Senate Budget and Fiscal Review

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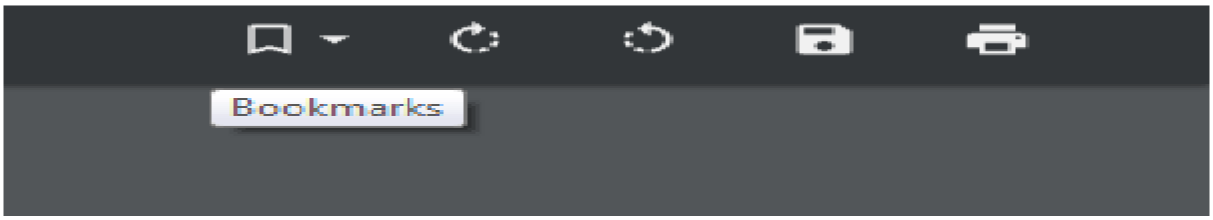

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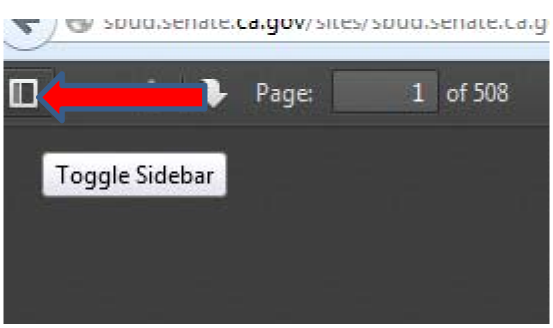

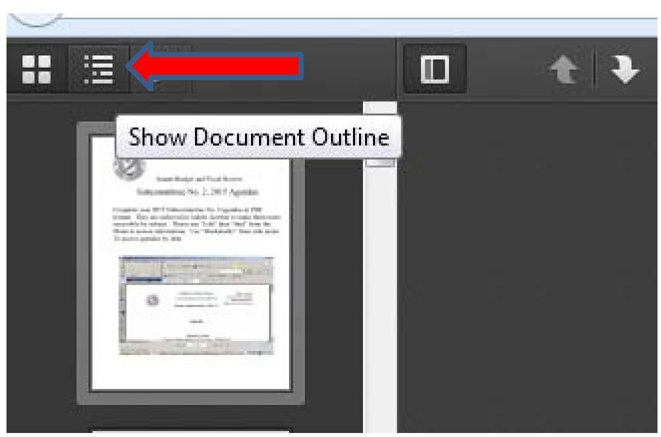

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Scott Wilk
Senator Dave Cortese
Senator Josh Newman

Thursday, February 4, 2021
10 a.m. or upon adjournment of Session
State Capitol - Room 3191

Consultant: Christopher Francis, Ph.D.

Public Comment

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ITEMS TO BE HEARD

VARIOUS DEPARTMENTS

Issue 1: COVID-19 Direct Spending

Governor's Budget. The Administration proposes $1.8 billion one-time General Fund in fiscal year 2021-22 for various departments related to the estimated direct response expenditure costs to continue responding to and mitigating the impacts of the COVID-19 Pandemic. In addition, it is requested that budget bill language be added to address the remaining uncertainties as the state continues its response to the COVID-19 Pandemic. Specific to the public safety and corrections areas, two department proposals are included:

Department	Amount Requested	Purpose
CDCR	$281.3 million General Fund	To continue the CDCR and the California Correctional Health Care Services' (CCHCS) efforts to treat COVID-19, and minimize exposure to inmates and staff. The funding will be utilized to test the department's employees and incarcerated individuals; administer medical treatment, medications, and vaccines; prepare for medical surges; and to procure a supply of PPE. The funding is as follows: • $108.6 million will primarily be used for tent and equipment rental contracts, custody overtime, cleaning, and purchasing of PPE. • $172.7 million will be used by CCHCS funding is mainly for inmate and staff testing, medical staffing registry and overtime, medical treatment, and purchasing PPE.
Board of State and Community Corrections (BSCC)	$12.1 million General Fund	To support county probation departments with the increased numbers of individuals released from state prison on to Post-Release Community Supervision (PRCS) to reduce institution populations in response to the pandemic. These individuals fall into several categories, including eligible inmates with 180 days or less to serve on their sentence and individuals determined to be medically "high-risk". This request is for the six-month period between July 1, 2021 and December 31, 2021.

Background. On March 24, 2020, the Governor issued Executive Order N-36-20, to mitigate the spread of COVID-19 in the state's adult institutions by stopping intake for 30 days, which was subsequently extended to 60 days. In addition, CDCR initiated the release of inmates who were within 60 days of release at the beginning of April 2020, and who were not serving a current term for domestic violence, a violent felony, or required to register as a sex offender. These actions have contributed to a significant decline in the prison population. Beginning July 1, 2020, CDCR implemented a community supervision program to enable CDCR to increase physical distancing as well as limit the introduction and spread of COVID-19 within its facilities. Inmates are eligible if they are within 180 days of release; are not serving a current term for domestic violence, a violent crime, or are required to register as a sex offender; and do not have a risk assessment score that indicates a high risk for violence. About two-thirds of these incarcerated people were released to Post Release Community Supervision (county probation) and one-third were released to state parole. CDCR continues to release eligible inmates within 180 days of their natural release. CDCR also previously reviewed and released people deemed at high risk for COVID-19 as part of case-by-case reviews. Similar reviews are ongoing with a focus on determinately sentenced cases within 12 months of release. Additionally, on July 9, 2020, CDCR applied a one-time 12-week positive programming credit to all eligible inmates to recognize the impact the COVID-19 Pandemic has had on inmates’ access to programs and credit earnings.

Adult Institution Population. The adult inmate average daily population is projected to decrease by 20 percent from 122,536 in spring 2020 to 97,750 in 2021-22. The overall current projections, show that the adult inmate population is trending downward and is expected to decrease by another 2,626 incarcerated people between 2019-20 and 2020-21.

Parolee Population. The average daily parolee population is projected to decrease by four percent from 47,929 in spring 2020 to 45,924 in 2021-22.

LAO Assessment. Withhold Action on Funding for COVID-19 Related Releases. The Governor proposes $12.1 million (General Fund) one-time for county probation workload caused by COVID-19 related releases of state prison inmates. Because there is significant uncertainty that these releases will continue in 2021-22, the LAO recommends withholding action until there is greater clarity on the need for this funding.

Staff Recommendation. Hold open.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

Issue 2: COVID-19 Workers’ Compensation-- SB 1159 (Hill), Chapter 85, Statutes of 2020

Governor’s Budget. The budget includes $51 million General Fund in 2021-22, $59.9 million General Fund in 2022-23, $68.7 million General Fund in 2023-24, and $77.6 million General Fund in 2024-25, and 27.0 limited-term positions for workers’ compensation costs related to COVID-19. This request also includes Budget Bill Language to provide augmentation authority related to costs associated with SB 1159.

“ Item 5225-005-0001

1. The funds appropriated in this item shall be used only to support workers’ compensation claims pursuant to Chapter 85, Statutes of 2020 (Senate Bill 1159). Upon approval of the Department of Finance, the amount available for expenditure in this item may be augmented for necessary workers’

compensation expenditures. Any augmentation shall be authorized not sooner than 30 days after notification in writing to the chairperson of the Joint Legislative Budget Committee. Any unspent funds at the end of the 2021-22 fiscal year shall revert to the General Fund. Notwithstanding Section 26.00, the funds appropriated in this item may be transferred between schedules. Any transfer requires the prior approval of the Department of Finance."

Background. SB 1159 re-defines "injury" for an employee to include illness or death resulting from the 2019 novel coronavirus disease (COVID-19) under specified circumstances, until January 1, 2023. The bill creates a rebuttable presumption, until January 1, 2023, that an employee's illness or death resulting from the 2019 novel coronavirus disease (COVID-19), arose out of and in the course of employment and is compensable under workers' compensation if the employee is a specified front-line employee, or if the place of employment experiences an outbreak of COVID-19. The trigger for the presumption is either a positive test for COVID-19 or a doctor's diagnosis of COVID19, followed up by a positive COVID-19 test within 30 days of the initial diagnosis.

SB 1159 also makes a claim relating to a COVID-19 illness presumptively compensable after 30 or 45 days, rather than 90 days, which means the claim is presumed to be work-related unless evidence is presented to the contrary within the first 30 or 45 days. This means, that unless CDCR or CCHCS can prove within 30 or 45 days an employee did not become infected with COVID-19 while on the job, the employee would be eligible for workers' compensation benefits. SB 1159, Section 3212.88, which creates a requirement for CDCR to report to State Fund data relevant to whether an outbreak of COVID-19 has occurred in a particular CDCR work location.

Between CDCR and CCHCS, there are several entities which facilitate and monitor workers' compensation claims, including Legal Affairs and Human Resources offices. All worker's compensation claims are processed by CDCR and return-to-work functions are processed by both CDCR and CCHCS for respective employees.

As of December 14, 2020, CDCR has reported 1,951 COVID-19 workers' compensation claims to the State's claims administrator, the State Compensation Insurance Fund (State Fund). This equates to about 56 COVID-19 claims per each of the 35 adult institutions or about 217 COVID-19 claims per month system-wide. The quantity of COVID-19 specific claims have increased the number of workers' compensation claims processed by CDCR, which typically averages approximately 1,000 new claims per month statewide. Claims for COVID-19 require Return to Work Coordinators (RTWC) to gather a substantial amount of background evidence within a shortened timeframe to provide to State Fund, in order for State Fund to make an informed compensability (accept/deny) decision on each COVID-19 claim. The referenced timeline has been shortened to a 30 or 45 day requirement per the language in SB 1159, whereas previously a 90-day timeline was used. The increase in cases as a result of COVID-19 as well as the shortened timelines has exacerbated workload at RTWC offices which process these claims.

CDCR Justification for resources. CDCR anticipates submitting approximately 2,250 claims for COVID-19 each fiscal year for 2020-21 and 2021-22, and 1,100 claims for the partial fiscal year 2022-23, for a total of 5,500 COVID-19 claims through the applicable reporting period under SB 1159. This assumption is based on the average number of COVID-19 claims continuing annually, with a slight reduction based on increased awareness and access to protective measures, and potential vaccine distribution. Based on current reporting and COVID-19 claims acceptance rates, CDCR anticipates approximately 95 percent of future COVID-19 claims submitted to State Fund will be accepted.

In total for claims costs, CDCR projects between $47.6 million and $74.2 million will be paid out for the above referenced cases annually. Included in the projected annual costs are medical costs and fees, projected to total $24.1 million, as well as $6.0 million for Death Benefits each year. Additionally, there are other costs associated with each claim, such as temporary disability, industrial disability liability, discovery/deposition costs, and other legal expenses, which are projected to total $7.9 million annually.

Staff Recommendation. Hold open.

Issue 3: Closure of Deuel Vocational Institute (DVI)

Governor's Budget. The budget includes a reduction of $95.4 million and 660.9 positions General Fund and $390,000 and 4.6 positions Inmate Welfare Fund in 2021-22 and $126.4 million and 871.6 positions General Fund and $517,000 and six positions Inmate Welfare Fund in 2022-23 and ongoing to reflect the closure of DVI.

Background. The Budget Act of 2018 included statutory changes, outlined in Penal Code section 2067, which identified a variety of factors CDCR must consider for its prison closure plans.

(a) As outlined in the Budget Act of 2018, it is anticipated that all California inmates will be returned from out-of-state contract correctional facilities by February 2019. To the extent that the adult offender population continues to decline, the Department of Corrections and Rehabilitation shall begin reducing private in-state male contract correctional facilities in a manner that maintains sufficient flexibility to comply with the federal court order to maintain the prison population at or below 137.5 percent of design capacity. The private in-state male contract correctional facilities that are primarily staffed by non-Department of Corrections and Rehabilitation personnel shall be prioritized for reduction over other in-state contract correctional facilities.

(b) As the population of offenders in private in-state male contract correctional facilities identified in subdivision (a) is reduced, and to the extent that the adult offender population continues to decline, the Department of Corrections and Rehabilitation shall accommodate the projected population decline by reducing the capacity of state-owned and operated prisons or in-state leased or contract correctional facilities, in a manner that maximizes long-term state facility savings, leverages long-term investments, and maintains sufficient flexibility to comply with the federal court order to maintain the prison population at or below 137.5 percent of design capacity. In reducing this additional capacity, the department shall take into consideration the following factors, including, but not limited to:

(1) The cost to operate at the capacity.
(2) Workforce impacts.
(3) Subpopulation and gender-specific housing needs.
(4) Long-term investment in state-owned and operated correctional facilities, including previous investments.
(5) Public safety and rehabilitation.
(6) The durability of the state's solution to prison overcrowding.

The prison population has decreased significantly over the last several years due to various reforms and other public safety measures—including expedited releases related to COVID-19. As a result, the 2020

Budget Act outlined the closure of two prisons within the next three years. The adult inmate average daily population is projected to decrease by 20 percent from 122,536 in spring 2020 to 97,750 in 2021-22. The overall current projections, show that the adult inmate population is trending downward and is expected to decrease by another 2,626 incarcerated people between 2019-20 and 2020-21. DVI has been identified for closure during the 2021-22 fiscal year pursuant to the above factors.

- ***Details of main proposed reductions. Custody Staffing:*** $54.4 million General Fund and 360.8 custody positions to reflect the closure of all housing units within DVI, effective October 1, 2021. The 2022-23 reduction increases to $72.6 million General Fund and 479.5 positions.
- ***Non-Custody Staffing:*** $34.2 million General Fund and 289.3 positions and $390,000 Inmate Welfare Fund and 4.6 positions to reflect the reduction of CDCR and CCHCS non-custody staffing directly supporting DVI, effective October 1, 2021. The 2022-23 reduction increases to $45.1 million General Fund and 378.1 positions and $517,000 Inmate Welfare Fund and six positions.
- ***Operating Expenses and Equipment:*** $3.8 million General Fund to reflect the elimination of Operating Expenses and Equipment costs related to institution operations. The 2022-23 reduction increases to $5.1 million General Fund.
- ***Facility Maintenance Funding:*** $1.6 million General Fund for facility maintenance funding to reflect the elimination of approximately 1.2 million square feet of space. The 2022-23 reduction increases to $2.1 million General Fund.
- ***Division of Rehabilitative Programs:*** $3 million General Fund and 20.1 positions for rehabilitative programs.

Additional Costs and Realignments:

- ***Warm Shutdown:*** $1.6 million General Fund and 9.3 positions to support the warm shutdown of DVI until disposition of the property is determined. This amount increases to $2.2 million and 12 positions in 2022-23.
- ***Division of Rehabilitative Programs:*** This request retains and realigns $0.5 million General Fund and 3 positions to support academic and career and vocational programs at other institutions. Specifically, two teachers and one vocational instructor (auto body and fender repair) will be relocated to other institutions along with funding to support 162 academic and 27 Career Technical Education vocational daily slots. The positions and dollars are already included in CDCR's budget, therefore no adjustment is needed.
- ***Medical Guarding Unit:*** The redirection of responsibility for the Medical Guarding Unit located at the San Joaquin General Hospital from DVI to the California Health Care Facility. Net zero adjustment totaling approximately $10.1 million General Fund and 68.9 positions.
- ***Transportation:*** The relocation of the Northern Transportation hub functions to another institution. Costs and location to be determined.
- ***Equipment Disposition and Site Preparation:*** Unknown, one-time cost for movement of vehicles, equipment, supplies, and other non-permanent or semi-permanent items (medical and non-medical) to other institutions, as needed. Unknown, one-time costs for disposal

LAO Assessments. State Could Close Up to Five Prisons. Given that the prison population is projected to decline by a couple tens of thousands of inmates over the next few years, the administration plans to close the Deuel Vocational Institution (DVI) in Tracy by September 30, 2021 and a second, unnamed, prison in 2022-23. The LAO finds the state would likely be able to close three additional prisons by 2024-25.

Plan Needed on Disposition of Closed Prisons. The disposition of the prisons to be closed is currently unclear. Given the need to provide maintenance and security resources while prisons are closed, it is important for the state to have a long-term plan for each closed prison. Accordingly, the LAO recommend the Legislature require CDCR to report on what options it is considering for the ultimate disposition of the two prisons it plans to close.

Staff Recommendation. Hold Open.

Issue 4: Correctional Staff Training and Job Shadowing

Governor's Budget. The budget includes $19.9 million General Fund and 59 positions in 2021-22, $16.2 million General Fund in 2022-23, $23.2 million General Fund in 2023-24 $14.7 million General Fund in 2024-25 and ongoing to improve departmental training of institution-based custody staff. The budget also includes trailer bill language containing statutory changes to implement the proposal.
Background. CDCR operates a 13 week Basic Correctional Officer Academy (BCOA) at the Richard A. McGee Correctional Training Center in Galt. At the academy, cadets learn the basic practices of a correctional officer—such as how to search inmate property—in a largely classroom-based setting. Afterward, graduates are assigned to prisons and begin work as correctional officers.

In practice, after graduation from the BCOA and completion of a one-week new employee orientation, new officers are immediately assigned to an independent post and are expected to perform at the level of an experienced Correctional Officer (CO). They learn local policy through trial and error experiences while relying upon informal assistance from other staff who are often new themselves. Moreover, the current BCOA lacks reality-based trainings necessary to carry out essential daily functions, such as communicating effectively with inmates, methods for encouraging programming compliance, operating a control booth, transporting an inmate, and adhering to court and medical compliance mandates.

These new officers are prone to mistakes, and can over-or under-react to inmate behavior. This is a safety and security risk to inmates and staff, and can lead to unnecessary stress, poor morale, staff complaints, compliance issues, discipline issues, litigation, and unnecessary use of force. Historically, new COs fill some of the more high-risk posts through the post-and-bid process as senior officers tend to forego jobs with a higher incident or staff injury rate.

Following graduation from the BCOA, COs participate in the CO Apprenticeship Program (AP), which administers operational procedures and standards for the entry-level CO apprentices, integrates high quality related supplemental instruction, and provides professional competence through structured on-the-job training in a variety of work assignments. The AP is facilitated through the in-service training (IST) office and the IST Sergeant is required to track and reconcile apprentice timesheets, work with new officers to ensure completion of identified work process hours, monitor the rotation of posts for apprentices, coordinate apprentice appeals/grievances, provide supervision and feedback to new staff, and evaluate new staff performance. These AP duties are in addition to all other training and tracking responsibilities, which include providing the rotating weeklong, annual off-post training, on-the-job training, and any other ongoing institutional training needs.

The Commission on Correctional Peace Officer Standards and Training (CPOST). CPOST is statutorily responsible for developing, approving, and monitoring standards for the selection and training of correctional officers and supervisory staff, as well as monitoring and validating CDCR's design and delivery of staff training. CPOST is comprised of six members, three appointed by CDCR to represent the department's management and three appointed by the Governor to represent the members of the California Correctional Peace Officers' Association (the union representing CDCR correctional staff). Per Penal Code 13601, subdivisions (d) – (h), CPOST is responsible for establishing training standards and reviewing existing training for advanced rank-and-file and supervisory classifications. The CPOST must also monitor validation studies and the delivery of such supervisory/leadership courses and provide leadership and oversight of existing CPOST staff to direct the work needed to develop training standards and audit existing training. This type of high-level decision-making and oversight is inappropriate for rank-and-file and lower supervisory classifications because they lack both experience and authority.

Proposal Details. The CDCR is requesting to convert the Northern California Women's Facility (NCWF), a formerly operational institution closed in 2003, into an advanced departmental training facility, implement a four-week job shadowing and New Employee Orientation program for newly graduated cadets. The Governor's budget proposal includes the following:

a) ***Re-Activation of Closed Facility for Hands-On Training ($9 Million in 2021-22).*** Under the Governor's proposal, CDCR would convert a former prison located in Stockton into a facility to provide hands-on training to cadets on topics such as transportation of inmates, contraband surveillance, and escape prevention. The CDCR will use NCWF to provide a hands-on, reality-based training during the BCOA for new COs—essentially expanding the BCOA. Year one costs include hiring of staff and establishment of the reality-based training classes; year two costs include plan development for the electrical work and facility repair as well as IT infrastructure requirements; and year three costs include the necessary facility work and code upgrades to open all sections of NCWF for training.

b) ***Job Shadowing Program for New Correctional Officers ($11.7 Million in 2021-22 and ongoing).*** As a part of the proposed training plan, after graduation from the BCOA and upon arrival at their assigned institutions, new COs will enter a transitional phase where they will learn job-specific procedures through a formalized training program. The training includes New Employee Orientation, which currently exists as a one-week program, and new job shadowing phase with experienced COs and staff for an additional three weeks. The highly structured four-week orientation will pair new COs with experienced COs on a variety of post assignments, preparing new officers to assume these posts independently after orientation.

The Governor's budget provides 1) $6.2 million in additional funding is required to backfill CO posts and ensure guarding coverage since the new COs will undergo additional three weeks in training and 2) $5.5 million to support 33 correctional sergeant positions (one per prison). These sergeants would coordinate the new job shadowing program and perform various other duties related to staff training that the department indicates have grown in recent years beyond a level that can be accommodated by existing staff.

c) ***Additional CPOST Staff ($492,000 in 2021-22).*** The Governor's budget provides $492,000 in 2021-22 (decreasing to $430,000 annually beginning in 2022-23) for CPOST for additional managerial and supervisory positions to provide oversight to custody and non-custody staff, relieving the Executive Director of daily supervisory duties such as assigning and delegating workload; setting priorities; and training, developing, and evaluating staff.

Positions	FY21 Current Year	FY21 Budget Year	FY21 BY+1	FY21 BY+2	FY21 BY+3	FY21 BY+4
5393 - Assoc Govtl Program Analyst (Eff. 07-01-2021)	0.0	1.0	1.0	1.0	1.0	1.0
6713 - Stationary Engr - CF (Eff. 07-01-2021)	0.0	1.0	1.0	1.0	1.0	1.0
6940 - Maint Mechanic (Eff. 07-01-2021)	0.0	1.0	1.0	1.0	1.0	1.0
9646 - Capt (Adult Institution) (Eff. 07-01-2021)	0.0	2.0	2.0	2.0	2.0	2.0
9656 - Corr Lieut (Eff. 07-01-2021)	0.0	1.0	1.0	1.0	1.0	1.0
9659 - Corr Sgt (Eff. 07-01-2021)	0.0	53.0	53.0	53.0	53.0	53.0
OT00 - Overtime (Eff. 07-01-2021)	0.0	0.0	0.0	0.0	0.0	0.0
Total Positions	**0.0**	**59.0**	**59.0**	**59.0**	**59.0**	**59.0**

Staff Recommendation. Hold Open.

Issue 5: Technology for Inmates Participating in Academic Programs

Governor's Budget. The budget includes $23.2 million General Fund and 43.0 positions in 2021-22, and $18.4 million General Fund and 38.0 positions in 2022-23 and ongoing to create a cloud network for rehabilitative programming support and deploy approximately 37,000 Thin Client laptops to enhance efficiency in providing rehabilitative programming.

Background. Under current state law, CDCR is required to improve literacy and educational attainment. Improving literacy and educational attainment is important because research shows that education programs, when appropriately implemented, are a cost-effective method of reducing recidivism. Moreover, it is often necessary for the incarcerated to improve their literacy in order to be able to effectively participate in other rehabilitation programs while in prison, such as vocational or cognitive behavioral therapy programs.

CDCR Provides Both Classroom- and Non-classroom-Based Education. The 2019 Budget Act provided about $172 million (mostly from the General Fund) to CDCR for various academic education programs. Most of this funding is used to support classroom based education. However, the department has also taken steps to provide educational opportunities outside of traditional classroom instruction. For example, the department operates the Voluntary Education Program, which is designed to supplement classroom-based education or to provide access to education when a classroom-based option is not available. Instructors in this program work with incarcerated students offering in-person support at least twice a week. In addition, CDCR provides technology-based education such as computer software designed to help the incarcerated prepare for the high school equivalency exam, as well as peer mentors to help the incarcerated develop basic literacy skills.

Current Issues. According to the CDCR, there are several barriers to expanding programming to incarcerated people interested in programming. One barrier to providing more programming is physical space limitations within the institutions. Managing space between academic education, vocational education, substance use disorder treatment programs, and other cognitive behavioral interventions, activity groups, mental health groups, and California Prison Industry Authority activities continues to remain a challenge.

Another challenge concerns the necessary educational staff to efficiently provide programming. Many institutions are in remote locations. Highly specialized teachers or college professors may not be able to make the significant travel commitments, or work the needed alternate-schedule hours required to teach programs in prison. As an example, many current face-to-face college instructors are required to drive 1-2 hours to reach remote institution locations to teach college. This often limits CDCR's ability to attract college professors to travel or teach, especially because they are not reimbursed by CDCR.

Additionally, as incarcerated people have access to more programs and educational opportunities throughout the day, they require additional flexibility in their schedule for studying and completing program assignments, or potentially working part-time. Limited downtime is available if an incarcerated people attends morning classroom instruction, early afternoon cognitive behavioral interventions, and works part-time in the afternoon/early evening. Students will need flexibility in non-core hours to finish in-class work, study, research, and/or write papers away from the traditional classroom.

Proposal Details according to CDCR. CDCR requests funding to provide a total of 37,000 "thin" client laptops at $300 per laptop and an academic cloud network to support programming, while leveraging current technology, to better prepare incarcerated people for release. Thin client laptops are simple computers with little to no software residing on the local hard drive. Most or all content is accessible only through a private and secure cloud network. An academic cloud network is an online portal where students are able to access educational material in a formal academic environment/classroom and download applicable information. Thin client laptops may be checked out to continue the incarcerated people's education outside of the formal classroom setting. This check out system will allow incarcerated people to continue engaging in rehabilitation outside of the classroom and inside of the dayroom or in their dormitory or cell.

Education and rehabilitative services that would be available on the laptops include adult literacy instruction, high school equivalency, college, and cognitive behavioral interventions, including substance use disorder treatment and education. Although not a part of this funding request, CDCR anticipates that career technical education programs will also be available on the cloud network as part of a holistic application of technology for the incarcerated person. This technology intends to supplement face-to-face instruction, providing educational programming beyond physical classrooms and expanding opportunities for learning and rehabilitation. The program will leverage wireless services for the following purposes:

- Supplement face-to-face instruction and educational materials and provide access to programs beyond physical classrooms.
- Students enrolled in academic education programs will check out laptops to support their programming and access support services in an electronic Learning Management System. Students will be able to download needed information from the academic cloud network while in an academic setting to later utilize on their thin client laptop during non-classroom hours in the dayroom or in their dormitory or cell.
- Migration from desktop computers to laptop computers (where appropriate), will allow for learning outside the classroom and increases the flexibility of existing facility space. All existing computer labs would eventually migrate to portable laptop devices, creating more traditional spaces for other rehabilitative uses during non-school hours.
- CDCR plans to use current video conferencing equipment in classrooms to extend instructors' reach to more students, potentially allowing them to teach in multiple classrooms statewide at

one time, while having the assistance of an in-classroom facilitator to assist students with the material.
- Deliver self-driven digital learning tools, such as electronic books and media.
- The requested technology infrastructure will provide students with the capability to access their completed program work, along with current program materials, from any designated wireless area and from alternate institutions in case of transfer. A student losing completed program content when they transfer inhibits their ability to show employers evidence of work they completed while incarcerated.
- This proposal allows incarcerated people the opportunity to extend their educational hours through effective self-study in instructional libraries and their dormitory or cell. The ability to study during third watch, weekends, and institution lockdowns, will increase the speed of educational progress, allowing for earlier educational advancement and more program seats to be available to incarcerated people on waiting lists.
- CDCR also plans to leverage the capability to provide access to job resources through the Prison to Employment initiative and DRP's Automated Rehabilitation Catalog and Information Discovery system.

Staff Recommendation. Hold open.

Issue 6: Cellular Interdiction Program

Governor's Budget. The budget includes $1.8 million General Fund in 202122 and ongoing to maintain the existing Managed Access System (MAS) at 18 institutions.

Background. CDCR proposes to continue use of the existing MAS implementation at 18 institutions which requires entering into a new contract. The MAS solution prevents the cell phone from connecting to cellular service effectively neutralizing communication capabilities inside the prison. Numerous investigations have shown contraband cell phones are a critical factor enabling the successful introduction of contraband into institutions and the continuing operations of criminal contraband distribution networks. It is expected that the disruption of contraband cell phone communications will interfere with these distribution channels. The following table represents data of major drug and contraband discoveries over the past three years.

Table 1: CDCR Major Drug and Contraband Discoveries

	2017	**2018**	**2019**
Cell Phones	16,175	16,091	13,450
Heroin (lbs)	30.5	34.8	37.5
Marijuana (lbs)	104.9	147.7	73.3
Methamphetamine (lbs)	45.4	51.3	54.0
Tobacco (lbs)	730.1	649.5	481.2

Staff Recommendation. Hold open.

Issue 7: Increased Canteen Resources and Healthy Menu Options

Governor's Budget. The budget includes two proposals dedicated to the well-being and health of incarcerated people:

Title	**Amount and Purpose**
Increased Canteen Resources	$2 million Inmate Welfare Fund (IWF) and 7.0 positions in 2021-22 and $1.8 million IWF and 7.0 positions in 2022-23 and ongoing to meet growing demand for canteen items and provide increased and equal access to canteen for the incarcerated population.
Increased Healthy Menu Options	Increase the statewide feeding rate by $0.22, per inmate per day for food and supplies to update the food menu for all inmates to provide healthy food options consistent with the *2015-2020 Dietary Guidelines for Americans*. In future years, funding for this proposal would be made through the standard unallocated population adjustment, which is currently estimated at approximately $7.5 million annually.

