revised projected hiring needs from Division of Adult Institutions (DAI) was utilized to determine that 2,968 correctional officers (CO) need to be hired over the next two years. In order to meet these needs, CDCR projects that it will need to hire 1,484 cadets per year each of the next two years.

In 2009-10, the number of academy cadets was reduced from 1940 to 799, with a corresponding reduction in funding ($20 million). Additionally, in 2009-10, staffing for the department's Office of Peace Officer Selection (OPOS) was reduced from 221 positions to 103 positions. The OPOS is responsible for correctional officer recruitment and conducting pre-hiring assessments of applicants.

Proposal. The Governor's Budget proposes $13.3 million and 18 positions in 2010-11 (growing to 13.9 million in 2011-12) to increase the number of correctional officer cadets to meet the projected correctional officer hiring needs. This request has the following two components:

- Requests $11.4 million to increase the budgeted capacity of Basic Correctional Officer Academy. This would allow the department to increase the number of cadets in the Academy from 799 to 1484 annually. This expansion will address the CO hiring needs for the AB 900 facilities as well as address retirements and attrition.

- Requests 18.0 positions and $1.9 million in 2010-11 and $2.4 million in 2011-12 for the Office of Peace Officer Selection (OPOS) to process approximately 26,000 CO applications annually. This funding includes resources to do the following process the following application components for each applicant: online application, written examination, background investigation, psychological written, psychological oral examination, pre-employment medical clearance, and physical ability testing.

The department notes that if the Governor's realignment proposal regarding Low Level Offenders is adopted, the funding and position authority requested in this proposal would be unnecessary.

Staff Recommendation. Deny without prejudice.

Items to Be Heard – Outline

California Victims Compensation and Government Claims Board

Issue Number	Issue	Page
1	Restitution Fund Insolvency	16

Department of Corrections and Rehabilitation

Issue Number	Issue	Page
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CA Victim Compensation and Government Claims Board (1870)

Department Overview. The governing body of the California Victim Compensation and Government Claims Board (VCGCB) consists of three members: the Secretary of the State and Consumer Service Agency who serves as the chair, the State Controller, and a public member appointed by the Governor. The VCGCB provides responsive financial compensation to remedy the financial burdens of victims of crime through a stable Restitution Fund, and for those with claims against the State, an opportunity to resolve those claims or proceed with other remedies. The primary objectives of the VCGCB are to:

- Compensate victims of violent crime and eligible family members for certain crime-related financial losses.
- Review and act upon civil claims against the state for money or damages.
- Resolve bid protests with respect to the awarding of state contracts for the procurement of goods and services. Provide for reimbursement of counties' expenditures for special elections called for by the Governor to fill vacant seats in the Legislature and Congress.
- Determine the eligibility of individuals for compensation for pecuniary injury sustained through erroneous conviction and imprisonment.
- Process claims for the Missing Children Reward Program to assist local law enforcement agencies or other parties involved in the identification and recovery of missing children in California.
- Assist with the administration of the California State Employees Charitable Campaign.
- Process claims through the Good Samaritan Program to private citizens who are injured rescuing another person, preventing a crime, or assisting a law enforcement officer.

Budget Overview. The Board has a proposed budget of $155.2 million in 2011-12, an increase of about $3.9 million over the current year. The Restitution Fund makes up about three-quarters of the department's budget expenditure authority. The department has no General Fund. The Board is authorized for about 283 positions in the budget year.

Issue 1 – Restitution Fund Insolvency

Background. Victims of crime and their families are eligible to receive state funding for crime-related financial costs through the Restitution Fund. The Restitution Fund also funds other crime-related programs, including $15.2 million to support local anti-gang grants and the Internet Crimes Against Children Task Force administered by CalEMA, as well as the Witness Protection Program administered by the Department of Justice. The Restitution Fund also funds $11.6 million for 161.5 positions in 20 Joint Powers local claims processing units and $1.3 million for 44 restitution specialists in the offices of 25 district and city attorneys. These specialists – mostly paralegal and support staff – work with local officials to pursue the imposition of and promote the collection of restitution fines and orders. To encourage collection of restitution, the law provides a 10 percent rebate to counties.

Proposal. The Board proposes several changes designed to ensure the solvency of the Restitution Fund through 2011-12. In total, these changes would reduce Restitution Fund expenditures by $5,827,000 and increase Federal Trust Fund expenditures by $500,000. More specifically, the changes proposed by the Board are as follows:

- Reduce operating expenditures by $2.2 million in 2011-12 (and $3.5 million in 2010-11).
- Limit growth in Restitution Fund claim payments to 2.5 percent by reducing the rate of payment for mental health interns and a more stringent review of additional sessions authorized via an Additional Treatment Plan (ATP).
- Shift $500,000 in Restitution Fund claim payment expenditures to federal funds in the current and budget years.
- Reduce Joint Powers claims processing and restitution specialist contracts by 5 percent ($707,000).
- Reduce the baseline budget for the 10 percent county rebates by $2.4 million to more closely align with actual expenditures.

Staff Comments. The fiscal health of the Restitution Fund has oscillated over the years from periods that included high fund balances to periods of projected insolvency. According to the Board, the fund has periodically faced fiscal challenges because there is no direct association or control between the Restitution Fund revenues and program expenditures. So, for example, in 1993 the Legislature decided to provide the Fund with a $44 million loan from the General Fund. More recently, the Restitution Fund provided an $80 million transfer to the General Fund.

In recent years, the Restitution Fund has been heading for insolvency because its annual expenditures exceed its annual revenues. The table below shows the Fund's projected expenditures, revenues, and year-end balance assuming approval of this request.

Restitution Fund Condition
(In millions of dollars)

Fiscal Year	Beginning Balance	Revenues	Expenditures	Ending Balance
2009-10	$51.8	$117.3	$123.4	$45.8
2010-11	$45.8	$113.3	$131.7	$27.4
2011-12	$27.4	$112.3	$134.8	$4.9

As shown in the figure above, Restitution Fund revenues are declining, while expenditures are climbing. In 2011-12, the projected revenues are $22.5 million less than projected expenditures, even with the changes proposed in this request. This raises fundamental questions about the long-term health of the Restitution Fund.

Addressing the long-term solvency of the Restitution Fund involves two questions: (1) how can restitution revenues be increased, and (2) how can expenditures be decreased? It is unclear why restitution revenues are decreasing, though one possibility is that, given the state's economy, offenders are less able to pay fines and penalties and/or judges are ordering less. Another possibility is that due to state and local budget cuts, counties and courts have had to reduce their collection efforts.

According to the Board, the main driver of increased Restitution Fund costs are the number of claims filed. The following table shows the increase in applications received and allowed over the past three years.

Restitution Applications and Payments

Fiscal Year	Applications Received	Bills Received	Total Payments
2007-08	53,693	243,043	$81,209,610
2008-09	54,572	308,057	$94,027,080
2009-10	57,254	206,315	$96,575,800

It is also worth noting that in 2008, both the Legislative Analyst's Office and the Bureau of State Audits issued reports that, among other findings, identified what appeared to be excessive administrative costs in the department. The LAO found that in 2006-07, administrative costs equaled 31 percent of the total state and federal funding for the program, an amount significantly higher than several other states. Similarly, the BSA found that administrative costs ranged between 26 and 42 percent of Restitution Fund disbursements annually.

When the committee heard this issue earlier this year, the committee directed the department to report back on what additional longer-term options it was considering to ensure the solvency of the Restitution Fund. The department has provided the committee with a list of options that total over $40 million in cost short to long-term cost reductions, as well as a few options that could potentially increase revenues. The committee may wish to direct the department to provide an overview of these options during the hearing. In addition to the options presented by the department, the LAO asserts that the Board could further reduce its administrative costs which could achieve savings in the millions of dollars annually.

Staff Recommendation. Approve as budgeted. This proposal should ensure the solvency of the Restitution Fund in the budget year. The committee may want to revisit this issue in the spring to further discuss strategies to ensure the longer-term solvency of the Fund.

CA Department of Corrections and Rehabilitation (5225)

Departmental Overview. Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created pursuant to the Governor's Reorganization Plan 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include YACA, the California Department of Corrections, Youth Authority, Board of Corrections, Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training.

According to the department's website, its mission is to "enhance public safety through the safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities."

The CDCR is responsible for the incarceration, training, education, and care of adult felons and nonfelon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and reincarceration of those parolees who commit new offenses or parole violations. The department also sets minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides local assistance in the form of grants to local governments for crime prevention and reduction programs.

The department operates 33 adult prisons, including 12 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates five juvenile correctional facilities, including two reception centers. In addition, CDCR operates dozens of adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and nearly 200 parole offices, as well as contracts to house inmates in several in-state and out–of–state correctional facilities.

Budget Overview. The Governor proposes a CDCR budget of $9.3 billion, of which $9.1 billion is General Fund. General Fund spending is proposed to be a slight decrease - $7 million – compared to the current year projected expenditure level. Note, however, that this proposed funding level does not fully account for the budgetary impact of the Governor's realignment proposals which are currently being considered by the Legislature. In total, about $8.1 billion of the CDCR budget is for operation of the state prisons with the remaining funding adult parole, juvenile justice, the Board of Parole Hearings, the Corrections Standards Authority, and department administration.

Issue 1 – Structural Shortfall

Background. The administration finds that CDCR has chronic structural budget problems driven by a number of factors. In prior years, the Department absorbed ever-increasing costs by redirecting resources away from other programs and priorities. Consequently, there was reduced operation of inmate education and work programs, reductions in non-custody support staff, freezes placed on purchasing and training, increased equipment and physical plant failures due to deferred maintenance, and positions being held vacant to divert salary savings to cover shortfalls. Due to unallocated budget cuts and reductions in program funding, the department finds that it has fewer funds available to redirect existing resources to offset its structural shortfall.

Proposal. The Governor's Budget proposes $395.2 million General Fund to address ongoing structural imbalances within CDCR's budget. This total includes five distinct requests.

(A) Fund Salaries Three-Quarters Step ($266.5 million). In 2003-04, the Department of Finance approved that new positions be funded at the mid-step. However, CDCR finds that most custody staff is currently paid at or near the top step of the salary range. A comparison of mid-range salary funding to actual staffing costs for all institutions' reflects a $266.5 million shortfall. Consequently, CDCR requests funding prison custody staff – correctional officers, sergeants, and lieutenants – at the three-quarters step of their salary ranges.

(B) Medical Guarding and Transportation Workload ($55.2 million). The CDCR is mandated to provide appropriate, timely, and adequate medical care to all inmates. Court decisions such as *Coleman v. Schwarzenegger* and *Plata v. Schwarzenegger* have resulted in significant increases in the provision of outside medical care, a trend which has increased custody costs associated with transporting and guarding inmates when receiving health care treatment outside of the prisons. The base funding level for Medical Guarding and Transportation (MGT) is $66.4 million. The CDCR has actually been incurring costs totaling $137.6 million for MGT, or $71.2 million more than budgeted. The department projects that these costs will decline in coming years due to efforts by the Receiver but still estimates that CDCR will need an augmentation of $55.2 million in 2011-12 and ongoing to fund MGT operations.

(C) Unfunded Swing Space ($17.3 million). Appropriate housing has to be found for all inmates. This can be challenging due to all of the factors that go into determining a safe and appropriate housing option for each inmate. These factors include security classification, offense history, mental health need, medical conditions, gang affiliations, known enemies, infectious diseases, developmental disabilities, and physical disabilities. According to the department, these factors make it unreasonable to assume that every funded prison bed is filled each day of the year. Therefore, the department finds that funding for "swing space" should be provided.

The department requests $17.3 million to fund swing space in the prisons. Essentially, this proposal will provide additional funding over and above what is provided through the normal caseload budgeting process. This is proposed to be done by providing funds for unfilled prison beds. More specifically, the department is proposing to provide funding for 913 unfilled beds statewide. This estimate was based on providing the funding equivalent of an additional 0.5 percent of their general inmate population, while reception center institutions would be funded at an additional 1 percent of their population.

(D) Overtime Funding Not Adjusted for Employee Compensation ($35.7 million). Although significant increases (34.23%) to Bargaining Unit 6 base salaries have occurred over the past several fiscal years, the declared base budget for custody staff overtime has not been adjusted to reflect those increases. The department estimates that these higher salary levels contribute $35.7 million to its structural shortfall. The department reports that its base budget for custody overtime is $104.3 million.

(E) Legal Settlements and Outside Counsel ($20.5 million). The department estimates that CDCR needs $20.5 million to account for shortfalls in its Office of Legal Affairs (OLA) budget. This request is based on historical increases in the cost of legal settlements and judgments, use of outside counsel, and special master and expert witness fees from class action lawsuits. According to the department, these costs have been driven, in particular, by court mandates in various class action lawsuits. The department's current budget for OLA is $60.4 million. The CDCR finds that actual expenditures exceed its base budget by $20.5 million.

Budget Bill Language. The administration also proposes budget bill language requiring that three times during the budget year the department submit a report to the Department of Finance detailing how each prison's expenditures are tracking compared to its approved budget allotments. The language further requires the department to detail the reasons behind any projected overspending.

Staff Comments. The department has, in fact, suffered from shortfalls in various areas of its budget. In some years, this has resulted in a deficiency request. In other years, the department has managed to shift resources within it budget to cover those shortfalls. For example, the department reports than in some years savings – primarily salary savings resulting from vacant positions – in its administration, adult programs, and administration budget programs were used to offset shortfalls. Over the past couple of years, the department has seen its budgets for adult programs reduced by $250 million, and taken an additional $100 million unallocated reduction as part of the broader effort to balance the state's budget. These reductions have reduced the flexibility the department has to shift money internally. In 2010-11, the department overspent its budget and, as a consequence, was unable to pay some vendors, requiring those vendors to go to the Government Claims Board for reimbursement for services provided to the department.

Given this history, staff suggests that this effort to accurately and appropriately budgeting CDCR has merit. It will provide a more truthful reflection of their actual costs. In addition, it should mean that the department does not have to shift money around from one budget program to another nearly as often to cover shortfalls. This means, for example, that CDCR should have no reason to keep rehabilitation program positions vacant to generate salary savings, and instead should be expected to fully operate its programs as budgeted by the Legislature. It also means that the Legislature should be able to look at areas where CDCR has historically been able to operate with high savings levels, such as central administration to identify ongoing reductions.

So, while the committee should consider each of this proposal's components on its merits, the committee may want to consider how to implement this request in such a way as to ensure appropriate level of oversight and accountability of the department's expenditures. It is not always clear that the department as a whole or individual institutions and programs have managed their budgets as efficiently as they can. And while providing some or all of the funding requested here may be a more accurate reflection of true costs in CDCR, this alone does not guarantee effective fiscal management.

(A) Fund Salaries Three-Quarters Step ($266.5 million). Staff raises two concerns for committee consideration with this component of the proposal. First, there may be a minor technical issue with how this part of the shortfall was calculated. Staff has asked for more information regarding how CDCR calculated its base funding for salaries as it appears that the department may actually be overstating their base funding level.

Second, and the more substantial policy question, is whether funding CDCR custody positions at the three-quarters step will set a precedent for other classifications in CDCR or employees in other state agencies. State agencies generally can manage their resources if employee salaries start averaging something higher than the mid-step by keeping other positions vacant and using salary savings to offset the higher costs. However, this is not as easy in prisons which are 24-hour institutions with many posted positions. Keeping custody positions vacant only drives more overtime costs. So, approving this funding request may be a more accurate way to reflect CDCR's true salary costs. On the other hand, there are other state agencies that operate 24-hour institutions, such as the Department of Mental Health, that potentially face similar challenges and could come forward with similar budget requests in the future if their average costs increase significantly above the mid-step.

(B) Medical Guarding and Transportation Workload ($55.2 million). The department's costs for medical guarding and transportation have increased markedly in recent years, in particular due to the efforts of the federal Receiver to ensure better access to medical care. Now that the Receiver has begun to improve the provision of health care within the prisons and implemented utilization management programs, those costs have begun to come back down. In light of that, CDCR built in an assumed decrease in medical guarding costs compared to prior year levels. However, staff finds on a technical basis that the 23 percent reduction was applied incorrectly and the requested augmentation can be reduced by $15,614,000.

(C) Unfunded Swing Space ($17.3 million). It makes sense that the department has to operate with an amount of swing space to accommodate all the movement of inmates that has to occur in the prisons on a daily basis as inmates move in and out of receptions centers, general population facilities, health and mental health care units, and disciplinary housing units. However, it is unclear that this is a funding issue as much as it is an issue about having sufficient numbers of beds of the different types available throughout the system. Moreover, given current overcrowding levels, it is unclear that the department can operate sufficient swing space.

(D) Overtime Funding Not Adjusted for Employee Compensation ($35.7 million). Staff raises no specific concerns with how this request was calculated. However, staff would note that the department proposed this same funding request in the budget two years ago. The committee rejected the proposal at that time, in particular because it found that the department did not have a plan for how it would contain and reduce overtime costs going forward. At that time, the committee adopted budget bill language requiring CDCR to develop such a plan and suggested that it would revisit this proposal after such a plan was developed and shared with the Legislature. Governor Schwarzenegger vetoed that language. Whether it approves this component of this proposal or not, the committee may want to consider adopting similar language again or otherwise present a plan to the committee.

(E) Legal Settlements and Outside Counsel ($20.5 million). It is unclear the degree to which CDCR might be better able to contain its legal costs. While its costs for settlements and judgments reached $33.8 million in 2009-10, it was only $19.4 million in 2006-07. Of course, much of these costs are driven by court decisions largely beyond the control of the department. On the other hand, these costs are frequently driven by ineffective department operations that result in lawsuits, its trouble rapidly correcting deficiencies alleged and sustained by courts, and potentially decisions to take some issues to trial that may not reflect cost-effective approaches to resolving disputes.

LAO Comments and Recommendations. While the LAO finds that the department's budget shortfalls are a persistent problem that merit being addressed, it has several concerns with this proposal. In summary, the LAO finds that this proposal does not, in fact, reflect a true accounting of the department's budget. It identifies certain areas of structural shortfall, but does not account for areas where the department historically has unspent moneys, such as parole and administration. Moreover, the budget does include budget reductions that are likely to be difficult for the department to meet, specifically the workforce cap and unallocated reduction to the Receiver's budget. The LAO also raises the concern that the proposal does not provide for any specific cost control measures or guarantees that the department will not overspend again in the future. Consequently, the LAO recommends that the Legislature reject this proposal and require the administration provide a more comprehensive accounting of its fiscal needs.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- What efforts is the department or administration taking to ensure better fiscal management and control within CDCR? What additional steps should the Legislature take in its oversight capacity?
- While potentially a more accurate reflection of actual salary costs, does the Legislature want to set the precedent of funding positions at three-quarters step in CDCR?
- Why does the department need additional funding for swing space? Is the need really for money or bed capacity?
- Should the Legislature adopt budget bill language again requiring CDCR to develop a plan for how it is going to control and manage overtime costs in the future?
- What efforts has the department made to reduce or contain the number of lawsuits and the costs associated with lawsuits?

Staff Recommendation. Approve with reductions totaling $82.955 million (listed below), and direct the department to continue to work with staff in reviewing this proposal this spring. Given the magnitude of the request, as well as the precedential nature of the component to fund salaries at three-quarters step, the committee may want to revisit this proposal in the spring.

- Reduce by $15,614,000 to reflect the technical change related to medical guarding and transportation.
- Reduce by $17,313,000 to reject the component related to unfunded swing space.
- Reduce by $35,703,000 to reject the overtime request. The department should come back in the spring and provide the committee with a plan for how it will contain and otherwise manage overtime costs in the future.
- Reduce by $14,325,000 to reflect the difference between the department's requested funding level for legal settlements and outside counsel and the amount spent in 2006-07, the lowest spending level for these activities since 2004-05.
- Modify the administration's proposed budget bill language to require that the department also provide the expenditure reports to the budget committees.

Issue 2 – Estrella Infill Beds

Background. The Estrella Correctional Facility project is the re-purposing of the Division of Juvenile Justice Facility previously known as El Paso De Robles Youth Correctional Facility (Paso Robles). This project is included in the CDCR's long-range plan for medical and mental health beds provided to the *Coleman* Court in November 2009.

The project includes housing, programming, health care facilities, inmate visiting and support facilities. The Estrella conversion will include a total of 1,000 beds for the following categories of inmates: 207 Specialized General Population, 292 General Population, 150 Enhanced Outpatient Program (EOP), 40 EOP Administrative Segregation, and 311 Inmate Work Crew.

Assembly Bill 900 (Public Safety and Offender Rehabilitation Services Act of 2007) authorized construction of infill beds and support program space at existing prison facilities. The CDCR, working collaboratively with the Federal Receiver filed a long-range Integrated Strategy Plan to reduce overcrowding and provide for increased medical and mental health beds. The *Coleman* court approved this plan.

The requested resources are based on a rollout schedule that projects facility activation beginning September 14, 2012 (though the Receiver's Office reports that minor delays have occurred, and construction is now assumed to be completed on October 4, 2012).

Proposal. The Governor's budget proposes $2.7 million GF and 21.4 positions in 2011-12 (growing to $41.5 million GF and 442.6 positions in 2012-13 and ongoing) to support the pre-activation, activation, and ongoing operation of the new Estrella Correctional Facility.

Staff Comments. This project is a component of the department's long-range bed plan to address prison overcrowding and provide appropriate housing for inmates with mental illness or other specialized needs (in the case of the specialized general population inmates). Moreover, the Joint Legislative Budget Committee reviewed and concurred with the construction of this project.

Backup information provided by the department identifies 72.5 positions that will be established for various pre-activation purposes. These positions are proposed to be established at various periods prior to activation of the facility ranging from two to ten months prior to the facility opening.

The LAO recommends the Legislature reduce the Governor's proposal to account for cost reductions that would be incurred at other facilities resulting from the activation of the four new prison facilities. However, this facility does not activate until 2012-13. So, there will be no offsetting savings in the budget year. In response to the LAO's questions, the department estimates that the offsetting savings in 2012-13 will be about $6.6 million and 112 positions. This amount will increase in 2013-14 when the facility is fully activated for the entire fiscal year.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Does the Legislature still support activation of the Estrella project to relieve overcrowding and address current shortages of mental health beds?
- How did the department identify a need for 72.5 positions as part of the pre-activation staffing plan? What activities will these positions perform?

Staff Recommendation. Reduce by $1,328,000 – half of the amount requested. The department will certainly require pre-activation staffing to prepare for the activation of this new prison facility. However, it is unclear why it requires as many as 72.5 positions to carry out the necessary activities. Therefore, staff recommends approving half of the amount requested and suggests that the revisit the issue in the spring to ensure that the appropriate and necessary amount of staffing is provided.

Issue 3 – CIW CTC Activation

Background. Utilizing funding authorized under AB 900 (Solorio, Chapter 7, Statutes of 2007), the department is currently constructing a Correctional Treatment Center (CTC) at the California Institution for Women (CIW). CTC facilities provide both acute and intermediate level of care mental health treatment programs for inmate-patients. The project at CIW will add 45 licensed clinical beds to an existing 18-bed CTC, for a total of 63 CTC beds.

The table below provides a list of the different mental health classifications in CDCR that require specialized housing, including the number of inmates meeting those classifications, as well as the number of beds and wait lists for those beds.

CDCR Mental Health Services Delivery System
(As of January 10, 2011)

Category	Inmates	Capacity	Wait List
Enhanced Outpatient Program (EOP)	4,881	4,269	154
Psychiatric Services Unit (PSU)	367	394	121
Mental Health Crisis Beds (MHCB)	340	373	17
Intermediate Care Facilities (ICF)	606	732	375

Proposal. The Governor's budget requests a total of $1.5 million General Fund and 11.6 positions in 2010-11 and $10.1 million General Fund and 106.4 positions in 2011-12 (growing to $12.5 million and 135.4 positions in 2012-13) to provide staffing required for a this 45-bed inpatient accredited facility, as well as seek accreditation for the facility. The request is summarized in the table below.

CIW Correctional Treatment Center Budget Request

Fiscal Year	CTC Activation	Accreditation	Totals
2010-11	$905,000	$597,000	$1,502,000
2011-12	$8,909,000	$1,195,000	$10,104,000
2012-13	$11,314,000	$1,195,000	$12,509,000

The 45-bed CTC at CIW is scheduled for completion in December 2011. In order to comply with the *Coleman* Court Order, new staff is proposed to be hired by mid-October 2011, at least three months prior to the required licensing survey conducted by the Department of Public Health (DPH). The facility must pass this initial licensing inspection prior to the housing of inmate-patients in the facility.

Typically, the Department of Mental Health (DMH) operates CTCs in California's prisons. However, the department has determined that it intends to begin managing and operating its CTCs. This CTC at CIW is the first such facility proposed to be operated by CDCR and not DMH. Accordingly, the department will seek provisional Joint Commission Accreditation for the facility. The department states that accreditation will help ensure that it has the appropriate staffing, policies, and procedures in place to take on this new responsibility, as well as demonstrate to the *Coleman* court that it is prepared to do so effectively. Requirements associated with obtaining accreditation by the Joint Commission exceed those of State licensure by DPH. In order to prepare for this accreditation, the department is requesting nine headquarter positions and $1.2 million ongoing to obtain and maintain Joint Commission Accreditation for the CIW facility and for other inpatient facilities that will be constructed over the next four years, including the inpatient facilities at California Medical Facility and Correctional Health Care Facility.

Staff Comments. The activation of this facility is consistent with the department's long-range plans to provide sufficient housing and treatment for seriously mentally ill inmates. The Legislature has already approved the construction of this facility knowing that there would be additional ongoing operating costs.

The LAO raises a concern that the funding requests for activation of these new beds does not account for the offsetting savings that should occur from taking down beds in other facilities. In response to the LAO's concerns, the department has estimated that there will be $84,000 in offsetting savings in the budget year, increasing to $1.1 million in the following year when the facility is fully activated for a full year.

The committee may also want to consider whether it wishes to fund the additional staffing requested for headquarters accreditation staffing. While it is certainly the case that this facility must meet basic licensing standards, accreditation is not required. The department does report, however, that national accreditation is likely to be an important step in demonstrating to the *Coleman* court that the department can effectively manage its mental health programs and, eventually, end federal court oversight. Though this may be a laudable goal, the committee may want to consider whether this accreditation work is something the department should do with existing resources, particularly in light of the state's overall fiscal problems.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- What offsetting savings should the department experience from activating this facility? How did the LAO arrive at its conclusion that savings should reach a couple of millions of dollars in the budget year?
- Has the administration and LAO agreed upon a reasonable level of offsetting savings?
- Can the department effectively run this CTC, a type of facility that is operated by DMH in all other CDCR prisons where such facilities are located?
- How important is it that the department seek accreditation of this facility?

- If the department does seek accreditation, should it use its existing resources rather than requesting $1.2 million for this purpose?
- How long is accreditation staff needed? If approved, should they be limited term?

Staff Recommendation. Reduce by a total of $1,279,000. This reduction includes $84,000 associated with offsetting savings and $1,195,000 associated with the accreditation staffing requested.

Staff agrees with the department that seeking accreditation is a worthwhile goal that should be pursued but believes that the department should utilize existing headquarters resources for this purpose. While the department does not have existing staff specifically dedicated to seeking accreditation, its existing staff already has the responsibility of designing effective procedures and protocols.

Issue 4 – Headquarters and Licensure Positions

Background. Assembly Bill 900 (Public Safety and Offender Rehabilitation Services Act of 2007) authorized construction of infill beds, and support program space at existing prison facilities. CDCR, working collaboratively with the Federal Receiver filed a Long-Range Integrated Strategy Plan to reduce overcrowding and provide for increased medical and mental health beds. In total, this bed plan assumes that by 2015 the department will activate about 9,900 new prison beds (not including reentry facilities), many of which will serve medically or mentally ill inmates.

Proposal. The Governor's budget proposes $5.1 million GF and 17 headquarters positions in 2011-12 ($5.0 million and 17 positions in 2012-13) to support the activations of the new facilities funded through AB 900.

The CDCR and California Prison Health Care Services (CPHCS) anticipate pre-activation activities will continue for 4-5 years. The CDCR and CPHCS have established a core Facilities Planning and Activation Management Team made up of various executive and administrative support positions. Responsibilities of this new staff would include facility planning and activation management, meeting licensure requirements, recruitment, acquisition and procurement, and labor negotiations.

Staff Comments. The LAO finds that while CDCR has identified an increase in workload that will result from the planning for the activation of new prison facilities, their analysis indicates that the department currently has unutilized resources within its central administration budget that could be used for such planning activities. This is because the department currently has vacancies in several of the employee classification categories for which it is requesting additional positions and funding. For example, CDCR is requesting two additional program analysts in central administration despite the fact that the department currently has over 100 vacancies in this classification. Furthermore, in 2009-10, CDCR had $43 million in savings in its budget for central administration at the end of that year. The fact that the Department has not spent all of its allocated funding for administration in the past suggests that there could be savings in other central administration functions that the Department has not identified which could support the above facility activation planning activities. In view of the above, the LAO recommends that the Legislature reject the Governor’s proposal.

Additionally, the Receiver’s Office testified to the Assembly budget subcommittee that heard this issue that it could absorb its share of the requested positions.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Can the state afford to provide the department with more administrative positions in light of the state's budget problems?
- What headquarters positions does CDCR already have that can help manage the activation of these facilities?
- To what extent do the positions being requested overlap with the functions that are to be performed by pre-activation staff being requested in other budget requests (such as Estrella and CHCF)?

Staff Recommendation. Deny. While the activation of new facilities will drive additional workload for the department, staff recommends that the department be required to absorb this workload within existing resources. As the LAO notes, there have been unfilled vacant positions resulting in significant headquarters savings in recent years. Moreover, in light of the state's general budget problems, the addition of administrative positions does not seem warranted at this time.

Issue 5 – San Quentin Condemned Extended EOP

Background. The EOP Condemned program at San Quentin State Prison (SQ) provides mental health services to 25 inmate-patients with serious and persistent mental illness on California's death row. This program consists of mental health staffing and additional out-of-cell time for these inmates Monday through Friday. According to the department, when not treated appropriately, this population frequently requires suicide watch and/or admission to higher levels of care. Six out of the last seven suicides at SQ occurred in this population.

Proposal. The Governor's budget proposes $603,000 General Fund and 5.7 positions to extend the Enhanced Outpatient Program (EOP) to seven days a week for condemned inmates at SQ.

According to the department, this request will provide more intensive EOP services and assist these inmates to better adapt to life within the Condemned Housing Unit. In so doing, the department believes it will reduce the likelihood that inmates' mental health condition will decompensate on days when services are not available which then requires more intensive and expensive care. For example, housing inmates in an Intermediate Care Facility (ICF) costs approximately $200,000 per inmate per year.

In order to provide the extended level of service in the condemned EOP program, the staffing complement is proposed to be extended to a seven day per week schedule. Existing staffing models were used to calculate staffing for a 5-day per week program level. This staffing level was increased to account for the increase from 5 to 7-day service and to maintain continuity of care. With the increase in number of days of service, and number of hours of programming, there is an increase in demand for guarding and escort officers. During the time that the Extended Condemned EOP Program is in operation custody staff must also ensure all mandated programs are being successfully met (e.g., legal appointments, religious services, medical appointments, showers, exercise yard and distribution of medication).

Staff Comments. Since release of the Governor's budget, the administration has identified an error in its budget calculations. Specifically, the department's estimates assumed a count of 40 inmates requiring EOP services on death row. In fact, the correct number is 25. Consequently, the administration is revising its request to $445,000 and 4.3 positions.

Staff notes that an additional correction needs to be made to reduce the request by an additional $54,000 and 0.6 positions. This is because of a technical error calculating the security coverage.

Aside from these technical issues, staff raises a concern that it is not clear from the department's proposal how significant of a problem decompensation of EOP condemned inmates actually is. For example, the proposal does not identify how frequently these inmates decompensate and require a higher and more expensive level of treatment, or how often that happens at least in part due to the lack of mental health services on weekends. In addition, the proposal asserts that when inmates do decompensate and are placed in higher levels of treatment, this is very expensive – perhaps as much as $200,000 per inmate per year for an ICF bed. While it is almost certainly true that housing an inmate in an ICF is significantly more expensive than EOP level treatment, the department's proposal does not include a cost comparison that accounts for factors such as length of stay.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- How many suicide attempts have there been among the EOP population on death row over each of the past few years?
- Is this proposal in response to a direct court order?
- How often do condemned EOP inmates decompensate to the point of needing to be transferred to a higher level of care? Has the department determined that this happens more frequently due to the lack of mental health services over the weekends?
- Has the department determined that the proposed approach is definitely the more cost-effective approach to managing this population?

Staff Recommendation. Reject without prejudice. This request may very well be a more cost-effective and sound correctional approach to treating the condemned EOP inmates. However, it is not entirely clear that that is the case based on the information currently provided by the department. Rejecting without prejudice will allow the committee more time to review whether this staffing request is warranted based on actual operational need at SQ, as well as determine if it is a cost-effective approach.

Issue 6 – SB 678 Community Corrections Performance Incentive Grants

Background. In an effort to stem the flow of felony probationers being sent to state prison, the Legislature approved two distinct measures aimed at improving felon outcomes. First, the Budget Act of 2009 included a $45 million appropriation of federal Edward Byrne Justice Assistance Grant (JAG) funds that was distributed to all 58 county probation departments. This funding is being used by counties to provide evidence-based supervision, programs, or services to adult felon probationers.

The purpose of the JAG funding was to provide immediate funding to county probation departments to jumpstart development of evidence-based probation supervision practices in order to improve felony probation performance and reduce the likelihood that these probationers will commit new crimes or other violations and be sent to state prison.

Second, the California Community Corrections Performance Incentive Act of 2009 (SB 678, Leno) builds upon the initial allocation of JAG funding by establishing a system of performance-based funding for adult probation departments statewide. This bill was designed to achieve the dual purpose of reducing criminal behavior by adult felony probationers, as well as use state correctional resources more efficiently. This is accomplished through a complicated formula that for each county counts the number of adult felony probations sent to state prison each year compared that counties historical average. To the extent that counties are effective at reducing reoffending among this population, the state provides a payment to the county equivalent to 45 percent of the state's savings that accrue from the reduced state prison population. Counties are then required to invest that funding in evidence-based probation practices, including supervision, evaluation, treatment services, and sanctions.

In effect, SB 678, along with the initial funding provided through the JAG funds, provides more funding to the front end of the correctional system where it can be used more effectively and efficiently to reduce crime. At the same time, it reduces state corrections costs.

Proposal. The Governor's budget estimates that $55.2 million General Fund will be paid to counties pursuant to the California Community Corrections Performance Incentive Act of 2009 (SB 678).

Also, the administration is requesting trailer bill language that would accomplish the following objectives:

- Make technical changes to clarify that the State Community Corrections Performance Incentive Fund comes from a transfer from the General Fund, and requiring the State Controller to distribute the funding from the State

Performance Incentive Fund to each county's Performance Incentive Fund, as prescribed by DOF.

- Modify the formula for SB 678 to change how each county's baseline probation failure rate is calculated so that more recent years are weighted more heavily.

Staff Comments. The administration's proposal is consistent with the intent of SB 678 and is based on an estimate that counties sent 4,079 fewer probation failures to state prison in 2010 as compared to before the law was passed. This represents savings to the state of more than $100 million.

While the administration's estimate of these savings appears reasonable, it is based on only the first two quarters of 2010 data. The administration will provide updated estimates as part of the May Revision based on the full year of actual data for 2010.

These proposed trailer bill change related to the funding formula merits further discussion. The administration finds that the current formula defining the historical average of probation failures in each county results in an overestimate. This is because there was a trend of declining probation failures sent to the state. To attempt to correct for this, the administration proposes to weight more recent years more heavily in the formula. This results in a decrease in the amount of funding that will be sent to counties but may more accurately reflect the actual impact of SB 678. This change would not affect the amount of additional funding counties would receive if they continue to reduce their probation failure numbers in 2011 and beyond compared to their success in 2010.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Is the change to the SB 678 formula as proposed by the administration a fair and appropriate reflection of the Legislature's intent?
- To what extent would doing changing the formula affect county probation departments' ability to implement effective programs?
- How will realignment, as proposed by the Governor affect the program created by SB 678? Are there ways to incorporate incentives for best practices and cost-effective use of resources into realignment, consistent with the approach of SB 678?

Staff Recommendation. Hold open the funding request pending May Revision. Deny without prejudice the administration's proposed trailer bill language.

Issue 7 – Budget Cut to Rehabilitation Programs

Background. The Governor's budget estimates the department will spend about $452 million on inmate and parole rehabilitation programs in the current year. This amounts to about 5 percent of CDCR's budget. The table below summarizes this spending:

Current-Year Spending (GF) on Inmate and Parolee Rehabilitation Programs

Program	Spending *(In millions)*	Spending per Inmate/Parolee
Inmate Education	$109.5	$670
Inmate Vocational Training	24.3	$148
Inmate Substance Abuse Treatment	41.4	$252
Parolee Substance Abuse Treatment	141.3	$1,256
Parolee Programs – various	135.6	$1,205
Total	***$452.1***	

It costs approximately $4,000 to have an inmate in a full-time education or vocational training classroom for a year. It costs approximately $7,000 to put a parolee into residential substance abuse treatment for 90 days. According to studies, only about one-quarter of state inmates are able to read a high school level, and 56 percent of inmates are in high need of drug abuse treatment and 43 of prison inmates are in high need for treatment for alcohol abuse. (There may be some overlap between these two populations.)

Proposal. The Governor's budget includes a cut of $150 million to CDCR's inmate and parolee rehabilitation programs. The department is still in the process of determining how that reduction will be implemented and allocated among its various education, vocation, substance abuse, and parolee programs. This reduction is one-time in nature and is proposed to be restored in 2012-13.

The administration suggests that these reductions are appropriate given the proposal to realign many offenders to county jurisdictions. It finds the department will have to reevaluate how it operates its offender programs based on the shift of population and determine the most appropriate types of programs to offer the remaining population.

Staff Comments. Staff raises a couple of concerns with this proposal. First, there could be a negative public safety impact to this proposal. Research consistently finds that effectively designed and operated rehabilitation programs are an effective tool to reducing reoffending when inmates are released from prison. For example, the Washington State Institute for Public Policy (WSIPP) has conducted meta-analyses which compile and consolidate the findings of numerous other reports and concluded that inmate education and vocational programs reduce recidivism by 7 percent and 9 percent, respectively. Prison and community substance abuse treatment reduces recidivism by 6 percent and 9 percent, respectively. Moreover, WSIPP found that the savings to taxpayers and the public from providing these programs far outweighs the costs to provide them. In their report, WSIPP estimated that these programs resulted in net savings ranging from $7,800 to $13,700 per participant. These findings suggest that reducing funding for these programs not only affects public safety, but can be a short-sighted budget solution.

Second, while the administration is correct to note that significant realignment will probably require a reshaping of the department's programs, staff would note that this would not occur on a large scale in the budget year. The administration's realignment proposals are to be implemented prospectively. Therefore, inmates and parolees already in CDCR prisons and on CDCR caseloads would continue to be there and would continue to benefit from programs in the budget year.

While staff finds significant concerns with this proposal, it does comprise a significant one-time budget solution. Therefore, staff recommends that the Legislature seek offsetting budget solutions should it seek to restore some or all of this proposed cut.

Key Questions for Legislative Consideration. In reviewing this proposal, the committee may wish to consider the following questions.

- Is light of both the research on the effectiveness or correctional rehabilitation programs, as well as the state's fiscal problems, is this cut a reasonable budget solution?
- What options does the Legislature have to provide offsetting budget solutions in order to restore some or all of this cut on a one-time basis?
- To what extent is the department able to determine how effectively it operates its inmate and parolee rehabilitation programs?

Staff Recommendation. Reject the cut to rehabilitation programs.

In addition, revert the remaining amount of General Fund allocated in 2011-12 for infrastructure projects in AB 900 – about $73.8 million – to offset this restoration. In combination with the other reductions recommended in this agenda, the restoration of this $150 million cut will be fully offset and, therefore, not result in any General Fund increase relative to the Governor's budget.

Finally, adopt budget bill language requiring that the funding provided in the budget for inmate and parole rehabilitation programs can only be used for that purpose and any funds budgeted for that purpose buy unspent at the end of the budget year should revert to the General Fund. This action will mean that the department cannot divert money from programs to other areas of operation without legislative consent.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

Thursday, February 10, 2011
10:00 a.m. (or upon adjournment)
Room 113

Consultants: Brian Brown

OUTCOMES

Item Number and Title **Page**

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

Vote Only Items

	Issue	2011-12 Amount	Fund Source	Staff Recommendation
	Judicial Branch (0250)			
1	Conservatorship program	-	Trailer bill language	Approve as proposed
	Department of Corrections and Rehabilitation (5225)			
1	CMF ICF Activation	$1,958,000	General Fund	Reduce by $714,000
2	CMC MHCB Activation	$1,087,000	General Fund	Approve as budgeted
3	Correctional Health Care Facility	$948,000	General Fund	Approve as budgeted
4	Medication management	$11,869,000	General Fund	Reject without prejudice
5	Receiver unallocated reduction	-$163,200,000	General Fund	Approve as budgeted
6	Custody and mental health collaboration	$1,239,000	General Fund	Approve as budgeted
7	Armstrong Effective Communication	$279,000	General Fund	Reject without prejudice
8	AB 1844 Implementation	$1,023,000	General Fund	Approve as budgeted
9	Technical adjustment	$0	General Fund	Reject without prejudice
10	Academy and OPOS Support	$13,884,000	General Fund	Reject without prejudice

Vote only calendar approved 3-0

CA Victim Compensation and Government Claims Board (1870)

Issue 1 – Restitution Fund Insolvency

Approved as budgeted. 3-0

CA Department of Corrections and Rehabilitation (5225)

Issue 1 – Structural Shortfall

Approved staff recommendation. 3-0

Staff Recommendation. Approve with reductions totaling $82.955 million (listed below), and direct the department to continue to work with staff in reviewing this proposal this spring. Given the magnitude of the request, as well as the precedential nature of the component to fund salaries at three-quarters step, the committee may want to revisit this proposal in the spring.

- Reduce by $15,614,000 to reflect the technical change related to medical guarding and transportation.
- Reduce by $17,313,000 to reject the component related to unfunded swing space.
- Reduce by $35,703,000 to reject the overtime request. The department should come back in the spring and provide the committee with a plan for how it will contain and otherwise manage overtime costs in the future.
- Reduce by $14,325,000 to reflect the difference between the department's requested funding level for legal settlements and outside counsel and the amount spent in 2006-07, the lowest spending level for these activities since 2004-05.
- Modify the administration's proposed budget bill language to require that the department also provide the expenditure reports to the budget committees.

Issue 2 – Estrella Infill Beds

Reduced by $1,328,000 – half of the amount requested. 3-0

Issue 3 – CIW CTC Activation

Reduced pre-activation staffing request by $84,000. Denied without prejudice $1,195,000 related to accreditation staffing. 3-0

Issue 4 – Headquarters and Licensure Positions

Rejected proposal. 3-0

Issue 5 – San Quentin Condemned Extended EOP

Rejected without prejudice. 3-0

Issue 6 – SB 678 Community Corrections Performance Incentive Grants

Held open the funding request pending May Revision. Denied without prejudice the administration's proposed trailer bill language.

Issue 7 – Budget Cut to Rehabilitation Programs

Adopted staff recommendation. 2-1 (Hancock, Wolk – Yes; Anderson – No)

Staff Recommendation. Reject the cut to rehabilitation programs.

In addition, revert the remaining amount of General Fund allocated in 2011-12 for infrastructure projects in AB 900 – about $73.8 million – to offset this restoration. In combination with the other reductions recommended in this agenda, the restoration of this $150 million cut will be fully offset and, therefore, not result in any General Fund increase relative to the Governor's budget.

Finally, adopt budget bill language requiring that the funding provided in the budget for inmate and parole rehabilitation programs can only be used for that purpose and any funds budgeted for that purpose buy unspent at the end of the budget year should revert to the General Fund. This action will mean that the department cannot divert money from programs to other areas of operation without legislative consent.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

Tuesday, May 10, 2011
10 a.m. (or upon adjournment of Senate Public Safety Committee)
Room 2040

Consultant: Keely Martin Bosler

Item Number and Title **Page**

Special Prison Education Panel: Status of Prison Education Programs

- Aaron Edwards, Fiscal and Policy Analyst, Legislative Analyst's Office
- Elizabeth Siggins, Chief Deputy Secretary, Adult Programs, CDCR
- Allen Baraldi, Principal, Deuel Vocational Institution, CDCR
- Scott Kernan, Undersecretary, Operations, CDCR
- Steve Bowman, Teacher, Mule Creek State Prison, CDCR
- John Kern, Vocational Teacher, Ventura Youth Correctional Facility, CDCR
- Jody Lewen, Executive Director, Prison University Project

CA Department of Corrections and Rehabilitation (5225)

Departmental Overview. Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created pursuant to the Governor's Reorganization Plan No. 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include YACA, the California Department of Corrections, Youth Authority, Board of Corrections, Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training.

According to the department's website, its mission is to "enhance public safety through the safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities."

The CDCR is responsible for the incarceration, training, education, and care of adult felons and non-felon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and re-incarceration of those parolees who commit new offenses or parole violations. The department also sets minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides local assistance in the form of grants to local governments for crime prevention and reduction programs.

The department operates 33 adult prisons, including 12 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates five juvenile correctional facilities, including two reception centers. In addition, CDCR operates dozens of adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and nearly 200 parole offices, as well as contracts to house inmates in several in-state and out–of–state correctional facilities.

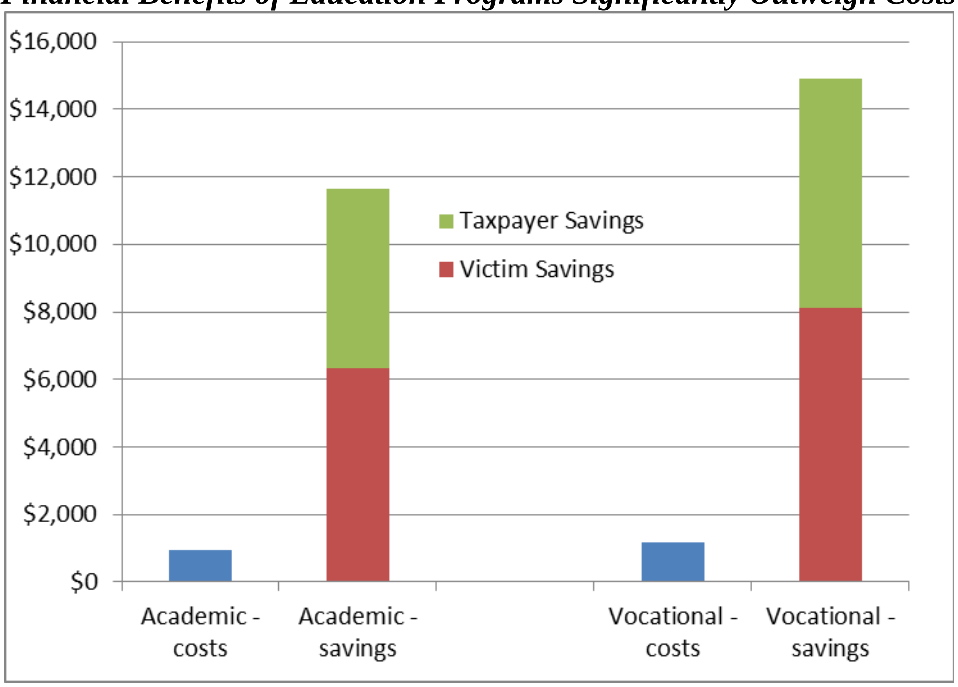
Budget Ov erview. The Legislature passed SB 69 (Budget) on March 17 of this year. This conference report appropriates $9 billion, including $8.9 billion from the General Fund for the support of CDCR. However, this proposed funding level includes $1 billion in savings related to the realignment proposal. However, these savings may not be achievable if the taxes are not extended and realignment does not occur. The Governor's May Revision on May 16 will update the inmate population estimates for the current and budget years.

Background – Research on Prison Education Programming

Research on Prison E ducation P rograms. According to studies, only about one-quarter of state inmates are able to read at a high school level.

Research consistently finds that effectively designed and operated rehabilitation programs are an effective tool to reducing reoffending when inmates are released from prison. For example, the Washington State Institute for Public Policy (WSIPP) has conducted meta-analyses which compile and consolidate the findings of numerous other reports and concluded that inmate education and vocational programs reduce recidivism by 7 percent and 9 percent, respectively. As shown in the figure below, WSIPP found that the savings to taxpayers and the public from providing these programs far outweighs the costs to provide them. In their report, WSIPP estimated that these programs resulted in *net savings* of $10,700 per academic education participant and $13,700 per vocational education participant. These findings suggest that funding for these programs not only benefits public safety, but can yield long-term fiscal benefits to taxpayers.

Financial Benefits of Education Programs Significantly Outweigh Costs



Source: Washington State Institute for Public Policy, October 2006.

Principles for Effective Correctional Programs. Research finds that it is not enough to simply provide "evidence-based programs". To achieve results, it matters *how* the programs are delivered, often referred to as program fidelity. The description below lists the key components to delivering programs effectively.

Criteria for Effective Correctional Rehabilitation Programs
Source: LAO, "From Cellblocks to Classrooms: Reforming Inmate Education to Improve Public Safety"

Research shows that successful correctional rehabilitation programs—whether they are education, substance abuse, mental health, or other types of programs—and the case management systems that place inmates into those programs have several key components. The California Department of Corrections and Rehabilitation should create a process for evaluating whether its programs—including, but not limited to, education programs—adhere to these criteria, which we describe below.

- ***Program Model.*** Programs should be modeled on widely accepted principles of effective treatment and, ideally, research demonstrating that the approach is effective at achieving specific goals.
- ***Risk Principle.*** Treatment should be targeted towards inmates identified as most likely to reoffend based on their risk factors—for example, those inmates who display high levels of antisocial or criminal thinking, low literacy rates, or severe mental illness. Focusing treatment resources on these inmates will achieve greater net benefits compared to inmates who are low–risk to reoffend even in the absence of treatment programs, thereby generating greater "bang for the buck."
- ***Needs Principle.*** Programs should be specifically designed to address those offender needs which are directly linked to their criminal behavior, such as antisocial attitudes, substance abuse, and illiteracy.
- ***Responsivity Principle.*** Treatment approaches should be matched to the characteristics of the target population. For example, research has shown that male and female inmates respond differently to some types of treatment programs. Important characteristics to consider include gender, motivation to change, and learning styles.
- ***Dosage.*** The amount of intervention should be sufficient to achieve the intended goals of the program, considering the duration, frequency, and intensity of treatment services. Generally, higher–dosage programs are more effective than low–dosage interventions.
- ***Trained Staff.*** Staff should have proper qualifications, experience, and training to provide the treatment services effectively.
- ***Positive Reinforcement.*** Behavioral research has found that the use of positive reinforcements—such as increased privileges and verbal encouragement—can significantly increase the effectiveness of treatment, particularly when provided at a higher ratio than negative reinforcements or punishments.
- ***Post–Treatment Services.*** Some services should continue after completion of intervention to reduce the likelihood of relapse and reoffending. Continuing services is particularly important for inmates transitioning to parole.
- ***Evaluation.*** Program outcomes and staff performance should be regularly evaluated to ensure the effectiveness of the intervention and identify areas for improvement.

Previous Findings and Recommendations. In recent years, various reports have been issued related to CDCR's inmate education programs, specifically, or CDCR rehabilitation programs more generally. Below summarizes some of those reports.

- ***Expert Panel on Adult Offender Reentry and Recidivism Reduction Programs, "Report to the California State Legislature: A Roadmap for Effective Offender Programming in California" June 2007.*** In 2007, a committee of department officials, as well as researchers and practitioners from around the country issued a report on how to reduce recidivism among those released from California prisons. The report looked broadly at both programmatic and structural issues within CDCR. Among the recommendations pertinent to inmate education, the Expert Panel recommended implementing systems of positive reinforcement for completion of programs, using risk and needs assessments to determine programming placements, developing case plans for inmates, expanding various programs including education, and developing systems to evaluate outcomes.

- ***Legislative Analyst's Office, "From Cellblocks to Classrooms: Reforming Inmate Education to Improve Public Safety" February 2008.*** The LAO made various recommendations designed to improve both the performance and accountability of programs in the near term, as well as provided options for how to expand program capacity in the longer term. Recommendations included funding education based on attendance rather than enrollment, developing incentives for participation and achievement, filling teacher vacancies, limiting the impact of lockdowns on programs, utilizing effective case management practices, and creating half-day programs. The LAO argued that these efforts would better leverage the state's existing investments in prison education programs to increase the number who participate as well as improve the quality of programs provided.

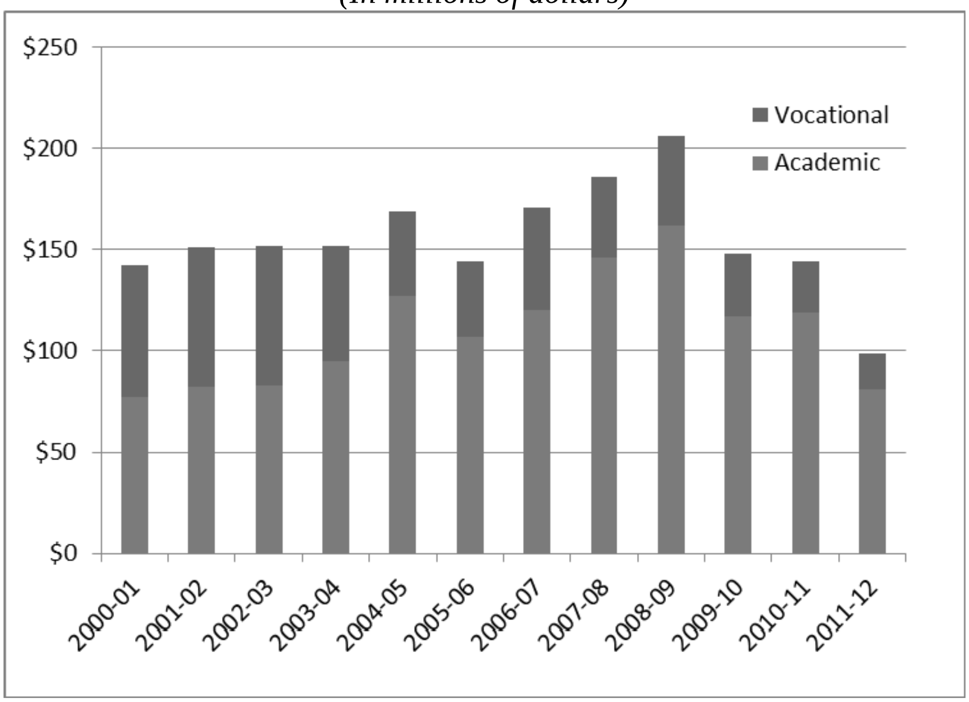
- ***California Rehabilitation Oversight Board (C-ROB), various reports.*** Over the past several years the C-ROB has issued reports on the progress made by CDCR in implementing rehabilitation programs, including inmate education. Among its findings in its most recent report, issued in March 2011, the C-ROB found that CDCR had successfully issued about 59,000 weeks of milestone credits to inmates who had successfully completed rehabilitation programs or program components. It was unclear to C-ROB the magnitude of the fiscal savings from this level of credit earning, making it difficult to compare to projections. The C-ROB also reported that CDCR had completed risk assessments of more than 95 percent of inmates and parolees, but significantly lower percentages of offenders had completed needs assessments.

Status of California Prison Education Programs

Spending on CDCR E ducation Programs. The Governor's January budget estimates the department will spend a total of $473 million on inmate and parole rehabilitation programs in the current year. (This does not include program administration funding – $31 million.) This amounts to about 5 percent of CDCR's budget. The 2011-12 Budget Act includes a one-time $150 million reduction for department rehabilitation programs. This follows a $250 million reduction in the 2009-10 budget.

Of the total funding in the current year, about $144 million is for inmate education programs, including academic education ($119 million), and vocational training ($25 million). The figure below shows spending levels on inmate education programs since 2000-01.

Spending on Inmate Education Programs since 2000-01
(In millions of dollars)



** 2010-11: estimated amount; 2011-12: budgeted amount.*

The department spends less than $900 per inmate per year on prison education, down from $1,300 in 2008-09, according to the LAO. By comparison, in 2008-09, the department spent about $19,700 per inmate on security, $12,400 on inmate health care, and $3,500 on prison administration. See the LAO's table on the next page.

California's Annual Costs to Incarcerate an Inmate in Prison *2008-09*	
Type of Expenditure	**Per Inmate Costs**
Security	**$19,663**
Inmate Health Care	**$12,442**
-Medical care	$8,768
-Psychiatric services	1,928
-Pharmaceuticals	998
-Dental care	748
Operations	**$7,214**
-Facility operations (maintenance, utilities, etc.)	$4,503
-Classification services	1,773
-Maintenance of inmate records	660
-Reception, testing, assignment	261
-Transportation	18
Administration	**$3,493**
Inmate Support	**$2,562**
-Food	$1,475
-Inmate activities	439
-Inmate employment and canteen	407
-Clothing	171
-Religious activities	70
Rehabilitation Programs	**$1,612**
-Academic education	$944
-Vocational training	354
-Substance abuse programs	313
Miscellaneous	**$116**
Total	**$47,102**

CDCR's Strategic Plan. In 2010, CDCR released a new department Strategic Plan. This plan differs from previous plans in that it identifies specific measurable objectives. Two objectives in the Strategic Plan speak to in-prison rehabilitation programs, specifically:

> *Objective 3.2 – By June 30, 2015, CDCR will increase by 50 percent the number of eligible offenders who receive, prior to release, evidence-based rehabilitative programming consistent with their risks and needs.*
>
> *Objective 3.3 – By June 30, 2015, 50 percent of facilities will meet CDCR's space standards for custody, healthcare, and rehabilitation.*

Academic Program Capacity and Enrollment. Currently, the department has budgeted capacity for 30,302 inmates in academic programs and 4,637 in vocational training programs as of February 2011.

The CDCR is currently delivering academic education based on five different models and has 25,365 inmates currently enrolled in academic education programs based on the following five models plus a general literacy program. The CDCR currently has 68 percent of their total academic education slots filled. The five academic education models currently being used are as follows:

- Model 1: Literacy/Adult Basic Education (ABE) I – This model is staffed with one teacher and one teaching assistant and is designed to serve inmates with a TABE reading score of 0.0 through 3.9. Students meet three hours a day, five days a week. Approximately 3,062 inmates are currently enrolled in this model.
- Model 2: ABE II and III – This model is staffed with one teacher and one teaching assistant. The model is designed to serve the needs of inmates with a TABE score of 4.0 through 8.9. Inmates with a reading score of 4.0 to 6.9 will attend three days a week for a total of nine hours with six hours of homework. Inmates with a reading score of 7.0 to 8.9 will attend two days a week for a total of six instructional hours with an additional nine hours of homework. Approximately, 4,765 inmates are currently enrolled in this model.
- Model 3: ABE I, II and GED – This model is staffed with one teacher and one teaching assistant. There are four groups (called rosters) in this model and depending on reading level are assigned from 15 hours of instruction to three hours of instruction. Additional homework is assigned for the inmates with lower instructional hours up to 12 hours of homework per week for GED students. Approximately 2,432 inmates are currently enrolled in this model.
- Model 4: GED – This model is staffed with one teacher and students are required to attend class one day each week and to complete homework. Approximately 7,043 inmates are currently enrolled in this model.
- Model 5: High Security Combination – This model is staffed with one teacher and is designed to serve educational needs of inmates within high security institutions or designated yards. Inmates with ABE I level reading scores would receive nine hours of direct instruction three days per week. Inmates with ABE II level reading scores would receive direct instruction two days a week for six hours. Inmates with ABE III or GED levels would meet with a teacher one day a week for three hours. Approximately 2,567 inmates are currently enrolled in this model.

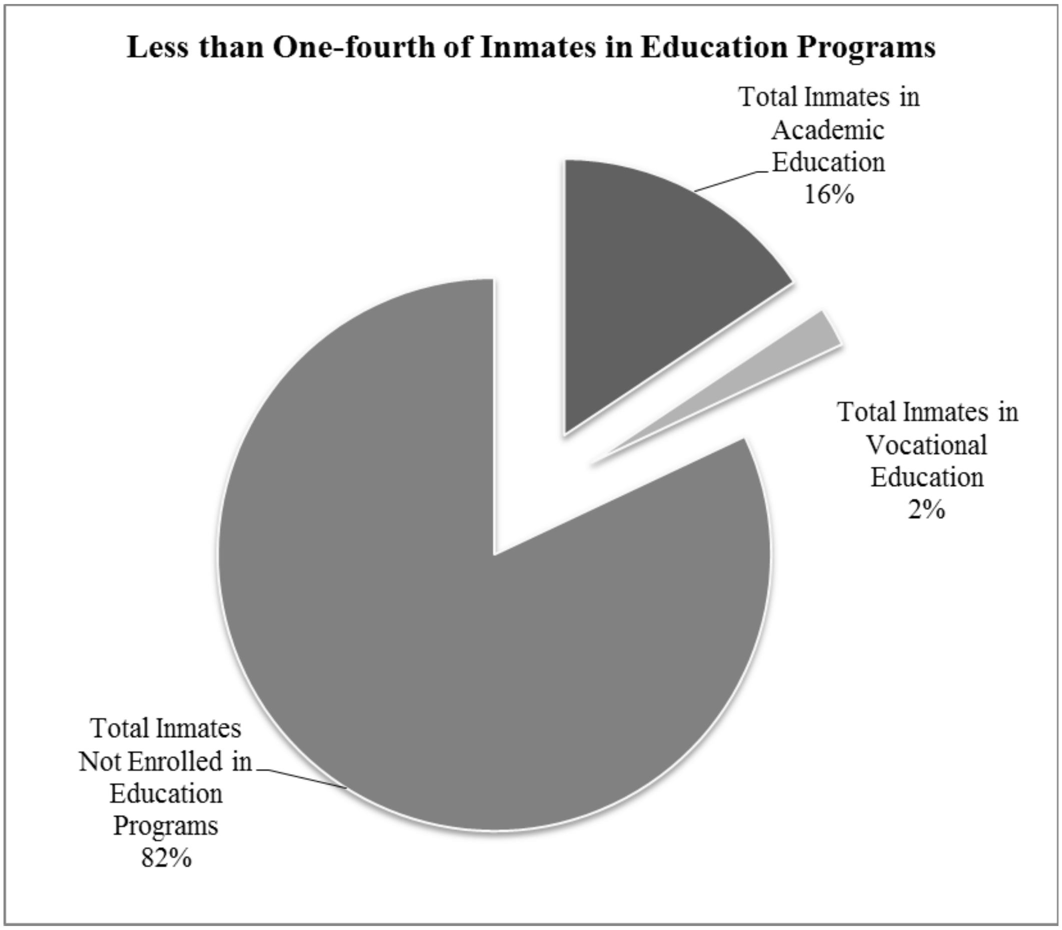
The CDCR is streamlining the models listed above starting June 1 of this year to better meet the individual needs of each institution. There will now be two main models, the general population academic program and the isolated population academic program for high security level inmates. These programs will build off the models listed above. The general population academic program will meet three hours a day, five days a week and the high security program will meet from one to five days a week depending on individual circumstances to be worked out between the Principal and other appropriate institutional staff.

There are 3,847 inmates currently enrolled in 15 different vocational programs. The department currently has 83 percent of its vocational education slots filled. Vocational programs include the following:

- Auto Body
- Auto Mechanics
- Building Maintenance
- Carpentry
- Electronics
- Electrical Construction Work
- Heating, Ventilation, and Air Conditioning
- Machine Shop
- Manicuring
- Masonry
- Office Services and Related Technologies
- Plumbing
- Sheet Metal Work
- Small Engine Repair
- Welding

According to the LAO, the department has struggled historically to ensure that inmates assigned to programs actually participate on a daily basis, generally because of staff vacancies and institution lockdowns. Consequently, LAO estimated that in 2006-07, only 43 percent of all enrolled inmates were actually in class on any given day. According to CDCR, this was up to about 71 percent for academic programs in February of 2011 and 62 percent for vocational programs. The Comparative Statistics collected by CDCR monthly (also referred to as COMPSTAT) for February 2011 indicates that custody issues and teacher vacancies continue to be the largest reason for missed instructional time. However, medical appointments are also a factor.

Share of Inmates Enrolled in Education Programs. The recent budget cuts have resulted in fewer inmates receiving rehabilitation programs. Currently, less than one-fourth of inmates are in educational programs. The following chart does not include inmates that may participate in an educational program that is part of the Prison Industry Authority (PIA) program. This chart also does not address any programming delivered in private prisons where CDCR inmates are currently housed.



Program Outcomes. The table below lists select outcome data related to prison education provided by CDCR in their annual budget report to the Legislature.

	2007-08	2008-09	2009-10
GEDs and diplomas earned	3,743	1,812	2,738
Vocational program completion rate	Unknown	6.2%	7.3%
Vocational program achievement rate	Unknown	Unknown	51.2%
Vocational certificates earned	4,332	7,840	5,801

The education outcome data available does not measure well the progress of inmate students in their academic programming. Diplomas and GEDs are important metrics, but do not measure the gains that are made when functionally illiterate inmates gain basic literacy. It is difficult to compare much of this longitudinal data because there have been significant changes in programs and education models over the last several years. As programming models stabilize the year-over-year changes will be more meaningful.

Details on 2011-12 Reductions Made to Corrections Rehabilitation Programs

Background. In SB 69 (Budget), the budget conference committee report, passed March 17, 2011, an additional $150 million was reduced from CDCR's rehabilitation programs. This was in addition to the $250 million cut in the 2009-10 fiscal year. Due to the potential one-time nature of the reduction, CDCR has identified areas where savings can be achieved for one year—such as, terminating contracts or delaying new services.

Approximately 50 percent of this reduction ($75 million) will come from in prison programs, 30 percent ($44 million) from parole operations, and 20 percent ($31 million from delaying new female offender programs).

These reductions represent the following:

- 20 percent reduction to adult programs, from $362 million to $288 million, including a 39 percent reduction to substance abuse contracts.
- 30 percent reduction to parole contracts.
- 50 percent reduction to planned female offender programming blueprint..

What Programming Remains. The CDCR has indicated that the following core adult programs will remain:

- In prison Substance Abuse Programs – 1,650 treatment slots with annual capacity of 3,700 inmates at 12 institutions and Leo Chesney Community Corrections Facility.
- Aftercare Beds – 2,200 community-based substance abuse treatment residential after-care beds, a little over 1,500 are the In-Custody Drug Treatment Program.
- Education – Maintains capacity but achieves $12 million in savings through reductions in administrative staff, including reducing the vice principals and reducing other operating expenses.

The CDCR has also indicated that the following core parole programs will remain:

- All current high risk sex offender contracts will continue. New contracts will be delayed.
- Retains 1,179 residential beds or 65 percent of previous capacity used for remedial sanctions.
- Retains 2,005 non-residential slots which is 84 percent of the previous capacity.

The CDCR is planning to retain all of the activated female offender programs. However, new programs scheduled to be activated will be delayed.

Questions for the Education Pan el. In reviewing this issue, the committee may wish to consider the following questions.