Background. ***Increased Canteen Resources.*** The IWF was created in section 5006 of the California Penal Code and is considered a trust held by the Secretary of CDCR for the benefit and welfare of inmates under the jurisdiction of CDCR. Section 5005 authorizes CDCR to establish and maintain prison canteens for sale of toiletries, candy, canned goods, notions and other sundries to inmates. It also states, "The sale prices of the articles offered for sale shall be fixed by the Director at the amounts that will, as far as possible, render each canteen self-supporting." Canteens operate in all 35 correctional institutions and provide the IWF's primary source of revenue. Any funds not required for the operation of the fund provide benefits for the inmates. These benefits include, but are not limited to, the purchase of publications, rental of movies, support of family visiting, recreational programs, photo program activities and work opportunities for inmates.

Canteens have increasingly become a resource for the delivery of programs which benefit inmates. In collaboration with the California Correctional Health Care System (CCHCS), the canteens are now the distribution point for over-the-counter (OTC) medications; a program piloted in 2014 and rolled out to all institutions in 2016. Canteens also added the distribution of reading glasses beginning September 2019. A third program offers healthier canteen food choices.

Due to varying designs and missions of institutions, the number of canteens and canteen operations at each location vary. Open-line (walk-up) service using pre-filled forms is available at 23 institutions. Partial bag-out service, which consists of inmate-workers filling pre-orders with canteen staff delivering them to housing units throughout the institution, is available at 12 institutions. Walk up canteen services are also available at those 12 institutions. Lockdowns, program shutdowns and/or isolations/quarantines prevent inmates from working in the canteen. As CDCR continues to expand its rehabilitative programming and inmates are eligible for lower security levels, inmate access to canteens is increasing.

With the implementation of Proposition 57, inmates are incentivized to participate in rehabilitative programs to reduce their sentence. When inmate participation in programming increases, inmates are moved into the highest privilege group.

The combination of a shortage of staff and an increase in workload has become problematic in several of institutions. CDCR's canteens are not performing effectively because of the increasing demand, enabled by more inmates in privilege groups with higher spending limits. This has led to increased wait times for inmates to purchase canteen items. Requested additional staff will allow CDCR to provide full service to the incarcerated population without closing the canteen to redirect staff to restock inventory during canteen operation hours, or pull staff from canteen sales and redirect to bag-out delivery. Additional positions will also alleviate the increased workload of canteen and warehouse. The position funding will allow some canteens to operate for extended hours creating increased access for inmates, regardless of their work/program schedule without increasing overtime or affecting weekday canteen services.

Increased Healthy Menu Options. CDCR is responsible for ensuring meals provided to inmates meet nutritional guidelines and promote better health. To meet the dietary guidelines, CDCR uses a standard menu for all institutions and facilities (with the exception of the California Health Care Facility [CHCF], which provides specific meals required for their unique medical mission). CDCR also accommodates religious and vegetarian dietary restrictions, as well as other special dietary needs, such as providing higher-calorie meals for inmates while serving in fire camps.

In recent years, CDCR has relied on high-calorie, shelf-stable foods which did not provide adequate nutritional benefits to the inmate population. The Centers for Disease Control notes it is common for people to gain weight upon incarceration, and obesity is more prevalent among people living in prison than the community.

Recognizing the need to provide a healthy menu to a population with specific health-related dietary needs, CDCR and CCHCS developed a new menu, as well as healthy diet education programs and healthy canteen food options. The new menu provides the necessary nutrients and quantity required to meet several nutritional guidelines and standards, including: Dietary Reference Intake; Recommended Daily Allowance; Dietary Guidelines for Americans; and the Healthy US-Style eating pattern, which is a healthy, nutrient-rich diet based on the types and proportions of foods Americans typically consume.

The new menu is based on the average age, height, and weight for inmates within CDCR, and the recommended daily caloric intake based on those factors:

Men: 40 years old, height 5 feet 9 inches, weight 197 pounds -requires 2,400 calories/day
Women: 38 years old, height 5 feet 4 inches, weight 183 pounds -requires 2,000 calories/day

The new menu for the general population is lower in sodium and fat, is diabetic-friendly, and provides a fresh variety of items. In addition to the updated regular menu, the CDCR provides a plant-based/common fare diet to all 35 institutions. All inmates are eligible for this diet by requesting it via the institution Community Resource Manager. The diet consists of vegetables, starches, fruits, but does not contain meat or meat byproducts. This menu option is cost neutral with the Healthy Menu and meets all the dietary requirements. Additionally, CDCR provides Kosher and Halal diets to inmates with religious dietary restrictions, which are more expensive than standard fare meals.

In 2018-19, prior to implementing the Healthy Menu, CDCR spent approximately \$3.52 per inmate per day for feeding, but was funded at \$3.18 per inmate per day. Improvements to create a healthier menu were implemented July 1, 2019 at a cost of \$3.78 per inmate per day in 2019-20, an increase of \$0.26 per inmate per day in comparison to \$3.52, the amount spent per inmate prior to the menu change. CDCR has absorbed the cost increase from the \$3.18 funded amount to the \$3.52 spent in 2018-19 by redirecting savings from other areas. This request would fund a rate increase of \$0.22 from \$3.18 to \$3.40 per inmate per day to provide a healthy menu that is compliant with 2015-2020 Dietary Guidelines for Americans.

Staff Recommendation. Hold open.

Issue 8: Receiver-Quality Management and Patient Safety

Governor's Budget. The budget includes \$4.0 million General Fund and 23.0 positions in fiscal year 2021-22, \$7.5 million General Fund and 45.0 positions in fiscal year 2022-23, and \$11.7 million General Fund and 75.0 positions in fiscal year 2023-24 and ongoing in order to expand the Quality Management System to better address patient safety risks.

Background. The Quality Management System at California Correctional Health Care Services (CCHCS) comprises two major interrelated programs: Quality Management (QM) and Patient Safety (PS).

The QM program continuously evaluates and improves performance of the health care delivery system by applying nationally-recognized principles, concepts, and models. Specifically, this program helps: establish strategic performance priorities, plans, and objectives; achieves strategic alignment between statewide policies and operationalization of those policies at individual institutions; organizes and manages priority improvement work through a quality committee structure; provides expertise and technical support for process redesign and change management techniques; maintains a performance evaluation program that includes the Health Care Services Dashboard, patient registries, data analytics, and health care informatics.

The PS program, established at the end of 2012, is responsible for identifying, redesigning, and improving health care processes that specifically may place patients at risk for serious or fatal harm. The PS program identifies problematic systems using data and information from performance evaluation reports, management tools, and self-reported health care incidents (e.g., near misses, sentinel events, or adverse medication events).

Staffing and responsibilities. In July 2014, CCHCS redirected health care staff within each of the 35 adult institutions to form a Quality Management Support Unit (QMSU) to support local implementation of the QM and PS programs. Later, in the 2015 Budget Act, CCHCS received additional QM positions as part of the *Quality Management Expansion* BCP. Presently, CCHCS has 179.5 authorized positions that support QM functions as part of their duties (not fully devoted to QM) at institutions and 74.0 authorized headquarters QM positions in support of the overall program.

Positions at the headquarters level define and manage the overall program, and work with statewide leaders in all major program areas to identify the most significant PS risks causing immediate harm to the patient population and implement statewide improvement initiatives to mitigate risks. In addition, headquarters staff triage individual Health Care Incident Reports submitted to headquarters and determine which incidents meet the criteria for RCA, and oversee the RCA process in accordance with criteria for thoroughness and credibility.

Independent Assessment of PS program. As part of an approach for identifying and resolving remaining issues in the *Plata* v. *Newsom* litigation, the Federal Receiver brought in experts from the University of California, San Francisco (UCSF) in order to conduct an independent assessment of the PS program and provide recommendations to bring CCHCS into alignment with broader health care industry and community best practices. Broadly defining PS as "freedom from accidental or preventable injuries produced by medical care", UCSF prepared 18 recommendations. According to CCHCS, current QMS staffing is not sufficient to effectively implement all of these recommendations to develop local PS programs.

COVID-19 Impacts. The QM BCP was withdrawn in FY 2020-2021 due to the severe impacts of the COVID-19 pandemic on daily operations and program functions, including those of the QM/PS Program. By the time COVID-19 reached patients and staff at institutions, significant staff resources were being diverted to crisis management activities to reduce the spread of the disease and as part of the COVID-19 response, many institutions suspended quality management planning, governance, and improvement project work. Root cause analyses stemming from sentinel events were delayed to allow institutions the bandwidth to respond to COVID-19; and those patient safety risks are going unaddressed while institutions face the more urgent risk to patients presented by COVID-19.

Workload justification. In a 2017 assessment of each institutions' QM and PS program (the most recent one) CCHCS determined that the current model of QMSU support yields an average of 56 percent adherence to statewide standards as described in the Health Care Department Operations Manual, Chapter 1, Article 2, Sections 1.2.3 through 1.2.7. This figure is 34 percentage points below the CCHCS established goal of 90 percent for a fully implemented QM System.

In April 2017, CCHCS implemented a web-based electronic Health Care Incident Reporting (eHCIR) System, which provided health care staff with a faster and more reliable way to report health care incidents. In addition, the eHCIR was launched with a Reporting Registry that enabled institutions to mine data on reported incidents to identify problematic trends and broken processes to intervene before adverse or sentinel events occur. Due to the ease of reporting using the eHCIR System, in 2018 alone, institutions reported more than 24,000 health care incidents. The number of health care incident reports reached 26,478 reports in 2019 and reached 22,557 at the time of this writing. This number is projected to continue rising in the future.

This reporting system drives heavy review workload. Headquarters staff triage all newly received reports to identify potential sentinel events or otherwise unusual cases. Due to the high volume of incoming reports, the eHCIR System maintains a daily backlog that can range from 700-800 reports. This backlog poses a significant risk to system surveillance and local PS mitigation efforts, especially if high severity cases are embedded within the backlog. To address this ongoing issue, cases are prioritized for triage and addressed accordingly.

At present, all except one QMSU member are consistently redirected to support operations of their originating program, thus limiting QMSU's ability to support activities required for QM or PS program implementation. QM and PS program functions and capabilities have expanded in recent years, and the initial establishment of the QMSU did not contemplate major system changes, such as implementation of the Electronic Health Record System (EHRS), expansion of the organization's data analytics and informatics capabilities, and support for statewide improvement initiatives such as the Scheduling Process Improvement Initiative, Crisis Intervention Team Initiative, and the Hand Hygiene Campaign.

Staff Recommendation. Hold open.

Issue 9: Transgender, Nonbinary, and Intersex Inmate Housing and Search Preferences- SB 132 (Wiener), Chapter 182, Statutes of 2020

Governor's Budget. The budget includes $2.8 million General Fund and 5.5 positions in 2021-22, $1.8 million General Fund in 2022-23, and $1.2 million General Fund in 2023-24 and ongoing to develop and implement policies and procedures in response to Senate Bill 132.

Background. Research shows that the lesbian, gay, bisexual, transgender and intersex (LGBTI+) population faces a higher risk of sexual victimization in confinement than the general prison population. Recent studies sponsored by the federal Department of Justice (DOJ) have found that transgender inmates are more vulnerable to sexual victimization.

The Prison Rape Elimination Act (PREA) is the national standard for combating sexual violence, sexual harassment, and staff sexual misconduct within correctional institutions. PREA was passed in 2003 with unanimous support in Congress, and the national PREA standards became effective on August 20, 2012. PREA was enacted to detect and eliminate sexual assault and harassment in confinement settings and to provide protection for all inmates including the transgender population. PREA standards require each agency to implement a number of measures to prevent and detect sexual violence, sexual harassment, and staff sexual misconduct in correctional institutions.

PREA Informs Transgender Accommodation Policies. The PREA standards account in various ways for the particular vulnerabilities of inmates who identify as LGBTI or whose appearance or manner does not conform to traditional gender expectations. (*Id*. at pp. 37149-37154.) The standards require training in effective and professional communication with LGBTI and gender nonconforming inmates and require the screening process to consider whether the inmate is, or is perceived to be, LGBTI or gender nonconforming. The standards also require that post-incident reviews consider whether the incident was motivated by the inmate's LGBTI identification, status, or perceived status.

The PREA Standards expressly prohibit housing decisions based solely on an inmate's external genitalia. PREA Standard 115.42(c) states "*in deciding whether to assign a transgender or intersex inmate to a facility for male or female inmates, and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the inmate's health and safety, and whether the placement would present management or security problems.*" In addition, Standard 115.42(e) states: *"A transgender or intersex inmate's own views with respect to his or her own safety shall be given serious consideration."* The assessment, therefore, must consider the transgender or intersex inmate's gender identity – that is, if the inmate self-identifies as either male or female. A policy may also consider an inmate's security threat level, criminal and disciplinary history, current gender expression, medical and mental health information, vulnerability to sexual victimization, and likelihood of perpetrating abuse. PREA standards also prohibit segregating transgender inmates by housing them in an area separate from cisgender inmates.

CDCR Standards. AB 550 (Goldberg), Chapter 303, Statutes of 2005 established the Sexual Abuse in Detention Elimination Act. The Act requires CDCR to adopt specified policies, practices, and protocols related to the placement of inmates, physical and mental health care of inmate victims, and investigation of sexual abuse.

CDCR's PREA policy provides guidelines for the prevention, detection, response, investigation, and tracking of sexual violence, staff sexual misconduct, and sexual harassment against CDCR inmates. (DOM §§ 54040.1-5404.22.) The policy applies to all offenders and persons employed by CDCR, including volunteers and independent contractors assigned to an institution, community correctional facility, conservation camp, or parole. With respect to inmates who are at a high risk for sexual victimization, CDCR's PREA policy provides:

Offenders at high risk for sexual victimization, as identified on the electronic Initial Housing Review, shall not be placed in segregated housing unless an assessment of all available alternatives has been completed, and a determination has been made that there is no available alternative means of separation from likely abusers.

CDCR Transgender Population. CDCR believes that the recent growth in the transgender inmate population is due to agency efforts to implement new procedures and policies to protect inmates from sexual assault during their incarceration, thereby increasing the number of transgender inmates who self-identify as transgender. In 2014, when DAI began tracking gender identity, there were 131 inmates who identified as transgender. On July 31, 2020, more than 1,100 inmates identified as transgender.

CDCR started to collect the gender identity of sexual assault victims in 2017. From 2017 to 2020, allegations of sexual assault targeted towards transgender inmates has doubled as shown below in Table 1.

Table 1: PREA Allegations Reported by Transgender Inmates

*Data is through August 2020	**2017**	**2018**	**2019**	**2020**
PREA allegations by Transgender Inmates	**41**	**61**	**89**	**82***

SB 132 SB 132 requires CDCR to develop policies and practices that facilitate safe housing for the transgender population, and house transgender inmates based on their gender identity. Additionally, SB 132 would prohibit CDCR from consistently failing to use a transgender inmate's preferred pronoun and honorific. SB 132 also requires transgender inmates be searched by a staff member of the gender to which the inmate identifies.

CDCR Staffing. Current staffing levels for PREA-related tasks include: one Captain, two Correctional Lieutenants, and one Staff Services Manager I-Specialist. These staff conduct internal audits, are on-site for formal PREA audits, and develop/modify policies and procedures associated with deficiencies identified through formal PREA audits.

Various staff including retired annuitants are being utilized to address transgender issues and to develop draft policy and procedures to meet the needs of the transgender inmate population. In addition to the PREA duties identified herein, PREA staff assist institution staff on resolution of transgender issues at the institutions, and assist institution staff and appeals office staff in the development of appeals responses for transgender issues. PREA staff also participate in a weekly Transgender Inmate Workgroup which includes: development and implementation of policies and procedures for the transgender inmate access card; tracking bi-annual transgender classification reviews; development of policy and procedures for transgender physical search preferences; development of the process for transgender inmates to request to be housed based on their gender identity; development of training materials for staff and offenders regarding policy changes; completing union negotiations for policy changes; and monitoring the outcomes of the Institutional Classification Committee and Departmental Review Board reviews.

Staffing Component in Proposal. To implement SB 132, and further ensure safe housing for transgender and intersex inmates, CDCR states that they are in the process of creating new policies and procedures to accommodate inmate's housing and search preferences based on gender identity. The new housing and search policies will be implemented using the existing classification process to review and approve requests.

CDCR requested five additional staff to address safety concerns and inmate complaints and perform classification workload associated with requests for a change in housing. The newly established Correctional Administrator position will become the CDCR statewide PREA Coordinator. This change will allow the newly established Correctional Administrator to provide supervision to the Correctional Counselor II positions that will coordinate committee case reviews. The Correctional Administrator will conduct on-site audits with an emphasis on transgender and PREA policies, coordinate and provide oversight for modifications of transgender and PREA procedures, coordinate and provide oversight for management of the transgender population, and provide PREA training, and training on transgender inmate policies as needed.

The four Correctional Counselor II positions will be established at CDCR headquarters to ensure consistency in completed Classification Chronos and address and develop ongoing policies and procedures related to transgender inmates.

To accomplish the workload increase to California Correctional Health Care Services, the Department requests 0.5 permanent position, and 2.0 limited terms positions. A 0.5 Physician & Surgeon will provide consultation services to primary care providers by developing medical treatment plans to assist in implementing SB 132.

A limited term Senior Psychologist, and one limited term Senior Psychiatrist will review cases prior to committee meetings, complete trainings, and facilitate interdisciplinary communication between medical, nursing, custody and mental health teams when a transgender inmate is approved for transition to a new institution.

Additional Components. In addition to staffing, CDCR requests one-time funding for the following tasks to ensure successful implementation of SB 132:

- Training costs for all custody staff
- Creation of a gender marker/gender identity questionnaire within CCHCSs Electronic Records Management Systems (ERMS)
- Development of a gender identity field within CDCRs Strategic Offender Management System (SOMS) Electronic Offender Management Information System (eOMIS)
- Updating various downstream applications that interact with SOMS eOMIS.

Staff Recommendation. Hold open.

JOINT HEARING

Budget Subcommittee No. 5 on Corrections, Public Safety, Judiciary, Labor and Transportation
Senator Maria Elena Durazo, Chair

Senate Labor Public Employment and Retirement
Senator Dave Cortese, Chair

Senate Banking and Financial Institutions
Senator Anna Caballero, Chair

Monday, February 8, 2021
9:00 a.m. – State Capitol – Senate Chamber

Informational Hearing: Audit of Employment Development Department's Performance and Management Related to Californians Unemployed by COVID-19 Shutdowns

Panels

I. Welcome and Opening Remarks

II. Overview of Audit Findings and Recommendations
- Elaine M. Howle, California State Auditor
- Bob Harris, Principal Performance/Policy Evaluator

III. Comments and Responses to the Audit
- Rita Saenz, Director, Employment Development Department
- Nancy Farias, Chief Deputy Director of External Affairs, Legislation and Policy
- Carol Williams, Chief Deputy Director of Operations
- Kevin Matulich, Deputy Director of Legislative Affairs

IV. Bank of America
- John Lawlor, Managing Director Municipal Banking and Markets
- Faiz Ahmad, Managing Director Transaction Services
- Bill Fox, Managing Director Compliance and Operational Risk for Financial Crimes and Fraud

V. Public Comment

VI. Closing Comments

Background

Core Points:

- Created as a part of the Social Security Act of 1935, the Unemployment Insurance (UI) System is a joint federal-state program: the federal government sets the program rules and the State implements the program.

- For more than 85 years, the UI system has formed the backbone of the social safety net for American workers facing unemployment due to no fault of their own. For example, from March 2020 to November 2020, EDD processed *more than 17 million claims* and paid out *more than $111 billion* in UI benefits due to the COVID-19 pandemic.

- In the aftermath of the Great Recession (2008-2014) and the COVID-19 pandemic, the unemployment insurance system in nearly all states, but particularly California, showed extreme distress.

- This hearing will review recent and historic findings from the State Auditor on the failings of California's unemployment insurance system and steps that will be taken to address these challenges.

What is the Unemployment Insurance System? How does it work?

Prior to the Great Depression (1929-1938), neither the federal government nor states provided wage replacement benefits due to unemployment. While California experimented with limited programs that connected unemployed workers with employers with job openings prior to the 20th Century, there was no governmental focus on mid and long-term unemployment due to economic shocks or macroeconomic conditions.

With the onset of the Great Depression, and the ensuing surge in the unemployment rate to 25%, this quickly changed. Reflecting the emerging cooperative federalism norm of Roosevelt's New Deal, the Social Security Act of 1935 created a comprehensive federal-state Unemployment Insurance (UI) System in the United States. Specifically, the Act provided that the federal government sets the baseline rules of the UI System, partially funds the administration of the UI system, and serves as a fiscal backstop, but it falls to the states to implement these rules.

For example, the federal Act requires states to provide cash benefits to unemployed workers who are unemployed through no fault of their own. These benefits are funded through employer-paid payroll taxes assessed as a percentage of a worker's pay. The employer's tax rate is *experience rated*, which means that the employer will (theoretically) pay a high tax rate and more in unemployment insurance taxes if they lay off significant numbers of workers. Beyond that, the states retain significant discretion in the structure of their UI programs. This includes eligibility rules, the amount of an employee's wages that are taxed, and benefit amounts.

In California, for example, unemployment insurance taxes are levied against a worker's first $7,000 of wages. The current wage base was first set in 1984 in both federal and California statutes, and has not been updated since. Only Arizona has a similarly low UI wage base – high population states (like New York, Texas, and Florida) have higher wage base. Even reputed low tax states like North Dakota, South

Dakota, and Mississippi have higher UI wage bases.[1] Due to its low taxable wage base, California's unemployment insurance system is functionally insolvent even during strong economic times and the Employment Development Department does not have similar resources available for the administration of its UI system in comparison to other states and their relevant departments.

The Great Recession, COVID-19, and California's Unemployment Insurance System

In the past decade, California's unemployment insurance system was severely tested and, unfortunately, it has not performed well. Both during the Great Recession and the current COVID-19 pandemic, both unemployment insurance claimants and businesses have reported significant challenges with reaching and communicating with the Employment Development Department (EDD) about unemployment insurance claims. During both crises, constituents reached out to their elected representatives for assistance, and the Legislature responded by assisting constituents with their UI issues, as well as holding a series of oversight hearings and requesting an audit of EDD's UI program by the State Auditor.

Troublingly, some of the issues that the State Auditor uncovered during the Great Recession remain challenges during the current COVID-19 pandemic. For example, the State Auditor recommended in 2011 that EDD implement a *recession plan* in order to address the surge in unemployment claims from an economic downturn. Similarly, the State Auditor also recommended that EDD adopt best practices in the *management of their call centers* during the Great Recession. *In both cases, the State Auditor found that EDD has failed to adopt these Great Recession era reforms, perpetuating avoidable challenges during the COVID-19 pandemic.* In a written response to the State Auditor's report, EDD acknowledges these failures and commits to adopting the State Auditor's recommendation.

Yet, the challenges facing EDD and the UI system in the midst of the COVID-19 pandemic are also distinct from to what EDD faced during the Great Recession. First, there is an issue of scale: during the height of the Great Recession (2009-10), EDD received 3.8 million claims in each of those years. In the first *six months* of 2020, *EDD received 6.5 million claims*. Due to the lockdown, California's unemployment rate jumped from *4.3% in February 2020 to 16.2% in April of 2020*. By November of 2020, EDD had processed ***more than 17 million claims***, including PUA claims. This equates to ***more than $111 billion*** in unemployment insurance benefits. The scale, scope, and speed of the COVID-19 pandemic is simply unprecedented, and it caught EDD unprepared, as it did nearly all governmental entities.

Second, faced unique challenges in implementing the federal government's response to the COVID-19 pandemic. On March 27, 2020, the former administration signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which extended unemployment insurance benefits to independent contractors through the *Pandemic Unemployment Assistance (PUA)* program. This extension of wage replacement benefits to independent contractors and business owners, *which is 100% federally funded*, was an unprecedented and untried program, and it represented an attempt to provide wage replacement benefits to the broadest range of workers impacted by COVID-19.

Unfortunately, as structured by the federal government, the PUA program did not have sufficient anti-fraud protections in place. Unlike with traditional unemployment insurance benefits, where employer payroll reports to EDD serve as a verification tool of continued unemployment, the PUA program operated entirely on self-attestations. During the Great Recession, the federal government extended no comparable benefit program, and therefore fraud remained negligible.

[1] The taxable wage bases for these states are $37,900, $15,000, and $14,000, respectively.

This was not the case with the PUA. Due to the lack of anti-fraud standards, fraud rose dramatically in the unemployment insurance system – ***EDD reports that 95% of all of the detected UI fraud comes from the PUA program***. This huge surge in fraud has led to elevated anti-fraud efforts by both EDD and EDD's UI benefit card vendor, Bank of America, leading to benefit delays and additional friction in benefit administration. Moreover, this increase in fraud has triggered intense concern from the media and citizens, undermining Californians trust in EDD and the UI system.

Looking Towards the Future: The February 8th Joint Senate Hearing

The Senate Budget Subcommittee Number 5 (Corrections, Public Safety, Judiciary, Labor and Transportation) and the Senate Standing Committee on Labor, Public Employment and Retirement will hold a joint hearing on the State Auditor's recent audits on the Employment Development Department's management and performance of the UI system during the COVID-19 pandemic (see Appendix A for a summary of the audit), and its approach to fraud prevention (see Appendix B for a summary of the audit). The Committees will hear from both the State Auditor and the Employment Development Department on the audits, the audits' recommendations, and future initiatives to address the managerial and programmatic shortcomings uncovered by the Auditor and her team. Additionally, the Committees with explore:

1) What managerial and programmatic challenges led to benefit delays during the COVID-19 pandemic?

2) What specific actions is the Department taking to resolve these programmatic and managerial challenges?

3) In the face of two "once-in-a-lifetime" crises, the unemployment insurance system has not fared well. What policies can the Legislature and the Department implement now and post-pandemic to ensure that our UI system operates as designed?

APPENDIX A: EDD Audit Summary & Recommendations

(From *Employment Development Department: EDD's Poor Planning and Ineffective Management Left It Unprepared to Assist Californians Unemployed by COVID-19 Shutdowns* (State Audit Report Number: 2020-128/628.1))

In March 2020, government directives ordered businesses to close and residents to stay at home in response to the COVID-19 pandemic (pandemic). Millions of Californians were left unemployed and in critical need of assistance to replace some of the income on which they relied to pay for essentials such as housing and food. The Employment Development Department (EDD) administers the State's unemployment insurance (UI) program. The economic shutdowns in early 2020 led to historically high numbers of UI claims in a very short time (claim surge), and further shutdowns began in December 2020, raising the potential for additional spikes in unemployment. This audit reviewed EDD's response to the claim surge, its handling of the resulting backlog of unpaid claims, and the assistance it has provided to individuals through its call center. This audit report concludes the following:

EDD has presented unclear information about its claim backlog. In December 2020, EDD publicly reported a backlog of about 685,700 claims. However, fewer than 20,000 of these claims were waiting for payment because of EDD's failure to resolve an issue with them. EDD's presentation of backlog information has led to confusion about its performance during the pandemic. Nevertheless, when claims rose dramatically in mid-March, EDD's inefficient processes contributed to significant delays in its payment of UI claims. Specifically, EDD was unable to automatically process nearly half of the claims submitted online between March and September 2020; instead, many of these claims required manual intervention from staff. As a result, as of September 2020, the timeliness of payments to claimants had declined when compared to the year before. Hundreds of thousands of claimants waited longer than 21 days—EDD's measure of how quickly it should process a claim—to receive their first benefit payment. Beginning in March 2020, EDD began modifying its practices and processes to increase the rate at which it automatically processes online claims, eventually reaching an automation rate of more than 90 percent by November 2020. However, it is unlikely to sustain that rate when it returns to post-pandemic operations because of the short-term nature of some of the automation measures it has taken to address the backlog.

Because EDD Responded to the Claim Surge by Suspending Certain Eligibility Requirements, Many Californians Are at Risk of Needing to Repay Benefits.

In March 2020, the secretary of the Labor and Workforce Development Agency (agency secretary) directed EDD to pay claimants UI benefits before determining whether they met key program eligibility requirements, and EDD expanded this directive to include most program eligibility determinations. In April 2020, the agency secretary further directed EDD to temporarily stop collecting the certifications claimants must regularly submit that assert they remain eligible for benefits. Although both directives were designed to provide Californians with benefit payments as quickly as possible, the United States Department of Labor had not waived the federal requirements addressed by the directives and has since questioned the actions EDD took. As a result, EDD now faces the challenge of processing delayed determinations and certifications of eligibility, which will require significant time and resources, and it has not adequately planned how it will address this impending workload. These actions also removed a barrier to fraud, and claimants who applied in good faith may have to repay the benefits they received if EDD finds them retroactively ineligible for some or all of those benefits.

EDD Took Uninformed and Inadequate Steps to Resolve Its Call Center Deficiencies.

Even before the claim surge, EDD struggled to answer claimants' calls. Once the claim surge began, EDD's call center performance deteriorated dramatically: it answered less than 1 percent of the calls it received. EDD quadrupled its available call center staff to more than 5,600 people in response to its call center problems, but these staff were often unable to assist callers and only marginally improved the percentage of calls it answered. Despite knowing for years that it had problems in the call center, EDD has not yet adopted best practices for managing the call center or for providing assistance to callers—such as tracking the reasons why claimants call and whether it resolves callers' issues—leaving it less prepared to effectively assist the many Californians attempting to navigate the claim process for the first time as a result of the pandemic.

Despite Multiple Warnings, EDD Failed to Prepare for an Economic Downturn.

During the Great Recession of 2008 and 2009, EDD experienced many problems similar to those we note in this report. Further, it has been aware of deficiencies with its claim process and call center for years. Nonetheless, in March 2020, EDD had no comprehensive plan for how it would respond if California experienced a recession and UI claims increased correspondingly. The 2020 claim surge was unprecedented and would have presented significant challenges no matter how prepared EDD was, but it failed to act comprehensively to prepare for downturns and to address known deficiencies. As a result, its areas of weakness became key deficiencies in its response to the claim surge, and these were a cause of serious frustration for unemployed Californians in need of assistance.