- ***Goals.*** What are the short-term and longer-term steps CDCR is taking to meet its Strategic Plan objectives with respect to prison education? If the department achieves its goal of a 50 percent increase, what percentage of inmates will be enrolled in education?
- ***Recent Cuts.*** Given the additional cuts to CDCR's rehabilitation programming, what has CDCR done to try and minimize the long-term damage to CDCR's program infrastructure?
- ***Outcomes.*** How well is CDCR doing at achieving measurable outcomes in prison education, such as GEDs and reductions in recidivism rates for program participants? How do these outcomes compare to prior budget cuts and redesign of the program delivery model for education? Are there any steps currently underway or that should be undertaken to improve outcome rates? What are the department's plans to improve measurements of other intermediate academic gains other than GEDs and diplomas?
- ***Prison Operations.*** What are the specific challenges of operating education programs in a prison environment? Is provision of education programs beneficial to prison operations in any ways?
- ***Criteria for Effective Programs.*** To what extent is CDCR's current delivery model consistent with the Criteria for Effective Correctional Rehabilitation Programs, as described by the LAO?
- ***Factors that Determine Effectiveness.*** To what extent do prisons vary in their ability to deliver effective education programs? What are the factors that make the biggest difference in whether programs are delivered successfully?
- ***Quality Assurance.*** How does the department ensure that programs are both designed and delivered effectively? How does headquarters evaluate the degree to which an institution or individual teachers are running effective programs? How is this measured?
- ***Accountability.*** What are the lines of responsibility for program effectiveness? To what extent are wardens evaluated based on the operation and effectiveness of education programs within their prisons? How does headquarters remedy situations where less effective programs are operating?
- ***Expert Panel and LAO Recommendations.*** To what extent has CDCR implemented recommendations of the Expert Panel and LAO? Given current fiscal constraints, are there some recommendations that can and should still be implemented to improve the delivery and effectiveness of programs? For example, do the recommendations regarding development of risk and needs assessments and case plans, increasing attendance rates, and developing incentives for participation and completion of programs still have merit?
- ***Reentry.*** In what ways can (or should) CDCR assist inmates released from prison after participating in education programs in continuing those efforts upon release? To what extent does (or should) CDCR assist inmates released from prison after participating in vocational programs in finding a job in that field? What are (or should be) the respective

roles of the Programs Division versus the Parole Division within CDCR in making these transitions?

- ***Next Steps.*** What are concrete ideas panelists would recommend to improve the provision of inmate education programs, specifically under current fiscal constraints? What are the specific things CDCR is committed to working on in coming months as part of its ongoing efforts to improve these programs?

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

Wednesday, May 25, 2011
9:00 a.m.
Room 113

Consultant: Kris Kuzmich

PART A

DEPARTMENTS TO BE HEARD

(Please See Detailed Agenda on Page 2 for More Specific Listing and Order of Departments and Issues to Be Heard)

0559	Secretary for Labor and Workforce Development Agency
1900	Public Employees' Retirement System
1920	State Teachers' Retirement System
7100	Employment Development Department
7350	Department of Industrial Relations
8380	Department of Personnel Administration
8860	Department of Finance
9800	Augmentation for Employee Compensation
CS 3.60	Contribution to Public Employees Retirement Benefits
CS 3.90	Reduction for State Employee Compensation

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

AGENDA – PROPOSED VOTE ONLY ITEMS

AGENDA – DISCUSSION / VOTE ITEMS

Issues Proposed for Vote Only – Issue Descriptions

PUBLIC EMPLOYMENT AND RETIREMENT TECHNICAL ADJUSTMENTS

Issue 1 – California State Teachers' Retirement System (1920): Revised 2009-10 Creditable Compensation

Governor's Request. In a May Revision Finance letter, the Governor requests an increase of $1.375 million GF, over the January budget level, due to an increase in the creditable compensation reported by the California State Teachers' Retirement System (CalSTRS) for fiscal year 2009-10, which increases the GF retirement contribution for fiscal year 2011-12.

Background. The Governor's January Budget estimated a 2011-12 GF contribution to CalSTRS of $1.35 billion, based on the October 2010 report of prior-year teacher payroll by CalSTRS. The actual amount is determined by the last revised report of prior-year teacher payroll, which CalSTRS submitted on or before April 15, 2011, as required by law. The budgeted payment amount consists of four separate components referenced in specific sections of the Education Code, as follows:

1. Defined Benefit Program [22955(a)]. Requires the GF to contribute 2.017 percent of prior-year teacher payroll each fiscal year. The May Revision requests an increase of $565,000 over the January budget level of $546.3 million, for a total of $546.9 million.
2. Purchaser Power Maintenance [22954]. One component of the CalSTRS pension benefit package is the Supplemental Benefit Maintenance Account (SBMA), which makes payments to specified teachers from available funding in order to protect benefits from erosion by inflation. Section 22954 requires the GF to contribute around 2.5 percent of prior-year teacher payroll each fiscal year. The May Revision requests an increase of $700,000 over the January budget level of $605.1 million, for a total of $605.8 million.
3. Court-Ordered Interest Payments [22954.5]. The 2003-04 state budget withheld a $500 million state payment from SBMA on a one-time basis. The courts found this action to be unconstitutional and ordered the state to repay CalSTRS with interest. Section 22954.5 provides an appropriation for these court-ordered interest payments. The May Revision proposes no change to the January budget amount of $57 million.
4. Unfunded Liability for 1990 Benefit Structure [22955(b)]. CalSTRS is required to perform an alternate actuarial valuation each year of its defined benefit program in order to examine what the unfunded liability of the system would be if benefits had not been improved after July 1, 1990. This particular unfunded liability arises largely due to the system's large drop in investment assets in 2008, and it appears likely to continue for the foreseeable future. When an unfunded liability is identified in the 1990 benefits structure, the state GF must begin contributing extra amounts to CalSTRS, starting at 0.524 percent of prior-year teacher payroll. The May Revision requests an increase of $110,000 over the January budget level of $141.9 million, for a total of $142 million.

Staff Comment. As required by law, this request represents a necessary technical adjustment to the GF CalSTRS payment for 2011-12.

Staff Recommendation: Approve the May Finance Letter.

Issue 2 – Reduction for Employee Compensation (CS 3.90): Savings from Elimination of Peace Officers' and Firefighters' Defined Contribution Plan (PO/FF II) for Excluded Employees in Bargaining Unit 6

Governor's Request. In a May Revision Finance Letter, the Governor requests that Control Section 3.90 be increased by $9.68 million GF to authorize a reduction of department budgets as a result of the elimination of the Peace Officers' and Firefighters' Defined Contribution Plan (PO/FF II) retirement benefit for excluded employees, including supervisors and managers, affiliated with Bargaining Unit 6 (California Correctional Peace Officers Association - CCPOA).

Background. The CCPOA and the state negotiated the PO/FF II defined contribution plan during the 1988-89 fiscal year. This employer-provided benefit, in which the state contributed two-percent of base pay for each employee to a defined contribution plan, supplemented the employees' California Public Employees' Retirement System pension benefit. However, the recently ratified 2011 Memorandum of Understanding between the CCPOA and the state eliminated the PO/FF II retirement benefit program and the state, therefore, will no longer be making any contributions to the PO/FF II program.

Staff Comment. Chapter 25, Statutes of 2011 (SB 151), ratified the new contract between the CCPOA and the state. Consistent with Chapter 25, this request makes the necessary technical adjustments to an existing budget control section to authorize a reduction of department budgets to account for excluded employees affiliated with CCPOA no longer receiving the PO/FF II retirement benefit.

Staff Recommendation. Approve the May Finance Letter to make the necessary technical (including language) adjustments to CS 3.90.

Issue 3 – Augmentation for Employee Compensation (9800); Contribution to Public Employees Retirement Benefits (CS 3.60); and, Reduction for Employee Compensation (CS 3.90): Various Technical Adjustments

Governor's Request. In a May Revision Finance Letter, the Governor requests a net reduction of $17.245 million GF as a result of several state public employee compensation and retirement technical adjustments as detailed below.

Background. Each year, the January Governor's Budget estimates the upcoming fiscal year costs for state employee compensation, benefit, and retirement costs. As part of each year's budget adoption process, therefore, these estimates need to be revised as actual numbers become known. The CalPERS Board of Administration (Board) acted on May 18, 2011, to adopt the state's employer contribution rate. In addition, with the recent ratification of six Memorandums of Understanding [Chapter 25, Statutes of 2011 (SB 151)], a variety of technical adjustments are required to the 2011-12 budget. These actions drive a series of necessary technical adjustments to various items in the 2011-12 budget to ensure the budget is accurate as it pertains to state employee compensation, benefit, and retirement costs. As noted above, the net GF reduction for the combination of all of these technical adjustments to the budget is $17.245 million over the January budget level.

- Decrease of $286,651,000 GF ($169,457,000 other special funds and $83,464,000 various other Non-Governmental Cost Funds), over the January budget level, for retirement rate adjustments to the 2011-12 retirement costs through Control Section 3.60. The adjustments are necessary because the January budget estimate of retirement costs assumed the Board would take the following two actions:

  (1) Reduce the assumed investment rate of return from 7.75 percent to 7.50 percent. On March 16, 2011, the Board voted to maintain the rate at 7.75 percent. This decision resulted in lower estimated retirement costs in 2011-12 than were assumed in the January budget level; of the total reductions indicated above, this adjustment accounts for $400,000,000 ($200,000,000 GF) savings.

  (2) Retirement rates are now estimated to be lower than originally projected in the January budget; of the total savings indicated above, this adjustment accounts for $139,572,000 ($86,651,000 GF) savings.

- As a result of the $286,651,000 GF adjustment, the fourth quarter payment to CalPERS that is deferred from 2011-12 to 2012-13 will decrease by $71,663,000. The $286,651,000 adjustment less the $71,663,000 deferral results in a total net reduction of $215,272,000 to the GF in 2011-12.

- This $215,272,000 GF reduction is mostly offset by increases in Item 9800 and Control Section 3.90 resulting from the six collective bargaining agreements [Chapter 25, Statutes of 2011 (SB 151)] as follows:

  (1) Increase Item 9800-001-0001 by $96,393,000, Item 9800-001-0494 by $15,546,000, and Item 9800-001-0988 by $7,657,000, to provide increased costs for the six collective bargaining agreements in SB 151 and an updated salary survey affecting the California Association of Highway Patrolmen (Bargaining Unit 5) and Judges.

(2) Decrease Control Section 3.90 by $101,350,000 GF, $65,790,000 Special Fund, and $32,404,000 Non-Governmental Cost Fund, to reflect the six negotiated collective bargaining agreements not already outlined through Item 9800 above.

Staff Comment. As noted above, these technical adjustments to the 2011-12 budget are necessary to ensure that it accurately reflects state employee compensation, benefit, and retirement costs, as impacted by the recent actions of the CalPERS' Board and Chapter 25, Statutes of 2011 (SB 151).

Staff Recommendation. Approve the May Finance letter, including the necessary technical (including language as appropriate) adjustments to Item 9800, CS 3.60, and CS 3.90. Note, this recommendation includes adoption of additional technical conforming language in both CS 3.60 and CS 3.90 to authorize DOF to make necessary adjustments for CalPERS Board actions taken after adoption of the 2011-12 budget, including for health care rates and employer contribution rates.

Vote on Proposed Vote-Only Issues 1-3, Public Employment and Retirement Technical Adjustments:

EMPLOYMENT DEVELOPMENT DEPARTMENT (7100)

Issue 4 – Unemployment Insurance: Federal Interest Payment Technical Adjustment

Governor's Request. In a May Revision Finance letter, the Governor is requesting an adjustment to the January budget amount of the Unemployment Insurance (UI) interest payment due to the federal government in September 2011, reducing the total estimated payment by $42.79 million (Disability Insurance Fund – DI Fund) to a revised total of $319.5 million (DI Fund).

Prior Budget Action. At its February 1, 2011 hearing, the Subcommittee approved an increase of $362.3 million GF to make the first interest payment due to the federal government for the quarterly loans the Employment Development Department (EDD) has been obtaining from the federal government since January 2009 to cover the UI fund deficit. This expenditure was offset by a transfer from the DI Fund to the GF, resulting in no net GF cost in 2011-12.

Background. California's UI fund was depleted on January 26, 2009, and at that time the EDD began borrowing funds from the Federal Unemployment Account in order to continue paying UI benefits to qualifying UI claimants. The federal loans have permitted California to make payments to UI claimants without interruption. Generally, loans lasting more than one year require interest payments; the federal American Recovery and Reinvestment Act (ARRA) of 2009 provided temporary relief to states from making interest payments on UI loans through December 31, 2010. With the expiration of the ARRA provisions, the first interest payment to the federal government is due in September 2011 with growing interest obligations in the out years. Federal law requires that the interest payment come from state funds; i.e., the payment cannot be paid by the Unemployment Fund or by a state's UI administrative grant.

The May Revision request adjusts downward by $42.79 million the September 2011 interest payment due to two factors: (1) updated federal guidance currently estimates an interest rate of 4.087 percent; the January budget level was based on an estimate of 4.36 percent; and (2) a reduction in the amount of federal funds the state will have borrowed at the time the interest payment is calculated; the January budget level estimated a total of $10.3 billion, the updated estimate is a total of $9.8 billion.

Staff Comment. This request is simply a technical adjustment to the budgeted 2011-12 federal interest payment. The net effect is that $41.2 million less will be owed from the DI fund to the GF. The May Revision request makes no changes to the existing budget provisional language that: (1) authorizes the DOF to increase/decrease the actual amount paid/borrowed from the DI fund based on a more precise calculation of the payment due; and (2) specifies that the annual contribution rates for the DI fund shall not increase as the result of any loan made to the GF (in calculating the annual disability insurance tax rate each year, the EDD is required to treat outstanding DI loans as available cash in the DI Fund). This latter provision is critical to preventing any potential increase in employee paid DI taxes as a result of the loan from the DI Fund to the GF.

Finally, staff notes that the out year GF implications of not addressing the larger insolvency of the UI Fund are significant. The estimated September 12, 2012, interest liability is $592.8 million. This figure does not include the roughly $80 million that the GF will be required to pay out to the DI fund over the next four fiscal years as payment for the 2011-12 loan. Neither the Governor's January budget nor May Revision document included a proposal to address the underlying insolvency of the UI fund.

Staff Recommendation: Approve the technical adjustment to the Unemployment Insurance federal interest payment in the 2011-12 budget.

Vote on Proposed Vote-Only Issue 4, Employment Development Department budget:

1900 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
8860 DEPARTMENT OF FINANCE

Issue Proposed for Discussion / Vote

Issue 1 – Pension Reform Study

Governor's Budget Request. In a May Revision Finance letter, the Governor requests that item 1900-001-0001 be added in the amount of $1.5 million GF with proposed provisional budget bill language to provide necessary one-time funding for the California Public Employees' Retirement System (CalPERS) to provide pension reform-related consultation, technical advice, and fiscal analysis to the Administration.

Background. The Administration is requesting this item to obtain consultation, technical advice, and fiscal analysis of reforms to address the increasing costs of public pensions that meet both the needs of the employer and the employee. The Administration states that while CalPERS is the best resource to assist the state in this effort, as it has the expertise to provide pension-related consultation, technical advice, and fiscal analysis, the Public Employees Retirement Fund cannot be utilized for this purpose. Therefore, this budget item and GF is requested to assist the Administration with this effort.

The proposed budget provisional language would charge the Director of Finance with coordination of all requests under this section, and a copy of any final document or report is required to be provided to the Director and the Legislature. The CalPERS system would play a pivotal role, in that it would undertake the work as directed by the Director and Finance and would be able to select such firms and/or individuals to assist it in the completion of any request submitted by the Director. The language would exempt these contracts from both the Government and Public Contract Codes. Finally, the language would provide that, once all costs and expenses have been paid, any remaining funds will revert to the GF.

Staff Comment. CalPERS has independent fiduciary and rate-setting functions, and in the end must choose the interests of its public employee members. Under Article XVI, Section 17(b), of the California State Constitution, CalPERS is obligated to put its "*duty to its participants and their beneficiaries…over any other duty*." However, under the Administration's proposed language, CalPERS could play a direct role in shaping a major gubernatorial proposal to alter the public pension system. To maintain its independence, CalPERS needs to be in a position to advocate for or against any such proposal, as well as change rates in whatever manner the Board sees fit upon enactment of a reform proposal.

In considering the merits of this request, i.e., to provide limited one-time resources to the Administration so it can seek technical advice and fiscal analysis on pension reform options, the Subcommittee may wish to consider alternative language that achieves the same goal but without raising any CalPERS-related concerns. The alternative language would be added to the Department of Finance's budget, as opposed to the CalPERS' budget as proposed in the Administration's May Revision request.

LAO Recommendation. We recommend that the Legislature reject this request for funding. Alternatively, if it wishes to provide the Administration with some such funding, perhaps the amount could be lowered. In any event, actuaries, legal experts, and other policy experts independent of CalPERS and other California public pension systems should be utilized in this study.

Staff Recommendation: Reject the May Finance letter; approve alternative language to provide on a one-time basis $1.5 million GF to the Department of Finance so the Administration can seek consultation, technical advice, and fiscal analysis on pension reform.

Vote:

CS 3.60 CONTRIBUTION TO PUBLIC EMPLOYEES RETIREMENT BENEFITS

Issue Proposed for Discussion / Vote

Issue 1 – Retirement Contribution Rate Adjustments: California State University

Governor's Budget Request. In a May Revision Finance letter, the Governor requests that the amount allocated for the 2011-12 GF expenses under Control Section 3.60 (CS 3.60) of the budget act be lowered by up to $69.2 million to recapture what the DOF has identified as an over-allocation of funds to the California State University (CSU) system in 2009-10.

Background. Control Section 3.60 is the budget bill's mechanism for holding departmental budgets harmless in the event of increases in employer CalPERS contribution rates and achieving budgetary benefit for the state when CalPERS rates decline. During each fiscal year, the DOF coordinates a process through one of its budget letters that leads to an estimate of how much more or less each department must pay that year due to changes in retirement contribution rates. Departmental budgets then are increased or decreased by DOF to reflect these changes.

The state's university systems, such as CSU, are different from most state departments in that they have significant autonomy in their budgeting processes, and they receive funding in line items of the annual budget act that their university boards allocate to campuses. But even state departments that are more directly under the funding control of the Legislature and the Governor have significant flexibility in managing their personnel funds. This is by necessity since various operating factors for a department cannot be known precisely in advance; such as, how many employees will retire in a given year, how many new hires will join and when, and what, expenses will come in higher or lower than expectations. Accordingly, when the state augments departments' budgets for higher personnel expenses (through Item 9800 of the budget) or for higher pension costs (through CS 3.60), these augmented funds are not segregated in a specific account available just for employee or pension expenses. Rather, these funds are placed in a department's general pot of operating money from each state fund, and in effect, the funds hold the department's operating budget harmless due to that fiscal year's incremental employee and pension cost changes.

For the typical state department and through the budget process, the Legislature has total control over how much the department can spend. If, for example, pension costs rise at a fast rate, this increase is budgeted through CS 3.60 and, in order to keep the budget in balance, the Legislature may have to choose to reduce the base budget of various departments. This process is designed to give departments the flexibility they need to operate while, at the same time, ensuring that the Legislature considers the effects of budget reductions on each department. Decisions to balance the budget are made through departmental base budget items, such as CSU's main item in the budget. CS 3.60, by contrast, should be viewed as a purely technical "bookkeeping" budget item, as it routes to each department the funds necessary to pay mandatory pension contribution costs.

As described above, CS 3.60 funds are administered through an annual budget letter process. Using CSU's responses to its 2008-09 and 2009-10 budget letters concerning CS 3.60 and data received from CalPERS on CSU's actual pension contributions for each of those fiscal years, DOF constructed a calculation that it believes shows that CSU had $69.2 million more in its base budget for retirement contributions in 2009-10 than it actually spent. In DOF's view, the budget letter process resulted in an estimate in early 2009-10 that CSU was going to spend $430 million on CalPERS contributions that fiscal year and that led DOF to allocate CSU an additional $7.4 million of funds in that year. By contrast, CalPERS reports that the system actually contributed only $361 million in 2009-10 which is $69 million less than DOF's budget letter process indicated at the time.

To counter the DOF argument, CSU officials have explained to legislative staff their view that DOF selectively chooses to examine CS 3.60 allocations only for 2008-09 and 2009-10. According to CSU, a more long-term view of the trends of these allocations produces a very different result. Instead of using 2008-09 as the "base year" of this calculation, CSU instead goes all the way back to 1999-00. By looking at the incremental trend of positive and negative allocations to CSU through CS 3.60, CSU claims that its "state-funded" portion of CalPERS contributions amounted to only $350 million by 2009-10, $5.4 million more than it says it then paid from CSU general funds. CSU further points out that the reason its retirement contributions dropped in 2009-10 was its implementation of a furlough program, developed as part of the response to unallocated budget reductions the Legislature made in the university's budget. In other words, CSU argues, DOF wants to cut the university through CS 3.60 after the GF already received the benefit of the same cuts in prior years' budgets through CSU's line items.

LAO Comment. In our view, the seemingly complicated mathematical bout between CSU and DOF should be awarded to neither party. The only way one could solve the argument would be to go to the beginning of CSU's retirement plans, which is more than a half century ago, and track the annual trend of state allocations and deductions for retirement costs. The choice of any other base year, be it 1999-00 (as CSU chooses) or 2008-09 (as DOF chooses), is arbitrary. Because records do not exist for such a long-term calculation, this particular numerical argument seems to us pointless.

CS 3.60 is meant to hold departmental budgets harmless in years when pension contribution rates increase and deliver state budgetary benefit in years when these rates decline. In essence, CS 3.60 involves an annual estimate and just that: an estimate of the annual change in retirement costs, and it implicitly assumes that in prior years, the amount allocated or deducted from departmental budgets through the control section was accurate. There is a practical reason for this assumption: specifically, that employee and retirement funds are not segregated in a specific account, so that they are spent each year along with the rest of a department's operating budget. To retroactively sweep departmental funds for a prior years' elevated estimate under CS 3.60 makes little sense because, in general, there are no funds left to be swept. If there was a prior-year overestimate under CS 3.60, the overestimated allocation from the state budget was spent during that prior year to operate departmental programs. Any such over allocated money, in short, is gone.

We believe that DOF deserves credit for examining prior-year CS 3.60 allocations critically. Nevertheless, if the Administration wants to address the perceived over allocation of prior-year funds to CSU through the control section, the appropriate place to do so would be by proposing a $69 million additional reduction in CSU's GF appropriation for 2011-12. This is because sweeping CSU's 2009-10 funds would have a real programmatic impact on the university in 2011-12. Decisions as weighty as those concerning a $69 million cut to a university system should never occur in the context of this control section. CS 3.60 is a purely technical budget item.

LAO Recommendation. Because the administration, in our view, cannot justify its mathematical argument and because of the significance of this reduction to CSU, we recommend that the Legislature reject the proposed $69.2 million reduction in CS 3.60 funds for 2011-12. Should the administration wish to reduce CSU's budget by $69.2 million, it may propose such a reduction for CSU's GF budget item, including its ideas for how the university should respond to the reduction in terms of programs, employee costs, and university operations.

All parties seem to agree that DOF's current CS 3.60 allocation process for CSU needs improvement in order to prevent such misunderstandings from happening in the future. Accordingly, we recommend adoption of the following provisional budget bill language in CS 3.60 (for one year only) related to this issue: "*It is the intent of the Legislature that the Department of Finance develop and implement a revised process, in consultation with the California State University, that allows the Director of Finance to more accurately adjust the university's appropriation amounts for employer pension contributions beginning in the 2011-12 fiscal year, as allowed in subdivision (a). The Director of Finance shall submit a brief description of the revised process to the Chairperson of the Joint Legislative Budget Committee and the Chancellor of the California State University on or before January 10, 2012*."

Staff Recommendation: Reject the Administration's May Revision request and instead adopt the LAO recommendation to add language to CS 3.60 to express legislative intent that an improved Control Section 3.60 process be developed for CSU in the future.

Vote:

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

Department and Budget Overview. The Employment Development Department (EDD) administers services to employers, employees, and job seekers. The EDD pays benefits to eligible workers who become unemployed or disabled, collects payroll taxes, administers the Paid Family Leave Program, and assists job seekers by providing employment and training programs under the federal Workforce Investment Act of 1998. In addition, the EDD collects and provides comprehensive labor market information concerning California's workforce.

	2009-10 (actual)	2010-11 (estimated)	2011-12 (proposed)
Expenditures	$30,883,630,000	$23,471,859,000	$25,963,988,000
General Fund	$24,983,000	$33,107,000	$403,826,000
Personnel Years	11,192.7	11,022.5	10,208.9

Issues Proposed for Discussion / Vote

Issue 1 – Unemployment Insurance Modernization Projects: Single Client Database and Alternate Base Period

Governor's Budget Request. In two May Revision Finance letters, the Governor requests continued support for the final year of development of the Single Client Database (SCDB) and Alternate Base Period (ABP) Unemployment Insurance (UI) modernization projects. In addition, proposed trailer bill language is requested to extend the implementation date for ABP from September 3, 2011, to April 2, 2012. The chart below details the requested resources for these two projects:

FL #	Title/Description	Positions	Fund Detail
FL 1	Single Client Database (SCD)	22 existing positions	$10.7 million total [$7.1 *million Unemployment Fund and redirection of $3.6 million Disability Insurance Fund]*
FL 2	Alternate Base Period (ABP)	26 existing positions	$9.1 million total *[$8.5 million Unemployment Fund and redirection of $0.6 million Unemployment Administration Fund]*

2010-11 Budget. The 2010-11 budget provided $25.8 million ($11.1 million Unemployment Fund and redirection of $14.7 million Unemployment Administration Fund), 123 new positions, and 33 existing positions for project activities related to the SCDB and ABP.

Background. The American Recovery and Reinvestment Act (ARRA) provided states additional UI administration dollars for use toward information technology modernization. The EDD took advantage of these ARRA dollars to begin a variety of modernization projects, the majority of which were included in the department's 2008 Capital Plan. These projects are intended to streamline and improve UI service levels by minimizing manual processing of payments and claims and providing customers with more service options. These UI modernization projects include the SCDB and ABP projects, which are described as follows:

<u>Single Client Database (SCDB).</u> Started in May 2009 with estimated total projects costs of $60.024 million, the SCDB project will replace EDD's out-dated database with a modern, relational one that will be easier to maintain, change, and optimize to meet the service needs of business and to respond to legislative mandates, including allowing new business processes, such as the Alternate Base Period, to be implemented efficiently. Project implementation is expected in November 2011; this request is for the final year of development of the SCDB project.

<u>Alternate Base Period (ABP).</u> Started in May 2009 with estimated total project costs of $19.427 million, the ABP project will implement programming changes to provide an alternate base period for individuals who do not monetarily qualify for a UI claim using the standard/current base period year by allowing workers to qualify for a UI claim by using an alternate base period that is based on the most recent four completed calendar quarters at the time of filing a claim. The Administration estimates this change will allow 26,000 unemployed individuals per year to qualify for approximately $69 million in UI benefits up to three months earlier than would be possible under the existing base period. Chapter 23, Statutes of 2009 (ABX3 29), requires ABP implementation by April 2011. As part of this request, the Administration is requesting budget trailer bill language to extend this date by seven months to April 2, 2012. This request is for the final year of development of the ABP project. Implementation of the ABP is expected to bring an additional $840 million in federal funds to California (see related item discussed as Issue 2 below).

In the past year, during the course of the development of these projects, the EDD developed a clearer and more detailed understanding of the technical and project management complexities of the SCDB project. The EDD's plan to address these complexities and the associated increase in project costs (roughly $26.4 million) resulted in a new Special Project Report (SPR) being submitted to the California Technology Agency. The SPR was approved in March 2011. The project completion date has been extended from the prior estimate of July 2011 to November 2011. This request is based on the revised SPR.

The ABP project is completely dependent on the SCDB project for the collection and storage of data needed to process an ABP claim. As noted above, the SCDB implementation has been rescheduled to November 2011; hence the ABP implementation has been rescheduled from September 2011 to April 2012. Similar to SCDB, the ABP project also experienced issues of scope complexity and associated increases in project costs (roughly $12 million) resulting in a new SPR being submitted to the California Technology Agency. The SPR was approved in March 2011. This request is based on the revised SPR.

Staff Comment. When requests related to these projects were before this Subcommittee in 2010, the expected project completion dates were July 2011 (SCDB) and September 2011 (ABP). As noted above, due to the SCDB being inadequately scoped, as the EDD got deeper into the project's development it realized a need to revisit the project's design and scope. The SCDB project (and ABP given the interdependence) was also challenged by a series of federally mandated UI extensions in 2010 which required the redirection of staff (analysts, programmers, testers, database administrators, and support staff) to perform the critical programming, database administration, and testing necessary to implement the extensions. As a result, EDD was unable to provide sufficient staff to fully support some of the conversion efforts, thereby impacting the SCDB schedule.

With the new project completion schedule, May 2011 is a crucial month for the SCDB project. For example, May 27, 2011, is the schedule deadline for design acceptance. May is also a crucial month for internal testing of the SCDB. The EDD reports that the testing is going very well and that the SCDB project is on track for design acceptance on May 27. As described above, it is important for the SCDB project to remain on schedule, given the dependence of the ABP on this project. Should the ABP not be implemented by the federal deadline of September 2012, the $840 million in federal funds would be in jeopardy. As a sign of the Administration's confidence on the SCDB, it sent a letter on May 17, 2011, to the federal government to certify that it would implement ABP by the deadline – an action that can only happen if the SCDB project remains on track and is completed on schedule in November of this year.

Staff Recommendation: Approve the May Finance Letters for the SCDB and ABP projects, as well as the proposed trailer bill language to extend the project completion date of the ABP project until April 2, 2012.

Vote:

Issue 2 – Alternate Base Period Program Support

Governor's Budget Request. In a May Revision Finance letter, the Governor requests a redirection of $5.3 million (Unemployment Administration Fund) for 37 existing positions for the Alternate Base Period (ABP) program in 2011-12, including the programmatic costs related to implementing the APB in addition to one quarter (April 2012-June 2012) of ongoing programming costs for processing workload associated with ABP claims.

For 2012-13 and ongoing, the Governor requests continuous funding of $16.0 million (Unemployment Fund) and 165 new positions to support the ongoing administrative costs for processing the ABP workload.

This request also includes proposed trailer bill language to amend the 2010 budget act to appropriate $48 million of the federal ARRA incentive funds to cover the $16.0 million in annual costs of administering the ABP program for three fiscal years, from 2012-13 through 2014-15.

Background. As detailed in Issue 1 above, the ABP project will be completed in April 2012. This request, therefore, represents the ABP program administration costs in 2011-12, as well as 2012-13 and ongoing. These administration costs are driven by the fact that the APB program requires a manual wage investigation of a given ABP claim to determine eligibility. As opposed to the current base period where only wages earned in the first four quarters of the last five complete calendar quarters are considered, under the ABP eligibility is based on an alternate base period that is based on the last four completed calendar quarters at the time of filing a claim. It is expected that the ABP will establish eligibility for some workers such as seasonal or low-wage workers, or workers whose employment and layoffs were more recent. However, absent funding these new program administration costs, the EDD would be required to absorb the costs since this additional workload is not currently funded by the federal UI grant. Under this scenario, the Administration indicates that EDD Tax Branch staff would most likely be redirected to the ABP program, which could result in a revenue loss of $7.7 million GF.

As noted in Issue 1 above, the implementation of ABP will also qualify EDD to receive $840 million in federal ARRA stimulus dollars. To qualify for the additional federal economic stimulus dollars, the EDD must submit an application to the federal Department of Labor (DOL) no later than August 22, 2011. Within 30 days of receipt of the application, California would be notified whether the state qualifies for the additional stimulus dollars. The EDD reports this application was submitted on May 17, 2011. Should DOL approve this certification, California would become eligible to receive $840 million in federal incentive funds.

This request proposes to utilize $48 million of these incentive funds in support of the ABP project. To reserve a portion of these funds for state administration, however, California must be able to receive the UI incentive payment and set up the subaccount during a period in which California can sustain UI benefit payments without utilizing federal loan funds. Since 2009, California has consistently paid more in UI benefits than it has collected in revenues. To continue payment of benefits despite this shortfall, the state has obtained quarterly loans from the federal government which now total around $11 billion. Beginning in September 2011, the state will start paying interest on this loan to the federal government. The anticipated “non-loan” period begins in the early days of May 2011, when the highest annual UI revenues are received. These funds may last thought mid-July, at which point borrowing must restart. Therefore, the Administration requests that the $48 million be appropriated no later than June 30, 2011. Otherwise all of these incentive funds would be applied to the state’s outstanding loan balance.

LAO Alternative. The May Revision includes a 2010-11 appropriation request which would set aside a total of $48 million of federal incentive funds to cover annual costs of administering the ABP program from 2012-13 through 2014-15. Absent this set aside, these ABP costs would likely have been borne by the GF (at least for the near term). The remaining $791 million in incentive funds would be applied to the state’s federal loan, resulting in ongoing annual debt service savings of around $30 million beginning in 2012-13.

By setting aside an additional $120 million for EDD administrative costs in 2011-12 through 2014-15, the Legislature has an opportunity to realize significant GF savings. Specifically, this would result in $30 million in savings in 2011-12 and ongoing annual savings (slightly less than 2011-12 savings due to increased debt service costs) of approximately $23 million through 2014-15. We note that in the years beyond 2014-15, it would also result in slightly higher debt service costs of approximately $6 million per year until the state repays its outstanding federal loan.

The amounts presented above represent the maximum savings that can be achieved over the next four fiscal years. The Legislature could elect to set aside a smaller amount resulting in less GF savings. Also, the Legislature could opt to set aside some funding for other EDD initiatives. In deciding whether to set aside additional funds for EDD administration, the Legislature should carefully weigh the benefits of near term GF savings against future increased debt service costs and a small decrease in the reduction to the UI loan balance. Given the short time frame in which these funds would need to be set aside, the Legislature may wish to consider taking action in separate legislation.

Staff Comment. The LAO alternative builds on the Administration's May Finance letter to secure additional GF savings of $30 million in 2011-12 and ongoing savings of $23 million through 2014-15. This would result in slightly higher debt service costs of approximately $8.5 million per year until the state repays its outstanding federal loan. The estimated September 2012 interest payment is upwards of $590 million. Were the Subcommittee to approve the LAO alternative, in addition to the Administration's proposal, an estimated $8.5 million would be added to that outstanding debt but $23 million GF savings would also be achieved in that same year.

Staff Recommendation: Approve the May Finance letter as modified by the LAO alternative to set aside a total of $168 million (federal ARRA funds) for EDD administrative costs beginning in 2011-12 and through 2014-15.

Vote:

Issue 3 – Workforce Investment Act (WIA) 2011-12 Funding

Governor's Request. Given current financial uncertainties about the amount of federal WIA funding available in 2011-12, in a May Revision Finance letter, the Governor requests that any adjustments needed in 2011-12 be made as part of the October Revise of the WIA 15 Percent State Discretionary Funds.

March 2011-12 Budget Action. At its February 1, 2011, hearing the Subcommittee approved and accepted the 2011-12 WIA Program allocations but denied without prejudice approval and authorization of the Governor's proposed expenditures and distribution of 15 Percent State Discretionary funds (Discretionary Funds). The Subcommittee's intent was to consider the proposed expenditure and distribution of the Discretionary Funds during the Spring 2011 budget process.

Background. The goal of WIA is to strengthen coordination among various employment, education, and training programs. The WIA prescribes a formula for allocating adult, youth, and dislocated worker funds. As part of the annual administration of the WIA funds, the annual budget document prescribes a process whereby the Administration provides an October and April revise to the Joint Legislative Budget Committee. This ensures that the WIA expenditure plan is updated at regular intervals each year, to accommodate unanticipated additional or decreased federal funds or to reallocate funding within the WIA categories consistent with the overall expenditure plan.

Under federal law at the time of the construct of the Governor's January budget, generally 85 percent of the state's total WIA funds would be allocated to local Workforce Investment Boards (WIBs) and the remaining 15 percent of WIA funds ($69.1 million in 2010-11) would be available for state discretionary purposes such as required administration and oversight activities, as well as for discretionary statewide initiatives and competitive grants for employment and training programs.

However, the Administration reports that significant changes to the WIA program were included in the recently enacted federal budget resolution. At this time, the Administration reports that one of two scenarios is possible, as illustrated in the below chart:

2011-12 WIA FUNDING SCENARIOS VS. 2010-11 FUNDING LEVEL
(Dollars in Millions)

Funding	2010-11	2011-12 Scenario 1	2011-12 Scenario 2
Discretionary Funds	$69.14	$44.41	$20.11
Adult	111.93	97.72	108.24
Dislocated Worker	115.45	105.44	119.21
Rapid Response	48.10	42.58	42.58
Youth	116.34	112.05	112.05
TOTAL	**$460.97**	**$402.19**	**$402.19**

Scenario 1 assumes Discretionary Funds are five percent of the state's Round 1 allocation and 15 percent of the Round 2 allocation. Scenario 2 assumes Discretionary Funds are five percent of both Round I and Round 2 funding. As the chart illustrates, there is a year-to-year overall decrease of $58.8 million, as compared to the total amount available in 2010-11.

Further, while the two 2011-12 scenarios contain the same total amount of funding ($402.19 million), the allocation within the various WIA categories varies, with substantially less Discretionary Funds available as compared to the 2010-11 level. For instance, in both scenarios the amount of available Discretionary Funds is roughly $25 million (Scenario 1) and $49.02 million (Scenario 2) less than the available funds in 2010-11.

Further, if Scenario 2 is determined to be the correct interpretation of the federal action, the state would likely only have sufficient funding for mandated administration and oversight activities, with no funding available for any statewide initiatives or competitive grants. The Administration indicates that it is currently awaiting final clarification from the federal Department of Labor before permanent funding adjustments are made.

Staff Comment. Historically, WIA state discretionary expenditures and adjustments are considered post-May Revision. Further, these expenditures depend on gubernatorial and legislative priorities. Therefore, the LAO has consistently recommended that the Legislature review and potentially modify the Administration's Discretionary Funds plan to meet legislative priorities.

In 2011-12, the state faces a conundrum of sorts with its administration of the Discretionary Funds. Due to the lack of clarity as to which scenario applies in 2011-12, it is very difficult for the Administration to propose, and for the Legislature to adopt, an expenditure plan as the amount of available Discretionary Funds is unknown. Further complicating matters, the state could have a larger than normal carryover from 2010-11, as the first expenditure priority has been to fully utilize American Recovery and Reinvestment Act (ARRA) funding within the WIA programs as these dollars must be fully spent by June 30, 2011. The Administration currently estimates this carryover at roughly $10-$15 million. Therefore, where allowable, EDD is using these funds before expenditure of 2010-11 base grant for administrative costs resulting in an increase in carryover funding. The Administration indicates that the final amount of carryover will not be known until August 2011 at the earliest.

Consistent with the Subcommittee's approach in February of this year, and in considering this request, the Subcommittee may wish to continue to only authorize expenditures on mandated WIA activities (program administration and oversight) and postpone any other allocation or expenditure decision until the actual amount of federal funding is determined. That should occur on or about September 1, 2011. At that time, the Administration would be required to submit a detailed expenditure plan to the JLBC, and the expenditure of funds would be authorized not sooner than 30 days after the submission date.

Item 7100-001-0869
Strike existing Provision 4.
Insert new Provision 5 as follows:
5. Notwithstanding Provisions 1 through 3 of this item in fiscal year 2011-12 only, funds appropriated in Schedules (2) to (4), inclusive, are not authorized for expenditure until the Employment Development Department and the Department of Finance submit a detailed plan for expenditure based on the available federal funding. It is the intent of the Legislature that this plan be submitted by September 1, 2011. The expenditure of funds may be authorized not sooner than 30 days after this detailed expenditure plan is provided to the chairpersons of the committees in each house of the Legislature that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.

Staff Recommendation. Approve budget provisional language to authorize 2011-12 expenditures on mandated WIA activities only, and postpone further expenditure of WIA Discretionary Funds until the Administration submits a detailed expenditure plan of available federal funds to the JLBC on or about September 1, 2011. Note, this recommendation also includes a technical conforming action to remove from this budget item Provision 4, which is the language tied to the Subcommittee's February 1, 2011, action.

Vote:

REDUCING STATE GOVERNMENT

Background. The March 2011 budget package recognized $250 million GF ($163 million other funds) for savings associated with the identification of efficiencies in state operations, including identification of agencies, departments, and programs that can be reorganized to eliminate duplication and unnecessary functions; review of state peace officer and safety classifications; and reductions in other areas like contracting, fleet operations, and cell phone use. The mechanism to achieve these savings is a budget control section that provides the Administration with the authority to make the required budgetary reductions to achieve the total savings.

Working from these totals, the Administration has since identified, and in some cases already achieved, savings through a variety of executive actions, including eliminating the offices of the Secretary of Education and the American Recovery and Reinvestment Act Inspector General, banning non-essential travel, implementing a statewide building rental rate reduction, reducing the number of state-issued cellular phones, and reducing the statewide vehicle fleet, including the elimination of any non-essential vehicles and reducing the number of home-storage permits.

The May Revision builds on these executive actions and proposes to specifically reduce state operations by $82.7 million ($41.5 million GF) via the same control section mechanism included in the March 2011 budget package. These savings would be achieved through a variety of eliminations, consolidations, reductions, and efficiencies, including: (1) the elimination of 32 boards, commissions, task forces, and offices; (2) the consolidation of the State Personnel Board and the Department of Personnel Administration; (3) several changes due to realignment, including the elimination of the Departments of Mental Health and Alcohol and Drug Programs and a 25 percent state operations reduction for realigned public safety programs; and (4) various program reductions and efficiencies. The May Revision proposal also includes a comprehensive state asset review to result in the eventual disposition of non-essential or under-utilized state properties; however, any savings from this effort would be included in the 2012-13 budget.

All of the proposed eliminations and consolidations, to the degree that they require statutory changes, cannot be adopted on an urgency basis. Article 4, Section 8 (d), of the California State Constitution states that, “an urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or crate any vested right or interest.” Therefore, the eliminations and consolidations all have an effective date of January 2, 2012, with the associated savings of six months.

The Control Sections associated with this subject are in the purview of Budget Subcommittee No. 4 on State Administration. Discussed below are the five “Reducing State Government” proposals that fall within the jurisdiction of Subcommittee No. 5, including four within the Labor and Workforce Development Agency and its constituent departments and one impacting the Department of Personnel Administration.

Issue 1 – Secretary for Labor and Workforce Development Agency (0559) Reduce the Labor and Workforce Development Agency

Governor's Budget Request. As part of the May Revision, the Governor requests a decrease of $677,000 (reimbursements) and 3.8 personnel years to reflect a net reduction of four positions within the Labor and Workforce Development Agency (Agency) and the relocation of the office from leased space to existing state-owned space within the EDD. This reduction includes one position currently assigned to support the Economic Strategy Panel (see Issue 2 below). The relocation from leased space to state-owned space will also result in rental savings of $210,000 (other funds) within the Department of Industrial Relations. This request does not include proposed budget trailer bill language.

Background. The Agency was created in 2002 as an executive branch agency with a Secretary that is a member of the Governor's Cabinet. The Agency oversees seven major departments, boards, and panels that serve California businesses and workers. The budget for all Agency operations totals about $11.2 billion, and includes approximately 11,600 staff working throughout California. The goals of the Agency are twofold: (1) improve access to employment and training programs; and (2) ensure that California businesses and workers have a level playing field in which to compete and prosper.

Staff Comment. With the change in Administration in January of this year, a new Secretary was appointed to the Agency who set out to restructure the Agency to better focus its operation on its core mission and otherwise streamline its operations. This May Revision proposal is a direct result of that effort, including the reduction in staffing as well as relocation of its operation from more costly leased space into state-owned space. In addition, $157,000 of the total $677,000 in savings is from the elimination of the Economic Strategy Panel, which is discussed further as Issue 2 below.

Staff Recommendation: Approve the reductions to the Labor and Workforce Development Agency.

Vote:

Issue 2 – Labor and Workforce Development Agency (0559) Eliminate the Economic Strategy Panel

Governor's Budget Request. As part of the May Revision, the Governor requests to eliminate the Economic Strategy Panel for savings of $79,000 (other funds) and 0.7 personnel years. This request includes proposed budget trailer bill language.

Background. Established in 1993 within the now defunct California Technology, Trade, and Commerce Agency, the California Economic Strategy Panel (Panel) continuously examines changes in the state's economic base and industry sectors to develop a statewide vision and strategic initiatives to guide public policy decisions for economic growth and competitiveness. The fifteen-member Panel is comprised of eight appointees by the Governor, two appointees each by the President pro Tempore and the Speaker and one each by the Senate and Assembly Minority Floor Leaders. The Secretary of the California Labor & Workforce Development Agency serves as the Chair.

When this Panel was established in 1993, it was not provided with any funding. In 2003, when the Trade and Commerce Agency was dismantled, the Panel was moved to the Labor Agency's budget. It has, therefore, since been funded by reimbursements from the EDD and Department of Industrial Relations (both part of the Labor Agency).

California has ten separate boards, commissions, programs, divisions, councils, and panels tasked with economic and workforce development. Four of these entities are located within the Labor Agency, with one being the Economic Strategy Panel. The other three are California Workforce Investment Board, Governor's Office of Economic Development, and the Employment Training Panel. A fifth, the Governor's Commission on Employment of People with Disabilities is proposed for transfer to the Department of Rehabilitation (discussed as Issue 3 below).

Staff Comment. Given the number of separate boards, commission, programs, divisions, councils, and panels tasked with economic and workforce development in the state a fair question can be asked is this large number of separate entities warranted? Having this number of separate entities also raises questions about coordination (or lack thereof) of these myriad efforts and ensuing potential missed opportunities. Finally, the Agency indicates that the duties and responsibilities can be absorbed within its current structure.

Staff Recommendation: Approve the elimination of the Economic Strategy Panel and related trailer bill language.

Vote:

Issue 3 – Employment Development Department (7100) Transfer Support of the Governor's Commission on Employment of People with Disabilities to the Department of Rehabilitation

Governor's Budget Request. As part of the May Revision, the Governor requests to transfer support of the Governor's Commission on Employment of People with Disabilities from the Employment Development Department (EDD) to the Department of Rehabilitation (DOR) for savings of $403,000 (other funds) and 3.3 personnel years and assumes a reduction of seven of the 11 positions that currently support this Commission. Under this proposal, the EDD would continue to provide funding to support the work of the Commission, which would increase reimbursements provided to the DOR by approximately $234,000 in 2011-12. This request includes proposed budget trailer bill language.

Background. Established by the enactment of California's Workforce Inclusion Act (Chapter 1088, Statutes of 2002), the California Governor's Commission on Employment of People with Disabilities consults with and advises the Labor Agency and Health and Human Services Agency on all issues related to full inclusion in the workforce of persons with disabilities, including the development of a comprehensive strategy to accomplish various goals aimed at bringing more people with disabilities into employment. The Governor's Commission consists of appointed and mandated public and private members and receives staff support from the EDD. It is mandated to meet quarterly.

In proposing this transfer, and through the proposed budget trailer bill language, the Administration is proposing to modify the make-up of the Commission, as well as the appointment authorities, as illustrated in the chart at the top of the next page:

GOVERNOR'S COMMISSION ON EMPLOYMENT OF PEOPLE WITH DISABILITIES

Current Membership	Modified Membership Under May Revision Proposal
Four individuals with disabilities, two appointed by the Governor and one each appointed by the Senate Rules Committee and the Speaker of the Assembly.	Four individuals with disabilities appointed by the Secretary of the Health and Human Services Agency (HHSA Secretary).
Directors of the Employment Development Department, State Department of Health Services, State Department of Mental Health, State Department of Developmental Services, State Department of Social Services, and Department of Rehabilitation, and the Chair of the State Independent Living Council.	Same.
Representatives from the State Department of Health Services' California Health Incentive Improvement Project.	One representative from this same entity.
A representative from the California Workforce Investment Board (CWIB).	Same, except that the representative will be identified by the CWIB.
Representatives from any other department or program that may have a role in increasing the capacity of state programs to support the employment-related needs of individuals with disabilities.	Same, except now at the discretion of the HHSA Secretary.
A representative from a local one-stop or local workforce investment board, to be appointed by the Governor.	Same, except now appointed by the CWIB.
A business representative with experience in employing persons with disabilities, to be appointed by the Governor.	Increases business representatives to a total of three, now appointed by the HHSA Secretary.

Staff Comment. In transferring the work of this Commission from the EDD to DOR, the Administration is recognizing that the promotion of employment of people with disabilities is a core function of the DOR and can be more efficiently operated within that department.

With regard to the proposed changes in the membership and appointment authorities, the Administration indicates it was trying to reduce state administrative costs due to the length and detail of the gubernatorial appointments process. Staff finds no issue with the Administration proposing changes to its authorities, but in considering this request, the Subcommittee may wish to retain the Legislature's appointment authority to this Commission.

Staff Recommendation: Approve the transfer of the Governor's Commission on Employment of People with Disabilities to the Department of Rehabilitation; adopt the proposed trailer bill language as modified to retain the Senate Rules Committee and Speaker of the Assembly appointment authority.

Vote:

Issue 4 – Department of Industrial Relations (7350) Eliminate the Occupational Safety and Health (OSH) Standards Board

Governor's Budget Request. As part of the May Revision, the Governor requests to eliminate the separate OSH Standards Board and transfer responsibility to the Division of Occupational Safety and Health within the Department of Industrial Relations for savings of $324,000 (other funds) and 1.9 personnel years. This request includes proposed budget trailer bill language.

Background. The Occupational Safety and Health Standards Board, a seven-member body appointed by the Governor, is the standards-setting agency within the Cal/OSHA program. The Standards Board's objective is to adopt reasonable and enforceable standards at least as effective as federal standards. The Standards Board also has the responsibility to grant or deny applications for variances from adopted standards and respond to petitions for new or revised standards. The part-time, independent board holds monthly meetings throughout California.

The Administration indicates that this proposal is intended to model the state's approach to developing OSH standards after the federal approach for standards development, including stakeholder advisory panels. While the proposal technically eliminates the OSH Standards Board, the proposed trailer bill language retains the function in an Advisory Committee. That modification, which allows for a more streamlined operation and no longer requires payment of stipends to board members, achieves the savings figure identified above.

Staff Comment. This proposal eliminates the OSH Standards Board but retains the function in the form of an Advisory Committee which effectively limits any programmatic reduction in the development of OSH standards. Because sections of the proposed trailer bill language impact Proposition 97 of 1988, State Occupational Safety and Health Plan, the trailer bill must be adopted per the requirements of that initiative which require a two-thirds vote of each house of the Legislature.

Staff Recommendation: Approve the elimination of the Occupational Safety and Health Standards Board and related trailer bill language.

Vote:

Issue 5 – Department of Personnel Administration (8380) Elimination of the Human Resources Modernization Project

Governor's Budget Request. As part of the May Revision, the Governor requests a decrease of $5.5 million ($2.3 million GF) and 11.3 personnel years reflective of the elimination of the Human Resources Modernization (HR Mod) Project. This request does not include proposed budget trailer bill language.

Background. The HR Mod Project was officially initiated in October 2007 as a joint project overseen by both the Department of Personnel Administration (DPA) and the State Personnel Board (SPB) to update and streamline the State's existing HR programs including recruitment, selection, classification, compensation, workforce planning, performance management, and staff development. Project activities are focused to achieve the following strategic goals: (1) Create an Attractive Recruitment and Expeditious Hiring Process; (2) Simplify the Classification System; (3) Improve and Instill High Performance in the Workplace; (4) Ensure all Departments/Agencies have Workforce and Succession Plans that Support their Strategic Plans; (5) Compensate Based on Factors including Individual Self-development, Business Needs, and Competitive Market Practices; and (6) Promote Integrated Human Resource Solutions.

Since its creation in the 2007–08 budget, the Legislature has appropriated approximately $20 million for the HR Mod Project. The 2010-11 Budget provided $5.7 million for 14 authorized positions and 12 positions on loan from other departments working on the project.

In proposing the elimination of the HR Mod Project, the Administration indicates that the key functions of the project will be absorbed within the proposed California Department of Human Resources. That proposal, to consolidate the DPA and SPB, has been formally submitted to the Legislature as a Governor's Reorganization Plan. Any savings from that larger consolidation would impact the 2012-13 budget.

Staff Comment. The HR Mod project has accomplished many of its goals, and started some positive changes that will continue within the personnel departments of various state agencies and departments. At this juncture, and in light of the state's fiscal situation, it is not clear that this project warrants being continued as a separate project, particularly in light of the proposed consolidation of the DPA and the SPB.

Staff Recommendation: Approve the elimination of the Human Resources Modernization Project.

Vote:

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

Wednesday, May 25, 2011
9:00 a.m.
Room 113

Consultant: Kris Kuzmich

Outcomes

PART A

DEPARTMENTS TO BE HEARD

(Please See Detailed Agenda on Page 2 for More Specific Listing and Order of Departments and Issues to Be Heard)

0559	Secretary for Labor and Workforce Development Agency
1900	Public Employees' Retirement System
1920	State Teachers' Retirement System
7100	Employment Development Department
7350	Department of Industrial Relations
8380	Department of Personnel Administration
8860	Department of Finance
9800	Augmentation for Employee Compensation
CS 3.60	Contribution to Public Employees Retirement Benefits
CS 3.90	Reduction for State Employee Compensation

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AGENDA – PROPOSED VOTE ONLY ITEMS

VOTE: All vote-only items approved 3-0, except for Issue 3, Budget Items 9800 Augmentation for Employee Compensation and CS 3.90 Reduction for Employee Compensation, which were approved 2-1, with Senator Anderson voting no.

AGENDA – DISCUSSION / VOTE ITEMS

Issues Proposed for Vote Only – Issue Descriptions

PUBLIC EMPLOYMENT AND RETIREMENT TECHNICAL ADJUSTMENTS

Issue 1 – California State Teachers' Retirement System (1920): Revised 2009-10 Creditable Compensation

Governor's Request. In a May Revision Finance letter, the Governor requests an increase of $1.375 million GF, over the January budget level, due to an increase in the creditable compensation reported by the California State Teachers' Retirement System (CalSTRS) for fiscal year 2009-10, which increases the GF retirement contribution for fiscal year 2011-12.

Background. The Governor's January Budget estimated a 2011-12 GF contribution to CalSTRS of $1.35 billion, based on the October 2010 report of prior-year teacher payroll by CalSTRS. The actual amount is determined by the last revised report of prior-year teacher payroll, which CalSTRS submitted on or before April 15, 2011, as required by law. The budgeted payment amount consists of four separate components referenced in specific sections of the Education Code, as follows:

1. <u>Defined Benefit Program [22955(a)]</u>. Requires the GF to contribute 2.017 percent of prior-year teacher payroll each fiscal year. The May Revision requests an increase of $565,000 over the January budget level of $546.3 million, for a total of $546.9 million.
2. <u>Purchaser Power Maintenance [22954].</u> One component of the CalSTRS pension benefit package is the Supplemental Benefit Maintenance Account (SBMA), which makes payments to specified teachers from available funding in order to protect benefits from erosion by inflation. Section 22954 requires the GF to contribute around 2.5 percent of prior-year teacher payroll each fiscal year. The May Revision requests an increase of $700,000 over the January budget level of $605.1 million, for a total of $605.8 million.
3. <u>Court-Ordered Interest Payments [22954.5].</u> The 2003-04 state budget withheld a $500 million state payment from SBMA on a one-time basis. The courts found this action to be unconstitutional and ordered the state to repay CalSTRS with interest. Section 22954.5 provides an appropriation for these court-ordered interest payments. The May Revision proposes no change to the January budget amount of $57 million.
4. <u>Unfunded Liability for 1990 Benefit Structure [22955(b)].</u> CalSTRS is required to perform an alternate actuarial valuation each year of its defined benefit program in order to examine what the unfunded liability of the system would be if benefits had not been improved after July 1, 1990. This particular unfunded liability arises largely due to the system's large drop in investment assets in 2008, and it appears likely to continue for the foreseeable future. When an unfunded liability is identified in the 1990 benefits structure, the state GF must begin contributing extra amounts to CalSTRS, starting at 0.524 percent of prior-year teacher payroll. The May Revision requests an increase of $110,000 over the March 2011 budget package level of $106.4 million, for a total of $106.5 million.

Staff Com ment. As required by law, this request represents a necessary technical adjustment to the GF CalSTRS payment for 2011-12.

Staff Recommendation: Approve the May Finance Letter.

Issue 2 – Reduction for Employee Compensation (CS 3.90): Savings from Elimination of Peace Officers' and Firefighters' Defined Contribution Plan (PO/FF II) for Excluded Employees in Bargaining Unit 6

Governor's Request. In a May Revision Finance Letter, the Governor requests that Control Section 3.90 be increased by $9.68 million GF to authorize a reduction of department budgets as a result of the elimination of the Peace Officers' and Firefighters' Defined Contribution Plan (PO/FF II) retirement benefit for excluded employees, including supervisors and managers, affiliated with Bargaining Unit 6 (California Correctional Peace Officers Association - CCPOA).

Background. The CCPOA and the state negotiated the PO/FF II defined contribution plan during the 1988-89 fiscal year. This employer-provided benefit, in which the state contributed two-percent of base pay for each employee to a defined contribution plan, supplemented the employees' California Public Employees' Retirement System pension benefit. However, the recently ratified 2011 Memorandum of Understanding between the CCPOA and the state eliminated the PO/FF II retirement benefit program and the state, therefore, will no longer be making any contributions to the PO/FF II program.

Staff Comment. Chapter 25, Statutes of 2011 (SB 151), ratified the new contract between the CCPOA and the state. Consistent with Chapter 25, this request makes the necessary technical adjustments to an existing budget control section to authorize a reduction of department budgets to account for excluded employees affiliated with CCPOA no longer receiving the PO/FF II retirement benefit.

Staff Recommendation. Approve the May Finance Letter to make the necessary technical (including language) adjustments to CS 3.90.

Issue 3 – Augmentation for Employee Compensation (9800); Contribution to Public Employees Retirement Benefits (CS 3.60); and, Reduction for Employee Compensation (CS 3.90): Various Technical Adjustments

Governor's Request. In a May Revision Finance Letter, the Governor requests a net reduction of $17.245 million GF as a result of several state public employee compensation and retirement technical adjustments as detailed below.

Background. Each year, the January Governor's Budget estimates the upcoming fiscal year costs for state employee compensation, benefit, and retirement costs. As part of each year's budget adoption process, therefore, these estimates need to be revised as actual numbers become known. The CalPERS Board of Administration (Board) acted on May 18, 2011, to adopt the state's employer contribution rate. In addition, with the recent ratification of six Memorandums of Understanding [Chapter 25, Statutes of 2011 (SB 151)], a variety of technical adjustments are required to the 2011-12 budget. These actions drive a series of necessary technical adjustments to various items in the 2011-12 budget to ensure the budget is accurate as it pertains to state employee compensation, benefit, and retirement costs. As noted above, the net GF reduction for the combination of all of these technical adjustments to the budget is $17.245 million over the January budget level.

- Decrease of $286,651,000 GF ($169,457,000 other special funds and $83,464,000 various other Non-Governmental Cost Funds), over the January budget level, for retirement rate adjustments to the 2011-12 retirement costs through Control Section 3.60. The adjustments are necessary because the January budget estimate of retirement costs assumed the Board would take the following two actions:

  (1) Reduce the assumed investment rate of return from 7.75 percent to 7.50 percent. On March 16, 2011, the Board voted to maintain the rate at 7.75 percent. This decision resulted in lower estimated retirement costs in 2011-12 than were assumed in the January budget level; of the total reductions indicated above, this adjustment accounts for $400,000,000 ($200,000,000 GF) savings.

  (2) Retirement rates are now estimated to be lower than originally projected in the January budget; of the total savings indicated above, this adjustment accounts for $139,572,000 ($86,651,000 GF) savings.

- As a result of the $286,651,000 GF adjustment, the fourth quarter payment to CalPERS that is deferred from 2011-12 to 2012-13 will decrease by $71,663,000. The $286,651,000 adjustment less the $71,663,000 deferral results in a total net reduction of $214,988,000 to the GF in 2011-12.

- This $214,988,000 GF reduction is mostly offset by increases in Item 9800 and Control Section 3.90 resulting from the six collective bargaining agreements [Chapter 25, Statutes of 2011 (SB 151)] as follows:

  (1) Increase Item 9800-001-0001 by $96,393,000, Item 9800-001-0494 by $15,546,000, and Item 9800-001-0988 by $7,657,000, to provide increased costs for the six collective bargaining agreements in SB 151 and an updated salary survey affecting the California Association of Highway Patrolmen (Bargaining Unit 5) and Judges.

(2) Decrease Control Section 3.90 by $101,350,000 GF, $65,790,000 Special Fund, and $32,404,000 Non-Governmental Cost Fund, to reflect the six negotiated collective bargaining agreements not already outlined through Item 9800 above.

Staff Comment. As noted above, these technical adjustments to the 2011-12 budget are necessary to ensure that it accurately reflects state employee compensation, benefit, and retirement costs, as impacted by the recent actions of the CalPERS' Board and Chapter 25, Statutes of 2011 (SB 151).

Staff Recommendation. Approve the May Finance letter, including the necessary technical (including language as appropriate) adjustments to Item 9800, CS 3.60, and CS 3.90. Note, this recommendation includes adoption of additional technical conforming language in both CS 3.60 and CS 3.90 to authorize DOF to make necessary adjustments for CalPERS Board actions taken after adoption of the 2011-12 budget, including for health care rates and employer contribution rates.

Issues Proposed for Vote Only – Issue Descriptions, continued

EMPLOYMENT DEVELOPMENT DEPARTMENT (7100)

Issue 4 – Unemployment Insurance: Federal Interest Payment Technical Adjustment

Governor's Request. In a May Revision Finance letter, the Governor is requesting an adjustment to the January budget amount of the Unemployment Insurance (UI) interest payment due to the federal government in September 2011, reducing the total estimated payment by $42.79 million (Disability Insurance Fund – DI Fund) to a revised total of $319.5 million (DI Fund).

Prior Budg et Action. At its February 1, 2011 hearing, the Subcommittee approved an increase of $362.3 million GF to make the first interest payment due to the federal government for the quarterly loans the Employment Development Department (EDD) has been obtaining from the federal government since January 2009 to cover the UI fund deficit. This expenditure was offset by a transfer from the DI Fund to the GF, resulting in no net GF cost in 2011-12.

Background. California's UI fund was depleted on January 26, 2009, and at that time the EDD began borrowing funds from the Federal Unemployment Account in order to continue paying UI benefits to qualifying UI claimants. The federal loans have permitted California to make payments to UI claimants without interruption. Generally, loans lasting more than one year require interest payments; the federal American Recovery and Reinvestment Act (ARRA) of 2009 provided temporary relief to states from making interest payments on UI loans through December 31, 2010. With the expiration of the ARRA provisions, the first interest payment to the federal government is due in September 2011 with growing interest obligations in the out years. Federal law requires that the interest payment come from state funds; i.e., the payment cannot be paid by the Unemployment Fund or by a state's UI administrative grant.

The May Revision request adjusts downward by $42.79 million the September 2011 interest payment due to two factors: (1) updated federal guidance currently estimates an interest rate of 4.087 percent; the January budget level was based on an estimate of 4.36 percent; and (2) a reduction in the amount of federal funds the state will have borrowed at the time the interest payment is calculated; the January budget level estimated a total of $10.3 billion, the updated estimate is a total of $9.8 billion.

Staff Com ment. This request is simply a technical adjustment to the budgeted 2011-12 federal interest payment. The net effect is that $41.2 million less will be owed from the DI fund to the GF. The May Revision request makes no changes to the existing budget provisional language that: (1) authorizes the DOF to increase/decrease the actual amount paid/borrowed from the DI fund based on a more precise calculation of the payment due; and (2) specifies that the annual contribution rates for the DI fund shall not increase as the result of any loan made to the GF (in calculating the annual disability insurance tax rate each year, the EDD is required to treat outstanding DI loans as available cash in the DI Fund). This latter provision is critical to preventing any potential increase in employee paid DI taxes as a result of the loan from the DI Fund to the GF.

Finally, staff notes that the out year GF implications of not addressing the larger insolvency of the UI Fund are significant. The estimated September 12, 2012, interest liability is $592.8 million. This figure does not include the roughly $80 million that the GF will be required to pay out to the DI fund over the next four fiscal years as payment for the 2011-12 loan. Neither the Governor's January budget nor May Revision document included a proposal to address the underlying insolvency of the UI fund.

Staff Recommendation: Approve the technical adjustment to the Unemployment Insurance federal interest payment in the 2011-12 budget.

1900 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
8860 DEPARTMENT OF FINANCE

Issue Proposed for Discussion / Vote

Issue 1 – Pension Reform Study

Governor's Budget Request. In a May Revision Finance letter, the Governor requests that item 1900-001-0001 be added in the amount of $1.5 million GF with proposed provisional budget bill language to provide necessary one-time funding for the California Public Employees' Retirement System (CalPERS) to provide pension reform-related consultation, technical advice, and fiscal analysis to the Administration.

Background. The Administration is requesting this item to obtain consultation, technical advice, and fiscal analysis of reforms to address the increasing costs of public pensions that meet both the needs of the employer and the employee. The Administration states that while CalPERS is the best resource to assist the state in this effort, as it has the expertise to provide pension-related consultation, technical advice, and fiscal analysis, the Public Employees Retirement Fund cannot be utilized for this purpose. Therefore, this budget item and GF is requested to assist the Administration with this effort.

The proposed budget provisional language would charge the Director of Finance with coordination of all requests under this section, and a copy of any final document or report is required to be provided to the Director and the Legislature. The CalPERS system would play a pivotal role, in that it would undertake the work as directed by the Director and Finance and would be able to select such firms and/or individuals to assist it in the completion of any request submitted by the Director. The language would exempt these contracts from both the Government and Public Contract Codes. Finally, the language would provide that, once all costs and expenses have been paid, any remaining funds will revert to the GF.

Staff Comment. CalPERS has independent fiduciary and rate-setting functions, and in the end must choose the interests of its public employee members. Under Article XVI, Section 17(b), of the California State Constitution, CalPERS is obligated to put its "*duty to its participants and their beneficiaries…over any other duty*." However, under the Administration's proposed language, CalPERS could play a direct role in shaping a major gubernatorial proposal to alter the public pension system. To maintain its independence, CalPERS needs to be in a position to advocate for or against any such proposal, as well as change rates in whatever manner the Board sees fit upon enactment of a reform proposal.

In considering the merits of this request, i.e., to provide limited one-time resources to the Administration so it can seek technical advice and fiscal analysis on pension reform options, the Subcommittee may wish to consider alternative language that achieves the same goal but without raising any CalPERS-related concerns. The alternative language would be added to the Department of Finance's budget, as opposed to the CalPERS' budget as proposed in the Administration's May Revision request.

LAO Recommendation. We recommend that the Legislature reject this request for funding. Alternatively, if it wishes to provide the Administration with some such funding, perhaps the amount could be lowered. In any event, actuaries, legal experts, and other policy experts independent of CalPERS and other California public pension systems should be utilized in this study.

Staff Recommendation: Reject the May Finance letter; approve alternative language to provide on a one-time basis $1.5 million GF to the Department of Finance so the Administration can seek consultation, technical advice, and fiscal analysis on pension reform.

Vote: Staff recommendation approved 2-1, with Senator Anderson voting no.

CS 3.60 CONTRIBUTION TO PUBLIC EMPLOYEES RETIREMENT BENEFITS

Issue Proposed for Discussion / Vote

Issue 1 – Retirement Contribution Rate Adjustments: California State University

Governor's Budget Request. In a May Revision Finance letter, the Governor requests that the amount allocated for the 2011-12 GF expenses under Control Section 3.60 (CS 3.60) of the budget act be lowered by up to $69.2 million to recapture what the DOF has identified as an over-allocation of funds to the California State University (CSU) system in 2009-10.

Background. Control Section 3.60 is the budget bill's mechanism for holding departmental budgets harmless in the event of increases in employer CalPERS contribution rates and achieving budgetary benefit for the state when CalPERS rates decline. During each fiscal year, the DOF coordinates a process through one of its budget letters that leads to an estimate of how much more or less each department must pay that year due to changes in retirement contribution rates. Departmental budgets then are increased or decreased by DOF to reflect these changes.