Selected Recommendations:

Legislature

The Legislature should require EDD to do the following:

- Report at least once every six months on its website the amount of benefit payments for which it has required repayment and the amount repaid.
- Develop a recession plan so that it is well prepared to provide services during economic downturns. The planning process should consider lessons learned from previous economic downturns, including the recent pandemic-related claim surge.

EDD

By March 2021, EDD should revise its public dashboards about the number of backlogged claims to clearly describe the difference between those waiting for payment and those that are not.

By June 2021, EDD should determine how many of its temporary automation measures for claims processing it can retain and by September 2021, it should make those a permanent feature of its claims processing.

To address its deferred eligibility determinations, EDD should immediately begin performing a risk assessment of its deferred workloads and determine the most appropriate order in which to progress through the work.

To improve its call center performance, by May 2021 EDD should begin tracking the reasons why callers need assistance and tracking whether it resolves caller issues successfully.

Agency Comments

EDD acknowledged that it must make improvements to its administration of the UI program. It agreed with all of our recommendations and indicated it would implement all of them.

APPENDIX B: EDD Audit Summary & Recommendations

(From Employment Development Department: Significant Weaknesses in EDD's Approach to Fraud Prevention Have Led to Billions of Dollars in Improper Benefit Payments (State Audit Report Number: 2020-128/628.2))

The Employment Development Department (EDD) is responsible for administering the State's unemployment insurance (UI) program, which provides partial wage replacement benefits to eligible Californians who have become unemployed, including those affected by the COVID-19 pandemic (pandemic). Since the surge in pandemic-related California unemployment claims began in March 2020, individuals, news organizations, and law enforcement officials have reported many cases of potential and actual UI fraud. Not surprisingly, the pandemic conditions increased EDD's UI workloads and also resulted in changes to federal UI benefit programs, both of which have created a greater risk of fraud. We assessed EDD's response to increased fraud risk during the pandemic—such as allegations of impostor fraud, which occurs when a perpetrator uses someone else's personal information to fraudulently collect benefits—and evaluated its overall efforts to detect fraud. This report draws the following conclusions:

EDD's Fraud Prevention Approach During the Pandemic Was Marked by Significant Missteps and Inaction

EDD did not take action to bolster its fraud detection efforts until months into the pandemic. As a result, its data show that it paid about $10.4 billion in claims that it has since determined may be fraudulent. Even as late as December 2020, EDD was allowing claimants to continue to collect benefits using suspicious addresses because it did not establish payment blocks for their claims. Further, $1 billion of the $10.4 billion paid for suspicious claims was the result of EDD's decision to remove a key safeguard against payment to claimants whose identities it had not confirmed. EDD staff misunderstood the importance of that particular safeguard and, from April to August 2020, made payments to claimants despite concerns about the legitimacy of their identities.

EDD's Lack of Preparation Left it Unable to Effectively Address Two High Profile Situations

Because of fraud concerns, EDD directed Bank of America to freeze 344,000 debit cards (accounts) that it uses to provide claimants with benefit payments. However, EDD did not have a plan to ensure that it could selectively unfreeze accounts belonging to legitimate claimants, has been slow to provide clear information about its role in freezing these accounts, and does not have a full understanding of which accounts are frozen. Additionally, EDD was unprepared to prevent payment for fraudulent claims filed under the names of incarcerated individuals—which it estimated to total about $810 million. EDD had told the Legislature for years that it was considering adopting a cross-match between claim and incarceration data. However, because it had not developed the capacity to match data between its claims system and the data from state and local correctional facilities, it did not detect these fraudulent claims until after the fact.

EDD Has Relied on Uninformed and Disjointed Techniques to Prevent Impostor Fraud

EDD has not established a centralized unit that is responsible for managing its fraud detection efforts, and it does not reliably track potential fraudulent activity from detection to resolution. As a result, EDD's UI program is at a higher risk for fraud. Further, it does not monitor or assess its numerous fraud prevention and detection tools to determine whether they are successful in mitigating fraud. Consequently, EDD may well be using ineffective fraud prevention and detection techniques and delaying payments to legitimate claimants while it puts their claims through additional and unmerited review.

Summary of Recommendations

Legislature

To protect against fraudulent UI claims, the Legislature should amend state law to require EDD to regularly cross-match its claims against data from state and local correctional facilities.

To ensure that EDD effectively protects the integrity of the UI program, the Legislature should amend state law to require EDD to, by January 2022, and biannually thereafter, assess the effectiveness of its fraud prevention and detection tools, eliminate those that are not effective, and reduce duplication in its efforts.

EDD

To ensure that it does not suspend critical safeguards, EDD should plan in advance which UI fraud prevention and detection mechanisms it can adjust during recessions to effectively balance timely payment with fraud prevention.

To provide timely access to benefits for legitimate UI claimants with frozen accounts, EDD should immediately obtain and review a comprehensive listing of benefit accounts that are frozen and, by March 2021, begin the process of unfreezing legitimate accounts.

To ensure that it can approach UI fraud prevention in a comprehensive and coordinated manner, EDD should do the following:

- By March 2021, establish a central unit responsible for coordinating all fraud prevention and detection efforts.
- By May 2021, develop a plan for how it will assess the effectiveness of its fraud prevention and detection tools.

Agency Comments

EDD stated that it undeniably struggled to timely distribute benefits to the millions of newly unemployed Californians and simultaneously prevent fraudulent claims. It agreed with all of our recommendations and indicated that it will implement them all.

COMMITMENT
INTEGRITY
LEADERSHIP

February 3, 2021
Report 2020-128/628.1
LEGISLATIVE HEARING DOCUMENT

Elaine M. Howle *California State Auditor*

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Employment Development Department:
EDD's Poor Planning and Ineffective Management Left It Unprepared to Assist Californians Unemployed by COVID-19 Shutdowns

The State Auditor found that . . .

1. EDD Did Not Prepare for an Economic Downturn

- EDD has been aware of deficiencies with its claim process and call center for years.
- Weak areas became critical shortcomings when EDD responded to a surge in UI claims.

2. Most Callers Did Not Receive Help From EDD's Call Center

- Call center performance deteriorated dramatically after claims surged in March 2020.
- EDD quadrupled call center staff, but they frequently could not help callers and only marginally improved the percentage of answered calls.

3. EDD Struggled to Process Claims and its Process Improvements Are Not All Sustainable

- EDD could not automatically process nearly half of claims individuals submitted online between March and September 2020.
- EDD modified its practices and eventually reached over 90 percent automation, but will not be able to sustain those gains in the long term.

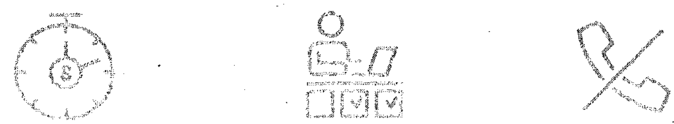
4. EDD Delayed Critical Work That Will Now Threaten Effective Ongoing Operation of the UI Program

- The Labor and Workforce Development Agency directed EDD to pay claimants without determining eligibility for the program and to temporarily stop collecting eligibility certifications.
- EDD must now process millions of delayed eligibility decisions, which it has not adequately planned how to address, and will ask some Californians to repay benefits.

EDD Had Not Prepared for the Economic Shutdown

For more information, see pages 49–53 of our report.

EDD has been aware of key operational issues for nearly ten years . . .



INEFFICIENT CLAIM FILING PROCESS

LACK OF READILY AVAILABLE, QUALIFIED STAFF

POOR CALL CENTER MANAGEMENT

but it failed to develop a comprehensive recession plan.

As a result, the economic downturn worsened EDD's already poor performance.

PRE-SHUTDOWN ORDER

TWO-THIRDS OF ONLINE CLAIMS DID NOT FILE AUTOMATICALLY

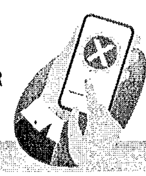
25% OF FIRST PAYMENTS WERE ISSUED LATE

LESS THAN 10% OF CALLS WERE ANSWERED

POST-SHUTDOWN ORDER

PAST DUE

ALMOST 40% OF FIRST PAYMENTS WERE ISSUED LATER THAN 14 DAYS



LESS THAN 1% OF CALLS WERE ANSWERED IN EARLY APRIL

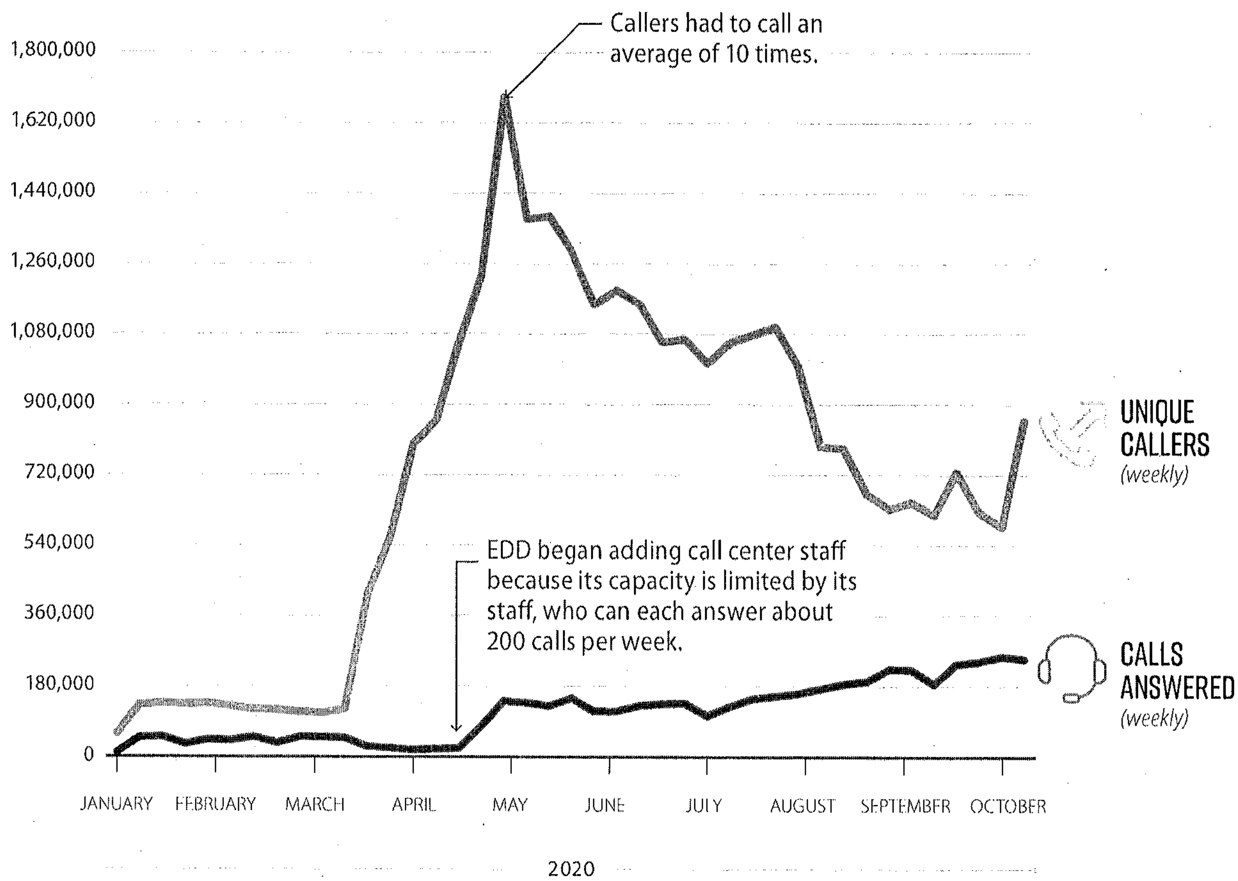
Recommendation

- *The Legislature should require EDD to develop a recession plan that would prepare it for economic downturns. The plan should include modifications to business practices that would allow EDD to maintain adequate service to Californians during increased demand for UI benefits.*

A

EDD's Already Poor Call Center Performance Declined Significantly During the Pandemic

For more information, see page 37 of our report.



Recommendations

To improve its call center performance, EDD should:

- *By May 2021 adopt a policy that establishes a process for tracking and periodically analyzing the reasons why UI claimants call for assistance.*
- *Develop specialized training for its staff based on the reasons why callers contact EDD.*
- *By May 2021 EDD should also implement a policy for tracking and monitoring its rate of first-call resolution.*

EDD Paid Hundreds of Thousands of Claims Late

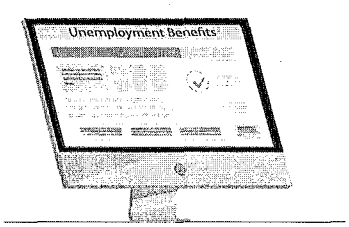
For more information, see page 14 of our report.

When claims surged to unprecedented levels, EDD struggled to effectively serve claimants.

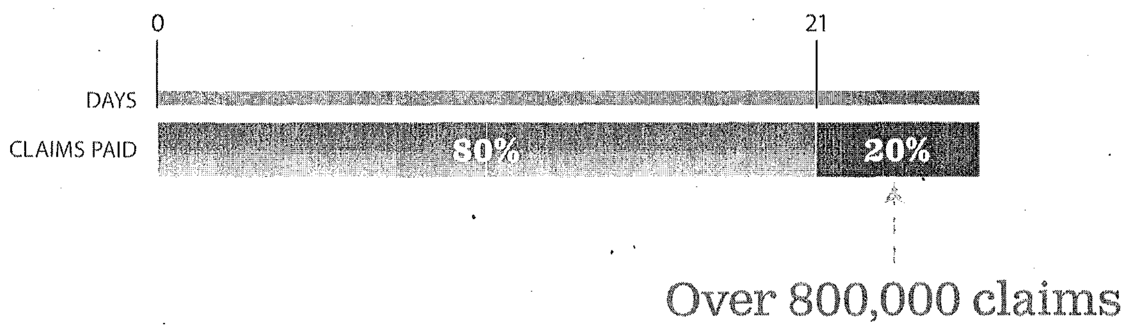
FOR ONLINE CLAIMS FROM MARCH THROUGH SEPTEMBER 2020 . . .

Filed automatically
52%

Needed additional intervention
48%



In 2019, EDD paid 88 percent of claims within three weeks. But, for claims submitted in April through September 2020, EDD paid only 80 percent within this time frame.



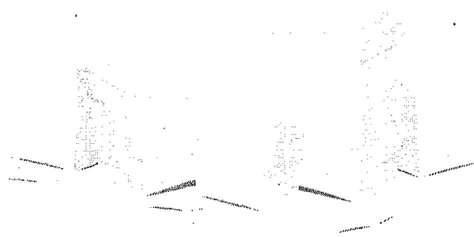
EDD Provided Misleading Information About its Backlog

For more information, see page 11 of our report.

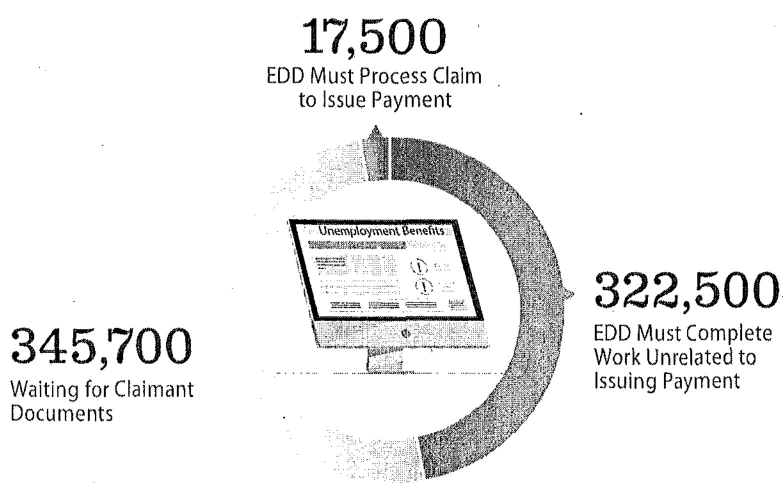
As of December 15, 2020 EDD public dashboards showed . . .

340,000 . . . Waiting for payment
\+ 345,700 . . . Waiting for claimant documents

= 685,700 . . . **Claims in the backlog**



But far fewer claims are waiting for payment . . .

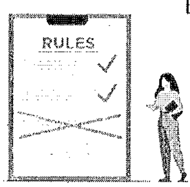


Recommendation

- *By March 2021, EDD should revise its public dashboards to clearly indicate the number of claims that have waited longer than 21 days for payment because EDD has not yet resolved pending issues.*

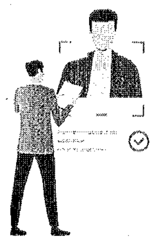
EDD May Struggle to Maintain Its Recent Progress in Automating Claim Filing

For more information, see page 18 of our report.



BEGINNING IN MARCH 2020...

Relaxed rules for filing a claim resulted in more claims filed automatically.



IN OCTOBER 2020...

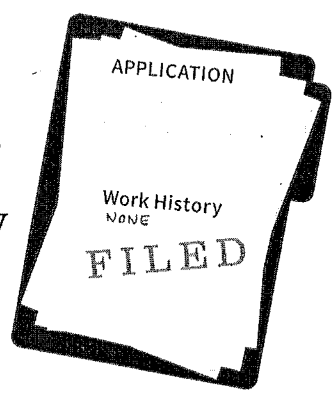
New identity verification resulted in fewer claims going to manual review.

AUTOMATIC CLAIM FILING RATE AS OF NOVEMBER 2020:

More Than 90%

But EDD's changes are not all sustainable...

...because federal law temporarily changed eligibility requirements for some claims, EDD altered its processes to effect these changes and to automatically file more claims.



Recommendation

- *By June 2021, EDD should determine the automation it can retain as part of its regular business operations and by September 2021 it should make those features permanent.*

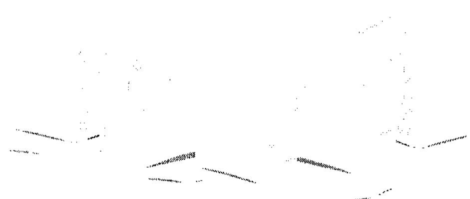
EDD Suspended Most Eligibility Requirements, Leaving It With a Large Future Workload

For more information, see page 25 of our report.

When economic shutdowns caused record numbers of Californians to apply for unemployment benefits...

EDD paid benefits without making most eligibility decisions.

In the upcoming months, EDD will have to review 12.7 million eligibility issues affecting up to 2.4 million claimants...



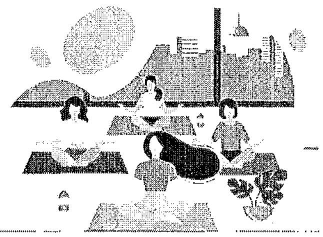
to determine which claimants may not have actually been eligible for all of the benefits they received and now need to repay money they received.

Recommendation

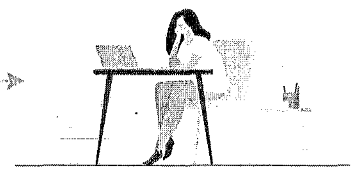
- *To address its deferred eligibility determinations, EDD should immediately begin performing a risk assessment of its deferred workloads and determine the most appropriate order in which to progress through the work.*

EDD Told Claimants to Stop Sending Required Documents and Now It May Require Claimants to Repay Benefits

For more information, see page 30 of our report.

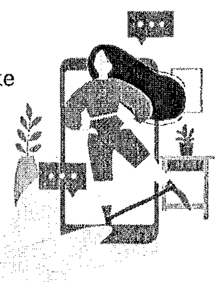


Before the COVID-19 shutdowns, Jane taught classes full time at a fitness studio.

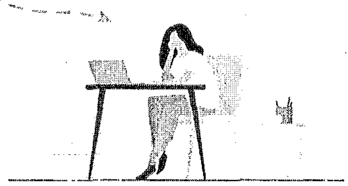


Jane filed a regular unemployment insurance claim in March 2020 and began receiving benefits.

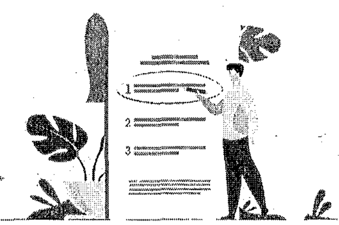
In April 2020, EDD instructed Jane not to submit her continuing eligibility certifications.



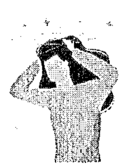
At the end of April 2020, Jane began teaching classes online part time. This income may make her ineligible for some of the benefits she is receiving from EDD. Jane reported the income to EDD, but it did not review her correspondence.



In July 2020, Jane learns she needs to submit retroactive certifications and does so immediately.



EDD must validate her certifications and review her change in income. Afterwards, EDD may determine that Jane was ineligible for part of her benefit amount.



Even though Jane followed all of EDD's instructions and was suffering financially, EDD may now request she repay money she may not have.

Recommendation

- ***The Legislature should require EDD to regularly report the amount of benefit payments for which it must assess potential overpayments, the amount for which it has issued overpayment notices, the amount it has waived overpayment on, and the amount repaid related to those notices.***

COMMITMENT
INTEGRITY
LEADERSHIP

February 3, 2021
Report 2020-628.2
LEGISLATIVE
HEARING DOCUMENT

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Employment Development Department:

Significant Weaknesses in EDD's Approach to Fraud Prevention Have Led to Billions of Dollars in Improper Benefit Payments

The State Auditor found that...

1. EDD Paid About $10.4 Billion in Potentially Fraudulent Payments During the Pandemic

- Because it was slow to respond to fraud risk, EDD paid about $10.4 billion from March through December 2020 on claims it later determined might be fraudulent.
- $1 billion of these payments occurred because EDD removed a safeguard against paying individuals with unconfirmed identities.

2. EDD Was Unprepared to Address Two High-Profile Situations

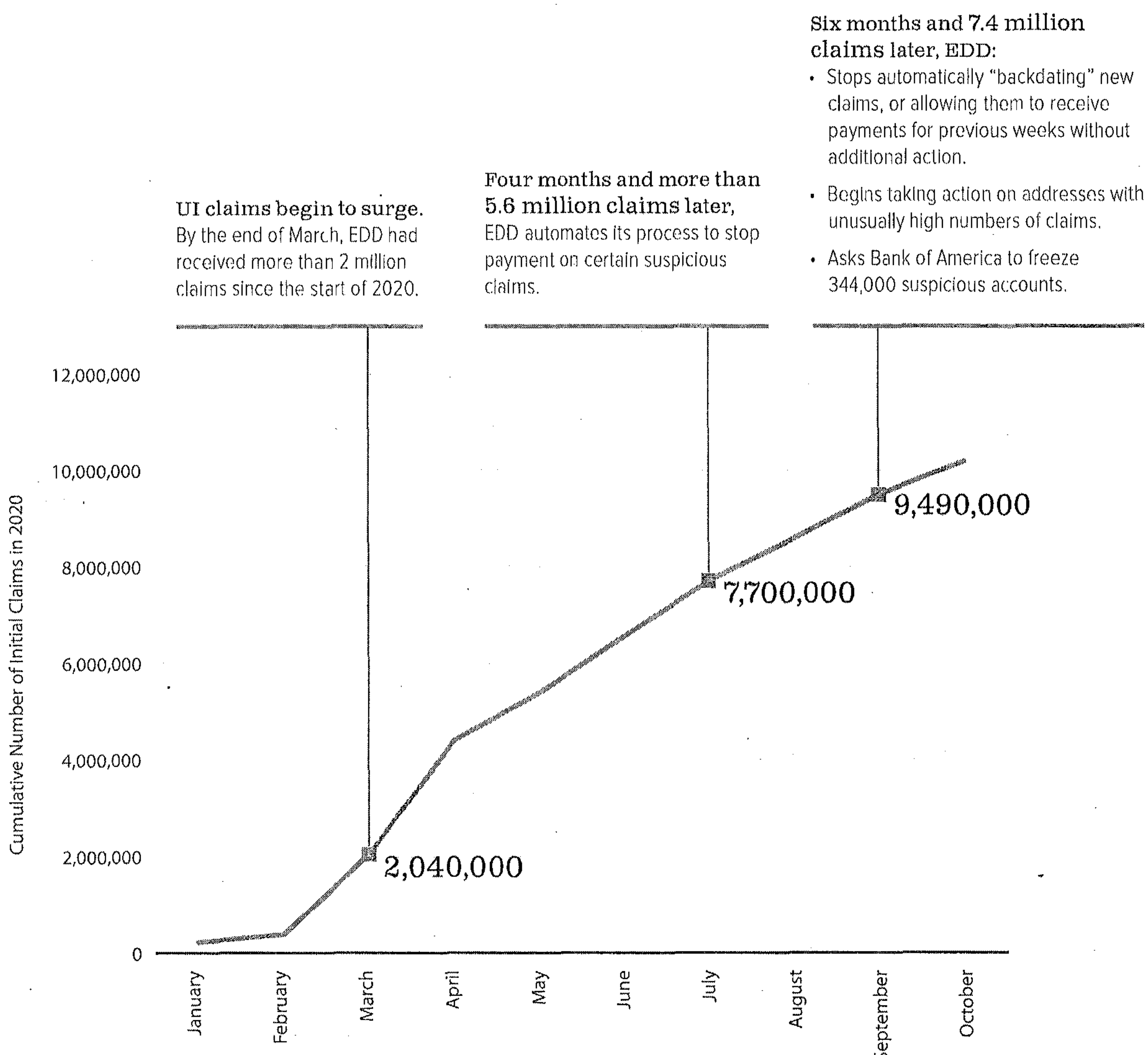
- EDD directed Bank of America to freeze 344,000 benefit accounts but has not effectively coordinated to assist legitimate claimants impacted by that directive and has not taken responsibility for its role.
- EDD estimates it paid $810 million to claims filed under the names of incarcerated individuals because it has not regularly cross-matched claims with inmate data.

3. EDD Has Relied on Disjointed and Uninformed Techniques to Prevent Fraud

- EDD has not established a centralized unit to manage its fraud detection efforts, leaving coordination of fraud prevention and detection to a variety of units with no consistent oversight.
- EDD does not measure or monitor any of its fraud prevention or detection tools to determine how effectively each one detects fraud. As a result, it does not know if it is using ineffective fraud prevention and detection techniques that delay payments to legitimate claimants.

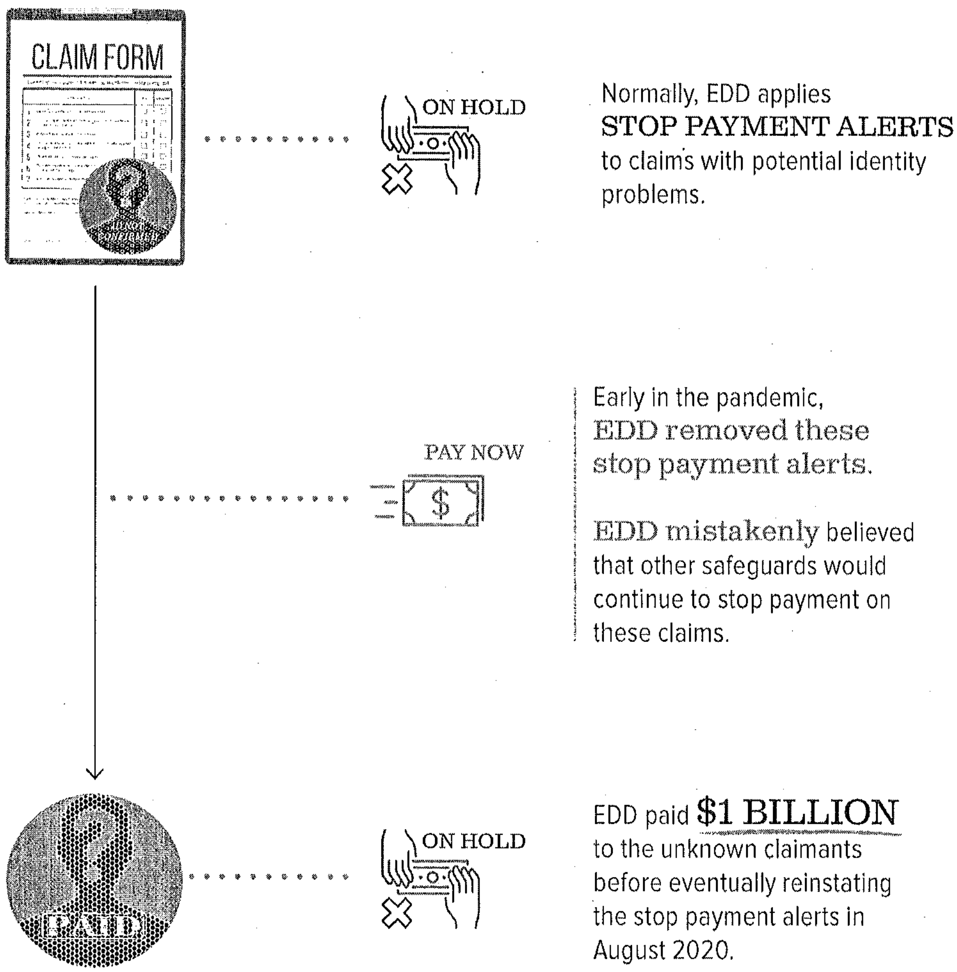
EDD Was Slow to Respond to Fraud Risk During the Pandemic

For more information, see page 9 of our report.