The state's university systems, such as CSU, are different from most state departments in that they have significant autonomy in their budgeting processes, and they receive funding in line items of the annual budget act that their university boards allocate to campuses. But even state departments that are more directly under the funding control of the Legislature and the Governor have significant flexibility in managing their personnel funds. This is by necessity since various operating factors for a department cannot be known precisely in advance; such as, how many employees will retire in a given year, how many new hires will join and when, and what, expenses will come in higher or lower than expectations. Accordingly, when the state augments departments' budgets for higher personnel expenses (through Item 9800 of the budget) or for higher pension costs (through CS 3.60), these augmented funds are not segregated in a specific account available just for employee or pension expenses. Rather, these funds are placed in a department's general pot of operating money from each state fund, and in effect, the funds hold the department's operating budget harmless due to that fiscal year's incremental employee and pension cost changes.

For the typical state department and through the budget process, the Legislature has total control over how much the department can spend. If, for example, pension costs rise at a fast rate, this increase is budgeted through CS 3.60 and, in order to keep the budget in balance, the Legislature may have to choose to reduce the base budget of various departments. This process is designed to give departments the flexibility they need to operate while, at the same time, ensuring that the Legislature considers the effects of budget reductions on each department. Decisions to balance the budget are made through departmental base budget items, such as CSU's main item in the budget. CS 3.60, by contrast, should be viewed as a purely technical "bookkeeping" budget item, as it routes to each department the funds necessary to pay mandatory pension contribution costs.

As described above, CS 3.60 funds are administered through an annual budget letter process. Using CSU's responses to its 2008-09 and 2009-10 budget letters concerning CS 3.60 and data received from CalPERS on CSU's actual pension contributions for each of those fiscal years, DOF constructed a calculation that it believes shows that CSU had $69.2 million more in its base budget for retirement contributions in 2009-10 than it actually spent. In DOF's view, the budget letter process resulted in an estimate in early 2009-10 that CSU was going to spend $430 million on CalPERS contributions that fiscal year and that led DOF to allocate CSU an additional $7.4 million of funds in that year. By contrast, CalPERS reports that the system actually contributed only $361 million in 2009-10 which is $69 million less than DOF's budget letter process indicated at the time.

To counter the DOF argument, CSU officials have explained to legislative staff their view that DOF selectively chooses to examine CS 3.60 allocations only for 2008-09 and 2009-10. According to CSU, a more long-term view of the trends of these allocations produces a very different result. Instead of using 2008-09 as the "base year" of this calculation, CSU instead goes all the way back to 1999-00. By looking at the incremental trend of positive and negative allocations to CSU through CS 3.60, CSU claims that its "state-funded" portion of CalPERS contributions amounted to only $350 million by 2009-10, $5.4 million more than it says it then paid from CSU general funds. CSU further points out that the reason its retirement contributions dropped in 2009-10 was its implementation of a furlough program, developed as part of the response to unallocated budget reductions the Legislature made in the university's budget. In other words, CSU argues, DOF wants to cut the university through CS 3.60 after the GF already received the benefit of the same cuts in prior years' budgets through CSU's line items.

LAO Comment. In our view, the seemingly complicated mathematical bout between CSU and DOF should be awarded to neither party. The only way one could solve the argument would be to go to the beginning of CSU's retirement plans, which is more than a half century ago, and track the annual trend of state allocations and deductions for retirement costs. The choice of any other base year, be it 1999-00 (as CSU chooses) or 2008-09 (as DOF chooses), is arbitrary. Because records do not exist for such a long-term calculation, this particular numerical argument seems to us pointless.

CS 3.60 is meant to hold departmental budgets harmless in years when pension contribution rates increase and deliver state budgetary benefit in years when these rates decline. In essence, CS 3.60 involves an annual estimate and just that: an estimate of the annual change in retirement costs, and it implicitly assumes that in prior years, the amount allocated or deducted from departmental budgets through the control section was accurate. There is a practical reason for this assumption: specifically, that employee and retirement funds are not segregated in a specific account, so that they are spent each year along with the rest of a department's operating budget. To retroactively sweep departmental funds for a prior years' elevated estimate under CS 3.60 makes little sense because, in general, there are no funds left to be swept. If there was a prior-year overestimate under CS 3.60, the overestimated allocation from the state budget was spent during that prior year to operate departmental programs. Any such over allocated money, in short, is gone.

We believe that DOF deserves credit for examining prior-year CS 3.60 allocations critically. Nevertheless, if the Administration wants to address the perceived over allocation of prior-year funds to CSU through the control section, the appropriate place to do so would be by proposing a $69 million additional reduction in CSU's GF appropriation for 2011-12. This is because sweeping CSU's 2009-10 funds would have a real programmatic impact on the university in 2011-12. Decisions as weighty as those concerning a $69 million cut to a university system should never occur in the context of this control section. CS 3.60 is a purely technical budget item.

LAO Reco mmendation. Because the administration, in our view, cannot justify its mathematical argument and because of the significance of this reduction to CSU, we recommend that the Legislature reject the proposed $69.2 million reduction in CS 3.60 funds for 2011-12. Should the administration wish to reduce CSU's budget by $69.2 million, it may propose such a reduction for CSU's GF budget item, including its ideas for how the university should respond to the reduction in terms of programs, employee costs, and university operations.

All parties seem to agree that DOF's current CS 3.60 allocation process for CSU needs improvement in order to prevent such misunderstandings from happening in the future. Accordingly, we recommend adoption of the following provisional budget bill language in CS 3.60 (for one year only) related to this issue: "*It is the intent of the Legislature that the Department of Finance develop and implement a revised process, in consultation with the California State University, that allows the Director of Finance to more accurately adjust the university's appropriation amounts for employer pension contributions beginning in the 2011-12 fiscal year, as allowed in subdivision (a). The Director of Finance shall submit a brief description of the revised process to the Chairperson of the Joint Legislative Budget Committee and the Chancellor of the California State University on or before January 10, 2012*."

Staff Recommendation: Reject the Administration's May Revision request and instead adopt the LAO recommendation to add language to CS 3.60 to express legislative intent that an improved Control Section 3.60 process be developed for CSU in the future.

Vote: Staff recommendation approved 3-0.

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

Department and Budget Overvie w. The Employment Development Department (EDD) administers services to employers, employees, and job seekers. The EDD pays benefits to eligible workers who become unemployed or disabled, collects payroll taxes, administers the Paid Family Leave Program, and assists job seekers by providing employment and training programs under the federal Workforce Investment Act of 1998. In addition, the EDD collects and provides comprehensive labor market information concerning California's workforce.

	2009-10 (actual)	2010-11 (estimated)	2011-12 (proposed)
Expenditures	$30,883,630,000	$23,471,859,000	$25,963,988,000
General Fund	$24,983,000	$33,107,000	$403,826,000
Personnel Years	11,192.7	11,022.5	10,208.9

Issues Proposed for Discussion / Vote

Issue 1 – Unemployment Insurance M odernization Projects: Single Client Database and Alternate Base Period

Governor's Budget Request. In two May Revision Finance letters, the Governor requests continued support for the final year of development of the Single Client Database (SCDB) and Alternate Base Period (ABP) Unemployment Insurance (UI) modernization projects. In addition, proposed trailer bill language is requested to extend the implementation date for ABP from September 3, 2011, to April 2, 2012. The chart below details the requested resources for these two projects:

FL #	Title/Description	Positions	Fund Detail
FL 1	Single Client Database (SCD)	22 existing positions	$10.7 million total [$7.1 *million Unemployment Fund and redirection of $3.6 million Disability Insurance Fund]*
FL 2	Alternate Base Period (ABP)	26 existing positions	$9.1 million total *[$8.5 million Unemployment Fund and redirection of $0.6 million Unemployment Administration Fund]*

2010-11 Budget. The 2010-11 budget provided $25.8 million ($11.1 million Unemployment Fund and redirection of $14.7 million Unemployment Administration Fund), 123 new positions, and 33 existing positions for project activities related to the SCDB and ABP.

Background. The American Recovery and Reinvestment Act (ARRA) provided states additional UI administration dollars for use toward information technology modernization. The EDD took advantage of these ARRA dollars to begin a variety of modernization projects, the majority of which were included in the department's 2008 Capital Plan. These projects are intended to streamline and improve UI service levels by minimizing manual processing of payments and claims and providing customers with more service options. These UI modernization projects include the SCDB and ABP projects, which are described as follows:

<u>Single Client Database (SCDB).</u> Started in May 2009 with estimated total projects costs of $60.024 million, the SCDB project will replace EDD's out-dated database with a modern, relational one that will be easier to maintain, change, and optimize to meet the service needs of business and to respond to legislative mandates, including allowing new business processes, such as the Alternate Base Period, to be implemented efficiently. Project implementation is expected in November 2011; this request is for the final year of development of the SCDB project.

<u>Alternate Base Period (ABP).</u> Started in May 2009 with estimated total project costs of $19.427 million, the ABP project will implement programming changes to provide an alternate base period for individuals who do not monetarily qualify for a UI claim using the standard/current base period year by allowing workers to qualify for a UI claim by using an alternate base period that is based on the most recent four completed calendar quarters at the time of filing a claim. The Administration estimates this change will allow 26,000 unemployed individuals per year to qualify for approximately $69 million in UI benefits up to three months earlier than would be possible under the existing base period. Chapter 23, Statutes of 2009 (ABX3 29), requires ABP implementation by April 2011. As part of this request, the Administration is requesting budget trailer bill language to extend this date by seven months to April 2, 2012. This request is for the final year of development of the ABP project. Implementation of the ABP is expected to bring an additional $840 million in federal funds to California (see related item discussed as Issue 2 below).

In the past year, during the course of the development of these projects, the EDD developed a clearer and more detailed understanding of the technical and project management complexities of the SCDB project. The EDD's plan to address these complexities and the associated increase in project costs (roughly $26.4 million) resulted in a new Special Project Report (SPR) being submitted to the California Technology Agency. The SPR was approved in March 2011. The project completion date has been extended from the prior estimate of July 2011 to November 2011. This request is based on the revised SPR.

The ABP project is completely dependent on the SCDB project for the collection and storage of data needed to process an ABP claim. As noted above, the SCDB implementation has been rescheduled to November 2011; hence the ABP implementation has been rescheduled from September 2011 to April 2012. Similar to SCDB, the ABP project also experienced issues of scope complexity and associated increases in project costs (roughly $12 million) resulting in a new SPR being submitted to the California Technology Agency. The SPR was approved in March 2011. This request is based on the revised SPR.

Staff Comment. When requests related to these projects were before this Subcommittee in 2010, the expected project completion dates were July 2011 (SCDB) and September 2011 (ABP). As noted above, due to the SCDB being inadequately scoped, as the EDD got deeper into the project's development it realized a need to revisit the project's design and scope. The SCDB project (and ABP given the interdependence) was also challenged by a series of federally mandated UI extensions in 2010 which required the redirection of staff (analysts, programmers, testers, database administrators, and support staff) to perform the critical programming, database administration, and testing necessary to implement the extensions. As a result, EDD was unable to provide sufficient staff to fully support some of the conversion efforts, thereby impacting the SCDB schedule.

With the new project completion schedule, May 2011 is a crucial month for the SCDB project. For example, May 27, 2011, is the schedule deadline for design acceptance. May is also a crucial month for internal testing of the SCDB. The EDD reports that the testing is going very well and that the SCDB project is on track for design acceptance on May 27. As described above, it is important for the SCDB project to remain on schedule, given the dependence of the ABP on this project. Should the ABP not be implemented by the federal deadline of September 2012, the $840 million in federal funds would be in jeopardy. As a sign of the Administration's confidence on the SCDB, it sent a letter on May 17, 2011, to the federal government to certify that it would implement ABP by the deadline – an action that can only happen if the SCDB project remains on track and is completed on schedule in November of this year.

Staff Recommendation: Approve the May Finance Letters for the SCDB and ABP projects, as well as the proposed trailer bill language to extend the project completion date of the ABP project until April 2, 2012.

Vote: Staff recommendation approved 2-1, with Senator Anderson voting no.

Issue 2 – Alternate Base Period Program Support

Governor's Budget Re quest. In a May Revision Finance letter, the Governor requests a redirection of $5.3 million (Unemployment Administration Fund) for 37 existing positions for the Alternate Base Period (ABP) program in 2011-12, including the programmatic costs related to implementing the APB in addition to one quarter (April 2012-June 2012) of ongoing programming costs for processing workload associated with ABP claims.

For 2012-13 and ongoing, the Governor requests continuous funding of $16.0 million (Unemployment Fund) and 165 new positions to support the ongoing administrative costs for processing the ABP workload.

This request also includes proposed trailer bill language to amend the 2010 budget act to appropriate $48 million of the federal ARRA incentive funds to cover the $16.0 million in annual costs of administering the ABP program for three fiscal years, from 2012-13 through 2014-15.

Background. As detailed in Issue 1 above, the ABP project will be completed in April 2012. This request, therefore, represents the ABP program administration costs in 2011-12, as well as 2012-13 and ongoing. These administration costs are driven by the fact that the APB program requires a manual wage investigation of a given ABP claim to determine eligibility. As opposed to the current base period where only wages earned in the first four quarters of the last five complete calendar quarters are considered, under the ABP eligibility is based on an alternate base period that is based on the last four completed calendar quarters at the time of filing a claim. It is expected that the ABP will establish eligibility for some workers such as seasonal or low-wage workers, or workers whose employment and layoffs were more recent. However, absent funding these new program administration costs, the EDD would be required to absorb the costs since this additional workload is not currently funded by the federal UI grant. Under this scenario, the Administration indicates that EDD Tax Branch staff would most likely be redirected to the ABP program, which could result in a revenue loss of $7.7 million GF.

As noted in Issue 1 above, the implementation of ABP will also qualify EDD to receive $840 million in federal ARRA stimulus dollars. To qualify for the additional federal economic stimulus dollars, the EDD must submit an application to the federal Department of Labor (DOL) no later than August 22, 2011. Within 30 days of receipt of the application, California would be notified whether the state qualifies for the additional stimulus dollars. The EDD reports this application was submitted on May 17, 2011. Should DOL approve this certification, California would become eligible to receive $840 million in federal incentive funds.

This request proposes to utilize $48 million of these incentive funds in support of the ABP project. To reserve a portion of these funds for state administration, however, California must be able to receive the UI incentive payment and set up the subaccount during a period in which California can sustain UI benefit payments without utilizing federal loan funds. Since 2009, California has consistently paid more in UI benefits than it has collected in revenues. To continue payment of benefits despite this shortfall, the state has obtained quarterly loans from the federal government which now total around $11 billion. Beginning in September 2011, the state will start paying interest on this loan to the federal government. The anticipated "non-loan" period begins in the early days of May 2011, when the highest annual UI revenues are received. These funds may last thought mid-July, at which point borrowing must restart. Therefore, the Administration requests that the $48 million be appropriated no later than June 30, 2011. Otherwise all of these incentive funds would be applied to the state's outstanding loan balance.

LAO Alternative. The May Revision includes a 2010-11 appropriation request which would set aside a total of $48 million of federal incentive funds to cover annual costs of administering the ABP program from 2012-13 through 2014-15. Absent this set aside, these ABP costs would likely have been borne by the GF (at least for the near term). The remaining $791 million in incentive funds would be applied to the state's federal loan, resulting in ongoing annual debt service savings of around $30 million beginning in 2012-13.

By setting aside an additional $120 million for EDD administrative costs in 2011-12 through 2014-15, the Legislature has an opportunity to realize significant GF savings. Specifically, this would result in $30 million in savings in 2011-12 and ongoing annual savings (slightly less than 2011-12 savings due to increased debt service costs) of approximately $23 million through 2014-15. We note that in the years beyond 2014-15, it would also result in slightly higher debt service costs of approximately $6 million per year until the state repays its outstanding federal loan.

The amounts presented above represent the maximum savings that can be achieved over the next four fiscal years. The Legislature could elect to set aside a smaller amount resulting in less GF savings. Also, the Legislature could opt to set aside some funding for other EDD initiatives. In deciding whether to set aside additional funds for EDD administration, the Legislature should carefully weigh the benefits of near term GF savings against future increased debt service costs and a small decrease in the reduction to the UI loan balance. Given the short time frame in which these funds would need to be set aside, the Legislature may wish to consider taking action in separate legislation.

Staff Comment. The LAO alternative builds on the Administration's May Finance letter to secure additional GF savings of $30 million in 2011-12 and ongoing savings of $23 million through 2014-15. This would result in slightly higher debt service costs of approximately $8.5 million per year until the state repays its outstanding federal loan. The estimated September 2012 interest payment is upwards of $590 million. Were the Subcommittee to approve the LAO alternative, in addition to the Administration's proposal, an estimated $8.5 million would be added to that outstanding debt but $23 million GF savings would also be achieved in that same year.

Staff Recommendation: Approve the May Finance letter as modified by the LAO alternative to set aside a total of $168 million (federal ARRA funds) for EDD administrative costs beginning in 2011-12 and through 2014-15.

Vote: The Administration's May Finance letter was approved on a 2-1 vote, with Senator Anderson voting no.

Issue 3 – Workforce Investment Act (WIA) 2011-12 Funding

Governor's Request. Given current financial uncertainties about the amount of federal WIA funding available in 2011-12, in a May Revision Finance letter, the Governor requests that any adjustments needed in 2011-12 be made as part of the October Revise of the WIA 15 Percent State Discretionary Funds.

March 201 1-12 Budget Action. At its February 1, 2011, hearing the Subcommittee approved and accepted the 2011-12 WIA Program allocations but denied without prejudice approval and authorization of the Governor's proposed expenditures and distribution of 15 Percent State Discretionary funds (Discretionary Funds). The Subcommittee's intent was to consider the proposed expenditure and distribution of the Discretionary Funds during the Spring 2011 budget process.

Background. The goal of WIA is to strengthen coordination among various employment, education, and training programs. The WIA prescribes a formula for allocating adult, youth, and dislocated worker funds. As part of the annual administration of the WIA funds, the annual budget document prescribes a process whereby the Administration provides an October and April revise to the Joint Legislative Budget Committee. This ensures that the WIA expenditure plan is updated at regular intervals each year, to accommodate unanticipated additional or decreased federal funds or to reallocate funding within the WIA categories consistent with the overall expenditure plan.

Under federal law at the time of the construct of the Governor's January budget, generally 85 percent of the state's total WIA funds would be allocated to local Workforce Investment Boards (WIBs) and the remaining 15 percent of WIA funds ($69.1 million in 2010-11) would be available for state discretionary purposes such as required administration and oversight activities, as well as for discretionary statewide initiatives and competitive grants for employment and training programs.

However, the Administration reports that significant changes to the WIA program were included in the recently enacted federal budget resolution. At this time, the Administration reports that one of two scenarios is possible, as illustrated in the below chart:

2011-12 WIA FUNDING SCENARIOS VS. 2010-11 FUNDING LEVEL
(Dollars in Millions)

Funding	2010-11	2011-12 Scenario 1	2011-12 Scenario 2
Discretionary Funds	$69.14	$44.41	$20.11
Adult	111.93	97.72	108.24
Dislocated Worker	115.45	105.44	119.21
Rapid Response	48.10	42.58	42.58
Youth	116.34	112.05	112.05
TOTAL	**$460.97**	**$402.19**	**$402.19**

Scenario 1 assumes Discretionary Funds are five percent of the state's Round 1 allocation and 15 percent of the Round 2 allocation. Scenario 2 assumes Discretionary Funds are five percent of both Round I and Round 2 funding. As the chart illustrates, there is a year-to-year overall decrease of $58.8 million, as compared to the total amount available in 2010-11.

Further, while the two 2011-12 scenarios contain the same total amount of funding ($402.19 million), the allocation within the various WIA categories varies, with substantially less Discretionary Funds available as compared to the 2010-11 level. For instance, in both scenarios the amount of available Discretionary Funds is roughly $25 million (Scenario 1) and $49.02 million (Scenario 2) less than the available funds in 2010-11.

Further, if Scenario 2 is determined to be the correct interpretation of the federal action, the state would likely only have sufficient funding for mandated administration and oversight activities, with no funding available for any statewide initiatives or competitive grants. The Administration indicates that it is currently awaiting final clarification from the federal Department of Labor before permanent funding adjustments are made.

Staff Comment. Historically, WIA state discretionary expenditures and adjustments are considered post-May Revision. Further, these expenditures depend on gubernatorial and legislative priorities. Therefore, the LAO has consistently recommended that the Legislature review and potentially modify the Administration's Discretionary Funds plan to meet legislative priorities.

In 2011-12, the state faces a conundrum of sorts with its administration of the Discretionary Funds. Due to the lack of clarity as to which scenario applies in 2011-12, it is very difficult for the Administration to propose, and for the Legislature to adopt, an expenditure plan as the amount of available Discretionary Funds is unknown. Further complicating matters, the state could have a larger than normal carryover from 2010-11, as the first expenditure priority has been to fully utilize American Recovery and Reinvestment Act (ARRA) funding within the WIA programs as these dollars must be fully spent by June 30, 2011. The Administration currently estimates this carryover at roughly $10-$15 million. Therefore, where allowable, EDD is using these funds before expenditure of 2010-11 base grant for administrative costs resulting in an increase in carryover funding. The Administration indicates that the final amount of carryover will not be known until August 2011 at the earliest.

Consistent with the Subcommittee's approach in February of this year, and in considering this request, the Subcommittee may wish to continue to only authorize expenditures on mandated WIA activities (program administration and oversight) and postpone any other allocation or expenditure decision until the actual amount of federal funding is determined. That should occur on or about September 1, 2011. At that time, the Administration would be required to submit a detailed expenditure plan to the JLBC, and the expenditure of funds would be authorized not sooner than 30 days after the submission date.

Item 7100-001-0869
Strike existing Provision 4.
Insert new Provision 5 as follows:
5. Notwithstanding Provisions 1 through 3 of this item in fiscal year 2011-12 only, funds appropriated in Schedules (2) to (4), inclusive, are not authorized for expenditure until the Employment Development Department and the Department of Finance submit a detailed plan for expenditure based on the available federal funding. It is the intent of the Legislature that this plan be submitted by September 1, 2011. The expenditure of funds may be authorized not sooner than 30 days after this detailed expenditure plan is provided to the chairpersons of the committees in each house of the Legislature that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.

Staff Reco mmendation. Approve budget provisional language to authorize 2011-12 expenditures on mandated WIA activities only, and postpone further expenditure of WIA Discretionary Funds until the Administration submits a detailed expenditure plan of available federal funds to the JLBC on or about September 1, 2011. Note, this recommendation also includes a technical conforming action to remove from this budget item Provision 4, which is the language tied to the Subcommittee's February 1, 2011, action.

Vote: Staff recommendation approved 2-1, with Senator Anderson voting no.

REDUCING STATE GOVERNMENT

Background. The March 2011 budget package recognized $250 million GF ($163 million other funds) for savings associated with the identification of efficiencies in state operations, including identification of agencies, departments, and programs that can be reorganized to eliminate duplication and unnecessary functions; review of state peace officer and safety classifications; and reductions in other areas like contracting, fleet operations, and cell phone use. The mechanism to achieve these savings is a budget control section that provides the Administration with the authority to make the required budgetary reductions to achieve the total savings.

Working from these totals, the Administration has since identified, and in some cases already achieved, savings through a variety of executive actions, including eliminating the offices of the Secretary of Education and the American Recovery and Reinvestment Act Inspector General, banning non-essential travel, implementing a statewide building rental rate reduction, reducing the number of state-issued cellular phones, and reducing the statewide vehicle fleet, including the elimination of any non-essential vehicles and reducing the number of home-storage permits.

The May Revision builds on these executive actions and proposes to specifically reduce state operations by $82.7 million ($41.5 million GF) via the same control section mechanism included in the March 2011 budget package. These savings would be achieved through a variety of eliminations, consolidations, reductions, and efficiencies, including: (1) the elimination of 32 boards, commissions, task forces, and offices; (2) the consolidation of the State Personnel Board and the Department of Personnel Administration; (3) several changes due to realignment, including the elimination of the Departments of Mental Health and Alcohol and Drug Programs and a 25 percent state operations reduction for realigned public safety programs; and (4) various program reductions and efficiencies. The May Revision proposal also includes a comprehensive state asset review to result in the eventual disposition of non-essential or under-utilized state properties; however, any savings from this effort would be included in the 2012-13 budget.

All of the proposed eliminations and consolidations, to the degree that they require statutory changes, cannot be adopted on an urgency basis. Article 4, Section 8 (d), of the California State Constitution states that, "an urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or crate any vested right or interest." Therefore, the eliminations and consolidations all have an effective date of January 2, 2012, with the associated savings of six months.

The Control Sections associated with this subject are in the purview of Budget Subcommittee No. 4 on State Administration. Discussed below are the five "Reducing State Government" proposals that fall within the jurisdiction of Subcommittee No. 5, including four within the Labor and Workforce Development Agency and its constituent departments and one impacting the Department of Personnel Administration.

Issue 1 – Secretar y for Lab or and W orkforce Developm ent Agen cy (0559) Reduce the Labor and Workforce Development Agency

Governor's Budget Request. As part of the May Revision, the Governor requests a decrease of $677,000 (reimbursements) and 3.8 personnel years to reflect a net reduction of four positions within the Labor and Workforce Development Agency (Agency) and the relocation of the office from leased space to existing state-owned space within the EDD. This reduction includes one position currently assigned to support the Economic Strategy Panel (see Issue 2 below). The relocation from leased space to state-owned space will also result in rental savings of $210,000 (other funds) within the Department of Industrial Relations. This request does not include proposed budget trailer bill language.

Background. The Agency was created in 2002 as an executive branch agency with a Secretary that is a member of the Governor's Cabinet. The Agency oversees seven major departments, boards, and panels that serve California businesses and workers. The budget for all Agency operations totals about $11.2 billion, and includes approximately 11,600 staff working throughout California. The goals of the Agency are twofold: (1) improve access to employment and training programs; and (2) ensure that California businesses and workers have a level playing field in which to compete and prosper.

Staff Comment. With the change in Administration in January of this year, a new Secretary was appointed to the Agency who set out to restructure the Agency to better focus its operation on its core mission and otherwise streamline its operations. This May Revision proposal is a direct result of that effort, including the reduction in staffing as well as relocation of its operation from more costly leased space into state-owned space. In addition, $157,000 of the total $677,000 in savings is from the elimination of the Economic Strategy Panel, which is discussed further as Issue 2 below.

Staff Recommendation: Approve the reductions to the Labor and Workforce Development Agency.

Vote: Staff recommendation approved 3-0.

Issue 2 – Labor and Workforce Development Agency (0559) Eliminate the Economic Strategy Panel

Governor's Budget Request. As part of the May Revision, the Governor requests to eliminate the Economic Strategy Panel for savings of $79,000 (other funds) and 0.7 personnel years. This request includes proposed budget trailer bill language.

Background. Established in 1993 within the now defunct California Technology, Trade, and Commerce Agency, the California Economic Strategy Panel (Panel) continuously examines changes in the state's economic base and industry sectors to develop a statewide vision and strategic initiatives to guide public policy decisions for economic growth and competitiveness. The fifteen-member Panel is comprised of eight appointees by the Governor, two appointees each by the President pro Tempore and the Speaker and one each by the Senate and Assembly Minority Floor Leaders. The Secretary of the California Labor & Workforce Development Agency serves as the Chair.

When this Panel was established in 1993, it was not provided with any funding. In 2003, when the Trade and Commerce Agency was dismantled, the Panel was moved to the Labor Agency's budget. It has, therefore, since been funded by reimbursements from the EDD and Department of Industrial Relations (both part of the Labor Agency).

California has ten separate boards, commissions, programs, divisions, councils, and panels tasked with economic and workforce development. Four of these entities are located within the Labor Agency, with one being the Economic Strategy Panel. The other three are California Workforce Investment Board, Governor's Office of Economic Development, and the Employment Training Panel. A fifth, the Governor's Commission on Employment of People with Disabilities is proposed for transfer to the Department of Rehabilitation (discussed as Issue 3 below).

Staff Comment. Given the number of separate boards, commission, programs, divisions, councils, and panels tasked with economic and workforce development in the state a fair question can be asked is this large number of separate entities warranted? Having this number of separate entities also raises questions about coordination (or lack thereof) of these myriad efforts and ensuing potential missed opportunities. Finally, the Agency indicates that the duties and responsibilities can be absorbed within its current structure.

Staff Recommendation: Approve the elimination of the Economic Strategy Panel and related trailer bill language.

Vote: Staff recommendation approved 3-0.

Issue 3 – Employment Development Department (7100) Transfer Support of the Governor's Commission on Employment of People with Disabilities to the Department of Rehabilitation

Governor's Budget Request. As part of the May Revision, the Governor requests to transfer support of the Governor's Commission on Employment of People with Disabilities from the Employment Development Department (EDD) to the Department of Rehabilitation (DOR) for savings of $403,000 (other funds) and 3.3 personnel years and assumes a reduction of seven of the 11 positions that currently support this Commission. Under this proposal, the EDD would continue to provide funding to support the work of the Commission, which would increase reimbursements provided to the DOR by approximately $234,000 in 2011-12. This request includes proposed budget trailer bill language.

Background. Established by the enactment of California's Workforce Inclusion Act (Chapter 1088, Statutes of 2002), the California Governor's Commission on Employment of People with Disabilities consults with and advises the Labor Agency and Health and Human Services Agency on all issues related to full inclusion in the workforce of persons with disabilities, including the development of a comprehensive strategy to accomplish various goals aimed at bringing more people with disabilities into employment. The Governor's Commission consists of appointed and mandated public and private members and receives staff support from the EDD. It is mandated to meet quarterly.

In proposing this transfer, and through the proposed budget trailer bill language, the Administration is proposing to modify the make-up of the Commission, as well as the appointment authorities, as illustrated in the chart at the top of the next page:

GOVERNOR'S COMMISSION ON EMPLOYMENT OF PEOPLE WITH DISABILITIES

Current Membership	Modified Membership Under May Revision Proposal
Four individuals with disabilities, two appointed by the Governor and one each appointed by the Senate Rules Committee and the Speaker of the Assembly.	Four individuals with disabilities appointed by the Secretary of the Health and Human Services Agency (HHSA Secretary).
Directors of the Employment Development Department, State Department of Health Services, State Department of Mental Health, State Department of Developmental Services, State Department of Social Services, and Department of Rehabilitation, and the Chair of the State Independent Living Council.	Same.
Representatives from the State Department of Health Services' California Health Incentive Improvement Project.	One representative from this same entity.
A representative from the California Workforce Investment Board (CWIB).	Same, except that the representative will be identified by the CWIB.
Representatives from any other department or program that may have a role in increasing the capacity of state programs to support the employment-related needs of individuals with disabilities.	Same, except now at the discretion of the HHSA Secretary.
A representative from a local one-stop or local workforce investment board, to be appointed by the Governor.	Same, except now appointed by the CWIB.
A business representative with experience in employing persons with disabilities, to be appointed by the Governor.	Increases business representatives to a total of three, now appointed by the HHSA Secretary.

Staff Comment. In transferring the work of this Commission from the EDD to DOR, the Administration is recognizing that the promotion of employment of people with disabilities is a core function of the DOR and can be more efficiently operated within that department.

With regard to the proposed changes in the membership and appointment authorities, the Administration indicates it was trying to reduce state administrative costs due to the length and detail of the gubernatorial appointments process. Staff finds no issue with the Administration proposing changes to its authorities, but in considering this request, the Subcommittee may wish to retain the Legislature's appointment authority to this Commission.

Staff Recommendation: Approve the transfer of the Governor's Commission on Employment of People with Disabilities to the Department of Rehabilitation; adopt the proposed trailer bill language as modified to retain the Senate Rules Committee and Speaker of the Assembly appointment authority.

Vote: Staff recommendation approved 3-0.

Issue 4 – Department of Industrial Relations (7350) Eliminate the Occupational Safety and Health (OSH) Standards Board

Governor's Budget Request. As part of the May Revision, the Governor requests to eliminate the separate OSH Standards Board and transfer responsibility to the Division of Occupational Safety and Health within the Department of Industrial Relations for savings of $324,000 (other funds) and 1.9 personnel years. This request includes proposed budget trailer bill language.

Background. The Occupational Safety and Health Standards Board, a seven-member body appointed by the Governor, is the standards-setting agency within the Cal/OSHA program. The Standards Board's objective is to adopt reasonable and enforceable standards at least as effective as federal standards. The Standards Board also has the responsibility to grant or deny applications for variances from adopted standards and respond to petitions for new or revised standards. The part-time, independent board holds monthly meetings throughout California.

The Administration indicates that this proposal is intended to model the state's approach to developing OSH standards after the federal approach for standards development, including stakeholder advisory panels. While the proposal technically eliminates the OSH Standards Board, the proposed trailer bill language retains the function in an Advisory Committee. That modification, which allows for a more streamlined operation and no longer requires payment of stipends to board members, achieves the savings figure identified above.

Staff Comment. This proposal eliminates the OSH Standards Board but retains the function in the form of an Advisory Committee which effectively limits any programmatic reduction in the development of OSH standards. Because sections of the proposed trailer bill language impact Proposition 97 of 1988, State Occupational Safety and Health Plan, the trailer bill must be adopted per the requirements of that initiative which require a two-thirds vote of each house of the Legislature.

Staff Recommendation: Approve the elimination of the Occupational Safety and Health Standards Board and related trailer bill language.

Vote: Staff recommendation approved 3-0.

Issue 5 – Department of Personnel Ad ministration (8380) Elimination of the Human Resources Modernization Project

Governor's Budget Request. As part of the May Revision, the Governor requests a decrease of $5.5 million ($2.3 million GF) and 11.3 personnel years reflective of the elimination of the Human Resources Modernization (HR Mod) Project. This request does not include proposed budget trailer bill language.