EDD Paid $1 Billion to Questionable Claims Because It Removed a Key Fraud Safeguard

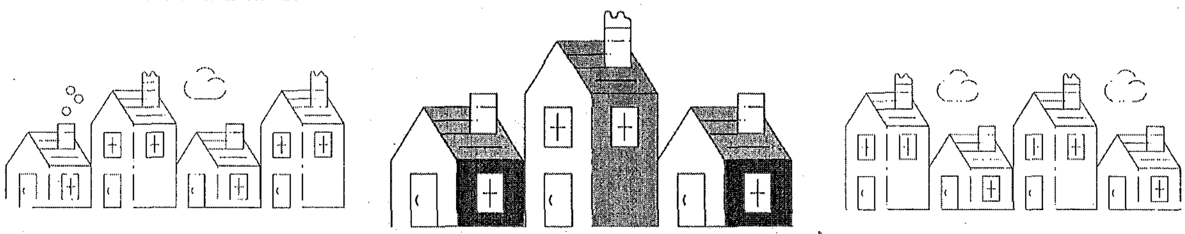
For more information, see page 16 of our report.



Claims Associated With Suspicious Addresses Were Still Active In December 2020

For more information, see page 12 of our report.

EDD IDENTIFIED 26,000 ADDRESSES WERE LINKED TO SUSPICIOUS CLAIMS, BUT IT ONLY STOPPED PAYMENTS TO CLAIMS ASSOCIATED WITH 10,000 OF THESE ADDRESSES...

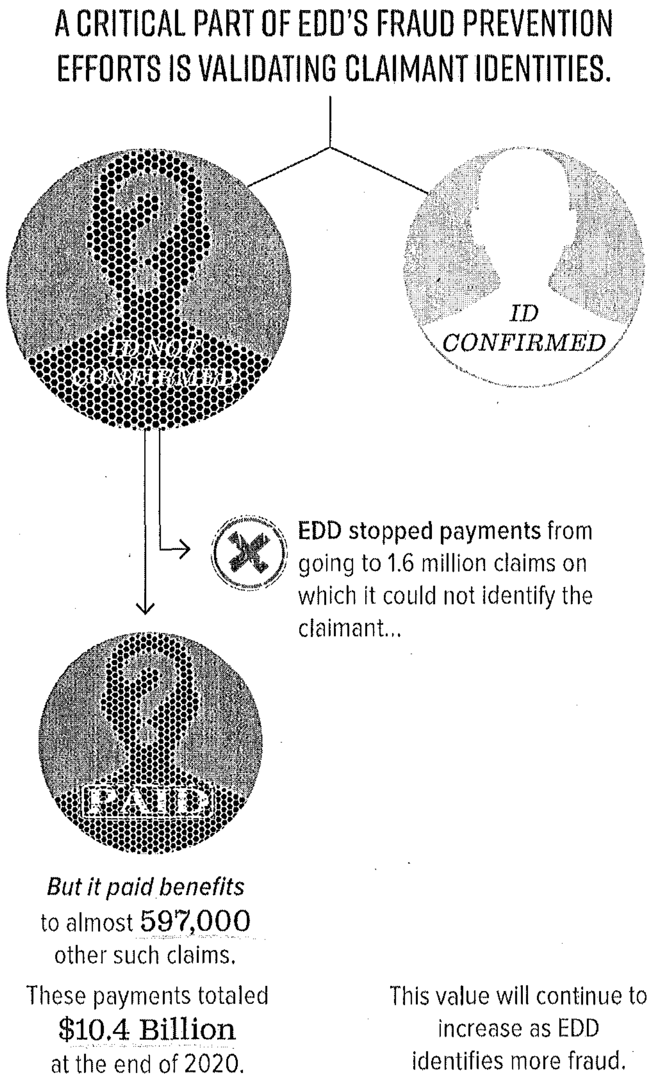


We looked at three of the unblocked addresses and found one with...

More than **80** total claims... → **12** of which were still eligible to receive payment and... → more than **$300K** had been paid to claims at the address.

EDD Paid About $10.4 Billion in Benefits to Claimants with Unconfirmed Identities

For more information, see page 16 of our report.



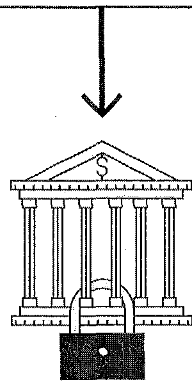
Recommendations

- EDD should prepare to assist victims of identity theft to ensure that they receive prompt assistance and avoid tax liabilities for benefits they never received.
- EDD should plan for economic downturns by identifying the fraud prevention efforts it can adjust during periods of high demand for benefits.

EDD Directed Bank of America to Freeze 344,000 Benefit Accounts But Was Not Prepared For Next Steps

For more information, see page 23 of our report.

In September 2020, EDD directed Bank of America to freeze 344,000 benefit payment accounts...



...but EDD:

- ***Did not have a plan to unfreeze accounts belonging to legitimate claimants.***
- ***Has not had a comprehensive method of tracking frozen accounts.***
- ***Has been slow to provide clear information about its role in freezing these accounts.***

Recommendations

- EDD should immediately obtain and review a comprehensive list of benefit accounts that are frozen and begin the process of unfreezing legitimate accounts.
- EDD should establish a centralized tracking tool that allows it to track all frozen accounts and the efforts it has taken to resolve concerns of legitimate claimants.

B

EDD Was Unprepared for Hundreds of Millions of Dollars in Fraud Associated With Inmates

For more information, see page 27 of our report.

Year	Month	Event
2016	**November**	A national survey shows that UI administrators in 35 states cross-match claims against incarceration data.
2018	**June**	**EDD again notifies the Legislature that it is considering adopting a cross-match against incarceration data.**
2019	**June**	
2020	**June**	
	July	Pandemic Unemployment Assistance claims begin to spike.
	October	EDD develops a contract with a private vendor that includes access to incarceration records, such as data from local jails.
	December	EDD and CDCR sign a data sharing agreement for CDCR to provide EDD with data on individuals incarcerated in state prisons.
2021	**January**	Based on CDCR data and analysis from the private vendor, EDD estimates it paid $810 million in fraudulent claims associated with incarcerated individuals.

Recommendation

The Legislature should require EDD to regularly cross-match its claims against data from state and local correctional facilities.

B

EDD Has a Disjointed Approach to Fraud Prevention and Detection

For more information, see page 33 of our report.

INVESTIGATION DIVISION

CRIMINAL INTELLIGENCE UNIT

Reviews reports of fraud from EDD's online fraud reporting tool. Determines whether to:

1. Close the report without further action.
2. Forward to Enforcement Operations Unit
3. Route to the Integrity and Legislation Unit for administrative action.

ENFORCEMENT OPERATIONS UNIT

Investigates allegations of fraud to pursue criminal charges against impostors. May request that the Integrity and Legislation Unit mark claims as suspicious in database.

Also, the Investigation Division may inform the Benefit Claims Section when it identifies impostor claims.

UNEMPLOYMENT INSURANCE BRANCH

UI Support Division

INTEGRITY AND LEGISLATION UNIT

Reviews reports of potential fraud forwarded by the Criminal Intelligence Unit and by field offices and forwards those reports for identity verification. Assesses whether an impostor filed a claim; reports to Benefit Claims Section.

UI FIELD OFFICES

Generally monitor for suspicious activity and forward weekly reports of potentially fraudulent claims to the Integrity and Legislation Unit. Staff may stop payment on claims and require the claimants to provide identity information for the Identity Verification to review.

UI Integrity and Accounting Division

IDENTITY VERIFICATION AND TECHNICAL SUPPORT SECTION

Reviews identity documentation from potentially fraudulent claimants to resolve whether it can establish their identity. Assesses whether an impostor filed a claim; reports to Benefit Claims Section.

BENEFIT CLAIMS SECTION

Assigns new unique identifiers to those claims that other units have reported to it as likely fraudulent. This process also removes the claim from the compromised SSN that the impostor used to file the claim in order to protect the true owner of the SSN.

EDD also has not assessed the effectiveness of its fraud prevention and detection tools.

Recommendations

- The Legislature should require EDD to assess the effectiveness of its fraud prevention and detection tools, eliminate those that are not effective, and reduce duplication in its efforts.
- EDD should designate a single unit responsible for coordinating fraud prevention and align the unit's duties with best practices.

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Legislative Recommendations

- ***Require EDD to develop a recession plan that takes into account lessons learned.*** Require that the plan includes the indicators EDD will monitor and use to project likely workload increases, the actions EDD will take to address those increases including changing staffing, prioritizing tasks and adjusting its processes. In addition, require EDD to complete its first recession plan within 12 months of the effective date of the change to state law requiring such a plan. To address new developments in UI processes, programs, or other relevant conditions, the Legislature should require EDD to update its recession plan at least every three years thereafter.

- ***Require EDD to report on its website at least once every six months*** the amount of benefit payments for which it must assess potential overpayments, the amount for which it has issued overpayment notices, the amount it has waived overpayment on, and the amount repaid related to those notices.

- ***Require EDD to convene a working group to assess the lessons learned from the claim surge*** and identify the processes that EDD can still improve. The group should issue a report on the lessons learned from the claim surge by no later than January 2022.

- ***Require EDD to regularly cross match UI benefit claims*** against information about individuals incarcerated in state prisons and county jails to ensure that it does not issue payments to people who are ineligible for benefits.

- ***Require CDCR and any other necessary state or local government entities to securely share information*** about incarcerated individuals with EDD to enable EDD to prevent fraud.

- ***Require EDD to include in its annual report to the Legislature about fraud***, an assessment of the effectiveness of its system of cross-matching claims against information about incarcerated individuals.

- ***Require EDD to, by January 2022 and biannually thereafter, assess the effectiveness of its fraud prevention and detection tools*** and determine the degree to which those tools overlap or duplicate one another without providing any additional benefit.
    - By July 2021, provide the Legislature with an update on its progress in performing the effectiveness analysis.

Recommendations to EDD

Claim Processing

Immediately:

- Improve its workload planning and projections and plan its staffing around the likelihood of possible future scenarios that would cause a spike in UI claims. Develop a contingency plan for less likely scenarios that would have a significant impact on its workload.
- Perform a risk assessment of its deferred workloads, including deferred eligibility determinations and retroactive certifications.
- Develop a workload plan that prioritizes its deferred workloads based on the risk assessment and determine the staffing and IT resources needed to accomplish the work within expected time frames.
- Hire and train staff as necessary in order to carry out the workload plan.

By March 2021:

- Revise its public dashboards to clearly indicate the number of claims that have waited longer than 21 days for payment because EDD has not yet resolved pending work on the claim.

By June 2021:

- Identify IT project improvements it can implement incrementally and prioritize implementing the elements most likely to benefit Californians.
- Determine the reasons why claimants cannot successfully complete their identity verification and work with its vendor to resolve these problems.
- Determine the automation modifications it can retain and by September 2021 it should make those a permanent feature of its UI Online application.

Call Center

As soon as possible:

- Add the prerecorded message function to its new phone system to advise claimants of their rights and responsibilities after they file their claim.
- Implement features of its new phone system that allow callers to request a callback from an agent instead of waiting on hold.

By May 2021:

- Establish a policy for tracking and analyzing the reasons why UI claimants call for assistance. Analyze the data every six months to:
  - Identify and resolve problems with the ways in which it provides assistance to UI claimants through self service and noncall-center options.
  - Develop specialized training modules to quickly train its call center staff on the most commonly requested items with which callers want assistance.
- Implement a policy to track and monitor the rate of first-call resolution. EDD should review first-call resolution data at least monthly.

Fraud Prevention and Detection

Immediately:

- Obtain from Bank of America a comprehensive list of claimants' accounts that are frozen.

February 2021:

- Provide information on its website and set up a separate email box for victims of identity theft to contact EDD.
- Establish a centralized tracking tool to monitor the status of benefit bank accounts.

March 2021:

- Designate a unit as responsible for coordinating all UI fraud prevention and detection.
- Establish a working group to coordinate the work needed to resolve each complaint of identity theft, make decisions about staffing levels necessary to assist complainants.
- Direct Bank of America to take action to unfreeze accounts as appropriate.

May 2021:

- Develop a plan for how it will assess the effectiveness of its fraud prevention and detection tools.

Indefinite:

- EDD should identify the fraud prevention and detection efforts it can adjust during periods of high demand for UI benefits. It should ensure that it appropriately balances the need to provide prompt payment during a recession with the need to guard against fraud in the UI program.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Scott Wilk
Senator Dave Cortese
Senator Josh Newman

Thursday, February 11, 2021
10 a.m. or upon adjournment of Session
State Capitol - Room 3191
PART A

Consultant: Christopher Francis, Ph.D.

Public Comment

DISCUSSION ITEMS

5225 Department of Corrections and Rehabilitation (CDCR)

Issue 1: Valley State Prison (VSP): Arsenic and Manganese Removal Water Treatment Plant

Governor's Budget. The Governor's budget includes $20 million General Fund for the construction of an arsenic and manganese removal water treatment plant at VSP due to the increase in the levels of these constituents in the wells at VSP and the adjacent Central California Women's Facility (CCWF). This treatment plant will reduce arsenic and manganese levels to be in compliance with the Environmental Protection Agency and State Water Resources Control Board drinking water quality standards at both VSP and CCWF.

Staff Comment: The CDCR is withdrawing this proposal because the timeline for the working drawings phase has extended and a construction appropriation in 2021-22 is no longer needed. The department stated that the project itself is still needed and that they anticipate requesting a construction appropriation in a future budget cycle.

Staff Recommendation. Reject this proposal without prejudice.

Issue 2: Various Infrastructure Repair Proposals

Governor's Budget. The Governor's budget includes multiple infrastructure upgrade proposals for the CDCR:

NUMBER	BCP/PROJECT NAME	PROPOSED AMOUNT	DESCRIPTION
1	Fire Alarm Replacement and Fire Suppression Repair Reappropriation	A reappropriation of $54.5 million General Fund	The proposed reappropriation is for the replacement of fire alarm systems and repair fire suppression systems at Mule Creek State Prison (MCSP), Richard J. Donovan Correctional Facility (RJD), and California State Prison-Sacramento (SAC). The Department also requests provisional language to extend the expenditure and encumbrance period through June 30, 2024. Between 2014 and 2017, the Office of the State Fire Marshal (OFSM) identified a number of deficiencies resulting from fire and life safety inspections at MCSP, RJD, and SAC. In response to OSFM findings, CDCR retained consultant services to conduct comprehensive studies of the fire alarm, fire detection, and fire suppression systems in all buildings at these

			institutions to determine compliance with applicable building codes and OSFM directives. In development of the performance criteria phase for this project, CDCR determined that additional time was needed to fully document project scope. In addition, the original project schedule did not include sufficient review period for CDCR and the OSFM. Due to these schedule adjustments, the performance criteria phase is currently anticipated to be completed in Spring 2021, postponing the start of the design build solicitation phase. The Notice to Proceed to the selected design-build contractor is expected in Fall 2021. The duration of the design-build phase is anticipated to be approximately 24 months, with anticipated completion in Fall 2023. The 2019 Budget Act included $4.5 million General Fund in 2019-20 for performance criteria and $54.5 million General Fund in 2020-21 for design-build activities to address fire alarm and fire suppression system deficiencies at MCSP, RJD, and SAC.
2	Health Care Facility Repairs at the California Rehabilitation Center (CRC)	$6.8 million General Fund in 2021-22	This proposed expenditure is for health care facility repairs at the CRC. This request is a resubmittal of a request originally submitted in the 2020 Governor's Budget but which was withdrawn before the passage of the 2020 Budget Act. In 2012, CDCR implemented the Health Care Facility Improvement Program (HCFIP) to improve treatment and clinic space across the State at 31 adult institutions. However, due to the anticipated closure of CRC in the 2012 Blueprint, a HCFIP project was not implemented at CRC. The continued operation of CRC without implementation of a HCFIP project has resulted in medical infrastructure at CRC that is inconsistent with similar prisons and does not meet the standards established by the Federal

			Receiver for uniform medical care improvements. The existing health care treatment areas at CRC are located in buildings that are approaching 75 years old and are poorly configured for treatment purposes. These space limitations not only restrict functional workflow, but also compromise inmate-patient privacy as required by the Health Insurance Portability and Accountability Act. Many spaces do not have hand sinks to allow for frequent hand washing. Additionally, the walls, work surfaces, and flooring also lack cleanable finishes necessary for effective infectious disease control measures in medical areas. CRC needs to have the capability to provide suitable facilities that can support the delivery of primary, specialty, emergency, medication distribution, inpatient pharmacy, and laboratory services to its inmate-patients. However, the poor condition and inefficient configuration hinders the functional delivery of health care services to CRC's inmate-patients. Basic repairs and renovations are needed to improve building conditions and make the spaces safe and functional. This project will replace damaged flooring, walls, casework and doors, and complete basic renovations to make medical spaces safe and functional. This project would also replace several existing medication distribution windows with prototypical medication distribution windows along with casework replacements and installation of sinks for hand washing.
3	Roof Replacement Design and Construction	$1 million General Fund in 2021-22 for the design phase $32.6 million General Fund in 2022-23 for the construction phase	This proposal is for the construction phase of roof replacements at California State Prison, Los Angeles County (LAC). Roof replacement is necessary due to deteriorated conditions of the existing roof that severely impacts housing conditions and inmate access to services and rehabilitation programs.

			Wind-driven storms and sustained rainfall have battered CDCR's prisons and wreaked havoc within buildings with deteriorated roofing systems. Failures of roofs and building systems at the institutions can significantly affect CDCR's ability to provide basic services such as feeding and housing the inmate population. In addition, health care services and rehabilitative programs need adequate physical space and infrastructure to provide necessary services and programs. These critical functions are negatively impacted when roofs and building systems fail. When medical facilities are closed, health care services become backlogged. LAC has significant roof damage in Facilities A, B, C, and D, Visitor Processing, Receiving and Release, Central Control, and Central Kitchen. These areas include housing units, program space, and offices. Due to the condition of the roofs, damage has occurred to ceiling tiles, drywall, insulation, paint, electrical components, and cells. With limited supplies and an increasing number of leaks, LAC is not able to keep up with the amount of repairs and replacements needed to maintain a safe and secure environment. CDCR's annual baseline Special Repair (SR) funding is $26 million for adult institutions. The 2017, 2018, 2019 and 2020 Budget Acts provided additional funding for various roof replacement projects. But the department states that by appropriating funding specifically for roof replacements, CDCR is able to utilize the annual SR funding on the needed repair of other prison infrastructure systems. Without this dedicated funding for roof replacements, CDCR would need to commit more of its annual SR funding to roofs, negatively impacting CDCR's ability to fix other critical infrastructure needs.

CDCR Roof Replacement Needs

Phase	Institution	Cost[1]
1	California State Prison, Los Angeles County	$32,650,000
2	California Institution for Men	$35,400,000
	California Medical Facility	$14,250,000
3	R.J. Donovan Correctional Facility	$37,350,000
	Wasco State Prison	$30,100,000
4	Mule Creek State Prison	$23,050,000
	North Kern State Prison	$33,250,000
5	Valley State Prison	$26,600,000
	Centinela State Prison	$27,850,000
6	Avenal State Prison	$23,150,000
	Folsom State Prison	$24,225,000
7	Correctional Training Facility	$48,600,000
	Sierra Conservation Center	$20,850,000
8	California Correctional Center	$27,900,000
	Pelican Bay State Prison	$38,050,000
	Total:	**$443,275,000**

Current Funded Roof Replacements	
Calipatria State Prison	High Desert State Prison
California State Prison, Corcoran	Ironwood State Prison
California State Prison, Sacramento	Pleasant Valley State Prison
California State Prison, Solano	Salinas Valley State Prison
California Correctional Institution (partial)	Substance Abuse Treatment Facility
Central California Women's Facility	

**Roof replacements at the following institutions will be addressed through the annual Special Repair Program as needed:*

- *California Correctional Institution*
- *California Health Care Facility*
- *California Institution for Women*
- *California Men's Colony*
- *California Rehabilitation Center*
- *Chuckawalla Valley State Prison*
- *Folsom Women's Facility*
- *Kern Valley State Prison*
- *San Quentin State Prison*

[1]All costs are based on 2022-23 cost estimates.
The costs for Phases 2-8 do not include escalation because the date each phase would receive funding is undetermined.

4	One-Time Deferred Maintenance Allocation	$50 million General Fund in 2021-22. Additionally, CDCR is requesting provisional language to allow the funding to be available for expenditure and encumbrance until June 30, 2024.	The Governor's budget for 2021-22 proposes a $50 million one-time General Fund increase to CDCR's $26 million base budget for special repairs and deferred maintenance. According to CDCR, the additional funds would support 20 projects at various prisons (See below for a list of projects). For example, $3.7 million would be used to upgrade fire suppression exhaust hood systems at California Men's Colony in San Luis Obispo. Facilities require routine maintenance, repairs, and replacement of parts to keep them in acceptable condition and to preserve and extend their useful lives. When such maintenance is delayed or does not occur, we refer to this as deferred maintenance (DM). Special Repair (SR)/DM project development and funding processes address the following categories and types of building and site-wide infrastructure needs: 1) Unplanned Emergency or Urgent Major Repair and/or System Replacement, and 2) Preventive Major Repair and/or System Replacement. The former refers to a group of needs results from sudden catastrophic or imminent major system and/or system component failures while the latter refers to and includes systems that require major repair, but which have not completely failed. These preventative needs can be identified and the required work can be scoped, designed, scheduled and funded according to system and CDCR priority. Currently, CDCR has a SR/DM project funding request backlog exceeding $1 billion. This is more than 40 times CDCR's current $26 million annual baseline funding. Assessments indicate that a more comprehensive picture of the DM backlog is approximately $13 billion. The department has said that current funding levels are ineffective to address the new and backlogged maintenance.

2021-2022 Proposed Deferred Maintenance Projects

Facility	Description	Estimated Funding Need
ASP	Replace Hydronic Loop System (2021-22 phase)	$3,400,000
ASP	Upgrade Fire Suppression Exhaust Hood Systems (UL 300 Compliance)	$3,234,000
CAL	Replace Condenser Water Supply and Return Piping - Chiller Plant	$3,081,000
CAL	Repair and Upgrade Lethal Electrified Fence	$1,473,000
CCI	Repair and Upgrade Lethal Electrified Fence (partial funding amount)	$1,466,000
CCWF	Repair Housing Unit Showers (14 Buildings)	$4,660,000
CEN	Repair and Upgrade Lethal Electrified Fence	$1,382,000
CMC	Upgrade Fire Suppression Exhaust Hood Systems (UL 300 Compliance)	$3,700,000
CMF	Upgrade Fire Suppression Exhaust Hood Systems (UL 300 Compliance)	$2,800,000
COR	Upgrade Fire Suppression Exhaust Hood Systems (UL 300 Compliance)	$3,700,000
CVSP	Renovate Water Tanks	$4,500,000
CVSP	Repair and Upgrade Lethal Electrified Fence	$946,000
ISP	Repair and Upgrade Lethal Electrified Fence	$1,418,000
LAC	Repair and Upgrade Lethal Electrified Fence	$1,407,000
RJD	Repair and Upgrade Lethal Electrified Fence	$1,433,000
SCC	Repair Showers - Facility C (5 Buildings)	$1,600,000
SOL	Repair Water Treatment Plant Filter Trains	$1,100,000
SOL	Replace Hydronic Loop System (2021-22 phase)	$4,000,000
SOL	Upgrade Fire Suppression Exhaust Hood Systems (UL 300 Compliance)	$2,400,000
WSP	Upgrade Potable Water Well Treatment and Pumps	$2,300,000
	Total:	**$50,000,000**

LAO Assessments of the 2021-22 Budget: Prison Maintenance and Repair Proposals

- ***State Could Close Up to Five Prisons.*** Given that the prison population is projected to decline by a couple tens of thousands of inmates over the next few years, the administration plans to close the Deuel Vocational Institution (DVI) in Tracy by September 30, 2021 and a second, unnamed, prison in 2022-23. The LAO finds that the state would likely be able to close three additional prisons by 2024-25.

- ***Plan Needed on Disposition of Closed Prisons.*** The disposition of the prisons to be closed is currently unclear. Given the need to provide maintenance and security resources while prisons are closed, it is important for the state to have a long-term plan for each closed prison. Accordingly, the LAO recommends the Legislature require CDCR to report on what options it is considering for the ultimate disposition of the two prisons it plans to close.

- ***Additional Funding for Special Repair and Deferred Maintenance Needed.*** Given the state's significant prison infrastructure needs—many of which are urgent and relate to health, safety, or habitability concerns—additional funding for special repair and deferred maintenance of state prisons appears reasonable. Moreover, the costs for addressing these needs are largely unavoidable and will grow if not addressed.

- ***Not Cost-Effective to Start Projects at Prisons That Could Be Closed.*** Special repair and deferred maintenance projects can take a couple years to complete. If CDCR starts such a project at a prison that is later closed, it's possible that the project would not be completed until around the time that the prison is being closed, which would not be cost-effective. For example, the administration expects that the proposed health care facility repairs at CRC and fire suppression upgrades at CMC would not be completed until around the fall of 2023. However, given the inmate population projections, CDCR may be able to close both prisons by around this time or shortly thereafter.

LAO Recommendations

- ***Approve Proposed $50 Million Augmentation for Special Repair and Deferred Maintenance.*** Given the significant statewide prison infrastructure needs, the LAO recommends that the Legislature approve the requested $50 million one-time augmentation for special repair and deferred maintenance projects.

- ***Prohibit Funding From Being Spent on Prisons Likely to Be Closed.*** The Governor's budget proposes a $50 million one-time General Fund increase to CDCR's base budget for special repairs and deferred maintenance. While additional funding is warranted given the state's significant prison infrastructure needs, it would not be cost-effective to start projects at prisons that are closed shortly after project completion. Accordingly, the LAO recommends prohibiting CDCR from spending these funds on prisons that are strong candidates for closure.

- ***Reject Proposed $6.8 Million for Health Care Facility Repairs at CRC.*** The LAO recommends that the Legislature reject the proposed health care facility repairs at CRC, unless the administration provides a long-term plan for the facility demonstrating that the repairs will be completed sufficiently in advance of any potential future closure date. This action would free up $6.8 million that the Legislature could redirect to high-priority prison repair needs at prisons not planned for closure.

Staff Recommendation. Hold open.

Issue 3: Various Capital Outlay Proposals

Governor's Budget. The Governor's budget includes multiple capital outlay projects for the CDCR:

NUMBER	BCP/ PROJECT NAME	PROPOSED AMOUNT AND PHASE	DESCRIPTION
1	Calipatria State Prison, Calipatria (CAL): Health Care Facility Improvement Program (HCFIP)- Phase II	$ 4.1 million General Fund (GF) for the construction phase	As a result of the *Plata vs. Newsom* case, the CDCR health care delivery system was placed under a Federal Receiver in 2006. Subsequently, CDCR and the Federal Receiver developed the Health Care Facility Improvement Program (HCFIP) to improve the physical plant serving CDCR's health care delivery system, with medication distribution improvements as a primary program component. The purpose of HCFIP is to provide a facilities infrastructure within CDCR that will support a timely, competent, and effective health care delivery system with appropriate health care diagnostics and treatment, medication distribution, and access to care for individuals incarcerated within CDCR. The HCFIP improvements at CAL have been divided into two phases. Phase I includes renovations to Central Health Services and renovations to Health Care Administration. Phase II includes renovations and additions to the Primary Care Clinics in Facilities A, B, C, and D and a new Administrative Segregation Unit Primary Care Clinic. It was determined that the current funding is not adequate to complete construction. The construction cost increase is associated with the following items: 1. Design errors and omissions (E&Os) related to the integration of the fire alarm system into the existing site wide monitoring system, modifications to the underground fire water supply at both HCFIP sub-projects, and the relocation of utility lines at the new ASU Primary Care Clinic.

			2. Increased job costs that resulted from delays in the project's schedule. The delays were caused by E&Os and COVID-19, resulting in additional costs for Inmate/Ward Labor staff, casual labor, guarding, and inspections for an extended duration. 3. State Fire Marshal requirements related to the repairs to the existing rated corridor construction and head of wall at Facilities A, B, C, and D clinics. The proposal is for a supplemental appropriation for the construction phase in the amount of $4,145,000 General Fund. The total estimated project cost is $22.2 million.
2	California State Prison, Los Angeles County, Lancaster (LAC): Medication Preparation Room Unit D5	$328,000 GF for working drawings phase	The purpose of this project is to design and construct a Medication Preparation Room (MPR) at LAC in housing unit D5 and is part of the projects within the HCFIP. Phase I of the Statewide Medication Distribution Improvements project included modifications at 22 institutions to address deficiencies in the health care delivery system by providing MPRs and Medication Distribution Rooms. The original scope for Phase II of the Statewide Medication Distribution Improvements project included a MPR at LAC Housing Unit D5. The original scope was for the MPR to be constructed in an existing office within the housing unit. It was subsequently determined during the design process that the office was too small for current requirements of a MPR; expanding the office to address the needed space would create blind spots and pose security concerns within the housing unit. This physical plant modification will allow CDCR to provide the appropriately-sized space with the proper infrastructure for safe and secure medication preparation. The total estimated project cost is $3.4 million GF.

3	AB 900 (2007) General Fund Reappropriation	Reappropriation of $6.0 million GF for Construction phase	A reappropriation of the unexpended funding is being requested. This reappropriation is ensures the balance of this appropriation remains available for completion of the below projects. Assembly Bill 900 (2007) as amended originally appropriated $300 million GF for design and construction of infrastructure, dental, medication distribution improvements and for projects in the Health Care Facility Improvement Program (HCFIP) at prisons statewide. Five HCFIP projects, the Folsom State Prison's Cell Block Five Fire Life & Safety project, and multiple medication distribution improvement projects are authorized from this funding source. Preliminary plans and working drawings have been completed for these projects; however, construction has been delayed due to fire alarm system connectivity issues, delayed approvals of fire sprinkler submittals, and phasing to maintain safe prison and medical operations during construction. The total pot appropriation is $239 million.
4	California Institution for Men, Chino: Air Cooling Facility A	$ 13.9 million GF for the construction phase	The purpose of this project is to design and install air cooling systems in housing units at CIM's Facility A. Installation of cooling systems in Facility A's housing units will reduce indoor temperatures during the hot months, providing a better environment for inmates and staff and enhancing safety and security. With internal heat loads (lighting and occupants), it is quite possible to have indoor temperatures as high as the outside and, without air cooling, there is no relief from summer temperatures that can reach as high as 114ºF. Facility A houses a large number of inmate-patients who are aged and/or are considered to be high risk medical that are more susceptible to health risks during high temperatures. The population on Facility A, as of December 2020, was 790. The average inmate age on the facility is 55, and approximately 605 (76 percent) of the

			population is currently 50 years of age or older. The project will help to maintain indoor temperatures at or below 89º F in accordance with the CDCR Design Criteria Guidelines. The Facility A housing units were built in 1952 when air cooling systems were not required by departmental standards. The total estimated project cost is $15.7 million GF.
5	Substance Abuse Treatment Facility (SATF): Air Cooling Facility F And G	$ 2.7 million GF for the preliminary plans and working drawings phases	This proposal would be for the installation of air cooling systems with required fire/life/safety improvements in rehabilitative treatment, education, and office space within Facility F and G housing units at SATF to provide indoor temperatures suitable for incarcerated people to receive treatment and education. Facility F and G have a total of six dormitory-style housing units with four "wings" each. Each housing unit contains rooms used for rehabilitative programming, group therapy, individual therapy, and a shared staff office. Several of these housing units contain Enhanced Outpatient incarcerated patients. High temperatures in these areas lead to missed treatment and education hours for inmates through refusal to attend treatment and education, as well as the cancellation of sessions. From May 2018 to August 2019, there were approximately 3,160 hours of cancelled treatment and education sessions due to temperatures exceeding 89°F. Inmates have also refused to attend scheduled treatment sessions because of the high temperatures in the treatment rooms. The temperatures have been recorded as high as 94°F. The total estimated project cost is $14.9 million GF
6	Statewide: Minor Capital Outlay Program California Health Care Facility (CHCF),	$1.5 million GF for the preliminary plans, working drawings, and	A list of 5 projects for fiscal year 2021-22, totaling $1,515,000 General Fund for the design and construction of minor capital outlay improvements at the CHCF. Each project costs $303,000 GF.

	Facility E Dayroom Restroom Housing Units 301 B-F	construction phases	Inmate-patients in Facility E are often medically fragile, experiencing bladder and bowel control issues and early onset dementia. These conditions often require ready access to toilets. The dayroom in-housing units 301B through 301F are not equipped with toilets. The total population in this facility is 327 incarcerated patients. Design and construction of a toilet and sink inside a housing unit for inmate-patients with accessibility requirements and chronic medical needs. The total project cost is $1.5 million GF.

Staff Recommendation. Hold all proposals open.

Senator Maria Elena Durazo, Chair
Senator Scott Wilk
Senator David Cortese
Senator Josh Newman

Thursday, February 11, 2021
10 a.m. or upon adjournment of session
State Capitol – Room 3191

Part B

Consultant: James Hacker

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

VOTE-ONLY CALENDAR

2600 CALIFORNIA TRANSPORTATION COMMISSION

Issue 1: Transportation System Oversight

Governor's Proposal. The budget includes an increase of $1,189,000 from the State Highway Account and the Public Transportation Account to convert eight limited-term positions to permanent positions in order to address the permanent workload related to the implementation of SB 1 (Beall), Chapter 5, Statutes of 2017, SB 103 (Committee on Budget and Fiscal Review), Chapter 95, Statutes of 2017, and SB 1328 (Beall), Chapter 698, Statutes of 2018.

SB 1 provided the first significant, stable, and on-going increase in state transportation funding in more than two decades. In providing this funding, the Legislature has provided additional funding to the Commission and increased its role in a number of existing programs and created new programs for the Commission to oversee. While the positions provided in 2019-20 were limited term, the workload created by SB 1, SB 102, and SB 1328 was ongoing. As such, it is appropriate to convert these positions from limited-term to ongoing, and to provide the necessary resources to do so.

2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)

Issue 2: Planning Program PID ZBB

Governor's Proposal. The budget includes a biennial zero-base-budget (ZBB) for Project Initiation Documents (PIDs) that requests a total of 370 positions and $72,120,000 ($68,790,000 in personal services (PS) and $3,330,000 in operating expenses (OE)) to develop, review, and approve PIDs. This request represents a net decrease of 60 positions, 20 Full Time Equivalents (FTE) for Architecture and Engineering (A&E) contracting, and 5 Cash Overtime (COT) FTE equating to a total reduction of $18,229,000.

Although there is substantial transportation funding available, the PID Program is requesting a decrease in resources due to the implementation of multi-asset PIDs (which consolidate workload), increased funding directed towards programs that do not require PIDs, and a new normal level of PIDs after accelerating delivery to meet the influx of SB1 transportation funding.

Issue 3: Maintenance Zone Enhanced Enforcement Program (MAZEEP)

Governor's Proposal. The budget includes a permanent increase in State Highway Account (SHA) funds of $4,000,000 in operating expenses beginning in 2021-22 for Maintenance Zone Enhanced Enforcement Program (MAZEEP) needs statewide to provide for enhanced worker safety in project work zones.

Since a deadly series of accidents in 2011, MAZEEP usage has steadily increased year over year. Since increasing the usage of CHP in work zones, the number of Caltrans Maintenance fatalities caused by errant motorists has reduced to one death from 2012 to 2019. In addition to contributing to worker safety in maintenance sites, Caltrans has begun to utilize and now requires the presence of CHP officers to assist with encampment remediation. This $4,000,000 request aligns MAZEEP's budget with recent levels of expenditure. This funding will allow Caltrans to replace redirected resources to accomplish priority highway maintenance activities, such as increased landscape and right-of-way maintenance, including material purchases and services contracts on hold due to budget constraints.

Issue 4: Wildfire Litigation

Governor's Proposal. The budget includes three-year, limited-term resources in State Highway Account (SHA) funds totaling $2,756,000 ($1,647,000 in personal services (PS), $1,109,000 in operating expenses (OE)) to support increased workload for wildfire litigation.

In FY 2020-21, the Legal Division's BCP request for additional Wildfire litigation resources was withdrawn due to the 2020 COVID-19 Pandemic and anticipated delays in court proceedings. Subsequently, the courts implemented technological solutions and, once again, cases are progressing. The Legal Division has already begun incurring staffing costs and fees. Caltrans has redirected resources from other workload to support this. Additional resources are needed for preparing for and conducting depositions, coordinating with court reporters, requesting reprographic services and executing contracts with expert witnesses.

2670 Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun

Issue 5: Funding for Increased Training Costs

Governor's Proposal. The budget includes a permanent augmentation of $200,000 from the Board of Pilot Commissioners' Special Fund to cover increased Training costs.

To ensure that there are a sufficient number of trainees in the pipeline to achieve the goal of attaining 60 licensed pilots at all times, and based upon the pilot retirement survey and the current number of BOPC-licensed pilots, the BOPC voted at its July 23, 2020, meeting to increase the maximum number of trainees in the pilot training program from 8 to 10, subject to sufficient budgetary authority. The BOPC has indicated that this requested increase in budget authority is necessary to cover increased Pilot Trainee Training Program cost. The current appropriation of $1,225,000 that provides training to both BOPC-licensees through the Pilot Continuing Education Program and to pilot trainees in the Pilot Trainee Training Program will not cover the training costs of both pilots and pilot trainees in Fiscal Year (FY) 2021-22 if the Board increases the maximum number of pilot trainees from eight to ten.

2720 California Highway Patrol

Issue 6: Records Management and Licensing System

Governor's Proposal. The budget includes a permanent increase of $3.5 million from the Motor Vehicle Account for the ongoing licensing and subscription of the Department's Records Management System (RMS).

The CHP has indicated that federal grant only covers the initial cost of the acquisition, configuration, and stabilization of the RMS but not the ongoing licensing and maintenance costs. The department has indicated that they plan to provide licenses for access to the acquired system for the roughly 7,500 sworn officers and non-uniformed administrators. $3.5 million per year covers the licensing costs for these individuals. While the MVA is fiscally constrained, this funding is required to meet a federal mandate.

2740 CALIFORNIA DEPARTMENT OF MOTOR VEHICLES

Issue 7: Brawley and Woodland Field Office Relocations

Governor's Proposal. The budget includes resources to relocate the Brawley and Woodland offices to temporary leased offices. This includes $316,000 in 2021-22, $526,000 in 2022-23, and $793,000 in 2023-24 and ongoing to relocate the Brawley Field Office to a temporary leased office near Brawley, California. It also includes $311,000 in 2021-22, $490,000 in 2022-23, and $727,000 in 2023-24 and ongoing to replace the departments leased Woodland Field Office building. This funding will allow the DMV to continue serving the general public, which would otherwise be negatively affected due to customers overcrowding the surrounding offices.

The Brawley Field Office is proposed to be consolidated with the El Centro Field Office in a capital outlay project in DMV's FY 2021/22 Five-Year Infrastructure Plan. Due to the condition of the Motor Vehicle Account, few capital outlay projects have moved forward in recent years. The Department has indicated that it can no longer wait to consolidate Brawley with El Centro due to the condition of the modular building. The Department has indicated that the Woodland Field Office has not been properly maintained by the lessor, and a relocation is necessary to properly serve the public.

Staff Recommendation: Approve all Vote Only items as budgeted.

ISSUES FOR DISCUSSION

2740 California Department of Motor Vehicles

The Department of Motor Vehicles (DMV) promotes driver safety by licensing drivers and protects consumers by issuing vehicle titles and regulating vehicle sales.

Budget Overview. The 2021-22 budget provides $1.4 billion to support 8,600 positions. This is an increase of roughly $65 million and 60 PYs from 2020-21.

3-YEAR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2019-20	2020-21	2021-22	2019-20*	2020-21*	2021-22*
2130	Vehicle/Vessel Identification and Compliance	4,115.0	3,965.7	3,893.4	$666,525	$662,177	$691,484
2135	Driver Licensing and Personal Identification	3,200.7	2,309.8	2,478.7	518,421	505,752	533,066
2140	Driver Safety	917.2	1,226.3	1,210.7	148,550	145,793	152,448
2145	Occupational Licensing and Investigative Services	387.9	455.5	448.8	62,819	62,363	65,567
2150	New Motor Vehicle Board	9.4	13.0	13.0	1,581	1,729	1,865
9900100	Administration	832.8	592.9	575.2	123,013	132,277	137,342
9900200	Administration - Distributed	-	-	-	-123,013	-132,277	-137,342
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**9,463.0**	**8,563.2**	**8,619.8**	**$1,397,896**	**$1,377,814**	**$1,444,430**

FUNDING		2019-20*	2020-21*	2021-22*
0001	General Fund	$6,426	$9,879	$8,386
0042	State Highway Account, State Transportation Fund	6,682	8,348	10,400
0044	Motor Vehicle Account, State Transportation Fund	1,345,611	1,309,001	1,362,566
0054	New Motor Vehicle Board Account	1,581	1,729	1,865
0064	Motor Vehicle License Fee Account, Transportation Tax Fund	10,937	20,479	30,631
0115	Air Pollution Control Fund	-	1,705	-
0516	Harbors and Watercraft Revolving Fund	5,226	2,704	7,734
0890	Federal Trust Fund	22	2,789	1,393
0995	Reimbursements	12,645	14,549	14,549
3290	Road Maintenance and Rehabilitation Account, State Transportation Fund	8,766	6,631	6,906
TOTALS, EXPENDITURES, ALL FUNDS		**$1,397,896**	**$1,377,814**	**$1,444,430**

MVA Fund Condition. The Department of Motor Vehicles and the California Highway Patrol are predominantly funded by the Motor Vehicle Account, which has been fiscally constrained for a number of years. While recent budgetary actions have stabilized the fund to some degree, it is still precariously balanced and remains a concern. As shown below, based on projections in the proposed January budget, the fund is projected to have a negative fund balance beginning in 2024-25, raising serious questions about proposals that include significant out-year expenditures.

Motor Vehicle Account (0044) Fund Condition
(dollars in millions)
2021-22 Governor's Budget

	Past Year 19-20	Current Year 20-21	BY 21-22	BY+1 22-23	BY+2 23-24	BY+3 24-25	BY+4 25-26
BEGINNING RESERVES	$602	$388	$178	$155	$100	$100	-$160
REVENUES & TRANSFERS							
Revenues							
Registration Fee	$3,423	$3,556	$3,652	$3,764	$3,877	$3,997	$4,120
Other Fees	$576	$675	$549	$594	$606	$617	$622
REAL ID Fee Revenue - Conversions	$0	$30	$129	$0	$0	$0	$0
Total Fee Revenue	**$3,999**	**$4,261**	**$4,330**	**$4,358**	**$4,483**	**$4,614**	**$4,742**
Transfers & Loans							
Loan of CS 3.90 Savings to GF per CS 3.92	$0	-$266	-$266	$0	$0	$0	$0
Patrol Member Retirement Contribution Transfer	-$25	-$25	-$25	-$25	$0	$0	$0
Transfers To Other Funds	-$3	-$3	-$3	-$3	-$3	-$106	-$109
Repayment of CS 3.92 Loan	$0	$0	$0	$86	$248	$198	$0
Total Resources	**$4,573**	**$4,355**	**$4,213**	**$4,571**	**$4,828**	**$4,806**	**$4,473**
EXPENDITURES							
Baseline Support Expenditures							
CHP - Base Budget	$2,439	$2,276	$2,252	$2,546	$2,753	$2,962	$3,172
DMV - Base Budget	$1,346	$1,309	$1,082	$1,209	$1,260	$1,330	$1,403
DMV - Proposed Extension of REAL ID and Operational Improvements	$0	$0	$186	$106	$86	$31	$32
DMV - Digital Experience IT Project	$0	$0	$21	$49	$49	$44	$44
ARB - Base Budget	$139	$142	$140	$156	$165	$175	$184
Other (Other Departments, Local Assistance, Assessments including Pro Rata)	$259	$263	$311	$317	$320	$323	$327
SB 84 Loan Repayment	$0	$178	$66	$69	$72	$74	$77
Total, Support Expenditures	**$4,183**	**$4,168**	**$4,058**	**$4,452**	**$4,705**	**$4,939**	**$5,239**
Cap Outlay-Committed Lease/Debt Service							
CHP	$0	$9	$0	$8	$12	$14	$15
DMV	$2	$0	$0	$0	$0	$0	$0
ARB/CDFA	$0	$0	$0	$11	$12	$13	$15
Subtotal, Capital Outlay	**$2**	**$9**	**$0**	**$19**	**$24**	**$27**	**$30**
Expenditure Total	**$4,185**	**$4,177**	**$4,058**	**$4,471**	**$4,729**	**$4,966**	**$5,269**
FUND BALANCE	**$388**	**$178**	**$155**	**$100**	**$100**	**-$160**	**-$796**

Issue 8: Extension of REAL ID Resources and Operational Improvements

Governor's Budget. The budget includes 1,612 positions and $186.3 million in Fiscal Year (FY) 2021-22, including one-time and ongoing funding, to continue implementation of the federally mandated REAL ID Act. This includes ongoing resources to fund a communication campaign and customer service improvements such as the REAL ID Automated Document Verification Project (RADVP) and a range of online chat services to improve access to DMV's services outside of the field offices. Additionally, this proposal will continue funding operational improvements such as increased management, training, kiosks, and Office of Public Affairs staffing.

Background. The REAL ID Act, passed by Congress in 2005, enacted the 9/11 Commission's recommendation that the Federal Government "set standards for the issuance of sources of identification, such as driver's licenses." The Act established minimum security standards for license issuance and production and prohibits federal agencies from accepting for certain purposes driver's licenses and identification cards from states not meeting the Act's minimum standards. California implemented a federally compliant DL/ID card process in January 2018, meaning DL/ID card applicants have the option, when applying for an original DL/ID card and renewing or applying for a duplicate DL/ID card in a DMV field office, to obtain a federally compliant DL/ID card or a federal non-compliant DL/ID card. At the time, the enforcement date for the REAL ID Act was October 1, 2020.

Following the implementation of the new REAL ID process, DMV customers experienced a dramatic increase in transaction wait times. This led the Legislature to approve, as part of the 2019-20 budget, significant but limited-term investments in DMV resources and operational improvements. Specifically, the 2019-20 budget included $242.1 million (offset by certain planned savings) and 2,052.1 positions in 2019-20 and $199.8 million (offset by certain savings) and 1,991.9 positions in 2020-21 for REAL ID workload and a variety of operational improvements. These resources are set to expire at the end of 2020-21.

During the COVID pandemic the federal government extended the REAL ID enforcement date to October 1, 2021, after which non-compliant cards will not be accepted for official federal purposes.

Staff Comments. The DMV has indicated that the requested resources will continue funding 1,383 existing temporary positions, including temporary hires and permanent intermittent employees, overtime, and retired annuitants to address the short-term increase in workload associated with REAL ID implementation, and will assist in keeping wait times down to an acceptable level. The requested level of funding decreases over the next four years with $186.3 million in 2021-22, $105.7 million in 2022-23, $86.3 million in 2023-24, and $30.8 million in 2024-25 and $32.0 million in 2025-26 and 257.7 ongoing permanent positions.

This request continues workload for a number of elements of the 2019-20 package, ends others, and funds certain new costs. Specifically, it provides:

- A total of $175.1 million and 1,493.2 total PYs for REAL ID workload. This is a decrease of roughly 350 PYs, but an increase of roughly $2 million, from 2020-21. PY reductions driven by anticipated reduction in REAL ID workload following the October 2021 deadline are partially offset by increased costs for Covid-related PPE and card production costs. It also includes cost reductions related to the RADVP project, which replaced an external contract with a more cost-effective internal solution for internal document validation.

- 89 PYs for customer services improvements, largely funded savings in credit card fees. This is consistent with the amount budgeted in 2020-21.

- $19.6 million and 34 PYs for operational improvement efforts. This is a reduction of roughly $12.5 million and 21 PYs from 2020-21, largely due to the completion of certain one-time projects, such as a redesign of the Field Office appointment system. It also includes new costs for a Medical Management Unit (nine PYs) for Covid and related risks.

- $186.3 and 1,616.2 PYs for IT improvements. This is a reduction of roughly $13.5 million and 370 PYs from 2020-21, driven by the completion of Network Redundancy projects as well as the completed replacement of Document Authentication Devices.

DMV is likely to face significant additional workload as the federal REAL ID deadline approaches, and the department will be judged by its ability to deliver service without repeating the wait time increases of 2018-19. At the same time, the COVID pandemic has complicated efforts to provide in-person customer service. In responding to the pandemic, DMV has implemented a number of innovative approaches, including the Virtual Field Office (VFO), which has expanded the department's ability to provide service to customers without requiring those customers to enter a Field Office.

This raises questions about DMVs long-term business model, and the possibility of moving a larger share of customer transactions out of the Field Office and into other channels, including online. Doing so could result in better customer service at a lower cost to the state. However, much of DMVs IT infrastructure is dated and in need of upgrading, complicating efforts to expand online or tech-heavy customer service efforts. Lastly, the MVA remains fiscally constrained. These factors should be considered as the Committee discusses this proposal.

LAO Comments.

- ***Governor Proposes to Continue Funding for REAL ID and Operational Improvements.*** *The 2021-22 Governor's Budget* includes $186 million and 1,612 positions (decreasing to $32 million and 258 positions upon full implementation) to continue previously approved temporary resources to address the increased Department of Motor Vehicles REAL ID workload and operational improvements.

- ***Resources for Operational Improvements are Reasonable.*** We find that the request is consistent with the recommendations of the two recent evaluations of the department, and improvements in department performance suggest that the additional resources have had positive impacts on the department's performance.

- ***Uncertainty Regarding REAL ID Workload.*** The department's estimates of the temporary field office staff required and the auxiliary costs of addressing the REAL ID workload are highly dependent on several factors, such as potential federal action, customer behavior in a pandemic, and changing customer preferences, some of which are fairly uncertain.

- ***Recommend Approving Operational Improvements Request, but Only Budget-Year Funding for REAL ID Workload.*** We recommend the Legislature approve the components of this request related to customer service, operational improvements, and information technology improvements, but only approve the funding for REAL ID workload in 2021-22. In this way, the Legislature could provide oversight of the department's workload by requiring the department to come back next year with a new funding proposal, which could be informed by another year of data on customer behavior and possible federal actions.

Staff Recommendation: Hold Open.

0521 California State Transportation Agency

The California State Transportation Agency develops and coordinates the policies and programs of the state's transportation entities to achieve the state's mobility, safety and environmental sustainability objectives.

Budget Overview. The 2021 Budget provides roughly $377 million and 60 PYs for the Transportation Agency. This is a decline of roughly $350 million from 2020-21, largely driven by declines in cap-and-trade auction revenue during the Covid-19 pandemic.

3-YEAR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2019-20	**2020-21**	**2021-22**	**2019-20***	**2020-21***	**2021-22***
0270	Administration of Transportation Agency	20.9	26.8	26.8	$17,252	$9,344	$5,592
0275	California Traffic Safety Program	28.2	32.0	32.0	81,565	192,379	123,635
0276	Transit and Intercity Rail Capital Program	1.2	1.2	1.2	235,722	524,255	247,712
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**50.3**	**60.0**	**60.0**	**$334,539**	**$725,978**	**$376,939**

FUNDING		**2019-20***	**2020-21***	**2021-22***
0001	General Fund	$6,816	$3,984	$-
0042	State Highway Account, State Transportation Fund	-	3,563	3,718
0044	Motor Vehicle Account, State Transportation Fund	2,084	1,198	1,249
0046	Public Transportation Account, State Transportation Fund	49,356	44,123	36,502
0890	Federal Trust Fund	81,275	191,780	123,009
0995	Reimbursements	2,787	-	-
3228	Greenhouse Gas Reduction Fund	192,221	481,330	212,461
TOTALS, EXPENDITURES, ALL FUNDS		**$334,539**	**$725,978**	**$376,939**

Issue 9: Transportation Development Act Trailer Bill Language

Governor's Budget. The Administration has proposed trailer bill language making a variety of changes to the Transportation Development Act related to the distribution and uses of funding for transit.

Background. The Mills-Alquist-Deddeh Act (SB 325) was enacted by the California Legislature to improve existing public transportation services and encourage regional transportation coordination. Known as the Transportation Development Act (TDA) of 1971, this law provides funding to be allocated to transit and non-transit related purposes that comply with regional transportation plans.

TDA established two funding sources: the Local Transportation Fund (LTF), and the State Transit Assistance (STA) fund. Providing certain conditions are met, counties with a population under 500,000 (according to the 1970 federal census) may also use the LTF for local streets and roads, construction and maintenance. The STA funding can only be used for transportation planning and mass transportation purposes.

AB 90 (Committee on Budget), Chapter 17, Statutes of 2020, and AB 107 (Committee on Budget), Chapter 264, Statutes of 2020, as part of the 2020 budget, provided temporary statutory relief for transit agencies. Specifically, the bills:

- Temporarily held harmless transit operators that receive state funding and whose ridership levels have been negatively impacted by COVID-19.
- Temporarily eliminated financial penalties for non-compliance with transit funding efficiency measures in the Transportation Development Act and the State Transit Assistance Program.
- Allowed for increased flexibility in the use of funds transit operators receive from the State Transit Assistance - State of Good Repair program and the Low Carbon Transit Operations program.

Staff Comments. This bill would extend some of the statutory relief provided in AB 90 and AB 107, while making a number of additional changes. Specifically, the proposed language:

- Requires the Department of Transportation to consult with transportation planning agencies, county transportation commissions and transit development boards, and conduct a review of opportunities to streamline current performance audit requirements and identify more effective performance measures. The resulting report would be required by November 30, 2021.
- Extends the hold harmless provisions of AB 90 by one additional fiscal year.
- Provides exclusions from a transit agency's farebox recovery calculations for the full costs of Americans with Disability Act-mandated paratransit services, general public demand response services, and microtransit services, so that providing those required services do not negatively impact the ability to provide fixed route service with Transportation Development Act funding. It also provides exclusions from these costs for the calculation for an agency's operating costs per vehicle revenue hour, which is required for certain funding programs.
- Provides exclusions from a transit agency's farebox recovery calculations for the costs of improved payment and ticketing systems and services, the costs of key planning efforts related

to improving transit operations, network integration with other operators and agencies, the transition to zero emission fleet and facilities, and for compliance with state and federal mandates.

- Provides the ability to use State Transit Assistance funds for operations as long as local funding for transit operations is maintained at or above 2018-19 levels for five years.

- Extends the use of pre-pandemic data for funding allocation through the STA from 2021-22 to 2022-23.

- Provides a five-year exemption from the requirement to meet operating cost per revenue vehicle hour inflation requirements for operators that can demonstrate a level of local funding for transit operations that is continued at or above the level that was spent in fiscal year 2018-19.

Transit agencies have been hard hit by the pandemic, having to contend with both lower ridership and increased costs related to public health requirements. This led to the passage of AB 90 and AB 107 in the 2020 budget, which provided significant statutory relief for transit operators. As the pandemic has dragged on, it is increasingly likely that the fiscal impact for transit will linger. As such, some form of additional statutory relief is reasonable.

However, it is unclear how long that relief should last, or what the transit landscape will look like once the pandemic is over. As such, the committee may want to consider the appropriate length of relief, and how it could be adjusted as conditions change, as well as how transit is likely to change to operate in a post-pandemic world - including how transit operations are funded in the first place.

Staff Recommendation: Hold Open

2600 California Transportation Commission

The California Transportation Commission is responsible for programming and allocating funds for the construction and improvement of highways, passenger rail systems, and transit systems throughout California. The Commission advises and assists the Transportation Agency and the Legislature in formulating and evaluating state policies and plans for California's transportation programs. The Commission also initiates and develops state and federal transportation policies that seek to secure financial stability for the state.

Budget Overview: The 2021-22 budget provides $12 million from a variety of funds to support 34.3 positions. This is an increase of roughly $700,000 from the 2020-21 budget.

3-YEAR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2019-20	2020-21	2021-22	2019-20*	2020-21*	2021-22*
1800	Administration of California Transportation Commission	29.5	34.3	34.3	$5,571	$7,025	$7,543
1805	Clean Air and Transportation Improvement	-	-	-	4,534	4,300	4,500
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**29.5**	**34.3**	**34.3**	**$10,105**	**$11,325**	**$12,043**

FUNDING		2019-20*	2020-21*	2021-22*
0042	State Highway Account, State Transportation Fund	$2,619	$3,229	$3,453
0046	Public Transportation Account, State Transportation Fund	2,906	3,646	3,940
0703	Clean Air and Transportation Improvement Fund	4,534	4,300	4,500
0995	Reimbursements	46	150	150
TOTALS, EXPENDITURES, ALL FUNDS		**$10,105**	**$11,325**	**$12,043**

Issue 10: Local Streets and Roads Trailer Bill Language

Governor's Budget. The Budget includes trailer bill language making changes to the Maintenance of Effort requirement for local governments that receive funding from the state for their local streets and roads.

Background. In order to receive state funds for local streets and roads, funds, cities and counties must meet a "maintenance of effort" (MOE) requirement. In other words, they must continue to spend local funds on their streets and roads. This ensures that state roads funds do not supplant existing levels of general revenue spending on local streets and roads. MOE requirements are calculated annually.

Staff Comment. When the Covid pandemic struck the state, shelter in place orders were issued in March 2020. At that time, cities and counties immediately began experiencing ongoing impacts to their general fund revenues from the decline in economy activity. This impacted the ability of local governments to meet their MOE requirements under state law. As the pandemic has dragged on, the problem has cascaded across multiple fiscal years.

Given the decline in local revenues, it is reasonable to relax MOE requirements to ensure that local governments are not punished for suffering a decline in local revenue. The recalculation mechanism proposed in this language allows for a reduction to the MOE that is proportionate to a city's or county's loss of general fund revenues, as estimated by taxable sales. This helps ensure that MOE relief is provided based on need and also retains to some extent protections against the supplanting of funds. The language also provides some flexibility for local governments whose primary revenue source is the Transient Occupancy Tax (TOT) to use TOT revenue to calculate their MOE instead of general sales tax revenue.

Staff Recommendation. Hold Open.

2660 California Department of Transportation

The California Department of Transportation (Caltrans) designs and oversees the construction of state highways, operates and maintains the highway system, funds three intercity passenger rail routes, and provides funding for local transportation projects. Through its efforts, Caltrans supports a safe, sustainable, integrated, and efficient transportation system to enhance California's economy and livability.

Budget Overview: The 2021-22 budget provides $14.6 billion to support 20,668 positions at Caltrans. This is an increase of roughly $800 million and a decrease of 75 positions from the 2020-21 budget.