Background. The HR Mod Project was officially initiated in October 2007 as a joint project overseen by both the Department of Personnel Administration (DPA) and the State Personnel Board (SPB) to update and streamline the State's existing HR programs including recruitment, selection, classification, compensation, workforce planning, performance management, and staff development. Project activities are focused to achieve the following strategic goals: (1) Create an Attractive Recruitment and Expeditious Hiring Process; (2) Simplify the Classification System; (3) Improve and Instill High Performance in the Workplace; (4) Ensure all Departments/Agencies have Workforce and Succession Plans that Support their Strategic Plans; (5) Compensate Based on Factors including Individual Self-development, Business Needs, and Competitive Market Practices; and (6) Promote Integrated Human Resource Solutions.

Since its creation in the 2007–08 budget, the Legislature has appropriated approximately $20 million for the HR Mod Project. The 2010-11 Budget provided $5.7 million for 13 authorized positions and 12 positions on loan from other departments working on the project.

In proposing the elimination of the HR Mod Project, the Administration indicates that the key functions of the project will be absorbed within the proposed California Department of Human Resources. That proposal, to consolidate the DPA and SPB, has been formally submitted to the Legislature as a Governor's Reorganization Plan. Any savings from that larger consolidation would impact the 2012-13 budget.

Staff Comment. The HR Mod project has accomplished many of its goals, and started some positive changes that will continue within the personnel departments of various state agencies and departments. At this juncture, and in light of the state's fiscal situation, it is not clear that this project warrants being continued as a separate project, particularly in light of the proposed consolidation of the DPA and the SPB.

Staff Reco mmendation: Approve the elimination of the Human Resources Modernization Project.

Vote: Staff recommendation approved 3-0.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

Part B
Wednesday, May 25, 2011
9:00 a.m.
Room 113

Consultant: Keely Martin Bosler

Item Department **Page**

Corrections, Public Safety and the Judiciary

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

Vote Only Agenda

8830 California Law Revision Commission

1. Elimination of the California Law Revision Commission

Background: The Law Revision Commission is responsible for reviewing California law, recommending legislation to make needed reforms, and making recommendations to the Governor and Legislature for revision of the law on major topics (as assigned by the Legislature). The Commission consists of seven gubernatorial appointees plus one Senator, one Assembly Member, and the Legislative Counsel.

May Revise: The Governor's May Revision proposes to eliminate the commission, for a reduction of $333,000 ($325,000 General Fund) and 2.7 personnel years.

Staff Comments: For the current budget year, the commission is fully supported by reimbursements from the Legislative Counsel Bureau's budget.

Staff Recommendation: Instead of eliminating the commission, continue the current-year approach in which the commission is supported by reimbursements from the Legislative Counsel Bureau's budget, by adopting the following budget bill language:

> *X. For the 2011-12 fiscal year only, the reimbursements identified in Schedule (2) shall be paid from the amounts appropriated in Items 0160-001-0001 and 0160-001-9740.*

8840 Commission on Uniform State Laws

1. Elimination of The Commission on Uniform State laws

Background: The Commission on Uniform State Laws presents to the Legislature uniform laws recommended by the National Conference of Commissioners on Uniform State Laws and promotes the passage of these uniform acts.

May Revise: The Governor's May Revise proposes to eliminate the commission, for a savings of $74,000 in General Fund.

Staff Comments: For the current budget year, the Commission on Uniform State Laws is fully supported by reimbursements from the Legislative Counsel Bureau's budget.

Staff Recommendation: Instead of eliminating the commission, continue the current-year approach in which the commission is supported by reimbursements from the Legislative Counsel Bureau's budget, by adopting the following budget bill language:

X. For the 2011-12 fiscal year only, the reimbursements identified in Schedule (2) shall be paid from the amounts appropriated in Items 0160-001-0001 and 0160-001-9740.

0250 Judicial Branch

1. Technical Adjustment – SB 678

Background. In an effort to stem the flow of felony probationers being sent to state prison, the Legislature approved SB 678 that established a system of performance-based funding that will share General Fund savings with county probation departments when they demonstrate success in reducing the number of adult felony probationers going to state prison because of committing new crimes or violating terms of probation. This measure is designed to help lower California's prison admissions by reducing criminal behavior, and thus relieve overcrowding and save public funds.

SB 678 creates a State Community Corrections Performance Incentive Fund and authorizes the state to annually allocate money from this fund into a Community Corrections Performance Incentive Fund established by each county.

Each county must use the funding to establish a local community corrections program. These local programs must be targeted towards felony probationers and the funding should be used for specified purposes related to improving local probation practices. Each county is also required to identify and track outcome-based measures and report their plans and progress to the Administrative Office of the Courts (AOC).

At the end of every calendar year, the Department of Finance (DOF) is required to determine the statewide and county specific felony probation failure rates. Using a baseline felony probation failure rate of the years 2006-2008, DOF then calculates the amount of savings to be provided to each county.

May Revision. The Governor’s May Revision proposes to reduce the administrative costs associated with the Community Corrections Performance Incentive Program to reflect actual expenditures. This proposal will reduce funding for the courts by $1.2 million General Fund.

Staff Recommendation. Staff recommends adjusting the Judicial Branch budget as proposed in the May Revision.

0250 Judicial Branch

1. Court Security

Background. Existing law requires that the Sheriffs provide security in trial court facilities. The Governor's realignment proposal in January and the subsequent realignment proposal adopted by the 2011 Conference Committee included realigning the funding in the judicial budget that supports court security. This funding has historically been provided to reimburse counties in arrears. Under realignment the funding will now be allocated to the counties to manage the security costs within the funding provided.

May Revision. The May Revision proposes to adjust the trial court funding allocated as part of realignment for inflation since the proposed funding in January was based on prior year data. The May Revision increases the court security allocation by $10.7 million.

Staff Comments. Staff finds that "right-sizing" the budgets for the programs that are going to be realigned will help to avoid future problems in funding the realigned programs. This is especially important with court security where the judicial branch (funded by the state) will be relying heavily on the realigned service.

LAO Analysis. The LAO has raised reservations about realigning court security since court security is a necessary operational cost related to the courts and the courts are now nearly exclusively funded by the State. Furthermore, the LAO has recommended that a better model for providing court security is to allow courts the flexibility to meet their security needs with providers other than the Sheriff. The LAO has not raised any concerns with the methodology suggested by the Administration to adjust the court security costs, but does continue to object to the realignment of the court security funding.

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

2. Parole Revocation Workload

Background. Assembly Bill 109 (Budget) that was passed earlier this year enacted major reform related to the parole revocation process. The law required that all offenders released from state prisons who commit a violation of the terms and conditions of parole or post-release supervision would be subject to revocation decisions by the courts. This eliminates the current role that the Board of Parole Hearings (BPH) has regarding revocation hearings that return offenders back to state prison for short revocation terms. This Legislation did not impact the role that the BPH has related to lifer inmate determinations.

May Revision. The May Revision includes $41.8 million General Fund in the budget year to support the revocation hearing workload that the courts will be assuming as a result of the passage of AB 109. In calculating the funds to support this request, the Administration has assumed that the revocation workload will be 115 percent of the actual workload in the prior year. Furthermore, the Administration is assuming that each hearing will take two hours (on average) and will be handled by a judge. The Administration has also built in one-time tenant improvements for each new courtroom activated by this new workload. The proposal assumes that the ongoing funding resulting from this workload drops after the one-time tenant improvements to $18 million.

LAO Analysis. The LAO finds that this request is over budgeted for the following reasons:

- The LAO does not believe it is appropriate to assume that this workload would be handled by judges, when using hearing officers would be a more cost-effective approach for accommodating the additional workload. They recommend reducing the request by $1.4 million accordingly.
- The LAO also does not think there is a justification to assume that there will be more revocation hearings than BPH is currently experiencing (115 percent assumption). They recommend that the budget request be reduced by $5.3 million to reflect this adjustment.
- The LAO also indicates that the administration and the courts have not provided sufficient justification for the $27 million in tenant improvements requested on a one-time basis to activate the additional courtrooms to handle the new revocation workload.

Staff Comments. Staff agrees that sufficient justification has not been provided by the courts or the administration regarding the space needs of the individual courts in order to meet this new workload. However, staff finds that in many counties this workload will require the courts to activate several new courtrooms to handle the new court calendar of parole revocation hearings. The courts will incur a cost related to this activation. Therefore, some funding is warranted and costs will vary greatly from court to court depending on local circumstances. Furthermore, the overall cost of the program is unclear at this time because it is unclear how the changes in AB 109 will be implemented by all affected parties. The Legislature should review the actual revocation workload next year to determine if adjustments will be needed to the courts budget.

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

3. Court Capital Outlay Reappropriations and Extensions

May Revision. The Governor's May Revision proposes to reappropriate lease revenue, Immediate and Critical Needs Account, and State Court Facilities Construction Fund funding for eight capital outlay projects and, for two of these projects, extend the encumbrance and expenditure period. These proposals do not impact the General Fund.

Background. The projects included in this request are:

Project	Amount	Action	Reason
Madera Courthouse	$88.2 million	Reappropriation	Delay in site acquisition.

Stockton Courthouse	$256.5 million	Reappropriation and Extension	Delay in site acquisition.
Fairfield Old Solano Courthouse	$23.7 million	Reappropriation and Extension	Delay acquiring the courthouse from the county. Additionally, the AOC was required to consult with the State Historic Preservation Office.
Hollister Courthouse	$33.5 million	Reappropriation	Delay in bond sale due to budget short fall.
San Andreas Courthouse	$40.4 million	Reappropriation	Delay in bond sale due to budget short fall.
Riverside Mid-County Courthouse	$54.5 million	Reappropriation	Delay in bond sale due to budget short fall.
San Bernardino Courthouse	$304.7 million	Reappropriation	Delay in bond sale due to budget short fall.
Porterville Courthouse	$81.1 million	Reappropriation	Delay in bond sale due to budget short fall.

Staff Recommendation. Approve the May Revision Proposals.

0690 California Emergency Management Agency

Department Overview. The principal mission of the California Emergency Management Agency (CalEMA) is to reduce the state's vulnerability to hazards and crimes through emergency management and criminal justice programs.

The CalEMA was created by Assembly Bill 38 (Chapter 372, Statutes of 2008) as an independent entity reporting directly to the Governor. The CalEMA was formed by merging two departments, the Office of Emergency Services (OES) and the Office of Homeland Security (OHS).

During an emergency, CalEMA functions as the Governor's immediate staff to coordinate the state's responsibilities under the Emergency Services Act. It also acts as the conduit for federal assistance through natural disaster grants and federal agency support. Additionally, CalEMA is responsible for the development and coordination of a comprehensive state strategy related to all hazards that includes prevention, preparedness, response, and recovery.

1. Fire Engine Purchase with Federal Funds

Background: The Fire and Rescue Division currently has a fleet of 129 engines and uses a seventeen year fire engine replacement cycle. As far back as the original purchase of fire engines, there has always been a replacement protocol. Replacements are critical as technology is improving and standards are getting stricter and older model engines cannot be upgraded with this newer technology.

May Revision: The Governor's May Revise proposes a one-time reduction of $1,750,000 to reflect the planned purchase of fire engines using federal funds in 2011-012. The Governor's May Revise letter argues that this General Fund reduction is necessary to address the remaining budget shortfall.

Staff Comments: Currently, $1.8 million is set aside in the General Fund from the Division's budget to cover the replacements. CalEMA has accumulated federal funds tied to reimbursement of costs associated with fires that it has identified for use in 2011-12 to cover planned fire engine replacements for the year.

Staff Recommendation: Approve.

2. Golden Guardian and state agency training

Background: Golden Guardian is a statewide annual disaster response exercise involving multiple agencies at the local and state level. It provides training to CalEMA and other state agencies.

May Revision: An ongoing reduction of $779,000 related to the elimination of General Fund support for the annual Golden Guardian Exercise and state agency training. The Agency will continue to conduct the Golden Guardian Exercise and will offer state agency training on a reimbursement basis.

Staff Comments: This proposal will reduce the General Fund ($200,000) and CalEMA will identify federal funds in which to support the exercise on-going. The State Agency Direct Support Unit and CalEMA is proposing to reduce the General Fund portion of the unit ($579,000). The agency will use reimbursement contracts to continue state agency training; all activities will continue on a reduced level.

Staff Recommendation: Approve.

3. California Disaster Assistance Act

Background: When local governing units determine they have insufficient resources to respond to or recover from a disaster, they declare a disaster and request the Governor to proclaim a disaster. CalEMA analyzes the event and evaluates the local needs, and when appropriate recommends to the Governor that a proclamation is issued. If the Governor proclaims a disaster, the event would be a California Disaster Assistance Act-only event and the state would typically cover 75 percent of the allowable costs. If the disaster also meets the federal threshold, the Governor would request the President to declare a disaster. If the President declares a disaster, typically, the Federal Emergency Management Agency will cover 75 percent of the allowable costs and the state's share would be 25 percent split between 18.75 percent by the state and 6.25 percent by the local entity.

May Revision: The Governor's May Revise proposes a reduction of $20 million local assistance for the California Disaster Assistance Act. This will reduce funding so that it is more in line with historical expenditure levels.

Staff Comments: Prior to 2006-07, the CDAA appropriation was funded at an average of $48 million per year. Since 2009-10, the CDAA appropriation has been $69 million. This proposal will reduce the program to historic funding levels as CalEMA reports recent expenditures have been lower ($40 million in 2009-10) and the department has made an effort to make final reimbursement payments and close out many old disaster claims.

In the event California does have a major disaster in future years, CalEMA can seek deficiency funding to adjust the CDAA appropriation. However, it should be noted that the majority of the permanent repair costs from disasters are typically paid several years later as the projects are complete.

Staff Recommendation: Approve.

4. Elimination of Emergency-Related Councils

May Revision: The Governor's May Revise proposes to eliminate the following emergency-related councils:

Governor's Emergency Operations Executive Council (GEOEC) – This council was established as a result of Governor's Executive Order S-04-06, which required the Directors of the Office of Homeland Security and Emergency Services to convene a coordinating body for emergency management and homeland security activities across California state government. In 2008, legislation created CalEMA by merging these two departments. According to the administration, there are other committees that maintain the state's emergency plan, thereby making the need for this council unnecessary.

California Emergency Council (CEC) – This council is responsible for recommending and approving orders, regulations, and emergency planning documents for the Governor. According to the administration, the members of this group can be convened as necessary, and an ongoing council is not necessary. The members of the CEC include the following: the Governor (ex-officio chair); (2) the Lieutenant Governor, or an alternate; (3) the Attorney General, or an alternate; (4) one representative of the city governments of the state and one representative of the county governments of the state, to be appointed by the Governor; (5) one representative of the American National Red Cross, to be appointed by the Governor; (6) one representative of the city or county fire services of the state and (7) one representative of the city or county law enforcement services of the state, to be appointed by the Governor; (8) the President pro Tempore of the Senate, or an alternate; (9) the Speaker of the Assembly, or an alternate and (10) one representative of a local public health agency.

Staff Comments: Staff finds that the GEOEC may have served a purpose at one time, but with the formation of CalEMA in 2008 this council is no longer needed. Furthermore, as the Governor indicates in his May Revision, the members of the CEC could be convened if needed.

Staff Recommendation: Approve.

0820 Department of Justice

1. DNA Identification Fund Shortfall

Background: The Department of Justice's (DOJ) Bureau of Forensic Services operates 11 full–service criminalistic laboratories throughout the state. These laboratories provide some state and many local agencies with analysis of various types of physical evidence and controlled substances, as well as analysis of materials found at crime scenes. For fiscal year 2010-11, the DNA penalty assessment on all convicted offenders was increased to provide additional revenue to offset General Fund costs related to the state's crime labs. The penalty was increased from an additional $1 penalty for every $10 in fine, penalty, or forfeiture collected by the courts to $3 for every $10 collected. Language was also adopted to expand the allowable uses of this funding for crime lab operations.

May Revise: The Governor's May Revision proposes $14.1 million General Fund to support Department of Justice (DOJ) forensic crime laboratories by: 1) transferring $10 million (ongoing) to the DNA Identification Fund and, 2) providing $4.1 million to support lease-related costs currently funded from the DNA Identification Fund. The administration also proposes trailer bill language to increase the priority with which the penalty assessment revenue deposited in the DNA Identification Fund is collected. Lastly, it proposes budget bill language authorizing the Department of Finance to reduce the amount of the General Fund transferred based on revenues and to require the DOJ to conduct a zero based analysis of program costs and report those findings to the administration and the Legislature.

Staff Comments: For the current fiscal year, the administration had estimated revenues for the DNA Fund of $45.1 million. However, revenues have not come in as expected. One possible reason is the priority order in which this assessment is collected. The proposed trailer bill language would exempt this penalty assessment from a provision of law that that places these revenues in a lower priority for payment. With the proposed trailed bill language, the Administration projects an increase of revenue to the DNA Fund of $16.9 million in 2011-12.

The LAO recommends that the Legislature reject the proposed General Fund augmentation, and allow DOJ to use its existing statutory authority to charge fees to local enforcement for the use of the labs. Some local public safety entities have reported that if they are charged fees for use of these labs this would negatively impact investigations due to their inability to afford such services.

Staff Recommendation: Approve.

2. Eliminate Anti-Terrorism Information Center

May Revision. The Governor's May Revision includes the elimination of 43 boards and commissions including the following:

- **California Anti-Terrorism Information Center (CATIC) –** This program is currently operated by the Department of Justice (DOJ) through a $6.4 million grant provided by Cal-EMA. The Department of Finance (DOF) argues this center is duplicative of another center operated by CalEMA, the State Terrorism Threat Assessment Center, which it operates using federal homeland security funding. The DOF argues that elimination of CATIC will streamline state anti-terrorism functions and result in General Fund savings of $3.2 million and 23.3 personnel years in 2011-12.

Staff Recommendation: Approve.

Addendum – Part B

Department of Justice

1. Quest Diagnostics Settlement

Late May Revision Request. The Administration has requested that budget bill be added for the transfer of $20.0 million from the False Claims Act Fund to the General Fund, leaving $4.7 million of DOJ's share of the settlement in the False Claims Act Fund. This action ensures that the False Claims Act Fund is left with a reserve balance sufficient to support the Department of Justice's continued enforcement and prosecution activities relating to Medi-Cal Fraud.

Background. The California Attorney General's Office and the California Department of Health Care Services reached a $241 million settlement - the largest recovery in the history of California's False Claims Act - with Quest Diagnostics, the state's biggest provider of medical laboratory testing, to recover illegal overcharges to the state's medical program for the poor.

The Quest case has been under investigation and litigation for six years after a whistleblower alleged claims that the Quest group of medical laboratories overcharged Medi-Cal for testing services and gave kickbacks in the form of low prices to other purchasers of medical tests in return for referrals of higher paying Med-Cal business.

The settlement provides for Quest to pay California $241 million in settlement of claims that Quest overcharged Medi-Cal for testing services and gave kickbacks.

Similar cases are still pending against four other defendants, including Laboratory Corporation of America, commonly known as LabCorp, the second largest medical laboratory service provider in California. Trial is scheduled for early next year.

Staff Recommendation. Staff recommends that the Subcommittee approve budget bill language to facilitate this transfer.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

OUTCOMES

Part B
Wednesday, May 25, 2011
9:30 a.m.
Room 113

Consultant: Keely Martin Bosler

Corrections, Public Safety and the Judiciary

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

Vote Only Agenda

8830 California Law Revision Commission

1. Elimination of the California Law Revision Commission

Action: Reject the elimination of the commission and continue the current-year approach in which the commission is supported by reimbursements from the Legislative Counsel Bureau's budget, by adopting the following budget bill language:

> *X. For the 2011-12 fiscal year only, the reimbursements identified in Schedule (2) shall be paid from the amounts appropriated in Items 0160-001-0001 and 0160-001-9740.*

Vote: 3-0

8840 Commission on Uniform State Laws

1. Elimination of The Commission on Uniform State laws

Action: Reject the elimination of the commission, continue the current-year approach in which the commission is supported by reimbursements from the Legislative Counsel Bureau's budget, by adopting the following budget bill language

> *X. For the 2011-12 fiscal year only, the reimbursements identified in Schedule (2) shall be paid from the amounts appropriated in Items 0160-001-0001 and 0160-001-9740.*

Vote: 3-0

0250 Judicial Branch

1. Technical Adjustment – SB 678

Action. Approve May Revision budget adjustment related to SB 678.

Vote. 3-0

0250 Judicial Branch

1. Court Security

Action. Approve May Revision request to adjust trial court funding.

Vote. 3-0

2. Parole Revocation Workload

Action. Approve the May Revision request plus approve supplemental report language (SRL) due to the Legislature March 1 to require the AOC to report on actual parole revocation hearing workload.

Vote. 2-1 (Anderson)

3. Court Capital Outlay Reappropriations and Extensions

Action. Approve following reappropriations and extensions of capital outlay projects.

Project	Amount	Action	Reason
Madera Courthouse	$88.2 million	Reappropriation	Delay in site acquisition.
Stockton Courthouse	$256.5 million	Reappropriation and Extension	Delay in site acquisition.
Fairfield Old Solano Courthouse	$23.7 million	Reappropriation and Extension	Delay acquiring the courthouse from the county. Additionally, the AOC was required to consult with the State Historic Preservation Office.
Hollister Courthouse	$33.5 million	Reappropriation	Delay in bond sale due to budget short fall.
San Andreas Courthouse	$40.4 million	Reappropriation	Delay in bond sale due to budget short fall.
Riverside Mid-County Courthouse	$54.5 million	Reappropriation	Delay in bond sale due to budget short fall.

San Bernardino Courthouse	$304.7 million	Reappropriation	Delay in bond sale due to budget short fall.
Porterville Courthouse	$81.1 million	Reappropriation	Delay in bond sale due to budget short fall.

Vote. 3-0.

0690 California Emergency Management Agency

1. Fire Engine Purchase with Federal Funds

Action: Approve the May Revision requests.

Vote: 3-0

2. Golden Guardian and state agency training

Action: Approve the May Revision request.

Vote: 3-0

3. California Disaster Assistance Act

Action: Approve the May Revision request.

Vote. 2-1 (Anderson)

4. Elimination of Emergency-Related Councils

Action: Approve elimination of the (1) Governor's Emergency Operations Executive Council; and (2) California Emergency Council.

Vote: 3-0

0820 Department of Justice

1. DNA Identification Fund Shortfall

Action: Approve the May Revision proposal, including budget bill language and placeholder trailer bill language that are part of the proposal. Also approved supplemental report language to require a report to the Legislature on whether the operations of the 11 criminalistic laboratories would be feasible to realign to the counties.

Vote: 3-0

2. Eliminate Anti-Terrorism Information Center

Action: Approve the elimination of the anti-terrorism information center and adopt budget bill language that gives DOJ the flexibility to prioritize its existing law enforcement budget to support similar activities.

Vote: 2-1 (Anderson)

Addendum – Part B

Department of Justice

1. Quest Diagnostics Settlement

Action. Approved budget bill language to facilitate the transfer of $20 million from the False Claims Act Fund.

Vote. 3-0

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

Thursday, May 26, 2011
9:30 a.m.
Room 113

Consultant: Keely Martin Bosler

Corrections, Public Safety and the Judiciary

Vote Only Agenda

California Department of Corrections and Rehabilitation

1. Contract Bed Funding Budget Bill Items and Language

May Revision. The Governor's May Revision proposes to Add Items 5225-006-0001 and 5225-007-0001 and budget bill language to reschedule contract bed funding and allow the Administration to clearly schedule savings resulting from realignment to the appropriate program area. This proposal does not result in a net General Fund impact.

Background. The CDCR houses approximately 6,250 inmates in contract facilities within California and approximately 10,470 inmates in out-of-state contract facilities. In order to accurately track funding for both in-state and out-of-state contract beds, the Administration is proposing to remove funding for these services from CDCR's main Item of appropriation and create distinct Items for each one. As the need for contract beds is reduced, pursuant to implementation of AB 109 (Chapter 15, Statutes of 2011), the Administration will reduce the new contract bed appropriations accordingly.

This proposal is comprised of a decrease of $375.9 million to Item 5225-001-0001, additions of $280.6 million to Item 5225-006-0001 and $95.3 to Item 5225-007-0001 and budget bill language as follows:

> **Item 5225-006-0001**
> Provisions:
> 1. The Director of Finance shall reduce this Item by $179,354,000, to reflect the portion of realignment savings to be achieved through the reduction or elimination of contracts with private entities for out-of-state housing of state inmates. No other item of appropriation may be used to pay for the costs of such contracts.
>
> **Item 5225-007-0001**
> Provisions:
> 1. The Director of Finance shall reduce this Item by $77,406,000, to reflect the portion of realignment savings to be achieved through the reduction or elimination of contracts with private entities for in-state housing of state inmates. No other item of appropriation may be used to pay for the costs of such contracts.

2. CDCR Population Adjustment

May Revision. The Governor's May Revision proposes a reduction of $342,000 General Fund ($6.5 million in 2010-11) and $1.4 million General Fund Proposition 98 to reflect changes in the adult and juvenile inmate, ward and parolee populations.

Background. As part of the Governor's budget each year, and again as part of the May Revision, the Governor proposes adjustments to CDCR's budget based on projected changes in the department's caseloads. This includes adjustments based on costs associated with changes in the inmate, parole, and juvenile populations supervised by CDCR. It also includes budget revisions based on associated workload changes associated with population-related workloads, including parole revocations, mentally ill inmates, contracted beds, and local assistance to reimburse jails for housing parole violators.

The Governor's May Revision proposal reflects a decrease of 165 inmates in the current year, compared to previous projections, and no change in the budget year, for a total of 163,634 in 2010-11 and 163,152 in 2011-12. The projection also reflects increases in the estimated parolee population of 478 in 2010-11 and 352 in 2011-12, increasing to a total of 114,168 in the current year and 107,354 in the budget year. For juveniles, the population funding request projects a decrease of 34 wards and no change in parolees in the current year and a decrease of 104 wards and 342 parolees in the budget year, resulting in totals of 1,270 wards and 1,520 parolees in the current year and 1,165 wards and 1,178 parolees in the budget year.

Staff Comments. The Administration reports that it did not adjust funding in the budget year, based on adult inmate population projections, because CDCR's actual adult inmate population has tracked higher than projections. However, it is unclear why actual population is tracking higher than projected or if this trend will sustain. Additionally, given the public safety realignment, there will likely be substantial changes to CDCR's adult inmate population in the budget year, which would affect current trends. For these reasons, it is unclear why CDCR's standard May Revision adult inmate population adjustment was not made.

Staff Recommendation. Reduce CDCR's population adjustment by $21.4 million to account for the May Revision projections.

3. Unfunded Position Authority Reduction

May Revision. The Governor's May Revision proposes to abolish 1,019.7 unfunded positions. The unfunded positions are a result of various position reduction drills in which funding was swept but the position authority was not taken from the CDCR in the formal budget process.

Background. This proposal reduces position authority due to the following reductions:

- ***Governor's Position Reduction.*** In 2009-10, the Governor's Office directed departments to reduce their position authority by 7,000 positions. CDCR's reduction target related to this drill was 800 positions. Field and headquarters positions were taken down from individual institutions/offices/facilities but not all of them were taken down in a formal budget process. Of the 800 positions reduced, the CDCR still retains 382.2 positions that this proposal eliminates.
- ***Workforce Cap. Pursuant to the 2010-11 Workforce Cap.*** $20 million was reduced from CDCR's budget and positions were taken from individual offices. However, CDCR still retains unfunded position authority. This proposal will eliminate 107.6 unfunded positions.

- ***Vacant Position Abolishment Process.*** In 2009-10, pursuant to state law concerning the abolishment of vacant positions, the CDCR agreed to reduce 300.5 positions. Authority for 3.9 of these positions still remains and will be removed by this request.
- ***Headquarters Reduction.*** In the Spring of Fiscal Year 2010-11, the CDCR implemented a reduction of 410.7 positions to its headquarters position authority. As a result of this reduction, the CDCR is abolishing 287.7 vacant or un-established positions and 123 filled positions.
- ***Internal Reductions.*** The CDCR has implemented a series of monthly position reductions that has resulted in a total reduction of 200.7 positions. This request eliminates the 115.3 positions that remain.

Staff Recommendation. Approve the May Revision request to reduce the positions.

4. Juvenile Parole Realignment—Technical Clean Up

Background. Chapter 729, Statutes of 2010 (AB 1628) was passed to realign juvenile parole to the counties. This action was taken after significant contraction of the juvenile population in state facilities over the past ten years. The relatively small number of youth on state parole has made the program expensive and relatively inefficient to operate.

May Revision. The May Revision has requested technical trailer bill language to authorize the Division of Juvenile Justice to transfer wards under their jurisdiction to county probation departments, pursuant to AB 1628, regardless of the committing court. Existing law only authorizes the Division to transfer wards committed by a juvenile court, but some commitments are made by superior courts.

Staff Comments. Staff finds that this language clarifies a technical oversight in the original legislation.

Staff Recommendation. Staff recommends that the subcommittee approve this technical trailer bill language.

5. CDCR Capital Outlay Reappropriations

April Finance Letter. An April Finance Letter by the Governor proposes to reappropriate $471,000 General Fund to finish working drawings on two CDCR capital outlay projects, (1) California Men's Colony, San Luis Obispo: Central Kitchen Replacement ($258,000), and (2) Correctional Training Facility, Soledad: Solid Cell Fronts ($213,000).

Background. The following are short descriptions of the projects:

- ***California Men's Colony, San Luis Obispo: Central Kitchen Replacement.*** The California Men’s Colony, Central Kitchen Replacement project will design and construct a new 9,600 square foot central kitchen and two new 4,500 square foot satellite dining facilities. The new kitchen layout will reduce blind spots, improve work area efficiency, and use durable materials resistant to deterioration due to water.

- ***Correctional Training Facility, Soledad: Solid Cell Fronts.*** In order to improve the safety of staff, the CDCR is undertaking an effort to retrofit old administrative segregation units with open barred cell fronts and cell doors to a solid cell front design. The solid cell front design reduces the opportunity for gassing or spearing attacks by inmates upon staff. Funding for project working drawings is being reappropriated. Finalization of the working drawings is pending incorporation of changes to the project mandated by the State Fire Marshall. The reappropriation is necessary to ensure that CDCR can encumber funds to pay for this work.

Staff Recommendation. Approve April Finance Letter request.

6. CDCR Capital Outlay Proposal Withdrawals

May Revision. The Governor's May proposes a reduction of $6.5 million General Fund by withdrawing two capital outlay proposals contained in the Governor's Budget, (1) Ironwood State Prison: Heating, Venting, and Air Conditioning project ($6.1 million), and (2) Wasco State Prison: Blast Chiller Installations ($436,000).

Background. The following are short descriptions of the projects:

- ***Ironwood State Prison: Heating, Venting, and Air Conditioning.*** This project will replace the evaporative cooling system with a Heating, Ventilation, and closed loop chilled water Air Conditioning (HVAC) system at Ironwood State Prison (ISP) in support of 20 housing units and a majority of the other institutional support facilities, and to install an energy saving roof membrane with insulation. Also a new Central Chiller Plant and the installation of a dedicated emergency power back-up generator to operate the Central Chiller Plant during power outages. Preliminary plans were funded in the 2008 Budget Act and were approved by the Public Works Board in November 2010.

  The institution "swamp cooler" type air handling units at ISP have deteriorated and prematurely reached the end of their useful life. Despite continued maintenance and repair efforts, the units continue to corrode and are unreliable. Corrosive salt laden water generated by and leaking from the air handling units has caused extensive damage to areas surrounding the units (roofs and walls).

  From July to October, temperatures frequently range from 93 to 105 degrees Fahrenheit inside and 110 to 130 degrees Fahrenheit outside.

- ***Wasco State Prison: Blast Chiller Installations.*** This proposal requested funding to purchase and install two additional blast-chill units in the Main Kitchen at Wasco State Prison. The intent of the project was to resolve long-standing operational and equipment issues resulting from population increases.

  The Administration is withdrawing these proposals in order to address the state's budget shortfall. However, they have indicated the intent to move forward with these projects in the future.

Staff Recommendation. Staff recommends that the Subcommittee approve these project delays given current fiscal conditions.

7. Condemned Inmate Complex – San Quentin

May Revision. The Governor's May Revision proposes $19.2 million General Fund to repay a loan provided to CDCR from the Pooled Money Investment Board, which funded the San Quentin Condemned Inmate Complex (CIC) project. In addition, a $1.3 million General Fund loan plus any accrued interest will be forgiven. These actions are necessary because the Administration has terminated the project.

Background. The 2003-04 Budget Act authorized $220 million in lease-revenue bonds for the design and construction of a new CIC for condemned male inmates at California State Prison, San Quentin. The original project was designed to provide 1,408 beds which were projected to meet the department's condemned inmate population needs through 2037.

However, because of increased costs related to this project, cost containment measures were taken in September 2005 to: (1) eliminate one housing unit, thereby reducing the number of beds by 18 percent; and (2) change the project scope for warehouse and maintenance support space from the construction of freestanding buildings to the conversion of existing dormitory buildings. Even with these cost containment measures, it was recognized that the project was over budget. As such, the 2008-09 Budget Act included an additional $136 million in lease-revenue bonds.

In the past, the LAO has raised several concerns as well as recommended canceling the CIC project at San Quentin and building additional prison capacity for condemned and maximum-security inmates at a lower cost per bed elsewhere. The LAO also has noted that some states house condemned inmates with other Level IV inmates in a single facility and suggested that this could also be an option for CDCR.

The Legislature has also raised concerns about the CIC project in recent years and has expressed such concerns through adoption of budget bill language (BBL). Specifically, this year BBL was adopted that restricted expenditures for the construction of the condemned inmate complex until the following conditions were met: (1) the CDCR determined that it can legally double-cell inmates on death row, and (2) the prison overcrowding issue before the supreme court is resolved.

Staff Comment. Given the significant concerns regarding this project through the years, the Administration's action to terminate this project is appropriate. Although, the sunk costs create a current General Fund pressure, this action will avoid future long-term debt service costs associated with this project.

Staff Recommendation. Adopt the Administration's May Revise proposal to cover the costs associated with terminating the San Quentin Condemned Inmate Complex project.

California Prison Health Care Services

1. Medical Parole

Background. Chapter 405, Statutes of 2010 (SB 1399, Leno) enacted a medical parole law. This law was sponsored by the Medical Receiver as one of several policies sought to reduce the overall cost of prison medical services. This law allows for the parole of prisoners that are permanently medically incapacitated with a medical condition that renders the prisoner permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour care.