3-YEAR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2019-20	2020-21	2021-22	2019-20*	2020-21*	2021-22*
1830019	Aeronautics	22.5	24.0	24.0	$6,964	$8,559	$8,768
1835010	Capital Outlay Support	8,389.8	8,880.6	8,880.6	2,012,491	2,051,245	2,208,357
1835019	Capital Outlay Projects	-	-	-	4,337,741	4,448,633	4,608,396
1835020	Local Assistance	279.1	262.5	261.5	1,813,365	2,910,257	3,121,329
1835029	Program Development	189.5	195.2	195.2	66,818	78,320	76,999
1835038	Legal	258.8	276.6	262.6	146,723	143,454	148,198
1835047	Operations	1,109.0	1,077.2	1,079.2	273,429	257,695	276,345
1835056	Maintenance	7,010.9	6,906.5	6,904.5	2,096,537	1,980,762	2,051,803
1840019	State and Federal Mass Transit	66.7	61.7	61.7	383,014	609,699	906,391
1840028	Intercity Rail Passenger Program	63.1	40.7	40.7	373,759	642,481	895,170
1845013	Statewide Planning	566.6	725.3	665.3	121,385	156,155	151,062
1845022	Regional Planning	110.0	38.5	38.5	125,421	125,066	129,333
1850010	Equipment Service Program	650.5	647.6	647.6	231,725	225,966	218,914
1850019	Distributed Equipment Service Program Costs	-	-	-	-231,725	-225,966	-218,914
1870	Office of Inspector General	77.7	91.5	91.5	13,913	15,833	17,020
9900100	Administration	1,582.5	1,515.5	1,515.5	416,391	408,232	425,792
9900200	Administration - Distributed	-	-	-	-416,391	-408,232	-425,792
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**20,376.7**	**20,743.4**	**20,668.4**	**$11,771,560**	**$13,428,159**	**$14,599,171**

Issue 11: Hazardous Material Removal at Encampments

Governor's Budget. The budget includes a permanent increase in State Highway Account (SHA) funds of $20,600,000 beginning fiscal year (FY) 2021-22, for the Division of Maintenance (Maintenance) to dedicate to Hazardous Material Removal at Encampments.

Background. Under existing law, Caltrans is responsible for the preservation and keeping of rights of way, and each type of roadway, structure, safety convenience or device, planting, illumination equipment and other facility, in the safe and usable condition to which it has been improved or constructed. Caltrans maintenance of the State Highway System (SHS) includes mitigating homelessness issues that impact system safety. The growth of unsheltered encampments within State right-of-way has been steadily rising and continues to create safety and environmental impacts.

During FY 2019-20, Caltrans received more than 7,400 requests for service concerning encampments through its Customer Service Request (CSR) system. This represents a 154 percent increase since FY 2016-17, when there were only 2,910 CSRs. Potential hazardous environments at encampment sites require additional hazardous material certified contractors to clean, collect, remove, transport, and legally dispose of environmentally regulated, biological, hazardous, and contaminated materials at these sites. The historical increase in CSRs over the past four years for hazardous materials has doubled since FY 2016-2017.

Starting in November 2019, Caltrans began executing contracts with qualified hazmat remediation companies specifically targeting hazardous material removal at encampment sites. Currently, Caltrans has 21 contracts in place.

Staff Comments. Caltrans responsibility for maintaining the state highway right-of-way and the increase in the state's homelessness population have combined to create unique strains on Caltrans budgets and operations. Hazardous materials are increasingly found in encampments within the state right of way, including bridges, roadway gutters, trenches, culverts, and pump houses. Removing hazardous materials requires specialized equipment, training, and position classifications not currently available within the State Civil Service system. This has driven Caltrans' increasing reliance on contract spending, which has required significant redirection of existing resources.

In FY 19-20, Caltrans expended $7,757,000 in redirected funding on these contracts. Between the time contracts began to be used in November and the time cleanup efforts were impacted by COVID-19, Caltrans estimates receiving between approximately 19 and 20 weeks of full cleanup services. Given this expenditure rate, Caltrans projects to expend approximately $20,600,000 in FY 20-21.

Because homeless encampments are likely to remain an issue in the near-term, it is reasonable to provide additional resources to prevent additional redirection of existing resources. However, given the state's commitment to combating homelessness, the significant resources devoted to this issue in recent years, and the still-uncertain impact of the pandemic on homeless populations, the long-term workload is unclear. As such, it may be more appropriate to provide additional resources on a limited-term basis to allow the state flexibility to respond to conditions as they change over time.

LAO Comments. Increasing number of customer service requests as well as growing expenditures indicates that the need for hazardous material removal has risen significantly over the past several years, resulting in additional workload. However, the estimate of the annual costs for hazardous material removal is based on the expenditures of about 20 weeks of contract services, from November

2019 to February 2020. The department used the expenditure rate from such limited period of time because the pandemic has limited cleanup activity in more recent months. However, incomplete annual expenditure data might inaccurately capture the cost of services. For example, in 2018-19, the last year for which we have complete annual data, Caltrans spent about $14.9 million on encampment removal, which is still less than the amount requested in this proposal by several millions of dollars ($20.6 million). Given the uncertainty around the ongoing costs for hazardous material removal, we recommend the Legislature approve two-year limited-term funding.

Staff Recommendation: Hold Open.

Issue 12: Office Space Related Costs

Governor's Budget. The budget includes an increase of $8,295,000 in State Highway Account (SHA) authority for office space related issues. This includes a one-time operating expense increase of $7,340,000 in 2021-22 and a permanent operating expense of $955,000 beginning in fiscal year (FY) 2021-22. These additional funds will be used for office space modifications, internal staffing relocations, modular systems furniture (MSF) reconfigurations and mobile workforce technology to enhance the ability of Caltrans to telework and explore further innovations related to housing employees. This request is the second and final request related to housing additional employees hired due to the increase of transportation provided by the Road Repair and Accountability Act of 2017 (SB1).

Background. Caltrans occupies 13 headquarters office buildings statewide (12 state-owned and one leased) as well as 18 other Administration Program-funded space leases. Caltrans has grown due to SB1 workload; exceeding the amount of available space in certain districts. Resources provided in the 2020-21 budget began the work of office space modifications and restacking. This included the deployment of 648 mobile workforce packages (laptop computers and smartphones) for the administration program.

Staff Comment. The Caltrans workforce has continued to grow since 2018-19 and staffing increases are anticipated through 2023. However, the COVID-19 pandemic has made remote work a necessity and accelerated the shift towards a greater share of remote workers and a level of flexibility that is not offered by a traditional office. This request includes resources for virtual teleconference centers and a shift towards "hoteling" configurations in new office spaces to continue this shift. These resources may allow for more flexible usage of office space to resolve capacity overages at various locations while addressing new standards for office design with a more mobile workforce.

In general, these resources appear reasonable. However, they should be considered in the context of Caltrans and the state's long-term plan for virtual work and flexible work environments. In particular, the Legislature may want to consider whether the requested resources for virtual work support, such as teleconference centers and "hoteling" work spaces, is sufficient or in-line with long-term plans for increased virtual work.

Staff Recommendation: Hold Open.

2665 California High-Speed Rail Authority

The California High-Speed Rail Authority's mission is to plan, design, build, and operate a high-speed train system for California. Planning is currently underway for the entire high-speed train system, which consists of Phase 1 (San Francisco to Los Angeles/Anaheim), and Phase 2 (extensions to Sacramento and San Diego). The Authority continues to develop the first section of the high-speed train system, extending 119 miles from Madera to just north of Bakersfield.

Budget Overview: The 2021-22 budget includes $612.3 million to support 376 positions, including $531.9 million in infrastructure spending. This is an increase of 17 positions, mostly related to the shifting of contracted staff to state staff.

3-YEAR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2019-20	2020-21	2021-22	2019-20*	2020-21*	2021-22*
1960010	Administration	-	145.0	145.0	$-	$29,116	$30,293
1960020	Project Development	-	85.0	90.0	-	16,967	18,676
1960030	Construction Management	-	129.0	141.0	-	26,937	31,446
1970	High-Speed Rail Authority--Administration	215.4	-	-	45,560	-	-
1980	Public Information and Communications Contracts	-	-	-	286	-	-
1990	Blended System Projects	-	-	-	64,778	423,335	-
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**215.4**	**359.0**	**376.0**	**$110,624**	**$496,355**	**$80,415**

FUNDING		2019-20*	2020-21*	2021-22*
0995	Reimbursements	$-	$2,000	$-
3228	Greenhouse Gas Reduction Fund	-	103	103
6043	High - Speed Passenger Train Bond Fund	110,177	493,502	76,312
9331	High-Speed Rail Property Fund	447	750	4,000
TOTALS, EXPENDITURES, ALL FUNDS		**$110,624**	**$496,355**	**$80,415**

SUMMARY OF PROJECTS

	State Building Program Expenditures	2019-20*	2020-21*	2021-22*
1995	**CAPITAL OUTLAY Projects**			
0000132	Initial Operating Segment, Section 1	178,690	-	-
	Acquisition	109,119	-	-
	Design Build	69,571	-	-
0000727	Phase 1 Blended System	607,483	2,461,715	531,897
	Design Build	607,483	2,461,715	531,897
TOTALS, EXPENDITURES, ALL PROJECTS		**$786,173**	**$2,461,715**	**$531,897**

Issue 13: High Speed Rail Property Fund

Governor's Budget. The budget includes an increase of $3.25 million in the annual appropriation for 2021-22 through 2022-23 for a total appropriation of $4 million and an increase of $1.75 million ongoing for a total appropriation of $2.5 million from the leases and rents proceeds received that have been deposited into the Property Fund as part of the acquisition and ownership of real property.

Background. The Property Fund was established by the Office of the State Treasurer for the purpose of depositing revenue received from the sale, lease, or grant of any interest in or use of real property owned or managed by the Authority. As the Authority procures property for the construction of high-speed rail, it is sometimes in the public interest to enter into short-term leases with the former owners or current lessees of the property. Not all acquired properties are immediately needed for construction activities. The Authority has agreed to lease-back some of these properties to the former owners or current lessees, on a short-term basis, to provide them with sufficient time to relocate to another suitable property.

Per PUC, Section 185045 the revenues in the Property Fund can only be used for the development, improvement and maintenance of the HSR system. Commencing with the 2017 Budget Act, each annual budget act has appropriated $750,000 from the Property Fund to the Authority for the purposes of PUC 185045.

Staff Comments. Annual revenue received by the fund has exceeded the annual appropriation and expenditures, and as of November 30, 2020, the cash balance of the fund was $9.8 million. The Authority has identified necessary property-maintenance activities that are appropriate to be funded from the Property Fund. At the Project's current phase, the Authority will use these funds to pay for: taxes and fees on the acquired properties; utilities connected to the properties; fix minor property deficiencies that may potentially be state liabilities; security; the hiring of local, small businesses for property management purposes until the construction package vendors can take possession of the properties, and other allowable uses under PUC 185045. The first two years of expenditure needs are higher to address items that directly impact the safety of the public, which are critical and need to be addressed timely. These items include orchard and/or structure demolitions, building repairs, and property maintenance.

The request in additional expenditure authority is broadly reasonable. However, the committee should consider this request in the context of the Authority's overall Business Plan, and whether it is consistent not just with the Authority's plan, but the Legislature's plans for the project.

Staff Recommendation: Hold Open.

Issue 14: IT Office Transition

Governor's Budget. The budget includes a workload adjustment to reduce 25.4 consultant position FTEs for an annual savings of $7.34 million and to add 17 permanent state positions and $2.73 million in FY 2021-22, and ongoing. This results in a net annual savings of $4.61 million and a net reduction of 8.4 Full-Time Equivalents (FTE) positions.

Background. Established in 1996, the Authority is responsible for planning, designing, building, and operating the state's planned high-speed rail system. To help meet this mission, the Authority contracted with WSP (formerly Parsons Brinckerhoff) to perform the role of the RDP. Over the term of the contract, from July 2015 to June 2022, the RDP is tasked with providing various services to assist in delivering the nation's first high-speed rail system. This includes providing IT support and services. The Authority's IT Office provides vital program support during planning, construction, and the ultimate operation of the high-speed rail system. In the current environment, the Authority is dependent upon RDP contracted staff to perform application development and support; conduct IT project management and support activities; and augment desktop support, cloud infrastructure and network operations resources.

Staff Comments. In November 2018, the California State Auditor's Office concluded an audit of the Authority and released California State Auditor Report 2018-108. Key amongst its findings, the report called out the Authority's reliance on contractors as a key risk area to the ongoing success of the program. In response, in 2019-20 HSRA started the IT Office transition with two BCPs to improve the Authority's Information Security Program and enhance IT operational capabilities. This transition continued in 2020-21 with one additional BCP that focused on replacing RDP resources with state staff throughout the IT organization.

The Authority has indicated that this proposal would complete the transition of IT resources from RDP to state staff. It would bring the majority of the IT workload in-house, while allowing for additional contracted resources as needed, particularly in Application Development and Support. While the proposal does bring the majority of the workload in-house and result in state savings, questions remain about the need for and oversight of additional third party contractors in the new IT Office model.

Staff Recommendation: Hold Open.

2720 California Highway Patrol

The California Highway Patrol (CHP) promotes the safe, convenient, and efficient transportation of people and goods across the state highway system and provides the highest level of safety and security to the facilities and employees of the State of California.

Budget Overview: The 2021-22 budget provides $2.7 billion to support 10,750.5 positions. This is an increase of roughly $180 million, with no corresponding change in positions, from 2020-21.

3-YEAR EXPENDITURES AND POSITIONS †

		Positions			Expenditures		
		2019-20	2020-21	2021-22	2019-20*	2020-21*	2021-22*
2050	Traffic Management	8,293.1	8,300.1	8,300.1	$2,480,301	$2,227,832	$2,384,259
2055	Regulation and Inspection	1,047.0	1,047.0	1,047.0	273,330	255,680	275,750
2060	Vehicle Ownership Security	222.4	222.4	222.4	59,940	56,375	60,418
9900100	Administration	1,181.0	1,181.0	1,181.0	228,811	212,012	223,064
9900200	Administration - Distributed	-	-	-	-228,811	-212,012	-223,064
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**10,743.5**	**10,750.5**	**10,750.5**	**$2,813,571**	**$2,539,887**	**$2,720,427**

FUNDING		2019-20*	2020-21*	2021-22*
0001	General Fund	$82,239	$6,737	$925
0042	State Highway Account, State Transportation Fund	85,868	79,096	87,142
0044	Motor Vehicle Account, State Transportation Fund	2,438,907	2,275,913	2,447,141
0293	Motor Carriers Safety Improvement Fund	1,740	1,797	1,942
0840	California Motorcyclist Safety Fund	2,772	3,191	3,191
0890	Federal Trust Fund	26,440	21,292	22,317
0942	Special Deposit Fund	20,336	2,336	2,336
0974	California Peace Officer Memorial Foundation Fund	104	300	300
0995	Reimbursements	137,559	123,587	123,583
3347	Cannabis Tax Fund - California Highway Patrol - Allocation 2	3,000	3,000	3,000
3353	Cannabis Tax Fund - California Highway Patrol, State and Local Government Law Enforcement Account - Allocation 3	14,476	22,508	28,420
8122	National Alliance on Mental Illness California Voluntary Tax Contribution Fund	130	130	130
TOTALS, EXPENDITURES, ALL FUNDS		**$2,813,571**	**$2,539,887**	**$2,720,427**

Issue 15: Radio Console Replacement Project

Governor's Budget. The budget includes a one-time augmentation of $2.271 million from the Motor Vehicle Account (MVA) in FY 2021-22 and $2.223 million in FY 2022-23 to address cost increases associated with services provided by the California Governor's Office of Emergency Services, Public Safety Communications (Cal OES-PSC) related to the Dispatch Radio Console Replacement Project.

Background. The CHP operates 25 emergency communications centers and two training centers. All communications centers are equipped with radio console systems which provide mission-critical voice communications between dispatchers, CHP field personnel, and allied agencies. The useful life expectancy of public safety communications equipment is approximately ten years. As communications equipment exceeds its useful life expectancy, reliability deteriorates rapidly, outages become more frequent, maintenance costs increase, and replacement parts become more difficult or impossible to procure. Numerous outages have occurred between March 2019 and May 2020 that necessitated the use of scavenged or refurbished equipment to fix.

The Cal OES-PSC has completed the installation of new radio console systems at six CHP communications centers. Thirteen of the remaining communications centers utilize radio console systems purchased in 1993-94, making them over 25 years old. Three of the 24 radio console systems were purchased in 1997-98, making them over 20 years old. The remaining two systems, purchased in 2009-10, failed to perform as required to meet modern operational needs and have reached the end of their predicted service life.

Staff Comments. The CHP received funding to complete the replacement of antiquated and failing radio consoles statewide with the approval of the Radio Console Replacement Project II BCP in 2018-19. The Cal OES-PSC has since estimated an increase in costs for their services for this project of $2.271 million in 2021-22 and $2.223 million in 2022-23. Post-pilot design changes necessary to the new radio console system, coupled with underlying state-owned radio infrastructure complications, have significantly increased Cal OES-PSC's workload and costs. Unanticipated labor costs and project management oversight by Cal OES-PSC have led to additional cost increases.

CHP radio consoles are an essential component of the state's public safety infrastructure. As such, additional funding is reasonable to complete the project. However, the unanticipated cost increases raise questions about long-term cost estimates, and greater oversight of the project may be warranted, particularly given the long-term outlook for the MVA.

Staff Recommendation: Hold Open.

Issue 16: Replacement of Portable Radios

Governor's Budget. The budget includes an $8.6 million permanent augmentation from the Motor Vehicle Account to replace portable radios and accessories that have exceeded the life expectancy, are out of warranty, and unserviceable.

Background. In 2015-16, the CHP purchased 8,153 Motorola APX portable multi-band radios and sufficient accessories to deploy to CHP uniformed staff. This initial inventory did not include a surplus of spare equipment. The Motorola APX has proven to be a reliable and durable hand-held radio. The Motorola APX radios are Federal Communications Commission compliant and fulfill the CHP's need to deploy field level interoperable radio communications. However, the Motorola APX portable radios have an expected service life of five to seven years depending on the mode of operational environment.

Staff Comments. These radios have been in the field since early 2015 and, according to CHP, are showing signs of wear and tear due to daily use. In addition, the existing stock of consumable accessories such as batteries, antennas, and lapel microphones are insufficient to fully support continuing needs. The CHP has indicated that the requested funding would establish a five-year replacement strategy to meet both incidental and ongoing replacement needs as well as to have a needed, readily-available replacement supply. In other words, $8.6 million would support the replacement of 20 percent of the current inventory, as well as consumables.

While it is reasonable to provide additional funds to complete the radio replacement, it should be noted that the MVA is fiscally constrained. As such, ongoing requests should be considered in the context of the fund's precarious balance.

Staff Recommendation: Hold Open.

Issue 17: Wireless In-Car Camera System Maintenance and Operations Support

Governor's Budget. The budget includes a permanent augmentation of $14.2 million from the MVA for the ongoing maintenance and operation of the Wireless In-Car Camera System, including ongoing funding for 12 previously approved positions.

Background. The Wireless In-Car Camera System project replaces existing standalone Digital Video Disc (DVD) - based Mobile Video Audio Recording Systems in patrol cars with a high-resolution recording solution and the option to integrate body worn cameras (BWC) in the future. When completed, the project will increase the percentage of marked black and white enforcement vehicles with an in-car camera system from 66 percent to 100 percent. It includes a wireless data transfer process that reduces personnel hours spent handling data and increases evidence security and reliability. Additionally, the new Wireless In-Car Camera System provides an integrated solution for all video evidence captured in-car and with BWCs if that option is exercised in the future.

The Budget Act of 2018 authorized 12 positions and $52.5 million to address the three-year implementation phase of the Wireless In-Car Camera System project. These resources are set to expire in 2020-21. The maintenance phase of the project is projected to begin in Fiscal Year 2021-22.

Staff Comments. The CHP has indicated that the full rollout of the in-car system will be completed by November 2022. Specifically, they have indicated that installation of hardware at pilot sites (East Sacramento Area and Placerville Area) is complete. Pilot Testing began on September 14, 2020, and will be completed on January 13, 2021. 11 of 18 On-premise sites (Sacramento Headquarter, Mt. Shasta, Quincy, Trinity River, Gold Run, Placerville, Buttonwillow, Bridgeport, Bishop, Needles, and Barstow) already have the server installed. Training will be provided to each division before rollout activities. New Vehicle Builds and a two-phase rollout will run parallel and continuously until CHP completes approximately 2600 new vehicles equipped by the end of the project in November 2022.

It is reasonable to provide additional funding to complete this project, as it is already underway and has significant potential to increase transparency and accountability within the CHP - and therefore increase the public's trust in the department. However, this request should be considered in the context of the MVA's precarious fund balance, particularly as it includes significant ongoing expenses.

Staff Recommendation: Hold Open.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman

Thursday, February 18, 2021
Upon adjournment of Senate's Full Budget Hearing
State Capitol - Room 3191

Consultant: Christopher Francis, Ph.D.

Public Comment

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

DISCUSSION ITEMS

0250 JUDICIAL BRANCH

Issue 1: Trial Court Operations Update

Budget Overview: The Governor's 2021-22 budget proposes about $4.2 billion from all state funds (General Fund and special funds) to support the operations of the judicial branch. Of this amount, $3.1 billion (or 74 percent) will support the trial courts—an increase of $57 million (or 1.9 percent) above the revised amount for 2020-21. Of this amount, roughly half is from the General Fund and the other half from various state special funds with revenues from various sources (such as civil filing fees, criminal penalties and fines, and county maintenance-of-effort payments).

3-YEAR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2019-20	2020-21	2021-22	2019-20*	2020-21*	2021-22*
0130	Supreme Court	148.6	153.2	153.2	$47,960	$49,986	$50,026
0135	Courts of Appeal	784.1	785.3	785.3	250,762	245,231	252,784
0140	Judicial Council	699.0	701.6	714.6	670,082	677,067	784,221
0150	State Trial Court Funding	-	-	-	3,231,159	3,069,145	3,125,931
0155	Habeas Corpus Resource Center	78.3	78.1	78.1	16,080	16,699	16,992
0170	Offset from Local Property Tax Revenue	-	-	-	-93,339	-103,874	-103,874
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**1,710.0**	**1,718.2**	**1,731.2**	**$4,122,704**	**$3,954,254**	**$4,126,080**

*Dollars in thousands

The Judicial Branch is responsible for the interpretation of law, the protection of individual rights, the orderly settlement of all legal disputes, and the adjudication of accusations of legal violations. The branch consists of statewide courts (the Supreme Court and Courts of Appeal), trial courts in each of the state's 58 counties, and statewide entities of the branch (the Judicial Council, Judicial Branch Facility Program, and the Habeas Corpus Resource Center). The branch receives revenue from several funding sources, including the state General Fund, civil filing fees, criminal penalties and fines, county maintenance-of-effort payments, and federal grants.

Typical funding for Trial Court Operations. The state's annual budget typically designates the total amount of funding appropriated for trial court operations. While a portion of this funding must be used for specific programs or purposes (such as court interpreters), a significant portion of the funding is provided with little to no restrictions. The Judicial Council is then responsible for allocating funding to individual trial courts. Upon receiving its allocation, each individual trial court has significant flexibility in determining how to use its share of funding. This can result in significant differences in the programs or services offered and the levels of service provided across trial courts.

Funding increases for trial court operations have generally been provided through the approval of (1) discretionary (or unallocated) funding increases, (2) budget requests for specific purposes (such as increased funding for a new program), and (3) funding for increased trial court health benefit and retirement costs.

COVID-19 Impacts to Trial Court Operations. The Judicial Branch has had to radically change its actions to protect the health of court staff, stakeholders, and members of the public, as well as to address the impact of the COVID-19 pandemic on court operations. For example, the Governor issued an executive order suspending any state laws that restrict the ability of the Judicial Council to authorize or issue emergency orders or emergency Rules of Court in order to modify court processes and procedures in light of the pandemic. The Judicial Council adopted various statewide emergency orders and Rules of Court, such as authorizing trial courts to generally require remote judicial hearings and temporarily suspend certain time requirements in civil cases so that such cases could be delayed.

Actions taken in the current year to (1) operate safely during the pandemic (such as delaying cases) and (2) accommodate a net $126.9 million ongoing General Fund reduction included in the 2020-21 budget (such as furloughs) have impacted trial court operations, costs, and service levels in different ways. Some (such as steps to delay cases) have resulted in case backlogs and reduced service levels, while others (such as use of video-conferencing) have allowed services to be provided remotely.

The pandemic will continue to result in reduced trial court service levels (such as backlogs) beyond the budget year, despite various actions taken to minimize the pandemic's impact. At the same time, certain operational improvements have been implemented to increase efficiency or public access to court services.

General Fund support for trial court operations in Governor's Budget. To maintain timely access to justice in the trial courts and to help courts address impacts of the disruptions caused by the pandemic, the Budget includes:

1) $72.2 million ongoing General Fund, which represents an overall increase of 3.7 percent compared to the 2020 Budget Act. This funding will assist courts in continuing to provide fair and timely access to justice, including taking actions to continue making modifications to improve court processes.
2) $39.1 million ongoing General Fund for trial court employee health benefit and retirement costs.
3) $11.7 million one-time General Fund in 2020-21 for the trial courts to process the anticipated increase in unlawful detainer and small claims filings resulting from AB 3088, (Chiu) Chapter 37, Statutes of 2020. AB 3088 provided relief to tenants and landlords by, among other things, delaying the date trial courts could process unlawful detainers to February 1, 2021, and allowing landlords to recover unpaid rental debt through small claims court until February 1, 2025. This will result in a significant increase in workload for the trial courts beginning in 2020-21 and additional resources are necessary to address this workload. However, this proposal was withdrawn by the Administration for re-evaluation due to recent developments.

Other January 2021 Developments. Most recently, SB 91 (Committee on Budget), Chapter 2, Statutes of 2021 was signed into law. The bill extends the moratorium on evictions for non-payment of rent due to COVID-19 financial hardship, subject to numerous conditions from January 31, 2021, to June 30, 2021. This bill also contains an appropriation of federal funds and statutory changes necessary to implement a rental assistance program as part of the 2020 Budget Act. It also makes conforming date extensions to rental protections provisions included throughout AB 3088. Most importantly, it maintains the protection against eviction for tenants who pay at least 25 percent of their owed rent, either in the form of 25 percent of monthly rent paid each month; or a lump sum payment by June 30, 2021, that brings the total paid to 25 percent of what is due, over the period covered. It also extends preemptions that prevent locals from changing local eviction rules beyond what was in place on August 19, 2020. This bill establishes the State Rental Assistance Program to allocate the state share of federal rental assistance funds. This bill imposes a moratorium on actions seeking to recover COVID-19 rental debt until July 1, 2021. It requires a landlord seeking to recover COVID-19 rental debt to provide documentation that the landlord has made a good faith effort to cooperate with a tenant in obtaining rental assistance. It also allows a court to limit attorney's fees in COVID-19 rental debt cases, and prohibits a housing provider from using COVID-19 rental debt as a negative factor in evaluating a tenant's suitability.

LAO Assessment.

Workload Needs May Differ for Evictions Moratorium. The Governor's budget proposal was introduced before the enactment of SB 91. The administration indicates that due to the enactment of SB 91, it no longer plans to pursue early action from the Legislature. The extension of the state's eviction moratorium and establishment of the state's rental assistance program could meaningfully affect the Judicial Branch's anticipated workload in 2021-22. The Legislature may want to direct the Judicial Branch to report during the May Revision on its revised workload and budget needs.

Staff Recommendation. Hold Open.

Issue 2: Continuation of Self-Help Centers in Trial Courts

Governor's Budget. The Governor's budget includes $19.1 million ongoing General Fund to allow California's trial courts to maintain vital self-help services to address the needs of and access for litigants who do not have an attorney to help them with critical housing, domestic violence, family law, child support, consumer debt and similar issues—all of which are exacerbated by the impact of the pandemic.

Background. Prior to the COVID-19 pandemic, hundreds of Californians used to form lines outside their county trial courts in order to research or seek information that will enable them to resolve a legal issue on their own, without the cost of an attorney. The majority of these people seek a divorce, separation, or resolution of a child-related dispute, such as custody or child support. As documented by the National Center for State Courts, more than 76 percent of civil cases now involve at least one self-represented litigant.[1] Additionally, in the recent Justice Gap study prepared by the State Bar of California, the most common categories of civil legal issues affect Californians at all income levels: health, finance, and employment.[2] Given their lack of familiarity with statutory requirements and court procedures (such as what forms must be filled out or their legal obligations in the potential case), self-represented individuals can be at a legal disadvantage. In addition, trial court staff tend to spend significantly more time processing a self-represented filing than one with legal representation. For example, incomplete or inaccurate paperwork can lead to having to file paperwork repeatedly, to continue or delay cases, or to generate additional hearings. To help self-represented individuals access

[1] Report to the Chief Justice by the Commission on the Future of California's Court System (2017) p.29, citing Call to Action: Achieving Civil Justice for All, 4-5 recommendations by the Civil Justice Improvements Committee to the Conference of Chief Justices, citing The Landscape of Civil Litigation in State Courts, National Center for State Courts, 2015.

[2] The California Justice Gap: Measuring the Unmet Civil Legal Needs of Californians, the State Bar of California, November 2019.

the court system, the Judicial Branch offers or partners with other legal stakeholders (such as county law libraries or the State Bar) to provide various programs or services, including self-help centers.

Purposes of Self-Help Centers in CA and History. Each of California's trial courts operates a self-help center, which serves as a central location for self-represented individuals to educate themselves and seek assistance with navigating court procedures. Attorneys and other trained personnel who staff the centers provide services in a variety of ways (such as through one-on-one discussions, courtroom assistance, workshops, and referrals to other legal resources) for a wide range of issue areas.

In 2004, the Judicial Council approved the Statewide Action Plan for Serving Self-Represented Litigants (plan). Based upon the growth in the number of self-represented litigants coming to California's courts, the plan recommended that court-based, staffed, self-help centers should be developed throughout the state. This was based on evaluations of the family law facilitator program and individual projects as well as a legislatively mandated evaluation of three Family Law Information Centers.

In 2005, an independent report evaluated the five pilot self-help centers that were designed to develop and test best practices in five specific areas of concern. These included coordinating self-help services in small rural courts, services to a Spanish-speaking population, services to a population speaking a range of languages, use of technology to assist self-represented litigants, and coordination and support for services in a large urban community. The evaluation concluded that self-help centers are a valuable method for providing services to people who need access to legal education and information and for improving the quality of justice for litigants.

Self-help centers have expanded services to help litigants settle their cases or narrow the issues for trial, which avoids spending time in court on issues that can be resolved without the need for a judge's decision, allowing the judge to spend enough time to make more informed decisions on the remaining issues. Courts use attorneys, paralegals, and other support staff who can assist in a wide variety of matters, in order to provide comprehensive assistance at a lower cost. By 2019, self-help centers served over one million self-represented litigants.

Previous Budget actions. The 2001 Budget Act included $832,000 annually to support pilot projects in five courts that were designed to develop and test best practices in providing comprehensive self-help services in small rural courts, services to a Spanish-speaking population, services to a population speaking a range of languages, use of technology to assist self-represented litigants, and coordination and support for services in a large urban community.

As a result of the 2005 evaluation of self-help pilots, the 2005 Budget Act included $5 million from the State Trial Court Improvement and Modernization Fund (IMF) for self-help assistance. As a first step, the Judicial Council allocated over $2.5 million in 2005-06 funds for self-help programs. The next year, it allocated an additional $8.7 million from the Judicial Branch budget for ongoing funding for courts to start or expand self-help services.

The 2007 Budget Act included $11.2 million in funding to support self-help services ($5 million IMF and $6.2 million Trial Court Trust Fund). All 58 courts are provided a baseline of $34,000 per year and the remainder is distributed based on population in the county." The baseline was established in response to the research conducted by the California Commission on Access to Justice for their report on Improving Civil Justice in Rural California. The research demonstrated that there is a great disparity in funding per capita for legal services for low-income persons in rural communities throughout California, creating significant inequities in the state.

The Budget Act of 2018 included an increase of $19.1 million General Fund annually for three years to expand self-help services in trial courts. According to the Judicial Council, these funds have enabled all courts to expand the types of legal cases served and the number of litigants served from 444,000 to over 1,011,000 per year.

Justification. The Judicial Council reports that, with the first year of the 2018 Budget Act augmentation, 97 percent of the funds were spent or encumbered in expansion of self-help services. They reported the following results:

- 45 courts added self-help staff, including 69 new bilingual staff,
- 33 courts extended the number or type of workshops,
- 32 courts extended service hours,
- 38 added new locations or increased accessibility through technology such as videoconferencing,
- 36 added support for new case types,
- 28 added remote assistance so that litigants did not have to come to the court for help,
- 39 offered self-serve online functions,
- 29 expanded services in languages other than English,
- 42 expanded their use of technology tools, including online document assembly programs, to expand efficiency and serve even more litigants effectively.

As well, they reported that in the first year of expanded funding, self-help centers were able to expand the number of litigants assisted, expand settlement services, and provide assistance with courtroom processes.

The Judicial Branch states that the additional 583,000 people served each year with the funds would not be assisted without funding in the budget year. More than 150 attorneys, paralegals and other staff that were hired with these funds are likely to be laid off. According to a CA State Bar Report, currently, 16% of low-income people in California who receive legal assistance receive it from court-based self-help centers.[3] Courts will have to reduce or stop providing assistance with critical civil cases such as landlord/tenant and consumer debt matters. They will have to cut back on services in family law, domestic violence and guardianship cases. Court staff and judges report that having a centralized location for litigants to ask questions and obtain legal information for their cases not only provides much more helpful information for the public, as time does not permit judges and court staff to provide the detailed information that self-represented litigants often need to handle their cases.

Pandemic Impacts. While self-help centers have rapidly adapted to providing many informational services remotely and are providing videoconferencing, phone, text, email, live chat and other services, remote courtroom services are still developing. The number of cases being heard in courtrooms remains impacted by concerns from the pandemic. Courts are developing methods to have litigants consult with self-help center staff remotely, including providing settlement assistance before the hearing commences.

[3] The California Justice Gap: Measuring the Unmet Civil Legal Needs of Californians, the State Bar of California, November 2019.

As courts gain more experience in remote methods of providing services, the numbers served is expected to increase to pre-pandemic levels.

LAO Assessment

Funding Increased Service Levels and Helps Promote Equity. The Judicial Branch reports that the additional funding provided beginning in 2018-19 substantially increased the services provided by self-help centers. Specifically, the numbers of individuals served increased from 444,000 to just over 1 million. The funding was used to nearly double the number of self-help staff, invest in technology, increase self-help locations and hours of operation, and increase services to individuals with limited English proficiency. It was also used to allow more individuals to be served in certain case types (such as eviction and other civil case types) and to provide services in new or expanded ways (such as adding workshops, increasing use of document assembly programs, and expanding remote access to services). We note that a number of courts have shifted to providing self-help services remotely in light of restrictions on public access to court facilities due to the COVID-19 pandemic.

Self-help centers generally provide services to lower-income individuals who are unable to afford legal representation. Such individuals generally are seeking the assistance of self-help centers to address issues affecting their basic needs, such as avoiding eviction or seeking child custody orders. Absent such assistance, it can be difficult for self-represented individuals to successfully seek resolution through the courts. For example, it can be difficult for self-represented litigants to successfully obtain modifications to child custody orders without assistance. However, with the assistance provided by self-help centers, such individuals have a greater opportunity to successfully resolve their cases. As such, funding self-help services can promote greater equity.

Cost-Benefit Analysis Incomplete. As noted above, the 2018-19 budget required the Judicial Council to conduct a cost-benefit analysis of self-help services. This analysis was required by the Legislature to objectively assess all costs and benefits of such services, as well as determine which methods of delivering self-help (such as one-on-one services or workshops) are most cost-effective and in which case types. For example, such a study could determine that one-on-one services are most cost-effective in guardianship or probate cases while workshops are most cost-effective in marital dissolution cases. This information would then allow the Legislature to determine what level of funding is merited, where the funding should be targeted to maximize state benefit, and whether funding allocations need to be adjusted elsewhere to account for savings created by self-help services.

The Judicial Branch submitted a report at the beginning of January 2021 to comply with this requirement, but the report is incomplete as it does not constitute a cost-benefit analysis. The report includes helpful information and reflects extensive staff efforts to collect outcome data across delivery methods, solicit input from stakeholders (such as court users and court staff), and identify benefits and challenges. However, the final pieces of a cost-benefit analysis—specifically (1) calculating the monetary value of identified benefits, (2) identifying the corresponding costs, and (3) identifying the net benefit of the various self-help delivery methods by case type—are not included in the report. Without this important information, it is difficult for the Legislature to determine what level of funding is warranted and how such funding should be used to maximize its impact.

LAO Recommendations

Direct Judicial Council to Use External Researcher to Complete Cost-Benefit Analysis. The LAO recommends the Legislature adopt budget trailer legislation directing the Judicial Council to contract with an external researcher to complete a cost-benefit analysis of self-help services, as well as to provide recommendations on how funding can be allocated by delivery method and case type to maximize the benefit to members of the public and to the court. This report should be due to the Legislature no later than November 30, 2022 in order to inform legislative decisions on self-help funding for the 2023-24 budget. (This complements the recommendation below that funding only be provided through 2022-23.) The LAO anticipates that the external researcher will be able to make use of the data and information collected by the Judicial Branch to prepare its submitted report, but may need to supplement this information. As such, the LAO anticipates that costs should not exceed a couple hundred thousand dollars. The LAO finds that this cost could be absorbed by the Judicial Branch within its existing resources.

Provide Funding for Two Years. In order to prevent a reduction in self-help services pending the completion of the above cost-benefit analysis and help maintain the equity-related benefits of the previously provided funding, the LAO recommends the Legislature approve the Governor's proposed funding for self-help centers, but only on a two-year, limited-term basis. Moreover, the LAO notes that such services are arguably more important during the COVID-19 pandemic. For example, more individuals may no longer be able to afford legal representation or assistance.

Consider Provisional Language Prioritizing Use of Funding. The Legislature may want to consider adopting provisional language to specify its priorities for the use of self-help center funding. As mentioned above, a number of self-help centers have pivoted in response to the pandemic to provide more services remotely rather than in person in court facilities. The Legislature could specify that a minimum portion of the funding must be used to provide services remotely (such as by using video conferencing or screen-sharing technologies) in order to increase the ways members of the public can access the courts. While this is particularly important during the pandemic while in-person public access to the court may be limited, it could also be beneficial to maintain on an ongoing basis for certain court users—such as those who would need to travel far distances to visit the court—under normal circumstances.

Staff Recommendation. Hold open.

Issue 3: Ability-to-Pay Expansion BCP and Trailer Bill Language

Governor's Budget. The budget requests 8.0 positions and $12.3 million General Fund in 2021-22, $25.1 million in 2022-23, $47.0 million in 2023-24, and $58.4 million annually thereafter to support statewide court operations to allow individuals the ability to adjudicate all infractions online, including processing ability to pay determinations.

Background. The 2018 Budget Act included $3.4 million General Fund and 7.0 positions for 2018-19 ($1.36 million ongoing) and trailer bill language in SB 847 (Committee on Budget), Chapter 45, Statutes of 2018 to design, deploy and maintain software to adjudicate traffic violations online, including ability to pay determinations, in eight pilot courts. The language requires that the tool recommend a reduction of at least 50 percent of the total amount owed for individuals who receive specified public benefits or live at a monthly income of 125 percent or less of the current poverty guidelines, as updated periodically in the Federal Register by the United States Department of Health and Human Services pursuant to Section 9902 of Title 42 of the United States Code. Additionally, individuals are provided information in multiple languages and typically receive the decision of the court within 30 days.

It also included requirements to develop an array of online services for the public including hearing date requests, continuance, online trials and chat bot guidance. By the end of 2019-20, eight courts were to have implemented online ability to pay determinations with a two-way court case management system data exchange. By the first quarter of 2021, the additional online functions noted above will be developed and implemented in the pilot courts.

As of November 2020, Shasta, Tulare, Ventura, San Francisco, Santa Clara and Fresno pilot courts are all live with online ability to pay determination processing. Monterey will be live with online ability to pay determinations by January 2021. In these counties, users access a website, enter their citation number and are guided through a process to provide relevant financial information for a judge to review and consider an adjusted fine or fee. The judicial determination is made and a final court order is emailed back to the user with instructions about a payment or community service plan as appropriate.

Purpose of 2021-22 proposal. ***Expand Online Adjudication Tool Statewide.*** The Governor's budget requires the Judicial Council to (1) develop an online adjudication tool for all infraction violations (not just traffic infractions) that would include an ability-to-pay component and (2) make the tool available statewide by July 1, 2024. While trial courts could choose whether to make use of the full online tool, all courts would be required to offer the ability-to-pay component of the tool by July 1, 2024. Specifically, the Judicial Council estimates implementation costs of $4.4 million in 2021-22, $6.2 million in 2022-23, $6.4 million in 2023-24, and $2.7 million annually thereafter to work with courts by cohort to adopt new technology. Each cohort is organized by case management system, cloud hosted verses locally hosted, and court size. The Judicial Council will establish eleven cohorts to be deployed over three fiscal years.

Backfill Expected Reduction in Fine and Fee Revenue. Given that the online adjudication tool allows individuals to more easily seek reductions in the total amount of criminal fines and fees that they are assessed, the amount of criminal fine and fee revenue collected is expected to decline on an ongoing basis. To address this decline, the Governor's budget proposes an ongoing backfill for reductions in revenues. Specifically, the Governor's budget estimates that this backfill will be $7.9 million in 2021-22, $18.9 million in 2022-23, $40.7 million in 2023-24, and $55.8 million annually thereafter to backfill the estimated loss in revenue to Judicial Branch funds, as a result of the penalty reductions. In 2021-22, $7.9 million will be available for the existing seven pilot courts plus ten new courts (in two cohorts), to backfill the estimated loss in revenue to support the Judicial Branch, as a result of the penalty reductions.

Budget bill language is proposed with respect to the backfill process detailing that funds appropriated in this item may be transferred to the State Trial Court Improvement and Modernization Fund (0159), Trial Court Trust Fund (0932), State Court Facilities Construction Fund (3037), and the Court Facilities Trust Fund (3066) to backfill revenue reductions resulting from the expansion of ability-to-pay determinations. The amount to be transferred to each fund will be determined by the Department of Finance using information provided by the trial courts and the Judicial Council.

Trailer Bill Language. The Governor's proposal also includes trailer bill language eliminating the pilot program established in the 2018-19 budget and making certain components of the pilot program permanent, such as requirements related to the ability-to-pay determinations and to online trials for those trial courts that choose to offer them. Under the language, an evaluation of the pilot program activities would no longer be required.

Governor Also Proposes Remote Adjudication of Infraction Proceedings. The Governor proposes budget trailer language authorizing the trial courts to conduct all infraction proceedings remotely (including arraignments and trials), upon consent of the defendant. The authorization means courts would not be limited to offering the remote adjudication of infractions through the online tool developed by the Judicial Council alone. Instead, courts could conduct infraction proceedings using other remote adjudication methods, such as video conferencing. While some courts could be conducting some proceedings remotely on an emergency basis due to the pandemic, the proposal would extend this authorization beyond the end of the pandemic.

LAO Assessment

Ability-to-Pay Component Provides Meaningful Assistance to Lower-Income Individuals and Promotes Equity. As of November 2020, six courts offered the online ability-to-pay component of the pilot tool. A seventh court began offering this component in January 2021. The Judicial Branch reports that a total of nearly 11,000 requests were submitted (with nearly 77 percent approved) by 6,865 litigants between April 2019 and October 2020 across five out of six courts. (Data from the sixth court was not reported.) Around half of these litigants reported that they received public benefits and 87 percent reported incomes below the federal poverty level. These submitted requests resulted in a few million dollars in reduced fines and fees, with the average amount owed per request being cut nearly in half. The high approval rate, and associated reduction in the level of criminal fines and fees owed, demonstrates that the ability-to-pay component provides meaningful financial assistance to lower-income individuals who may struggle to meet basic needs. Accordingly, this component also promotes equity as it seeks to minimize the disproportionate impact existing criminal fine and fee levels can have upon lower-income individuals.

Full Impacts of Tool Still Uncertain, Which Could Increase Costs. Various components of the tool are still in the process of being finalized and implemented. For example, online trials will not begin to be tested and implemented in any of the courts until spring 2021. The impacts of these additional components are currently unknown and could increase the total costs associated with the proposal. For example, the option for online trials could increase the number of individuals who make use of the tool to contest violations (and seek reductions in the total amount owed) by making access to the courts easier. This, in turn, could increase the amount of General Fund backfill required.

Additionally, we note that the total net impact of this tool on court operations and costs is unknown. For example, the tool could increase overall court workload and costs if its convenience results in more people contesting violations or seeking fine and fee reductions. However, the tool also could reduce overall workload and costs if it is a more efficient way for the court to deal with these requests than otherwise would have occurred in person.

Premature to Expand Statewide. As indicated above, existing state law requires the Judicial Branch to complete an evaluation of the pilot program by June 30, 2022. The purpose of the pilot is to determine the overall costs, effectiveness, and impacts of the specified pilot activities. Such information is intended to inform future policy and funding decisions by the Legislature regarding online adjudication and ability-to-pay determinations, including the trade-offs of certain choices. For example, the Legislature may want to consider whether a higher criminal fine and fee reduction for low-income individuals (as compared to the 50 percent minimum under the pilot program) would be more appropriate or whether to specify minimum reductions for additional categories of individuals (such as those who may not currently meet the low-income definition). Without the results of the pilot, the Legislature would be unable to fully understand the costs and benefits of such choices. As such, it is premature to cancel the pilot and expand the online adjudication tool statewide as proposed by the Governor.

LAO Recommendations

Reject Budget Trailer Legislation. The LAO recommends the Legislature reject the proposed budget trailer legislation that would cancel the pilot and expand the existing online adjudication tool statewide. More complete data is necessary to accurately determine the impact of the various activities being tested in the pilot program that is currently in progress. The forthcoming evaluation of the pilot would allow the Legislature to assess the effectiveness and impacts of specific pilot activities, which will better inform future legislative policy and funding decisions.

Only Approve Funding Requested for 2021-22. To the extent the Legislature is interested in providing more lower-income individuals with access to the tool and its ability-to-pay component, the LAO recommends the Legislature only provide $12.3 million (the amount requested for 2021-22) in order to support the proposed expansion of the tool to ten additional courts in the budget year. This action would avoid delay in providing more lower-income individuals with financial relief and promoting increased equity while the currently required evaluation is being completed. Moreover, providing funding only for the budget year would prevent the program from automatically continuing to expand in subsequent years before the Legislature has the opportunity to determine what changes, if any, need to be made after receiving the evaluation.

Approve Provisional Language. The LAO recommends the Legislature approve the proposed provisional language authorizing DOF to determine the distribution of the General Fund backfill revenues among the various judicial branch special funds impacted by this proposal. This is a technical adjustment that ensures that the revenue deposited into each special fund is commensurate with the revenue loss due to this proposal.

Staff Recommendation. Hold open.

Issue 4: Various Maintenance and Facility Modification Proposals

Governor's Budget. The Governor's budget includes multiple infrastructure upgrade proposals for the Judicial Branch:

Background. Historically, the Judicial Council of California (JCC) serviced only the facility needs of the Supreme Court and Courts of Appeal. The 1997 Trial Court Funding Act (Chapter 850, Statutes of 1997, (AB 233)) began the process of shifting financial responsibility for support of trial courts from the counties to the state. The Trial Court Funding Act established the Task Force on Court Facilities to identify needs, options, and recommendations for funding court facility maintenance and improvements. In 2007, ten years after the passage of the Trial Court Funding Act, trial court facilities completed the process of transfer from counties to the JCC.

The JCC's Office of Facilities Services administers a portfolio of 470 facilities which house the Supreme Court, Courts of Appeal, Superior Courts, the Habeas Corpus Resource Center, and the JCC itself.

Roughly 44 percent of these facilities (208) are fully managed by the JCC, 30 percent (139) are managed by the county; 19 percent (91) are leased; and seven percent (32) are delegated by the JCC to either the county or the court. The portfolio includes a variety of building types: courthouses, jails, offices, parking structures and parking lots. The JCC assumed all county leases (other than storage leases) for trial court space as part of the property transfers outlined in the Trial Court Funding Act of 2002.

BCP/PROJECT NAME	PROPOSED AMOUNT	DESCRIPTION
One-time Deferred Maintenance	$30 million one-time General Fund in 2021-22 This funding is also available for encumbrance or expenditure until June 30, 2024.	Address the most vital deferred maintenance in trial courts and appellate courts. These funds will support the modernization of building management systems, HVAC, elevators, and roof replacements for the projects on the attached 2021-22 deferred maintenance list.
Trial Court Facility Modifications	$18.9 million General Fund in 2021–22 and $48.8 million in 2022-23	For the JCC's estimated share of the total cost of trial court facility modification projects that resolve deficiencies by expanding the fire and life safety (FLS) systems at the Central Justice Center (CJC) in Orange County and correcting FLS-egress deficiencies at the East County Regional Center (ECRC) in San Diego County. Funds would be used for these facility modification (FM) projects as follows: $52.8 million for the JCC's estimated share of the total project cost at the CJC in Orange County, and $14.9 million (for the JCC's estimated share of the total project cost at the ECRC in San Diego County. As these are shared-use facilities between the JCC and local counties, the JCC and the counties of Orange and San Diego would be responsible for its share of the total project costs based on its percentages of occupancy. Both trial court FM projects have been developed in response to emergency corrections required by the Office of the State Fire Marshal. FLS systems provide the essential first alarm on a fire and life safety event to building occupants and first responders, so that evacuation through compliant FLS egress can be completed in an appropriate amount of time. At CJC, the FLS systems upgrade is incomplete--having begun on the 11th floor but the work stopped at the 4th floor, prior to the transfer of the facility to the JCC in 2012. At ECRC, Before its ownership transferred from the county to the state in 2011, jail

		operations were moved out but egress from the former jail-occupied spaces was never modified and deficiencies corrected. The JCC has been addressing this long-standing issue by responding to the emergency correction and noncompliance notices issued in 2015 and 2016 by the OSFM, and, to date, has spent approximately $450,000.
Trial Courts and Courts of Appeal Facilities, Maintenance, and Leases	5.0 positions and $53.5 million ongoing General Fund	To support facilities services costs for trial courts and Courts of Appeal. This total amount includes $52.4 million for trial court facilities program costs that provide for operations and maintenance at an industry standard level, unfunded leased trial court space, and additional staff to oversee the program, and $1.1 million for Court of Appeal facilities program costs to fund operations and maintenance at an industry standard level. The JCC states that there are three problems with the current portfolio: 1) that trial court facility projects are being underfunded on a per square foot basis compared to industry standard levels, 2) the JCC is tasked with providing court facilities throughout the state but has no funding to cover additional leased space required for trial courts. The trial courts are covering these costs because the JCC cannot and about 60 percent of the leases are covered by the trial courts. The practice of trial courts covering lease costs from their operating budgets is in conflict with the Trial Court Funding Act. And, 3) the Courts of Appeal do not have funding specifically identified for facilities operations and maintenance, minor repairs, or deferred maintenance for their buildings. As a result, the only source for funding facilities work is the Court of Appeals' general operational budgets which are already strained with competing program costs. This proposal requests 5.0 additional positions to provide oversight of the trial court facilities services maintenance. The JCC portfolio spans the state's breadth, with courthouses in 57 of the 58 counties totaling 28 million gross square feet. The size of the state makes access to all the facilities in the portfolio time-intensive due to the extensive travel that is required. Currently 43.0 JCC positions are dedicated to facility operations.

Staff Recommendation. Hold open.

Issue 5: Construction Fund Consolidation Trailer Bill Language

Governor's Budget. The Governor's budget includes trailer bill language that would combine the Immediate and Critical Needs Account (ICNA) and the State Court Facilities Construction Fund (SCFCF) which were facing insolvency due to steady decreases in fine and fee revenue. Consolidation allows the remaining fund to be solvent in 2021-22. The Governor's budget projects a SCFCF fund balance of $177.5 million for 2021-22. This fund balance is from $569.4 million in revenues, transfers from ICNA to SCFCF of $232.1 million, and other adjustments $391.9 million in expenditures and expenditure adjustments.

The Governor's budget does not propose any changes to the level of expenditures from the combined account. For example, it maintains spending on facility modification projects at $65 million for 2021-22.

Background. The Judicial Branch's two primary court construction funds, SCFCF, established in 2002, and the ICNA, established in 2008, receive funding from fees and penalty assessments.

State Trial Court Facilities Construction Fund (SCFCF). AB 1732 (Escutia), Chapter 1082, Statutes of 2002, enacted the Trial Court Facilities Act of 2002, which provided a process for the responsibility for court facilities to be transferred from the counties to the state, by July 1, 2007. In addition, this legislation increased criminal fines and civil filing fees to finance $1.5 billion in lease–revenue bonds to support 14 court facility construction projects.

Immediate and Critical Needs Account (ICNA). SB 1407 (Perata), Chapter 311, Statutes of 2008, authorized various fees, penalties and assessments, which were to be deposited into ICNA to support the construction, renovation and operation of court facilities. Specifically, the legislation increased criminal and civil fines and fees to finance up to $5 billion in trial court construction projects and other facility-related expenses such as modifications of existing courthouses. The measure also specified that the Judicial Council was prohibited from approving projects that could not be fully financed with the revenue from fines and fees.

In accordance with the legislation, the Judicial Council selected 41 construction projects to be funded from ICNA that were deemed to be of "immediate" or "critical" need for replacement, generally due to the structural, safety, or capacity shortcomings of the existing facilities.

Great Recession Funding Solutions. During the previous recession, the Judicial Branch, like most areas of state and local government, received a series of significant General Fund reductions from 2008-09 through 2012-13. Many of these General Fund reductions were offset by increased funding from alternative sources, such as special fund transfers and fee increases. Among the solutions were a series of transfers from funds used for court construction totaling approximately $903 million to date. For example, in 2011-12, the Legislature approved the transfer of $143 million from ICNA and $70 million from SCFCF to the Trial Court Trust Fund (TCTF). In addition, in 2012-13 $240 million in ICNA funds and $59.5 million in SCFCF funds were transferred to the TCTF and in 2013-14 an additional $50 million from ICNA was transferred to both the TCTF. Additionally, these funds also provided $550.3 million in transfers to the General Fund to help address reductions in its availability during the recession. Also, both funds also loaned $440 million to the General Fund ($350 million SCFCF and $90 million ICNA). The SCFCF loan has been repaid and the ICNA loan is scheduled to be repaid in 2021-22. Finally, despite the end of the recession, the state continues to transfer $50 million in ICNA funds and $5.5 million in SCFCF to the TCTF for trial court operations each year. The long-term impact of these recession-era funding decisions and the funds' continued support of trial court operations is that absent some sort of action, both funds will become insolvent in the near future.

Due to significant reductions in the total amount of revenue available in ICNA as a result of declining court fine and fee revenue and the recession-era transfers discussed previously, between 2011 and 2013 the Judicial Council subsequently chose to cancel four projects (replacing two with renovation projects) and indefinitely delay another ten. Even with that, the Judicial Council estimated that if all 17 remaining projects that were not canceled or indefinitely delayed completed construction as planned, the ICNA operating deficit would have increased further, reaching nearly $100 million by 2037-38. As a result, in August 2016, the Judicial Council suspended all 17 remaining construction projects.

LAO Assessment for Issues 5 and 6

Consolidation of Construction Accounts Reasonable, but No Plan to Address Insolvency

- The Governor's proposed consolidation of SCFCF and ICNA is reasonable as it delays the need to address the SCFCF's insolvency in the budget year. Additionally, there is no rationale for maintaining two separate accounts.

- However, the Governor's proposal does not address the pending insolvency of the consolidated account by 2023-24. Absent any changes in revenues or existing ongoing expenditures, significant General Fund resources would be needed to meet financing payments for completed projects and other obligations.

- The LAO estimates additional General Fund resources would be needed through 2039-40 to meet these obligations. Specifically, $175 million in 2023-24, declining to $160 million annually from 2024-25 through 2032-33. Beginning in 2032-33, the amount needed would further decline as the debt service for an increasing number of projects will be completely paid off.

Construction Program Effectively Restarted, but Supported by General Fund

- The Governor's proposal to support future trial court construction projects from the General Fund is a reasonable approach as both construction accounts are unable to support existing obligations, much less new ones.

- Additionally, supporting new projects directly from the General Fund helps ensure that the projects will be weighed in the context of the Legislature's broader General Fund priorities, including other state infrastructure needs. This will be particularly important in the coming years given the state's projected operating deficit.

Selected Projects May Not Reflect Legislative Priorities

- The Governor's 2021-22 construction proposals—and those planned in the coming years—generally reflect projects identified as the highest-priority need under the Judicial Branch's 2019 reassessment.

- However, the Legislature may not agree with the Judicial Branch's methodology, such as how certain criteria were defined and weighted, and may decide that additional factors should be considered. As such, the Legislature will want to consider its priorities when selecting which construction projects should move forward.

LAO Recommendations. ***Recommend Shifting Full Responsibility for Trial Court Construction to the General Fund.***

Approve Governor's Approach to Fund New Projects From General Fund. The LAO recommends the Legislature approve the Governor's new approach to fund new trial court construction projects from the General Fund. As they discussed, this approach helps ensure that any new construction projects are weighed against the Legislature's other General Fund priorities.

Shift Responsibility for Current SCFCF and ICNA Obligations to General Fund as Well, Rather Than Consolidate Accounts. In order to fully address the pending insolvency of the two existing construction accounts on a permanent basis, the LAO recommends the Legislature eliminate the accounts and shift their current obligations on already completed projects to the General Fund. This helps ensure that any General Fund construction-related obligations are fully accounted for and considered when evaluating the state's overall fiscal condition and determining General Fund spending priorities. (To the extent the Legislature does not want to eliminate SCFCF and ICNA and shift their obligations to the General Fund, the LAO would recommend approving the Governor's proposal to consolidate the two accounts.)

Shift Nonconstruction-Related SCFCF and ICNA Expenditures to the General Fund. To maintain support for the nonconstruction expenditures supported by the construction accounts, the LAO recommends appropriating from the General Fund $65 million for facility modification projects, $40 million for facility personnel and operating costs, and $55.5 million for trial court operations—a total of $160.5 million annually. (They note this amount would decline to $145.5 million in 2024-25 due to the expiration of an SCFCF facility modification budget request approved in 2014-15.)

Shift SCFCF and ICNA Revenues to the General Fund. To partially offset the costs shifted to the General Fund, the LAO recommends the Legislature deposit all construction account revenue into the General Fund. (The LAO notes that, due to legal limitations on the use of revenues, the civil fee revenue might need to be deposited into a special fund supporting trial court operations with a corresponding reduction in the total amount of General Fund support for trial court operations.)

Appropriate Funding for Trial Court Construction Based on Legislative Priorities. The LAO recommends the Legislature determine which specific construction projects to fund based on its priorities, which may or may not include any of the projects currently proposed by the Governor or the Judicial Branch. The Legislature's construction priorities may also differ from the prioritization identified in the 2019 reassessment.

Staff Recommendation. Hold open.

Issue 6: Various Capital Outlay Proposals

Governor's Budget. The Governor's budget proposes a total of $8.3 million General Fund and $66.5 million in lease revenue bond authority to support four construction projects in 2021-22.

Plans to Request 12 More Projects by 2025-26. Based on its five-year infrastructure plan, the Administration plans to initiate 12 additional projects after 2021-22—three projects per year for the next four years. The Administration estimates that these 12 projects would require $302 million General Fund for preconstruction activities and $1.8 billion in lease revenue bond authority for construction during this period. (This is not the total cost for all 12 projects. For example, projects beginning construction after 2025-26 will require additional lease revenue bond authority.) While the actual debt service owed will depend on interest rates at the time bonds are sold, it is estimated that the level of lease revenue bond authority could result in annual debt service payments from the General Fund of around $100 million. The projects identified by the administration generally reflect the priority order identified in the Judicial Branch's 2019 reassessment.