The state continues to fund the non-federal share (50 percent) of the medical costs of those offenders that are released from prison on medical parole. The savings from this policy are related to the guarding costs that are no longer required when the offender is placed on parole and is no longer in custody of CDCR.

May Revision. The May Revision proposes to add budget bill language to authorize the Receiver, on behalf of CDCR, to process and pay for all medical claims for inmates placed on medical parole from funds available in the Medical Services Program.

Staff Comments. The CDCR just proposed to parole its first medical parole inmate this past weekend. It is unclear to staff why the process has taken nearly six months to commence, thereby saving the state very little in the current fiscal year and contributing to the Receiver's deficiency in the current year.

This budget bill language allows the Receiver to pay for all medical claims for medical parolees. However, it is unclear that the Receiver has the authority to audit these claims to ensure their reasonableness.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget bill language with modifications to ensure the Receiver has the authority to audit the medical claims submitted for medical parolees.

2. Recovery of Overpayments to Medical Providers

May Revision. The Governor's May Revision proposes trailer bill language to allow the Receiver to recover overpayments made to medical providers and apply the recoveries to the fiscal year in which they were collected.

In addition, the language would allow the Department of Finance to increase an item of appropriation for the fiscal year in which the collection was made and authorize any recoveries made prior to July 1, 2011 to be applied to fiscal year 2010-11.

Background. The Receiver employs a third party administrator who audits medical claims. This practice has also been placed in statute so when the receivership goes away the State will be required to continue that practice. To date, approximately $28 million has been recovered.

Currently, funding recovered is credited to the year in which it was paid. This proposal would not only allow for the Receiver and the State to account for funding when it is actually received, but would also provide further incentive to retrieve overpayments.

Staff Recommendation. Approve the Proposal with an amendment to require reporting to the Legislature on the amounts collected and any appropriation augmentations.

3. Medi-Cal Reimbursements

Background. In 2010 the Legislature enacted AB 1629 (Budget) that allowed for the development, by CDCR and the Department of Health Care Services, a process to maximize federal financial participation for the provision of inpatient hospital services rendered to individuals who, but for their institutional status as inmates, are otherwise eligible for Medi-Cal or for the Coverage Expansion and Enrollment Demonstration Project.

May Revision. The May Revision proposes trailer bill language to allow the Receiver's medical staff to sign on behalf of inmates to obtain Medi-Cal eligibility. This trailer bill language also makes technical changes to the law enacted last year related to obtaining Medi-Cal reimbursements for inmates in inpatient hospital care per subsequent changes in state law related to the Medi-Cal program.

Staff Comments. The Receiver has indicated that they have had issues with inmate patients that have refused to sign the Medi-Cal eligibility forms for a variety of reasons. This has needlessly slowed down the process to implement this new initiative to draw down additional federal funds. The Receiver indicates that he is currently focusing on the enrollment of inmates over 65 and pregnant inmates.

Staff Recommendation. Staff recommends that the Subcommittee approve this placeholder trailer bill language.

4. Medication Management

Background. Providing timely access to the full continuum of care, including access to prescribed medications, treatment modalities, and appropriate levels of care, is an essential component of the Receiver's Turnaround Plan of Action. At the same time, it is also incumbent on California Prison Health Care Services to mitigate health care expenditures.

Medication administration falls under the purview of nursing care. Each institution utilizes Registered Nurses (RN), Licensed Vocational Nurses (LVN), and Certified Nursing Assistants (CNA) to provide nursing care. While RNs are responsible for assessing, planning, implementing, and evaluating patient care, and CNAs perform simple nursing tasks associated with activities of daily living, it is the LVN who is responsible for administering most medications in the prison setting. Currently, only individuals who have completed the licensure requirements for RN or LVN may administer medications. RNs typically are not used to administer medications in outpatient health care settings because of the associate labor costs. The LVN is the lowest cost provider that can perform medication administration functions.

Governor's Budget. The Governor's budget proposes $11.9 million GF and 211.3 two-year limited term Licensed Vocational Nurse (LVN) positions in 2011-12 to perform medication management functions in outpatient clinics.

Staff Comments. Staff notes that last year the Receiver's Office was provided with $10.1 million General Fund and 145 LVN positions to perform medication management functions in outpatient clinics. The 2009-10 budget assumed that provision of these staff positions would result in a reduced reliance on nursing overtime and registry, resulting in net savings to the department. The Receiver's Office started to fill these positions earlier this year; therefore, there is not enough data to determine whether these nursing resources have reduced reliance on nursing overtime and registry. However, analytically these nursing resources, if properly managed, will be a less costly way of delivering medication management than the current reliance on nursing registry and higher paid nursing staff.

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

- Approve this budget request.
- Approve supplemental report language that requests that the Receiver report on the savings attributed to the LVN resources hired over the past two years, by prison.

0552 Office of the Inspector General

1. Workload Reduction and Reorganization

Background. The Office of the Inspector General (OIG) was established by the Legislature in 1994 to review the policies and procedures of the Youth and Adult Correctional Agency, now the California Department of Corrections and Rehabilitation (CDCR), in conducting audits and investigations. In 1998 and 1999, acting in response to legislative hearings that revealed widespread abuse in the state's correctional system, the Legislature significantly expanded the Inspector General's responsibility for overseeing California's correctional agencies and transformed the OIG into an independent agency reporting directly to the Governor. The OIG is comprised of three bureaus; the Bureau of Audits, the Bureau of Investigations, and the Bureau of Independent Review. In addition, the California Rehabilitation Oversight Board (C-ROB) is also supported by the OIG.

As part of the 2005 reorganization of what became CDCR, Senate confirmation of prison wardens was eliminated and a warden vetting and ongoing audit function was statutorily established with the OIG. The appointment of wardens, and overarching issues related to warden recruitment, tenure, and accountability continue to challenge CDCR and generate concern from the Legislature. Additionally, last year, the OIG was the subject of a Senate Office of Oversight and Outcomes report concerning the peace officer status of OIG lawyers and auditors. In budget actions taken earlier this year, that status was eliminated for all but 25 OIG positions.

The following are the main bureaus within the OIG:

Bureau of Audits. The Bureau of Audits conducts audits of state prison wardens and correctional facility superintendents; special reviews and audits of correctional agencies and programs; investigations into alleged misconduct by employees of correctional agencies; and medical inspections of the 33 adult prisons operated by CDCR .

The OIG performs mandated audits of the CDCR's correctional institutions once every four years. The office also conducts "baseline" audits of each warden one year after appointment.

At the discretion of the Inspector General, the OIG may conduct an audit of any state adult or juvenile correctional facility or any board, program, or function within the Department of Corrections and Rehabilitation.

Bureau of Investigations. The Bureau of Investigations (BOI) is responsible for conducting a variety of investigations for the OIG. The BOI is comprised of three units: the Central Intake Unit, the Fraud Investigation Unit, and the Special Investigations Unit.

- **Central Intake Unit.** The Central Intake Unit program uses a proactive approach to gather information from CDCR sources, such as incident reports, databases, and financial documents. This information is analyzed, classified, and organized by analytical staff. The aim is to identify trends and hot spots in order to best focus audit and investigative resources toward fighting fraud, waste, and abuse. This process is also inclusive of complaints received by the OIG.

- **Fraud Investigation Unit.** The mission of the Fraud Investigation Unit is to protect the taxpayers of the State of California and the financial integrity of the CDCR by actively identifying and investigating fraud, waste, and abuse.
- **Special Investigations Unit.** The mission of the Special Investigations Unit is to protect the citizens of the State of California by ensuring the integrity of CDCR by actively identifying and investigating allegations of criminal wrongdoing, administrative misconduct, complaints of retaliation; as well as, conducting warden/superintendent vetting, and dignitary protection. Investigations may result from complaints by correctional employees, members of the public, inmates, wards, and parolees, or may be initiated at the request of the Governor, members of the Legislature, the Secretary of the CDCR, or the Inspector General.

Bureau of Independent Review (BIR). Established directly in response to the *Madrid* lawsuit, BIR is responsible for real-time oversight of internal affairs investigations conducted by the CDCR. Staffed with teams of attorneys and investigators in regional offices throughout the state, the bureau provides contemporaneous oversight as internal affairs investigations are carried out.

Semi-annual reports providing a synopsis of each case reviewed by BIR, as well as an assessment of the quality of the investigation, the appropriateness of any disciplinary action, the bureau's recommendations regarding the disposition of the case, the level of discipline imposed, and the agreement or lack of agreement between the bureau's recommendations and the department's actions in the matter are provided to the Governor and the Legislature and posted on the OIG’s website. The bureau also issues an annual report summarizing its recommendations concerning internal affairs misconduct and use-of-force investigations, including data on the number, type, and disposition of complaints against correctional officers and staff. The annual report is also provided to the Governor and the Legislature and posted on the OIG’s website.

California Rehabilitation Oversight Board (C-ROB). Assembly Bill 900 (the Public Safety and Offender Rehabilitation Services Act of 2007) created C-ROB within the OIG. C-ROB's mandate is to regularly examine the various mental health, substance abuse, educational, and employment programs for inmates and parolees operated by CDCR.

C-ROB meets no less than quarterly and submits reports to the Governor and the Legislature no less than biannually (March 15 and September 15). C-ROB reports include findings on the effectiveness of treatment efforts, rehabilitation needs of offenders, gaps in offender rehabilitation services in the department, and levels of offender participation and success in the programs. The board also makes recommendations to the Governor and the Legislature with respect to modifications, additions, and eliminations of offender rehabilitation and treatment programs.

May Revision. The Governor's May Revision proposes General Fund savings of $6.5 million in 2011-12 ($12.6 million ongoing) as a result of eliminating all workload conducted by the Office of the Inspector General (OIG), except for the Bureau of Independent Review (BIR). OIG's prison medical inspection workload would be transferred to the Office of State Audits and Evaluations (OSAE) within the Department of Finance.

(Dollars in Millions)

Administration's OIG Reduction Proposal		
	2011-12	2012-13
Med Inspection	-$.9	-$2.9
Warden Vetting	-$2.7	-$4.5
Special Reviews	-$1.2	-$1.9
Investigations	-$1.4	-$2.2
Intake	-$.8	-$1.3
C-ROB	-$.3	-$.5
Administration	-$.9	-$1.9
Total OIG Reduction	-$8.2	-$15.2
OSAE Cost	$1.7	$2.6
Net State Savings	**$6.5**	**$12.6**

The following is a summary of the components of the May Revision proposal to streamline the OIG's functions:

- ***Medical Inspections.*** The OIG performs evaluations of CDCR medical operations within adult correctional facilities with an annual budget of **$2.9 million and 17 positions**. The OIG began this program at the request of the Receiver's Office and in response to the *Plata* lawsuit regarding medical care in CDCR institutions. The Receiver's Office views this function as vital to ensuring that CDCR is providing adequate healthcare throughout its 33 institutions. The Administration is proposing that these inspections be performed by OSAE beginning in the second half of fiscal year 2011-12. Primarily by utilizing lesser compensated personnel, OSAE would not require the same level of resources to perform this service ($2.6 million and 16 positions).
- ***Vetting of Wardens and Associated Facility Inspections.*** The OIG is budgeted at **$4.5 million and 33 positions** for vetting of warden and superintendent candidates and associated facility inspections. Currently, the Governor submits names of candidates for warden and superintendent positions to the OIG. The OIG evaluates the Candidate's experience and background to ensure that they are qualified for the specific institution for which they are recommended. In addition, the OIG performs facility inspections prior to the appointment of new warden or superintendent candidates and a one-year follow up inspection. The administration is proposing to eliminate this function of the OIG. Warden candidates would be appointed by the Governor, upon the recommendation of the Secretary of the CDCR.

- ***Special Reviews and Follow-up Special Reviews.*** The OIG is funded with **$1.9 million and 14 positions** related to developing reports that identify systemic problems of the institutions at the request of various stakeholders and to follow-up on issues raised in special review reports. The Administration proposes the elimination of special reviews and follow-up special reviews. The Administrations suggests these reviews could be performed by other entities (State Auditor, OSAE, or CDCR) as requested.
- ***Investigations.*** The OIG is funded with **$2.2 million and 16.5 positions** to conduct retaliation investigations, criminal administrative investigations, and fraud investigations for sensitive cases typically involving high-ranking administrators. The Administration contends that these functions are duplicative and can be eliminated from the OIG.
- ***Intake.*** The OIG is funded with **$1.3 million and 9.5 positions** in order to process complaints and tips that are submitted through its hotline. The OIG operates a toll-free tip line and posts notices of the line in CDCR facilities and offices. The Administration proposes to eliminate this function.
- ***California Rehabilitation Oversight Board.*** The OIG is funded with **$500,000 and 0.5 positions** to operate C-ROB. Since CDCR has experienced significant reductions to its rehabilitation programs in recent budget, the Administration proposes to eliminate C-ROB.
- ***Administration.*** Due to the overall reduction, the Administration proposes reducing OIG's administration budget from **$2.4 million and 20 positions** to $500,000 and 9 positions.

Use-of-Force and Disciplinary Action Reviews within the CDCR. This function is performed by BIR, which has $6.1 million in funding and 38 positions to support oversight related to the *Madrid* class action lawsuit which was recently closed. The Administration proposes that these resources be maintained because they were a vital part in meeting the requirements of the *Madrid* lawsuit and necessary to ensure that the recent improvements to operations of CDCR's Office of Internal Affairs continue.

Staff Comments. The reduction and realignment of OIG's responsibilities is consistent with the Administration's broader effort to achieve governmental efficiencies. In addition to the Administration's proposal, the Legislature has taken recent steps to improve the operational structure of the OIG. Specifically, as a result of a report by the Senate Office of Oversight and Outcomes, a recent legislative budget action reduced the number of Peace Officer positions within the OIG and a current bill, SB 490 (Hancock), seeks to further streamline and narrow OIG's functions and responsibilities.

Even with the overall efforts to achieve efficiencies in the OIG's operations and duties, staff notes the following concerns with the Administration's proposal:

- ***Medical Inspections.*** Transferring OIG's Medical Inspections responsibility to OSAE at this time seems to create significant unknown risk in respect to ultimately satisfying the demands of the *Plata* court while achieving minimal savings ($300,000 ongoing). Specifically, the OIG's office and staff have established a medical inspection program that all parties agree is sufficient and has set benchmarks that can be used to establish when an acceptable level of inmate medical care is being delivered and the state can assume responsibility. The OIG began developing its Medical Inspection Program in

2007 and began institution medical inspections in September of 2008. Since that time, they have completed inspection of all 33 adult institutions. Staff finds that transferring this workload to OSAE at this time risks losing the extensive program knowledge and established process that exists within the OIG. In addition, even if an acceptable medical inspection program can be established at OSAE, it is unclear how long such a transition would take, which creates a risk that the state's timeline to ultimately comply with the *Plata* court could be significantly extended.

- ***California Rehabilitation Oversight Board.*** Likewise, eliminating C-ROB removes a function that is essential in ensuring that CDCR is maximizing the use of its limited rehabilitative programming resources while only achieving minimal savings ($500,000). Due to recent budget actions, the CDCR has undertaken a complete overhaul of inmate program delivery and services. Due in part to C-ROB's reporting and monitoring, CDCR has been able to make adjustments to improve it modified programs and services.

- ***Warden Vetting.*** Prior to the OIG assuming this responsibility, wardens were subject to Senate confirmation. Having wardens appointed by the Governor at the recommendation of CDCR would remove independent input from the process. Additionally, the OIG's vetting process includes aspects that are critical in ensuring candidates are appropriate for these important public safety positions.

  There is perpetual turnover of wardens that require continual vetting of prospective candidates. As of April 4, 2011, out of the 33 adult prisons, and 5 youth facilities (2 of which share a superintendent), CDCR has 19 acting wardens and four acting superintendents. Of the acting wardens, five have gone through the vetting process and are pending appointment by the Governor, three are currently in the vetting process, and the vetting process has been suspended for two candidates pending the outcome of open investigations. Two of the acting superintendents are retired annuitants and the other two have not been forwarded for vetting.

- ***Special Reviews.*** Staff finds that there is a unique role for independent oversight of prison activities, given the closed nature of the state prisons. These reviews can help to raise awareness of problems or actions that would otherwise not be brought to the public’s attention. While there was a significant expansion of the OIG’s budget and workload over the past several years, staff finds that there continues to be a role for the OIG in uncovering issues that deserve public attention.

Staff Recommendation. Reject the Governor’s proposal, but approve the following to streamline the OIG’s mission and reduce the OIG’s budget by $5.6 million in 2012-13 (this will be a lesser amount in the budget year):

1. Reduce special reviews, investigations, and intake by $2.9 million – cutting the program by more than one-half.
2. Reduce administration by $1.9 million.
3. Reduce warden vetting and specifically the follow-up audits by $750,000.
4. Convert 26 positions currently classified as peace officers to non-peace officer classifications.

5. Approve placeholder trailer bill language to reduce the scope of the OIG's review and audit authority

This action would maintain medical inspections, reduced warden vetting, the C-ROB, and a significantly reduced special review capability at OIG.

Public Safety Realignment

Governor's Budget and 2011 Budget Conference Committee. The Governor's budget and a subsequent revision by the Governor submitted to the Legislature on February 25, 2011, proposed a significant public safety realignment to be enacted through a constitutional amendment that also allocated $5.9 billion in revenues from the state to local governments to support the realigned activities. The content of the proposed realignment, which was subsequently approved by the 2011 budget conference committee, is outlined in the table below.

Program	2011-12 Feb 25	2014-15 Feb 25	2011-12 May Rev	2014-15 May Rev
~~Fire and Emergency Response~~	$52.0	$52.0	~~$52.0~~	~~$52.0~~
Court Security	485.0	485.0	497.8	497.8
Vehicle License Fee Public Safety	506.4	506.4	504.4	504.4
Lower-level Offenders/Parole Violators	1,096.0	705.1	955.3	762.2
Realign Adult Parole	421.2	183.0	420.5	187.7
Realign Remaining Juvenile Justice	156.0	234.0	241.5	241.5
Mental Health Services:				
EPSDT	0.0	636.9	0.0	579.0
Mental Health Managed Care	0.0	190.7	0.0	183.7
~~AB 3632 Services~~	0.0	150.9	~~0.0~~	~~150.9~~
Existing Community Mental Health	1,077.0	1,077.0	1,077.0	1,077.0
Substance Abuse Treatment	184.0	184.0	183.6	183.6
Foster Care and Child Welfare Services	1,623.9	1,703.9	1,567.2	1,567.2
Adult Protective Services	55.0	55.0	55.0	55.0
~~State Penalty Funds to Locals~~	40.5	40.5	~~40.5~~	~~40.5~~
Existing Juvenile Justice Realignment	97.1	103.3	97.1	103.3
~~Funded Public Safety Mandates~~	50.9	50.9	~~50.9~~	~~50.9~~
Growth*	0.0	888.4	0.0	1,069.6
Total	**$5,931.0**	**$7,255.0**	**$5,599.4**	**$7,012.0**

May Revision. The Governor's May Revision retains most of the revised realignment structure that was adopted by the 2011 Budget Conference Committee in March. Realignment would still be funded by extending the current sales tax rate and Vehicle License Fee (VLF) rates, but the package would be reduced from $5.9 billion to $5.6 billion. The proposed modifications are as follows:

- **Revenues.** The size of the realignment package would be reduced by $270 million, with that amount directed to the schools – this represents 0.10 percent of the Vehicle License Fee revenue.

- **Mandates and Penalty Funds.** Public safety mandate reimbursement funding ($50.9 million) and state penalty funds that support peace officer training ($21 million) and corrections training ($19.5 million) would be removed from realignment and continue to be funded in the state budget. These programs both employ reimbursement methodologies with cities and counties and the amount allocated each year is dependent on the claims being submitted, a substantially new methodology would have to be developed to make these programs work in a realignment framework.
- **Court Security.** The May Revision revises the court security estimate from $485 million to $497.8 million. The increases are related to costs associated with the parole revocation hearing workload ($2.5 million) transferred to the courts as part of AB 109 (Budget) passed earlier this year and applying a 2.2 percent inflation factor ($10.7 million) to more accurately reflect the 2011-12 cost figure.
- **Local Public Safety Grants.** The May Revision proposes to retain $2 million in grant funding that historically has not been allocated to local agencies. This money has been used to support activities at the Department of Justice and the UC Board of Regents. This will reduce the allocation made in realignment for local public safety grant programs to $504.4 million.
- **Low-Level Offender Cost Methodology.** The May Revision revises the cost methodology associated with the shift of low-level offenders and parole violators from the state to local governments as approved in AB 109 (Budget) passed earlier this year. The new model better reflects additional workload expected for the District Attorneys and Public Defenders related to the parole revocation hearings. The original cost methodology also did not include funding for programming for offenders serving time in jails. These two changes to the methodology increase the amount realigned to the counties by approximately $44.6 million.
- **Student Mental Health.** Student mental health, or AB 3632 funding, would be removed from realignment and placed within a re-benched Proposition 98 guarantee. (This issue will be covered by Senate Budget Subcommittee #1 on Education.)
- **Child Welfare Services.** Realignment funding for child welfare services would be reduced by $68 million due to adjustments made to transfer AB 3632 funding from the counties to the schools and other adjustments to not realign some adoptions and child welfare work that should be retained at the state level. (This issue will be covered by Senate Budget Subcommittee #3 on Health and Human Services.)
- **Fire Protection Services.** Fire protective services would be removed from realignment and continue to be funded in the state budget. (This issue will be handled by Subcommittee #2 on Resources and Environmental Protection.)

Staff Comments. The Governor's proposal takes a significant step towards bringing services closer to the people, allows for more integrated service delivery, and allows the services to be tailored to local situations and conditions. In total, the May Revision realignment proposal dedicates $5.6 billion in revenues in 2011-12 to fund a menu of programs shifted from the State to the locals.

The adjustments made by the Governor in the public safety area are mainly refinements to their earlier proposal that will simplify the overall implementation of the overall realignment proposal. Specifically, the mandates issue may be more appropriately handled through a different process other than realignment because counties and cities access mandate reimbursements in vastly different ways and the year-to-year reimbursements can also vary greatly. Also, the peace officer training and corrections training program are both managed at the state level so realigning these funds would make the support of these efforts needlessly complicated.

Furthermore, the adjustments made to the cost methodology for the low-level offenders and parole violators and the adjustments to court security reflect further refinements that better reflect what the actual costs will be for counties taking on new responsibilities under realignment.

Staff Recommendation. Staff recommends that the Subcommittee take the following actions to amend the public safety realignment proposal approved in the 2011 Budget Conference Committee:

- Remove $40.5 million related to public safety mandates and peace officer training and corrections training activities.
- Approve revised court security costs.
- Approve revised local public safety grant funding.
- Approve revised methodology for funding low-level offenders and parole violators.

5225 California Department of Corrections and Rehabilitation

Departmental Overview. Effective July 1, 2005, the California Department of Corrections and Rehabilitation (CDCR) was created pursuant to the Governor's Reorganization Plan No. 1 of 2005 and Chapter 10, Statutes of 2005 (SB 737, Romero). All departments that previously reported to the Youth and Adult Correctional Agency (YACA) were consolidated into CDCR and include YACA, the California Department of Corrections, Youth Authority, Board of Corrections, Board of Prison Terms, and the Commission on Correctional Peace Officers' Standards and Training.

According to the department's website, its mission is to "enhance public safety through the safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies to successfully reintegrate offenders into our communities."

The CDCR is responsible for the incarceration, training, education, and care of adult felons and non-felon narcotic addicts, as well as juvenile offenders. The CDCR also supervises and treats adult and juvenile parolees, and is responsible for the apprehension and re-incarceration of those parolees who commit new offenses or parole violations. The department also sets minimum standards for the operation of local detention facilities and selection and training of law enforcement personnel, as well as provides local assistance in the form of grants to local governments for crime prevention and reduction programs.

The department operates 33 adult prisons, including 12 reception centers, a central medical facility, a treatment center for narcotic addicts under civil commitment, and a substance abuse facility for incarcerated felons. The CDCR also operates five juvenile correctional facilities, including two reception centers. In addition, CDCR operates dozens of adult and juvenile conservation camps, the Richard A. McGee Correctional Training Center, and nearly 200 parole offices, as well as contracts to house inmates in several in-state and out–of–state correctional facilities.

Budget Overview. The Legislature passed SB 69 (Budget) on March 17 of this year. This conference report appropriates $9 billion, including $8.9 billion from the General Fund for the support of CDCR. However, this proposed funding included some savings from realignment and the workforce cap. The May Revision now proposes $9.5 billion for CDCR, including $9.4 billion from the General Fund. This increase is due to a technical adjustment to show the savings related to realignment and CDCR's workforce cap in separate control sections. The CDCR is expected to find savings of nearly $1 billion in the budget year due to various proposals to reduce operations, including realignment and the workforce cap. However, these savings are not achievable if funding for a local public safety grant program is not made and realignment does not occur.

1. Realignment Savings in CDCR

Background. The Governor's public safety realignment and specifically the policy changes implemented as part of AB 109 (Budget) are expected to save hundreds of millions at CDCR in the next coming years, growing to nearly ***$2 billion*** by 2014-15. While there will be other factors impacting CDCR's cost during this time – these reductions are expected to occur from an overall reduction in the inmate population of 40,000 and parole population of nearly 80,000 attributed to realignment.

The corrections business is a people business and in order to save this level of resources the department will have to put together a very careful plan for achieving this savings and will need to act on that plan expeditiously. It will require ***cancelling unneeded contracts*** for private and public facilities, where legally feasible. It will also require the department to ***manage*** their workforce to achieve this level of savings. This will require closing housing units and consolidating parole offices and taking down associated staff resources.

May Revision. The May Revision assumes that the department will achieve $684.2 million in savings in the budget year related to realignment. This is in addition to the workforce cap savings of $194.5 million and Board of Parole Hearings savings related to realignment of $36.2 million. Overall, the CDCR will have to achieve nearly $1 billion in savings in the budget year.

The Administration has indicated that it will plan to achieve the ***realignment savings*** as follows:

- Adult Institutions (including contract beds) - $442.8 million
- Parole Supervision - $117.7 million
- Parole Programs - $38.7 million
- Parole Leased Jail Beds - $32.4 million
- Administration and Other - $52.6 million

The Administration is proposing to restore $240.6 million to CDCR's budget and make a commensurate adjustment downward in the realignment savings to consistently reflect the budget savings related to realignment.

Staff Comments. Achieving this level of savings will be difficult, but is necessary and will require considerable planning and action on behalf of the department. Planning is required because the state cannot cancel a contract or close a housing unit overnight. They must plan to move inmates and potentially move staff from one location in the state to another. This will be a considerable effort.

Furthermore, it is one thing to eliminate or take down positions on paper, but it is another thing to address actual people in these positions. There is likely to be significant vacancies in the upcoming year and annual attrition, but in some classifications the department may need to start a State Restriction of Appointment (SROA) list and/or enable a transfer process to transition employees from one institution to another. These processes take time and the department will need to plan ahead.

The department does not have a good "track record" in achieving savings targets. The Subcommittee will want to consider ways to "check in" on process and planning to ensure savings are being achieved.

The Legislature and Governor have already approved deep cuts to corrections rehabilitation programs. Over the past several years, rehabilitation programming in the prisons and on parole has been cut by more than 50 percent to approximately $350 million. Additional cuts will come close to dismantling, in some areas, what little infrastructure is left of rehabilitation programming. Some of the staffing packages that were brought up with the activation of housing units (that will be reduced to meet the realignment savings) may have included teachers that were already eliminated over the last several years. If additional teachers are taken down as part of this effort, rehabilitation programming will have taken a disproportionate reduction.

In March 2011, the Legislature approved an additional $150 million in rehabilitation programming. The department has come forward with their plans for achieving this reduction, which was reviewed by this Subcommittee on May 10. Staff has been told that a part of these reductions includes the elimination of contracts with community providers for supportive housing and other services for parolees. These programs are important to ensuring the success of parolees released from prison and more of these programs are needed to ensure stability for ex-offenders trying to get back on their feet and on top of their substance abuse issues. Eliminating these programs could result in these programs shutting their doors and losing their conditional use permits. This would be a tragedy especially when there is a real need for these facilities and for more of them. These contracts may be appropriately handed over to the counties depending on the type of inmates served in the program, but while realignment is in transition, the State should continue the contracts to avoid the dismantling of this important infrastructure.

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

- Approve technical adjustment to CDCR's budget and the realignment item to consistently reflect realignment savings.
- Approve supplemental report language to ensure quarterly reporting on actions and savings related to realignment for the 2011-12 budget year.
- Approve placeholder budget bill language to guide the department's position reductions so that they avoid taking down additional rehabilitation positions in the institutions beyond what has already been reduced.
- Restore $49 million to continue contracts for services in the community that are set to be cancelled as part of the $150 million unallocated rehabilitation reduction approved earlier this year. This funding should go to restore the following activities slated for elimination by the department until these contracts can be appropriately transitioned to the counties:
  - Existing residential multi-service center contracts - $4.5 million
  - Other Substance Abuse Services Coordination Agencies Contracts, Sober Living and Out-Patient Services, Parolee Service Network, Bay Area Services Network, and Other Remedial Sanction Contracts ($44.5 million).

  This restoration should not stop the department's efficacy review of these programming contracts to determine the most effective models for achieving parolee success.

2. Corrections Workforce Cap

Background. In 2010, Governor Schwarzenegger issued an executive order to institute a five percent workforce cap across state government. This workforce cap equated to reducing CDCR's budget by $292.4 million. During the 2010-11 budget year, CDCR has not been able to meet this target and all of the other savings targets included in the 2010-11 budget act, which have resulted in a deficiency of approximately $415 million.

May Revision. The May Revision includes a net increase of $97,213,000 General Fund to reflect a recalculation of CDCR's workforce cap reduction target. The CDCR's new workforce cap target is based on 5 percent of its projected personal services costs after realignment is fully implemented, which decreases CDCR's workforce cap reduction target from $292.4 million to $194.5 million.

The Administration is proposing to separately track this savings separate from realignment to ensure that the Department meets this level of savings over the budget year. Therefore, the Administration is requesting that these savings be reflected in a new Control Section (Control Section 3.93) added to allow the Director of Finance to reduce CDCR's appropriation.

The CDCR is proposing to achieve the following list of savings to meet its workforce cap in the budget year:

- Eliminate Holiday Relief Positions – $38 million. This savings is made possible from changes made in the recently approved Bargaining Unit 6 contract.
- Institution Staffing - $36 million. This savings reflects a 1 percent reduction to field custody positions.
- Headquarters Reductions - $29 million. This savings will result from eliminating an additional 417.2 positions from headquarters. The Administration indicates that many of these positions are filled and a layoff process will need to commence by October 1, 2011 to achieve this savings. Some headquarters staff will have return rights to other positions in the field.
- Special Repairs Funding - $20 million. This will reduce CDCR's ability to address only the most serious emergencies related to its infrastructure. This is not a personnel/workforce proposal to save funding.
- Close DJJ Facility - $17.6 million. This savings is related to closing an additional DJJ facility. This savings will grow, but the layoff process will take time to implement.
- Parole Agent II Conversion - $12 million. This savings is related to slowing the conversion of parole agent IIs from specialists to supervisory on a one-time basis.
- Minimum Supervision Parolees - $8 million. This savings would be related to further reducing supervision of parolees that are low risk and already have minimal supervision.
- Reduce Gang GPS Program - $5.1 million. The CDCR had implemented a gang GPS program that is not required by initiative or statute. This would reduce this program, but leave approximately 400 units available for high risk gang members.
- Reduce Parole Apprehension Teams - $5.1 million. This reduction will reduce the number of special parole apprehension teams.
- Electronic In Home Detention - $4.3 million. This would eliminate this program given the impact of realignment on the population that is in this program.

- Reduce Health and Mental Health Staffing at DJJ - $4.2 million. This reduction will require DJJ to work with the *Farrell* court to reduce the health and mental health staffing within DJJ given the population reduction.
- Increase Parole Agent Ratios - $3.6 million. This reduction will result from increasing parole agent rations from 48:1 to 53:1.
- Reduce Peace Officer Positions at Headquarters - $3.5 million. The department is planning to reduce the peace officer positions at headquarters.
- Consolidate DJJ Parole - $3 million. The department is planning to consolidate the remaining DJJ parole activities with the adult parole activities until the last DJJ parolee is discharged. Juvenile parole was transferred to the counties last year.
- Other DJJ Savings - $2.9 million. The department also plans to reduce the Juvenile Parole Board, reduce DJJ special repair funding, relocate DJJ headquarters, and work with the courts to adjust DJJ living unit size for additional savings.
- Reclassify Peace Officer Positions in the Field - $2 million. The department will reclassify some peace officer positions in the field to non-peace officer positions.

Staff Comments. Like the savings resulting from realignment. The savings listed above require significant planning and expeditious action on behalf of the department. The list above includes major actions that will require real management of its workforce in order to achieve these savings.

Staff recognizes that other state departments were not provided with the advantage of having their workforce cap target reduced. However, staff also recognizes that running 24-hour operations does present special challenges to reducing workforce, especially when safety and security are of concern.

Staff finds that separately tracking a control section related to the workforce savings will allow for more transparency regarding how the department is doing in terms of meeting its savings target.

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

- Reduce the workforce cap calculation and approve the control section with modifications that require CDCR to meet this lower target related to workforce cap savings.
- Approve supplemental report language to ensure quarterly reporting on actions and savings related to the workforce cap for the 2011-12 budget year.

3. Board of Parole Hearings

Background. Assembly Bill 109 (Budget) that was passed earlier this year enacted major reform related to the parole revocation process. The law required that all offenders released from state prisons who commit a violation of the terms and conditions of parole or post-release supervision would be subject to revocation decisions by the courts. This eliminates the current role that the Board of Parole Hearings (BPH) has regarding revocation hearings that return offenders back to state prison for short revocation terms. This Legislation did not impact the role that the BPH has related to lifer inmate determinations.

May Revision. The May Revision proposes a decrease of $36.2 million General Fund related to revocation workload reductions that will occur as a result of moving revocation hearings to the Judicial Branch. This savings will grow to $61 million by 2013-14. Consistent with AB 109 (Budget), the Board will no longer be responsible for making final revocation decisions for offenders who violate the terms of their parole.

The Administration indicates that it will take the following actions in the budget year to reach this level of savings:

- Eliminate the CalPAP Contract - $18.5 million. This contract is for legal representation for parolees.
- Eliminate Vacant Positions - $10.2 million. The department indicates that BPH currently has 113 vacant positions that can be eliminated in the budget year.
- Reduce Additional Positions - $3.8 million. The department will start the process of reducing the board by another 210 positions.
- Reduce Operating Expenses and Equipment - $3.7 million. The department will also reduce additional OE&E related to the board.

Staff Comments. Staff finds that this reduction to BPH is significant, but appropriate given the passage of AB 109. Nevertheless, the board will need to reduce its staffing by nearly 65 percent and overall budget by one-third in one year. This will require planning and swift implementation of actions to reach this target.

Staff also notes that there is a separate proposal within the Judicial Branch to augment funding resources so that the courts can effectively take on their new responsibilities related to revocation decisions.

Staff also notes that AB 109 did not envision a parole revocation process exactly like the one that is currently in place. Therefore, additional clarifying language on what the courts will be responsible for and what will be handled administratively is still needed. The administration indicates that they are currently working on clean-up legislation that should be forthcoming.

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

- Approve the proposal to reduce the Board of Parole Hearings.

4. Structural Shortfall

Governor's Budget. The Governor's Budget included $395.2 million General Fund to address ongoing structural imbalances within CDCR's budget. The Legislature took an action to deny without prejudice $134.4 million of the amount proposed. The Administration is requesting that this remaining $134.4 million be approved as part of the May Revision.

Background. According to the Administration's proposal, since the early 1990s, the CDCR has seen significant growth and change, a doubling of the offender populations, opening of many new prisons, large parole case loads, an increased emphasis on rehabilitation strategies, increased legislative oversight and mandates, reorganization, federal oversight of the healthcare operations, and resource scarcity in all functional areas of the organization. The CDCR now has 58,000 employees in over 450 job classifications, 33 adult prisons and 5 juvenile institutions with over 167,000 offenders and over 120,000 parolees in the system.

The CDCR continues to be under funded in many areas for custody overtime. In prior years, the Department absorbed these ever-increasing costs by redirecting resources away from other programs and priorities. Redirected resources resulted in reductions in inmate education and/or work programs, reduction in non-custody staff, freezes placed on purchasing and training, increased equipment and physical plant failures as necessary maintenance is deferred, and non-custody positions being held vacant to use salary savings to cover unfunded expenditures. Due to unallocated budget cuts and reductions in program funding, the Department no longer has the ability to redirect existing resources to offset the unfunded expenditures.

Salaries Funded at Mid-Range ($266.5 million). In 2003-04, the Department of Finance approved that new positions be funded at the Mid-Range level. However, nearly every custody position is currently at or near the top step of the salary range. A comparison of Mid-Range to current step for all institutions' reflects a $266.5 million shortfall. It is critical that this funding be provided to the adult institutions to ensure that they begin each fiscal year with enough funding to cover the anticipated salary and wages of their custody staff. If this funding is not provided, CDCR will need to continue to find ways to redirect resources from other operational areas. However, this is becoming more difficult, if not impossible, as unallocated reductions have eliminated the prior sources of funding available for redirection.

Medical Guarding and Transportation Workload ($55.2 million). The California Department of Corrections and Rehabilitation (CDCR) is mandated to provide appropriate, timely and adequate medical care to all inmates. Court decisions such as *Coleman v. Schwarzenegger* and *Plata v. Schwarzenegger* have resulted in court monitors determining how services are to be provided, which has resulted in significant expenditure increases in outside medical care. CDCR's 2010-11 base funding for Medical Guarding and Transportation is $66,420,000. However, in order to meet the mandates of the court orders and the demands of the Receivership, CDCR has been incurring costs totaling $137,629,000, or $71,209,000 more than budgeted. And while the gap between base funding and incurred costs has been narrowing in recent years, it is projected that the shortfall in funding within this operational area will continue into the future. Therefore, after taking into consideration continued declines in outside care/contract medical usage, it is projected that CDCR will need $55,168,000 in 2011-12 and ongoing to fund this operational area.

Unfunded Swing Space ($17.3 million). Due to the unique nature of the CDCR adult inmate population, inmates must undergo very strict screening policy in order to be placed in the safest housing, while meeting all court mandates and special needs the inmate might have.

The following are a list of screening criterion which must be addressed, before the inmate can be placed in the right bed:

- Classification Score, determining the Security Level of the inmate.
- Participation in the Mental Health Services Delivery System, as well as the level of mental health impairment. (*Coleman* Lawsuit).

- Medical Screening (certain medical conditions preclude placement at some institutions).
- Gang Affiliations (Some gangs may be housed not only at a specific institution, but within a certain housing unit within an institution). The CDCR inmate population that includes more separate and distinct gangs than any other state.
- Known enemies. Enemies cannot be housed at the same institution.
- Communicable Infectious Disease Status.
- Developmental Disabilities (*Clark* Lawsuit).
- Physical Disabilities (*Armstrong* Decree).
- Sensitive Needs Yard Placement.

All of the above screening criterion must be taken into consideration when placing an inmate at an institution, or within a specific yard. Under many circumstances, these inmates may not be housed together in the same prison, or within the same yard. In addition, while CDCR is constantly attempting to keep swing space (empty beds) to a minimum, as CDCR becomes more driven by lawsuits and an unprecedented Prison Gang population, this task is becoming more difficult. Moreover, there will always be vacant beds in the system to facilitate movement. If this space did not exist, the backlog of inmates in Reception Centers and county jails would grow significantly.

As such, in recognition of the fact that it is unreasonable to assume that every bed is filled each day of the year, funding for swing space beds must be provided. Therefore, we are proposing to fund swing space beds based upon the prior year's Average Daily Population (ADP) for each adult institution. General Population (GP) institutions will be funded based upon 0.5 percent of their prior year ADP, while Reception Center (RC) institutions will be funded at 1 percent of their prior year ADP. Moreover, CDCR will include an annual adjustment in their population estimate (beginning in the fall of 2011) to reflect the estimated amount of swing space beds each adult institution will need in the upcoming fiscal year. Swing space beds will only be funded for the personnel services associated with each bed, as inmate OE&E is not incurred when beds are vacant. The current overcrowding marginal rate associated with Program 25 personnel services is approximately $18,956 per bed. Based on the ADP of each institution in 2009-10, the CDCR needs 913 beds designated as swing space (22 beds per GP institution and 50 beds per RC institution). This results in an unallocated funding need of $17,313,000 million.

Overtime Funding Not Adjusted for Employee Compensation ($35.7 million). Although significant increases (34.23 percent) to Bargaining Unit 6 base salaries have occurred over the past several fiscal years, the declared base budget for overtime in Program 25 has not been adjusted to reflect those increases.

In 2001-02, the base for overtime was $104,300,000 and in 2007-08 the base continued to be $104,300,000 even though salaries have increased by 34.23 percent and staffing increased by 5,365 during this time period for Correctional Officers, Sergeants, and Lieutenants. We have calculated an overtime factor based on staffing in 2001-02 and the base overtime. This factor is increased to reflect the increase in salaries. By applying this methodology, the base overtime funding should be increased by $35,702,000 for a total of $140,003,000.

Legal Settlements and Outside Counsel ($20.5 million). It is estimated that CDCR needs $20,476,000 for 2011-12, and ongoing, to account for shortfalls in their Office of Legal Affairs (OLA) Budget. This request is due to the significant increases in the cost of legal settlements and judgments, outside counsel, special master and expert witness fees from class action lawsuits. Specifically, unfunded court mandates in various class action lawsuits are driving significant shortfalls. Because the class action cases are under remedial orders and the continuing jurisdiction of the court, the additional expenses affect both contracts for professional services, as well as settlements/judgments.

OLA's current budget is $60,367,000, of which $36,575,000 supports its 167.8 staff. That leaves $23,792,000 in OE&E to cover legal settlements and judgments, outside attorney fees, special master/expert witness fees, and regular operating expenses. When reviewing CDCR's actual expenditures for settlements and judgments and attorney/special master/expert witness fees, these combined costs clearly exceed the available OE&E resources within OLA's budget by $20,476,000. Therefore, in order to appropriately fund the CDCR for costs they incur within these areas, and to prevent the constant redirection of funding from other programs to cover these yearly expenses, an augmentation must be provided.

Staff Comments. While the majority of this proposal seems appropriate to address the structural imbalance of CDCR's budget, it is unclear the degree to which CDCR might be better able to contain its legal costs. While its costs for settlements and judgments reached $33.8 million in 2009-10, it was only $19.4 million in 2006-07.

Additionally, it is unclear that funding for swing space is an issue or if population management practices are overly complicated. Moreover, given current overcrowding levels, it is unclear that the department can operate sufficient swing space even if warranted.

Staff Recommendation. Staff recommends that the Subcommittee approve $102.8 million, which accounts for a reduction of $14.3 million to the amount requested for legal services and $17.3 million of the amount requested for swing space. Overall this will provide CDCR with $348 million in 2011-12 to address its structural shortfall.

5. California Community Corrections Performance Incentive Act of 2009

May Revision. The May Revision proposes $30 million General Fund and $1.2 million California Community Corrections Performance Incentive Fund related to the final award calculations for the California Community Corrections Performance Incentive Act of 2009 (SB 678) and revised trailer bill language that is necessary to correctly implement the program.

Background. In an effort to stem the flow of felony probationers being sent to state prison, the Legislature approved two distinct measures aimed at improving felon outcomes. First, the Budget Act of 2009 included a $45 million appropriation of federal Edward Byrne Justice Assistance Grant (JAG) funds that was distributed to all 58 county probation departments. This funding is being used by counties to provide evidence-based supervision, programs, or services to adult felon probationers.

The purpose of the JAG funding was to provide immediate funding to county probation departments to jumpstart development of evidence-based probation supervision practices in order to improve felony probation performance and reduce the likelihood that these probationers will commit new crimes or other violations and be sent to state prison.

Second, SB 678 builds upon the initial allocation of JAG funding by establishing a system of performance-based funding that will share General Fund savings with county probation departments when they demonstrate success in reducing the number of adult felony probationers going to state prison because of committing new crimes or violating terms of probation.

This measure is designed to help lower California's prison admissions by reducing criminal behavior, and thus relieve overcrowding and save public funds.

SB 678 creates a State Community Corrections Performance Incentive Fund and authorizes the state to annually allocate money from this fund into a Community Corrections Performance Incentive Fund established by each county.

Each county must use the funding to establish a local community corrections program. These local programs must be targeted towards felony probationers and the funding should be used for specified purposes related to improving local probation practices. Each county is also required to identify and track outcome-based measures and report their plans and progress to the Administrative Office of the Courts (AOC).

At the end of every calendar year, the Department of Finance (DOF) is required to determine the statewide and county specific felony probation failure rates. Using a baseline felony probation failure rate of the years 2006-2008, DOF then calculates the amount of savings to be provided to each county.

Cost Avoidance to the State and County Payments for 2011-12. DOF reports that, based on four quarters of data for 2010, the total cost avoidance to the state as a result of a reduction in the number of felony probationers being sent to state prison in 2010 is $178.4 million. This cost avoidance is a result of a state prison population reduction of approximately 6,182 offenders. Pursuant to the calculation based on the total cost avoidance to the state, $87.5 million will be distributed to counties. In addition to the county payment, $615,000 will be provided to the AOC to support administrative costs.

Prison Pop Reduction	State Cost Avoidance	County Payments
6,182	$178.4 million	$87.5 million

Data Provided and State Inmate Impact Review. Most of the data collected was either self-reported by counties or came from CDCR. The AOC provided county training on data collection to help ensure data quality. To the extent that data gathered to make the calculations for county payments is not sufficient type or quality, SB 678 authorizes the DOF to estimate county payments utilizing a methodology that is consistent with the intent of the measure.

One way of analyzing whether SB 678 has had an impact on CDCR, and whether the estimated level of county payments is reasonable, is to look at CDCR's overall population trends. According to DOF, when looking at CDCR's population on a statewide level, CDCR's adult inmate population stood at 168,316 when SB 678 was chaptered in October of 2009. As of the May Revision, CDCR's projected population at the end of 2011-12 is 163,152, which represents an overall population decline of just over 3 percent.

In addition to their normal administrative functions, the AOC will conduct review of a significant random sample of counties for the purpose of verifying the accuracy of data and the methodology each county is using to report their population figures.

Trailer Bill Language (TBL). Clean-up TBL is proposed to address the following issues that have come to light since the passage of SB 678:

- Clarifies that in the State Community Corrections Performance Incentive Fund comes from the General Fund.
- Requires the State Controller's Office to distribute the funding in the State Community Corrections Performance Incentive Fund to each county's fund in a manner prescribed by DOF.
- Clarifies that the baseline probation failure rate shall be calculated utilizing a weighted average and include data from 2006 to 2008.
- Clarifies that the court administrative costs shall be paid from the estimated savings to the state, caps the AOC's costs at one percent and allows the courts to continue to do work related to judicial education, data quality, and general implementation assistance.
- Other minor technical changes.

Staff Comments. Research has shown that investing in local probation services not only results in fiscal efficiencies but can also have a positive impact on public safety. Utilizing this research as well as practices that are proving to be effective in other states (a recent report by the Pew Center on the States found that a similar measure in Arizona not only saved the state money but also has shown a reduction in the number of probationers convicted for new crimes), implementation of SB 678 is already showing signs that desired outcomes are being met. The state is saving money as a result of a reduction in the prison inmate population and local probation departments are being provided with significant resources to invest in evidence-based programs. SB 678 also shows that the state and locals can work together to effectively realign public safety responsibilities.

Notwithstanding the initial success of SB 678, staff notes that there are significant questions concerning the impact of current public safety realignment efforts, AB 109 (Chapter 15, Statutes of 2011). The Subommittee may wish to ask the Administration how it plans to address potential overlaps or conflicts between the two efforts.

Staff Recommendation. Adopt the Administration's May Revision proposal to meet the funding requirements of SB 678 and adopt placeholder clean-up trailer bill language.

6. Corrections Standards Authority

Background. The Corrections Standards Authority (CSA) is a board within CDCR that is mandated by the Welfare & Institutions Code and the Penal Code. The requirements of this Authority include the following:

- Ensuring the establishment and continual re-evaluation of minimum standards for local juvenile and adult detention facilities, conducting "problem solving" inspections of all local detention facilities biennially, and reporting to the Legislature on the results of those inspections.
- Reviewing the architectural plans for construction and remodeling of all local detention facilities.
- Establishing recruitment, selection, and training standards for all local corrections personnel working in jails, juvenile detention facilities, or probation departments.
- Administering federal and state detention facility capital construction monies for the construction or renovation of local detention facilities.
- Administering state-funded local corrections at-risk and offender pilot, demonstration, and continuum of care programs.
- Conducting studies in crime and penology and creating, upon its own initiative or upon the request of the Governor, special commissions to assist the Board in the study of crime.

Prior to the 2005 reorganization, the Board of Corrections (now CSA) was a respected and in some areas innovative state entity generally well-regarded for its ability to effectively administer state programs that funded local correctional efforts, such as the juvenile justice challenge grants and mentally ill offender programs of the mid-to late 1990s and early 2000s. These programs reflected early state-local partnerships designed to fund offender programs that worked, and to collect data reflecting performance. The Legislature has increasingly relied on Board of Corrections (BOC), and now CSA, to implement innovative state-funded programs in the area of local corrections like probation.

However, the reorganization of CDCR that resulted in the merging of the old Board of Corrections into the CDCR superstructure took its toll on the stability of this Authority and significant retirements also impacted the expertise of the workforce. This has ultimately impacted the effectiveness and leadership of the current CSA.

May Revision. The May Revision includes various actions for savings associated with the identification of efficiencies in state operations, including identification of agencies, departments, and programs that can be reorganized to eliminate duplication and unnecessary functions. The governor has proposed the elimination of the following boards related to criminal justice policy:

- **Office of Gang and Youth Violence Prevention.** This office provides grants to various local governments to combat gang-related issues. The grants will continue to be administered by CalEMA. This proposal will save $600,000 GF and 3.8 positions.

- **California Council on Criminal Justice.** This office had established funding priorities for federal criminal justice grants. However, these activities have been performed recently by the Administration and the Legislature with local input. This proposal would save approximately $30,000 in federal funds.

The May Revision also proposes an increase of $275,000 General Fund to allow CSA to continue to review and approve county juvenile justice plans as required by Government Code section 30061. As a result of the realignment of local public safety funding, this workload will no longer be funded through the Supplemental Law Enforcement Services Fund and will instead be funded by the General Fund.

Staff Comments. Staff finds that the recently enacted public safety realignment legislation (AB 109, Budget) provides an important juncture to re-evaluate the existing state infrastructure for providing oversight and policy leadership to the local public safety operations. Furthermore, the Administration has proposed the elimination of two commissions that currently have some role in guiding state policy on criminal justice matters.

Realignment is going to take time to implement, but the funding that will now be kept locally will allow locals to invest in solutions that address local problems. Sometimes it will make sense for counties to act regionally. A new CSA could help in developing these partnerships and regional solutions by providing leadership and policy guidance.

The mission of a new reorganized CSA *could* be as follows:

> Provide statewide leadership, coordination, and technical assistance for state and local partnerships in California's adult and juvenile criminal justice system, including but not limited to implementation of realignment, and continue existing CSA functions relating to local corrections.

Furthermore, a new CSA could help to prioritize and better focus federal grant funds and other grant funds allocated by the state to local governments. This could help the State to provide incentives for local governments to invest in evidence based programming and other cost-effective programming that is results-oriented. Investing in local rehabilitation programs that work ultimately saves the state prison costs.

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

- Approve placeholder trailer bill language to establish a new Board of State and Community Corrections separate from CDCR that will help guide the state and local governments through realignment, provide ongoing leadership in the area of criminal justice policy and, in collaboration with the existing efforts of the Administrative Office of the Courts relating to SB 678, develop data and information related to the implementation of outcome-based measures and evidence-based practices with regard to realignment and other community correction efforts.
- Approve the Governor's May Revision proposal to eliminate the Office of Gang and Youth Violence Prevention and the California Council on Criminal Justice and transfer any related functions to a new Board of State and Community Corrections.

- Approve the $275,000 for CSA (new Board) to continue to review the juvenile justice plans.

8. Armstrong Sign Language Interpreters

Background. In October 2009, the United States District Court of California mandated through the *Armstrong* court order that CDCR must provide sufficient certified sign language interpreters at institutions where hearing impaired inmates are housed. This court order enforces compliance with the Americans with Disabilities Act (ADA).

The CDCR provides educational and substance abuse programs in prisons throughout California. The CDCR houses hearing impaired inmates at four prisons – California Institution for Men (Chino), High Desert State Prison (Susanville), California Medical Facility (Vacaville), and the Substance Abuse Treatment Facility (Corcoran) – where these inmates are currently unable to participate in these programs.

Governor’s Budget and 2011 Budget Conference Committee. The Governor's budget proposed $279,000 General Fund for sign language interpreter contract services. These services are for hearing impaired inmates participating in educational and substance abuse treatment programs at the four prisons identified above. This funding will be used to hire contract interpreter staff.

This proposal was denied without prejudice in the final version of the 2011-12 Budget Act approved by the Budget Conference Committee in March pending additional information.

Staff Comments. The department has indicated that this small investment could help to prevent further court orders related to the *Armstrong* class action lawsuit.

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

9. San Quentin Condemned Extended EOP

Background. The Enhanced Outpatient (EOP) Condemned program at San Quentin State Prison (SQ) provides mental health services to 25 inmate-patients with serious and persistent mental illness on California’s death row. This program consists of mental health staffing and additional out-of-cell time for these inmates Monday through Friday. According to the department, when not treated appropriately, this population frequently requires suicide watch and/or admission to higher levels of care. There have been six suicides on death row since 2006.

Governor’s Budget and 2011 Budget Conference Committee. The Governor's budget proposes $603,000 General Fund and 5.7 positions to extend the Enhanced Outpatient Program to seven days a week for condemned inmates at SQ.

According to the department, this request will provide more intensive EOP services and assist these inmates to better adapt to life within the Condemned Housing Unit. In so doing, the department believes it will reduce the likelihood that inmates' mental health condition will decompensate on days when services are not available which then requires more intensive and expensive care. Inmates in an Intermediate Care Facility (ICF) on suicide watch can cost more than $500 per day. Furthermore, transporting a condemned inmate is a more staff intensive and costly process than a regular inmate transfer.

In order to provide the extended level of service in the condemned EOP program, the staffing complement is proposed to be extended to a seven day per week schedule. Existing staffing models were used to calculate staffing for a 5-day per week program level. This staffing level was increased to account for the increase from 5 to 7-day service and to maintain continuity of care. With the increase in number of days of service, and number of hours of programming, there is an increase in demand for guarding and escort officers. During the time that the Extended Condemned EOP Program is in operation, custody staff must also ensure all mandated programs are being successfully met (e.g., legal appointments, religious services, medical appointments, showers, exercise yard, and distribution of medication).

This proposal was denied without prejudice in the 2011-12 Budget Act approved by the Budget Conference Committee this past March pending additional information.

Staff Comments. Since release of the Governor's budget, the administration has identified an error in its budget calculations. Specifically, the department's estimates assumed a count of 40 inmates requiring EOP services on death row. In fact, the correct number is 25. Consequently, the administration is revising its request to $445,000 and 4.3 positions.

Staff notes that if this proposal is approved, an additional correction needs to be made to reduce the request by an additional $54,000 and 0.6 positions. This is because of a technical error calculating the security coverage.

Staff Recommendation. Staff recommends that the Subcommittee approve this budget request with the following adjustments:

- Approve $445,000 and 4.3 positions to reflect lower estimate of EOP condemned inmate population.
- Reduce by $54,000 and 0.6 positions to reflect technical error in security coverage costing.

10. CIW CTC Activation

Background. Utilizing funding authorized under AB 900 (Solorio, Chapter 7, Statutes of 2007), the department is currently constructing a Correctional Treatment Center (CTC) at the California Institution for Women (CIW). CTC facilities provide both acute and intermediate level of care mental health treatment programs for inmate-patients. The project at CIW will add 45 licensed clinical beds to an existing 18-bed CTC, for a total of 63 CTC beds.

The table below provides a list of the different mental health classifications in CDCR that require specialized housing, including the number of inmates meeting those classifications, as well as the number of beds and wait lists for those beds.

CDCR Mental Health Services Delivery System
(As of January 10, 2011)

Category	Inmates	Capacity	Wait List
Enhanced Outpatient Program (EOP)	4,881	4,269	154
Psychiatric Services Unit (PSU)	367	394	121
Mental Health Crisis Beds (MHCB)	340	373	17
Intermediate Care Facilities (ICF)	606	732	375

Governor's Budget and 2011 Budget Conference Committee. The Governor's budget requested a total of $1.5 million General Fund and 11.6 positions in 2010-11 and $10.1 million General Fund and 106.4 positions in 2011-12 (growing to $12.5 million and 135.4 positions in 2012-13) to provide staffing required for a this 45-bed inpatient accredited facility, as well as seek accreditation for the facility. The total request is summarized in the table below. The 2011-12 Budget Act approved in the 2011 Budget Conference Committee included funding for the CTC activation, but denied without prejudice the accreditation staffing request.

CIW Correctional Treatment Center Budget Request

Fiscal Year	CTC Activation	Accreditation	Totals
2010-11	$905,000	$597,000	$1,502,000
2011-12	$8,909,000	$1,195,000	$10,104,000
2012-13	$11,314,000	$1,195,000	$12,509,000

The 45-bed CTC at CIW is scheduled for completion in December 2011. Typically, the Department of Mental Health (DMH) operates CTCs in California's prisons. However, the department has determined that it intends to begin managing and operating its CTCs. This CTC at CIW is the first such facility proposed to be operated by CDCR and not DMH. Accordingly, the department will seek provisional Joint Commission Accreditation for the facility. The department states that accreditation will help ensure that it has the appropriate staffing, policies, and procedures in place to take on this new responsibility, as well as demonstrate to the *Coleman* court that it is prepared to do so effectively. Requirements associated with obtaining accreditation by the Joint Commission exceed those of State licensure by DPH. In order to prepare for this accreditation, the department is requesting nine headquarter positions and $1.2 million ongoing to obtain and maintain Joint Commission Accreditation for the CIW facility and for other inpatient facilities that will be constructed over the next four years, including the inpatient facilities at California Medical Facility and Correctional Health Care Facility.

Staff Comments. The committee may want to consider whether it wishes to fund the additional staffing requested for headquarters accreditation staffing. While it is certainly the case that this facility must meet basic licensing standards, accreditation is not required. The department does report, however, that national accreditation is likely to be an important step in demonstrating to the *Coleman* court that the department can effectively manage its mental health programs and, eventually, end federal court oversight.

Given the relatively limited pool of qualified mental health staff in the State, it does not make sense from a staffing perspective for the State to run two parallel mental health systems in the

Department of Mental Health and CDCR. There are considerable institutional barriers to overcome in melding these two bureaucracies, but more should be done to find synergies between these systems. This proposal moves in the opposite direction.

Staff Recommendation. Staff recommends that the Subcommittee sustain its earlier action and reject the accreditation resources related to this proposal.

Senate Budget and Fiscal Review—Mark Leno, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Loni Hancock, Chair
Senator Joel Anderson
Senator Lois Wolk

OUTCOMES

Thursday, May 26, 2011
9:30 a.m.
Room 113

Consultant: Keely Martin Bosler

Corrections, Public Safety and the Judiciary

Vote Only Agenda

California Department of Corrections and Rehabilitation

1. Contract Bed Funding Budget Bill Items and Language

Action. Adopted the following MR proposal:

Item 5225-006-0001
Provisions:
1. The Director of Finance shall reduce this Item by $179,354,000, to reflect the portion of realignment savings to be achieved through the reduction or elimination of contracts with private entities for out-of-state housing of state inmates. No other item of appropriation may be used to pay for the costs of such contracts.

Item 5225-007-0001
Provisions:
1. The Director of Finance shall reduce this Item by $77,406,000, to reflect the portion of realignment savings to be achieved through the reduction or elimination of contracts with private entities for in-state housing of state inmates. No other item of appropriation may be used to pay for the costs of such contracts.

Vote. 2-1 (Anderson)

2. CDCR Population Adjustment

Action. Reduced CDCR's population adjustment by $21.4 million below the Governor’s May Revision proposal.

Vote. 3-0

3. Unfunded Position Authority Reduction

Action. Approved the May Revision request to reduce 1.019.7 the positions.

Vote. 3-0

4. Juvenile Parole Realignment—Technical Clean Up

Action. Approved May Revision technical trailer bill language.

Vote. 3-0

5. CDCR Capital Outlay Reappropriations

Action. Approved April Finance Letter request on CMC and CTF.

Vote. 2-1

6. CDCR Capital Outlay Proposal Withdrawals

Action. Approved May Revision proposal to delays capital outlay projects given current fiscal conditions.

Vote. 3-0

7. Condemned Inmate Complex – San Quentin

Action. Adopted the Administration's May Revise proposal to cover the costs associated with terminating the San Quentin Condemned Inmate Complex project.

Vote. 3-0

California Prison Health Care Services

1. Medical Parole

Action. Adopted budget bill language with modifications.

Vote. 2-1 (Anderson)

2. Recovery of Overpayments to Medical Providers

Action. Approved May Revision trailer bill language, but require reporting to the Legislature on the amounts collected and any appropriation augmentations made to the Receiver’s budget to offset expenditures.

Vote. 3-0

3. Medi-Cal Reimbursements

Action. Approve May Revision placeholder trailer bill language.

Vote 3-0

4. Medication Management

Action.

- Approved this budget request.
- Approved supplemental report language that requests that the Receiver report on the savings attributed to the LVN resources hired over the past two years, by prison.

Vote. 3-0

0552 Office of the Inspector General

1. Workload Reduction and Reorganization

Action. Rejected the Governor's proposal, but approved the following to streamline the OIG's mission and reduce the OIG's budget by $5.6 million in 2012-13 (this will be a lesser amount in the budget year):

1. Reduced special reviews, investigations, and intake by $2.9 million – cutting the program by more than one-half.
2. Reduced administration by $1.9 million.
3. Reduced warden vetting and specifically the follow-up audits by $750,000.
4. Converted 26 positions currently classified as peace officers to non-peace officer classifications and added budget bill language that allows the OIG to provide subsequent justification for continuing a limited number of peace officer positions at the department.
5. Approved placeholder trailer bill language to reduce the scope of the OIG's review and audit authority

This action would maintain medical inspections, reduced warden vetting, the C-ROB, and a significantly reduced special review capability at OIG.

Vote. 3-0

Public Safety Realignment

Action.

- Removed $40.5 million related to public safety mandates and peace officer training and corrections training activities.
- Approved revised court security costs.
- Approved revised local public safety grant funding.
- Approved revised methodology for funding low-level offenders and parole violators.

Vote. 2-1 (Anderson)

5225 California Department of Corrections and Rehabilitation

1. Realignment Savings in CDCR

Action.

- Approved technical adjustment to CDCR's budget and the realignment item to consistently reflect realignment savings.
- Approved supplemental report language to ensure quarterly reporting on actions and savings related to realignment for the 2011-12 budget year.
- Approved placeholder budget bill language to guide the department's position reductions so that they avoid taking down additional rehabilitation positions in the institutions beyond what has already been reduced.
- Restored $49 million to continue contracts for services in the community that are set to be cancelled as part of the $150 million unallocated rehabilitation reduction approved earlier this year. This funding should go to restore the following activities slated for elimination by the department until these contracts can be appropriately transitioned to the counties:
  - Existing residential multi-service center contracts - $4.5 million
  - Other Substance Abuse Services Coordination Agencies Contracts, Sober Living and Out-Patient Services, Parolee Service Network, Bay Area Services Network, and Other Remedial Sanction Contracts ($44.5 million).
- Approved budget bill language to require data collection and performance metrics be a part of renewed rehabilitation contracts and the department's efficacy review of these programming contracts to determine the most effective models for achieving parolee success should not be discontinued.

Vote. 2-1 (Anderson)

2. Corrections Workforce Cap

Staff Recommendation.

- Reduced the workforce cap calculation and approve the control section with modifications that require CDCR to meet this lower target related to workforce cap savings.
- Approved supplemental report language to ensure quarterly reporting on actions and savings related to the workforce cap for the 2011-12 budget year.

Vote. 2-1 (Anderson)

3. Board of Parole Hearings

Action.

- Approved the proposal to reduce the Board of Parole Hearings.

Vote. 2-1 (Anderson)

4. Structural Shortfall

Action. Approved $102.8 million, which accounts for a reduction of $14.3 million to the amount requested for legal services and $17.3 million of the amount requested for swing space. Overall this will provide CDCR with $348 million in 2011-12 to address its structural shortfall.

Vote. 3-0

5. California Community Corrections Performance Incentive Act of 2009

Action. Adopted the Administration's May Revision proposal to meet the funding requirements of SB 678 and adopt placeholder clean-up trailer bill language.

Vote. 3-0

6. Corrections Standards Authority

Action:

- Approved placeholder trailer bill language to establish a new Board of State and Community Corrections separate from CDCR that will help guide the state and local governments through realignment, provide ongoing leadership in the area of criminal justice policy and, in collaboration with the existing efforts of the Administrative Office of the Courts relating to SB 678, develop data and information related to the implementation of outcome-based measures and evidence-based practices with regard to realignment and other community correction efforts.
- Approved the Governor’s May Revision proposal to eliminate the Office of Gang and Youth Violence Prevention and the California Council on Criminal Justice and transfer any related functions to a new Board of State and Community Corrections.
- Approved the $275,000 for CSA (new Board) to continue to review the juvenile justice plans.

Vote. 2-1 (Anderson)

8. Armstrong Sign Language Interpreters

Action. Approved this request.

Vote. 3-0

9. San Quentin Condemned Extended EOP

Action.

- Approved $445,000 and 4.3 positions to reflect lower estimate of EOP condemned inmate population.
- Reduced by $54,000 and 0.6 positions to reflect technical error in security coverage costing.

Vote. 2-1 (Wolk)

10. CIW CTC Activation

Action. Approved the accreditation resources related to this proposal at a reduced amount of $730,000.

Vote. 2-1 (Wolk)

CALIFORNIA LEGISLATURE
State Capitol
Sacramento, California
95814

**** JOINT HEARING

Senate Committee on Public Safety and
Senate Budget and Fiscal Review Subcommittee No. 5 on
Corrections, Public Safety and the Judiciary

Thursday, June 9, 2011, 9 a.m.
John L. Burton Hearing Room (4203)

AGENDA

Improving Public Safety and Cutting Correctional Costs: National Trends

I. Welcome and Introduction

- ***Senator Loni Hancock***, Chair, Senate Committee on Public Safety; Senate Budget and Fiscal Review Subcommittee No. 5 on Corrections, Public Safety and the Judiciary
- ***Senator Joel Anderson***, Vice Chair, Senate Committee on Public Safety

II. Improving Public Safety and Cutting Corrections Costs: National Trends

- ***Adam Gelb***
  Director, Public Safety Performance Project
  The Pew Center on the States

Mr. Gelb will review the Pew Center on the States' April 2011 report, "State of Recidivism: The Revolving Door of America's Prisons," and how the data and information in that report can inform California's criminal justice and correctional policies, practices, and reforms.
Mr. Gelb directs the Public Safety Performance Project, which helps states advance fiscally sound, data-driven sentencing and corrections policies that protect public safety, hold offenders accountable and control corrections costs. A former reporter at the Atlanta Journal-Constitution, he served as professional staff to the U.S. Senate Judiciary Committee, policy

director for the Lt. Governor of Maryland, and was recently executive director of the Georgia Sentencing Commission.

III. Public Comment