Background. SB 847 (Committee on Budget), Chapter 45, Statutes of 2018 required the Judicial Council to conduct a reassessment of all trial court capital-outlay projects that had not been fully funded up to and through the 2018 Budget Act and to submit the report by December 31, 2019, to two legislative committees: the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget. One December 6, 2019, the Judicial Council provided a *Reassessment of Trial Court Capital-Outlay Projects* including the *Statewide List of Trial Court Capital Projects* prioritized on needs-based/cost-based scores from the application of the Judicial Council's *Revision of Prioritization Methodology for Trial Court Capital-Outlay Projects*.

SB 847 required the use of existing criteria along with the new criteria for reassessing and ranking capital-outlay projects, which necessitated the revision of the Judicial Council's current prioritization methodology, dated October 24, 2008. In addition to applying the current methodology's needs-based criteria of Security, Overcrowding, and Access to Court Services, new criteria applied include the following:

- New subcategories, Seismic Rating and Environmental Hazards, which were added to the current subcategories of Fire and Life Safety and Americans with Disabilities Act under the Physical Condition criterion;
- A Facility Condition Index as part of needs-based scoring;
- A Seismic Risk Factor, to receive additional consideration as part of needs-based scoring. Specifically, additional points would be assigned to projects proposed to replace or renovate courtrooms in existing High Risk or Very High Risk buildings;
- Cost-based criteria as follows: cost avoidance or savings realized through operational or organizational efficiencies; minimization of increases in ongoing security, operations, and maintenance costs; cost of project per court user; and total costs spent on a project as of the date of the reassessment (which for accounting purposes is March 31, 2019);
- A comparison of the costs to repair/renovate existing facilities versus replacement, which was not scored within the cost-based evaluation. Instead, this comparison has been addressed in the

court facility plans and reflected in the attached statewide list of projects by proposed project type (e.g., new construction versus renovation).

The projects in this reassessment received a needs score that helped organize the projects into Immediate, Critical, High, Medium and Low categories. Additionally, each project received a cost score.

BCP/ PROJECT NAME	PROPOSED AMOUNT AND PHASE	DESCRIPTION
Lake County – New Lakeport Courthouse	$1.6 million General Fund for the Performance Criteria and $66.5 million in lease revenue bond authority for the Design Build	The requested funding is for the Lake County — New Lakeport Courthouse. It ranks first in the “Immediate” need projects reassessed per SB 847. The project includes the design and construction of a new 4-courtroom courthouse of approximately 46,000 square feet (SF) in the city of Lakeport. The project includes secured parking for judicial officers and approximately 100 surface parking spaces with solar power generation capability. The project will be located on a previously acquired site located in the city of Lakeport. The project will use a design-build delivery method. The project will replace the existing Lakeport Courthouse which has infrastructure concerns and is found to be in poor condition. Lakeport is the county seat and location of most of the county justice agencies. The jail is located several miles north of the city. The Lakeport Court Facility functions as the main courthouse and houses the court administration and four courtrooms that handle most case types. The South Civic Center in Clearlake functions as a branch court and houses one courtroom that handles child support, traffic and small claims case types. Due to lack of space in the Lakeport Court Facility, the self-help center is in the South Civic Center in Clearlake and some active records are stored in a leased facility in Lakeport. Based on the 2019 Judicial Needs Assessment the Lake Court has a 1.2 increase in judgeship need. The Judicial Council is requesting reactivation of this project. Due to insufficient resource sin the Immediate and Critical Needs Account, the Judicial Council, at its August 26, 2016 meeting, made a policy decision to place some projects on hold until proper funding could be restored. The impact of the Judicial Council direction to this project was to suspend the working drawings phase then hold until funding can be restored. The Judicial Council is requesting reactivation of this project. Due to insufficient resources in the Immediate and Critical Needs Account, the Judicial Council, at its August 26, 2016 meeting, made a policy decision to place some projects on hold until proper funding could be restored.

		The estimated total project cost is $73.1 million.
Mendocino County – New Ukiah Courthouse	$3,334,000 General Fund	The requested funding is for the Performance Criteria phase of the Mendocino County — New Ukiah Courthouse. The project will provide construction of a new 7-courtroom courthouse of approximately 82,000 square feet (SF) in the city of Ukiah. The project includes secured parking for judicial officers and approximately 160 surface parking spaces with solar power generation capability. The project will be located on a Judicial Council owned site located in the city of Ukiah. The project will use a design-build delivery method. The project will replace an existing aging building owned by the county that has no secure in-custody access or circulation and two entire floors without elevators or Americans with Disabilities Act (ADA) accessibility. It ranks second in the “Immediate” need projects reassessed per SB 847. Caseload in Mendocino County is primarily assigned to the centrally located County courthouse in Ukiah and a branch courthouse in Fort Bragg. Given the large geographic size of the county, a branch location is important for providing access to justice for its population. The County courthouse in Ukiah hears all case types. Fort Bragg is a branch courthouse and services the western region of the county. It hears all case types except for family law, juvenile, and long jury trials which are referred to Ukiah. The project will replace the seven-courtroom County courthouse. The New Ukiah Courthouse is proposed because the current facility is substantially out of compliance with regulatory safety, seismic, accessibility codes and Judicial Council space standards. The existing County Courthouse has two entire floors without elevators or ADA accessibility. The Judicial Council is requesting reactivation of this project. Due to insufficient resources in the Immediate and Critical Needs Account, the Judicial Council, at its August 26, 2016 meeting, The estimated total project cost is $118.1 million.
Nevada County – New Nevada City Courthouse	$972,000 General Fund	This funding is to initiate a Planning Study for the Nevada County – New Nevada City Courthouse. The proposed study will compare the merits and disadvantages of options for the Nevada Court in Nevada City. At a minimum three options will be studied. One option will analyze the feasibility of renovating the historic Nevada City Courthouse; the second option will analyze replacing all or part of the courthouse on the existing site; and, the third option will analyze building a new courthouse. It ranks third in the “Immediate” need projects reassessed per SB 847. Nevada County Superior Court currently uses a decentralized service model. Administration is located at the Nevada City location. The Nevada City Courthouse serves as the primary

		court location for most court filings and public service offerings. There is one branch court facility in the county, the Joseph Center, located in Truckee and serving the eastern portion of the county. The 80-year-old Nevada City Courthouse and Annex is the primary courthouse for most civil and criminal trials, serving approximately two thirds of the county's population. For criminal trials, this facility requires secure in-custody movement of defendants and separate paths of travel for in-custody parties, jurors, judges, court staff, and the public. The courthouse is comprised of three stories. The court's current space is considered unsafe, undersized, substandard, overcrowded, and functionally deficient. Challenges to court operations include severe safety concerns associated with seismic deficiencies, non-compliance with Americans with Disabilities Act standards, and no sprinkler system. The lack of secure circulation and separate paths of travel risks the safety of judges, court staff, and the public, and in-custody defendants. The Judicial Council is requesting reactivation of this project. Due to cumulative and ongoing redirection of SB 1407 funds to the General Fund and trial court operations as well as to the Long Beach courthouse project (Governor George Deukmejian Courthouse), projects were indefinitely delayed by the Judicial Council at its October 26, 2012 and January 17, 2013 meetings. The total project cost to date is $1.6 million.
Los Angeles County – Los Angeles Master Plan	$2,347,000 General Fund	This funding is to complete a study for the Superior Court – County of Los Angeles. The proposed long-range planning study will analyze and develop a plan for improving and modernizing Los Angeles County court facilities. The SB 847 reassessment identified 17 capital outlay projects for the Los Angeles Superior Court; 11 of the 17 are in the immediate or critical need groups. The study will define and validate the project scopes, sequencing, and budget information. The study will holistically assess the identified projects' feasibility, validate the number of courtrooms needed, recommend site search areas and provide a sequencing plan for the next 20-30 years that is in alignment with court operational priorities. The combined estimated cost is more than $6.0 billion. The two largest courthouses in California, Stanley Mosk and Clara Shortridge Foltz Courthouses are in need of replacement or renovation. The Superior Court of Los Angeles County occupies 43 buildings with a total of approximately 8 million square feet of space in 30 cities. Many of the facilities are at or nearing the end of useful life. The purpose of the long-range planning study is to define and validate the project scopes, sequencing, and budget information.

		The study is estimated to cost $2.3 million and be completed in approximately two years.

Staff Recommendation. Hold all proposals open.

Issue 7: Design-Build Authority Trailer Bill Language

Governor's Budget and Background. Existing law designates the Judicial Council as the entity having full responsibility, jurisdiction, control, and authority over trial court facilities for which title is held by the state, including the acquisition and development of facilities. Additionally, existing law authorizes the Judicial Council to use a pilot design-build procurement process in contracting and procuring a limited number of projects, as approved by the Department of Finance. Existing law authorizes the Judicial Council to base the procurement award on best value or best value for the lowest price for projects with an approved budget of $10 million or more. Existing law requires the use of lowest responsible bid to award pilot design-build contracts for projects with an approved budget of $250,000 to $10,000,000. Existing law requires a bidder participating in the process to provide written declarations, subject to misdemeanor penalties.

The budget includes trailer bill language that would, instead, authorize the Judicial Council to use a design-build procurement process in contracting and procuring public works projects and would authorize the Judicial Council to award contracts using either the best value or low bid selection method for all projects. The bill would require a bidder participating in the modified process to provide written declarations, subject to misdemeanor penalties, and would thereby impose a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

Staff Recommendation. Hold open.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman

Thursday, February 25, 2021
Upon Call of the Chair
State Capitol - Room 3191

Consultant: Anita Lee

Items Proposed for Vote-Only

Items Proposed for Discussion

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Public Comment

ITEMS PROPOSED FOR VOTE – ONLY

7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD

Issue 1: Encumbrance Extensions

Summary. The Governor's budget proposes to extend the encumbrance periods for the Breaking Barriers to Employment Initiative, Prison to Employment, and Greenhouse Gas Reduction Fund to fund administrative costs and the continued implementation of the programs.

Background

Breaking Barriers to Employment Initiative. In October 2017, the California Legislature approved Assembly Bill 1111, (Garcia, E), Chapter 824, Statutes 2017, which established the Breaking Barriers to Employment Initiative. The initative created a grant program that provides individuals with barriers to provide employment the services they need to enter, participate in, and complete broader workforce preparation, training, and education programs aligned with regional labor market needs. The 2018 budget provided $15 million General Fund one-time to implement the grant program.

Prison to Employment Initiative. The 2018 budget provided $37 million General Fund over three fiscal years to establish the Prison to Employment Initiative. This initiative helped support regional planning efforts, fund regional plan implementation, and provide resources for direct services to the formerly incarcerated and other justice-involved individuals. It set aside specific resources for both supportive services and earn and learn activities which were identified as a major gap by current grantees and local service providers. The initiative sought to create a partnership between rehabilitative programs within California Department of Corrections and Rehabilitation (CDCR) and incorporating CDCR within the policy umbrella of the State Workforce Plan. The Budget Act of 2020 appropriated $1 million for an evaluation of the Prison to Employment program and to support departmental operational costs.

The Budget Act of 2019 re-appropriated $3.3 million General Fund for the administration of the Breaking Barriers to Employment Initiative and the Prison to Employment initiative and provided for the encumbrance or expenditure of those funds until June 30, 2022.

Cap and Trade Expenditures for High Roads Construction and High Roads Training Parnerships. The Budget Act of 2019 Cap and Trade Expenditure Plan included $35 million General Fund ($30 million Local Assistance for High Roads Training Partnerships and High Roads Construction, and $5 million State Operations funding), and identified an additional $120 million in Local Assistance Funds over the next four budgets in support of a suite of workforce development programs related to reducing greenhouse gas emissions. As a result of the current economic crisis and its impact on state revenues, CWDB's 2019-20 Local Assistance appropriation was reduced by approximately $4.4 million and the next planned $30 million in Local Assistance funding was not appropriated in 2020-21.

Governor's Budget Proposal

CWDB requests the following technical adjustment be made to allow for extended use of current appropriations:

- Breaking Barriers to Employment. Extend the encumbrance or expenditure of the 2019 reappropriation of $1.19 million General Fund until June 30, 2023, and the encumbrance or expenditure of the 2019 reappropriation of $1.19 million General Fund until June 30, 2024.

- Prison to Employment. Extend the encumbrance period of the $1 million allocated in Budget Act of 2020 for program evaluation to be available for encumbrance or expenditure until June 30, 2023.

- Green House Gas Reduction Fund. Extend the encumbrance period of $5 million appropriated in 2019 to be available through June 30, 2022.

The Administration states that it takes about a year to release funds and sometimes more than year for a new program that needs to be built from the ground up, and as a result programs experienced some delays. The Administration also notes that the grants for the Prison to Employment Initiative and the Break Barriers grants are already encumbered (by the end of fiscal year 2019-20) and GGRF contracts will be encumbered by June 30, 2021. The request to extend the related state operations funding for these programs are necessary to provide the CWDB staff resources to continue to administer and close out the grants.

Staff Recommendation. Approve as budgeted.

7350 DEPARTMENT OF INDUSTRIAL RELATIONS

Issue 2: Apprenticeships Federal Innovation Grant

Background

In July 2020, the US Department of Labor's Employment and Training Administration awarded the Department of Industrial Relations (DIR) Division of Apprenticeship Standards (DAS) the with $450,000 in Building State Capacity to Expand Apprenticeship through Innovation Grant funding to achieve the goals and associated deliverables outlined in the grant agreement including:

- The procurement and integration of data analysis software to properly assess current data and provide improved reporting. This analysis will provide insight into those programs which succeed in recruiting and graduating apprentices from underrepresented groups as well as those that struggle. In addition, this tool will be integrated into the DAS website to enable others to view and analyze data contained within the system in a secure manner that protects the privacy of apprentices.

- The creation of a digital apprenticeship and work-based learning Tool Kit, in a printable format, and distributed for use by educational and workforce development stakeholders.

- Partnering with established outreach programs. DAS will create and distribute updated educational resources and outreach materials targeting underrepresented populations, including high schools, community college students, women and veterans.

Governor's Budget Proposal

The Governor's budget proposes an increase of $240,000 in Federal Trust Fund authority for the 2021-22 fiscal year, for the DAS to effectively and efficiently complete the goals and all associated deliverables, set forth in the Building State Capacity to Expand Apprenticeship through Innovation federal grant agreement, with the U.S. Department of Labor's Employment and Training Administration.

Due to the schedule of deliverables agreed upon in the approved grant agreement, DIR submitted a Section 28 package, requesting a $210,000 budget augmentation in 2020-21, to enable DAS to start work immediately on the deliverables. This 2021-22 proposal will allow DAS to utilize the remaining $240,000 in funds and complete the deliverables outlined in the grant award. DAS will utilize the Federal funds awarded by the USDOL/ETA and meet its deliverables before the period of performance ends in June 2023.

Staff Recommendation. Approve as budgeted.

Issue 3: Schools' Occupational Injury

Background

Pursuant to existing law, the Division of Occupational Safety and Health (Cal/OSHA) civil or administrative penalties assessed to school districts, state universities, or other specified educational facilities are deposited into the Revolving Fund. Educational facilities may apply for a refund of their penalties within two years and six months from the date of the violation. The remaining funds are to be used by the Commission to assist schools in establishing effective occupational injury and illness prevention programs. The WCARF has accumulated approximately $370,000 and is expected to accumulate $140,000 per fiscal year on average. These funds can now be utilized to provide training and/or other assistance to more school districts.

Recent data from the U.S. Bureau of Labor Statistics indicate that nearly 40 percent of the 86,200 non-fatal occupational injuries and illnesses in California's local governments still occur in elementary and secondary schools. California elementary and secondary schools have occupational injury rates that are 1.7 times higher (6.1 cases per 100 full- time employees (FTEs)) than the overall injury rate for Californians injured at work (3.6 cases per 100 FTEs).

The 2018-19 budget provided the Commission $250,000 limited-term augmentation per year for three-years to extend the reach of the IIPP. The Commission contracted with the University of California (UC) Regents to develop a model training program for California schools, the School Action for Safety and Health Program (SASH). The SASH program provides free IIPP trainings to help school districts reduce the high rate of work-related injuries and illnesses among school employees. Once trainees complete the training, they are certified by the UC and the Commission as SASH coordinators, allowing them to develop, implement, and evaluate injury and illness prevention activities in their respective organizations. The SASH program conducts an average of nine SASH trainings each year. To date, SASH training classes have been conducted statewide for over 1,800 staff from nearly 500 school districts. In addition to the regular SASH IIPP trainings, trainings have been conducted that focus on prevention of specific hazards for relevant school occupation. The SASH program also provides educational materials, planning templates, webinars, factsheets, and other tools to help participants efficiently develop their IIPPs. In light of COVID-19, the program will be developing an online version of the SASH IIPP course, factsheets on COVID-19 and tips for addressing work related stressors faced by school employees, and updating the SASH curriculum to include information about any schools-related health and safety issues and recommended solutions.

Governor's Budget Proposal

The Governor's budget proposes $175,000 from 2021-22 through 2023-24 and an ongoing augmentation of $55,000 from the Workers' Compensation Administration Revolving Fund (WCARF) for the Commission on Health and Safety and Workers' Compensation (Commission) to assist schools in establishing effective occupational Injury and Illness Prevention Programs (IIPP).

Staff Recommendation. Approve as budgeted.

Issue 4: Elevator Public Safety Unit

Summary. The Governor's budget proposes an increase of 56.5 positions and $11.16 million from the Elevator Safety Account to be phased- in over two years at the Division of Safety and Health (DOSH) also known as Cal/OSHA. These positions seek to reduce inspection backlog, and to conduct mandated conveyance related activities that are currently unmet.

Background

The CAL/OSHA Elevator Unit (EU) protects the safety of the public who ride the over 115,000 conveyances (elevators, escalators, moving walkways and other lifts) operating in the State each year. Current law requires the EU to:

- Perform safety inspections each year for all conveyances;
- Prevent operation of conveyances with known safety deficiencies until necessary repairs or alterations are completed;
- Review and approve plans, and issue permits, for the construction of new conveyances;
- Review and approve various conveyance components required for safe operation of conveyances;
- Inspect the installation of new and altered conveyances (approximately 4,250 new and altered conveyance installations per year) prior to issuing a permit for operation,
- Witness approximately 38,000 periodic operational and functional tests in one and five year intervals;
- Investigate accidents, injuries and fatalities involving conveyances as expert advisors to CAL/OSHA workplace enforcement inspectors;
- Develop and propose standards to be adopted as regulations governing conveyance safety;
- Review applications and certify certified qualified conveyance companies;
- Review applications, administer a certification examination and certify qualified persons as certified competent conveyance mechanics; and
- Review, evaluate and advise the Chief of the Division and the Director of DIR on applications for temporary variances, temporary experimental variances and permanent variances from safety regulations and standards for conveyances.

There are currently 115,100 conveyances that require permitting each year. By comparison, in 2010 there were approximately 85,000 elevators in service. Each year, the number of new conveyances and altered conveyances have grown by 3,030 and 1,218, respectively. Each new and altered conveyance inspection requires approximately five times the amount of time it takes to complete the inspection of an existing conveyance. As a result, only about 50 percent of existing conveyances are inspected annually. Additionally, due to lack of available staff, only approximately 1.5 percent of the 37,589 Group III and IV (elevators built after October 1998) conveyances have had the periodic testing of safety systems witnessed by a CAL/OSHA EU inspector.

The 2015-16 budget added 27.5 positions to the EU to address inspection backlogs and to help the Division meet permitting mandates. Due to the increase in conveyances driven by new construction, the resources added in 2015-16 are insufficient to fully meet the annual inspection mandate.

Governor's Budget Proposal

The Governor's budget proposes an increase of 30.5 positions and $6.7 million in 2021-22 and 56.5 positions and $11.6 million ($11.2 million ongoing) in 2022-23 to reduce inspection backlog, and to conduct mandated conveyance-related activities that are currently unmet. The positions are as follows:

- 2021-22: six office technicians and 24.5 elevator safety engineers.
- 2022-23: 12 office technicians and 44.5 elevator safety engineers.

The Administration notes that in there were 18.1 vacant positions or a vacancy rate of 13.6 percent. The Administration notes that with this proposal the backlog of expired annual operating permits will be eliminated by the end of the fifth year. Additionally, "witnessing" periodic testing of conveyance safety systems can begin in year five.

Staff Recommendation. Approve as budgeted.

Issue 5: Enhanced Enforcement and Compliance (Various 2020 Legislation)

Governor's Budget Proposal

The Governor's budget proposes an increase of 43.0 positions and $8.7 million from various funds in 2021-22, 43.0 positions and $7.7 million in 2022-23, 41.0 positions and $7.3 million 2023-24, 38.0 positions and $6.7 million in 2024-25 and 2025-26, with 8.0 positions and $1.7 million in 2026-27 and beyond to implement the provisions of recently chaptered legislation.

- **Assembly Bill 685 (Reyes), Chapter 84, Statutes of 2020: COVID-19: Imminent Hazard to Employees - Exposure Notification.** This bill requires employers to provide written notice and instructions to employees who may have been exposed to COVID-19 at their worksite and enhances the Cal/OSHA ability to enforce health and safety standards to prevent workplace exposure to and spread of COVID-19.

  The bill provides that if, in the opinion of Cal/OSHA a place of employment, operation, or process, or any part thereof, exposes workers to the risk of infection with COVID-19 so as to constitute an imminent hazard to employees, the performance of such operation or process, or entry into such place of employment, as the case may be, may be prohibited by Cal/OSHA. This provision sunsets on January 1, 2023.

  The bill also specifies that an employer cannot retaliate against a worker for disclosing a positive COVID-19 test, or diagnosis or order to quarantine or isolate. Workers who believe they have been retaliated against in violation of this section may file a complaint with the Division of Labor Standards Enforcement.

  The Governor proposes 8.0 positions and $1.8 million in 2021-22, and $1.7 million ongoing in Occupational Safety and Health Fund to implement the provisions of the bill. The Administration notes that these l resources will help enforce the provisions of AB 685 and enable Cal/OSHA to perform approximately 160 new inspections per year in addition to verifying compliance with AB 685 for all inspections related to COVID-19.

- **Senate Bill 275 (Pan), Chapter 301, Statutes of 2020: Health Care & Essential Workers Protection Act: Personal Protective Equipment (PPE).** This bill requires health care employers to maintain an inventory of unexpired PPE that is at least sufficient for 45-days of surge consumption, and provide inventories of their PPE to Cal/OSHA. Health care employers who violate either of these requirements would be assessed a civil penalty of up to $25,000 for each violation. SB 275 requires DIR, in consultation with the California Department of Public Health (CDPH) and in consideration of the recommendations of the PPE Advisory Committee establish requirements for determining 45-day surge capacity levels for health care employer inventories, including the types and amounts of PPE to be maintained. The regulations would also have to require that each health care employer maintain enough PPE for all health care workers.

  The Administration proposes two limited-term positions and $457,000 in 2021-22 and $431,000 in 2022-23 from the Occupational Safety and Health Fund to provide resources for Cal/OSHA and the Occupational Safety & Health Standards Board (OSHSB) to address the new requirements of SB 275. The Administration notes that these one-time resources are needed to develop and adopt regulations in consultation with CDPH. Additionally, once the regulatory time is established, DIR will submit another budget proposal next year for additional staff to enforce the new regulations.

- **Senate Bill 1159 (Hill), Chapter 85, Statutes of 2020: Workers' Compensation: Occupational Illness – COVID-19.** On May 6, 2020 the Governor issued Executive Order # N-62-20 providing that all California employees who worked outside their home at the direction of their employer between March 19, 2020 and July 5, 2020 and who were diagnosed with or tested positive for COVID-19 within 14 days of working at their jobsite are presumed to have contracted any COVID-19-related illness at work for the purpose of awarding workers' compensation benefits.

  SB 1159 codified the terms of EO # N-62-20 providing a workers' compensation presumption for workers with COVID-19 injuries occurring between March 19, 2020 and July 5, 2020. The bill also extends the presumption coverage to specified first responders and designated health care workers, who are injured on or after July 6, 2020. The bill also covers all other workers, whose employers have five or more employees, and who test positive for COVID-19 during an outbreak at their place of employment on or after July 6, 2020. The bill grants enforcement authority to the Labor Commissioner to cite employers who fail to report to their claims administrator when an employee has tested positive for COVID-19. SB 1159 provides that the presumption statutes will remain in effect until January 1, 2023, at which point they will be repealed.

  SB 1159 also requires the Commission on Health and Safety and Workers Compensation (CHSWC) to conduct a study on the impact of COVID-19 and these presumptions on the workers' compensation system and report the findings to the Legislature and the Governor by April 30, 2022. Based on work-related injury data reported to Division of Worker's Compensation's Workers' Compensation Information System (WCIS), 38,362 COVID-19 work-related injuries were reported between January and August of 2020. The overwhelming majority of these reported injuries occurred since March, with only 170 reported in January and February combined. During the 6-month period between March and August 2020, 38,192 COVID-19 injuries were reported, averaging out to approximately 6,365 claims per month. DWC estimates that an additional 26,000 claims will be reported from September through December. Half of the COVID-19 injuries were associated with public safety officers and employees in hospital, ambulatory care and nursing care settings.

  DIR requests 30.0 positions (8.5 Workers' Compensation Judge, 8.5 Senior Legal Typist, 8.5 Office Technicians, and 4.5 hearing reporters) and $5.8 million in 2021-22 and $5 million in 2022-23 through 202-26 from the Workers' Compensation Administration Revolving Fund to address an estimated increase of 6,202 claims. DIR requests an additional 3.0 positions (two Deputy Labor Commissioners I, and one Deputy Labor Commission III) and $584,000 in 2021-22 and $536,000 in 2022-23 and FY 2023-24 from the Labor Enforcement and Compliance Fund to address increased enforcement actions and to conduct the study required by the bill.

Staff Recommendation. Approve as budgeted.

7501 California Department of Human Resources

The Department of Human Resources (CalHR) is responsible for managing the state's personnel functions and represents the Governor as the "employer" in all matters concerning state employer-employee relations. CalHR is responsible for issues related to recruitment, selection, salaries, benefits, and position classification, as well as provides a variety of training and consultation services to state departments and local agencies. CalHR's main objectives are to:

- Manage examinations, salaries, benefits, position classification, training, and all other aspects of state employment other than those areas assigned to the State Personnel Board under the civil service provisions of Article VII of the California Constitution.
- Represent the Governor in collective bargaining with unions representing rank and file state employees.
- Set salaries and benefits for employees excluded from collective bargaining and employees exempted from civil service.
- Serve as the sole fiduciary and administrative body for the Savings Plus Program (defined contribution program for full-time and part-time state employees).
- Provide legal representation to state agencies for appeals of disciplinary actions and labor relations matters.
- Hold ex-officio membership to the 13-member Board of Administration of the California Public Employees' Retirement System.

Issue 6: Substance Abuse and Testing Program Alignment

Summary. The Governor’s budget proposes to permanently transfer the Controlled Substance Abuse Testing Program from the Benefits Division to the Pre-Employment Division of CalHR.

Background

CalHR is responsible for administering the Controlled Substance Abuse Testing (CSAT) Program. The CSAT Program provides state agencies access to testing of: 1) state employees for employment and pre-employment and 2) state employees subject to controlled substances testing under Federal Department of Transportation, Federal Highway Administration, United States Coast Guard regulations, California Peace Officer Standards and Training Commission regulations, and-random and reasonable suspicion testing under various collective bargaining agreements. Currently, 24 departments participate in CSAT.

To comply with federal and state CSAT requirements, CalHR has established separate master agreements with two third-party administrators/vendors who provide drug/alcohol testing and substance abuse treatment referral services. In addition, CalHR serves as the administrator for the consortium that provides CSAT services for federal and state mandated programs. CalHR manages CSAT testing services for departments participating in the CalHR CSAT Program. A departmental interagency agreement between CalHR and the participating department must be completed prior to obtaining CalHR CSAT Program services. Each participating department is billed for services and charged annual administrative fees to cover CSAT Program costs.

The Division of Benefits of CalHR currently administers the CSAT Program, and is also responsible for the statewide benefit plans for employees, retirees, and dependents designed to support the state in attracting and retaining a qualified workforce. This includes dental, vision, flexible spending accounts, employee counseling, wellness, employee recognition life insurance, long-term disability insurance, and legal and retirement services. In addition, Benefits oversees the state's master agreement for worker's compensation and advises the CalHR Director on the CalPERS pension and health plan and benefit policy topics related to bargaining, legislation, and benefit purchasing alternatives.

Governor's Budget Proposal

To better align activities within the appropriate program, the Administration proposes to move the CSAT Program from the Benefits Division to the Pre-Employment Division, which is under the authority and purview of the State Medical Officer. CalHR notes that there will be one staff person transferring from the Benefits Division to the Pre-Employment Division.

The Administration notes that controlled substance abuse testing, as performed under the CSAT Program, is employer mandated medical testing—not an employee benefit. As such, it is more closely aligned with the purview of the State Medical Officer in Pre-Employment, who is responsible for conducting post-offer, pre-employment medical evaluations of employment candidates for state agencies and, if requested by the State Personnel Board, evaluations of candidates requesting medical reinstatement to a previous civil service appointment. Pre-Employment administers programs devoted solely to providing medical and psychological evaluations on behalf of state agencies. Transferring the CSAT Program to Pre-Employment fits within the scope of the State Medical Officer role to administer.

Staff Recommendation. Approve as budgeted.

Issue 7: Statewide Human Resources Support

Summary. The Governor's budget proposes an increase of five permanent positions and $836,000 in General Fund for 2021-2022 and ongoing to provide direct assistance and oversight in supporting departmental personnel units with complex workload, resolving audit findings, assisting with surge staffing for crises, and other human resources needs.

Background

CalHR is responsible for collective bargaining, employee salaries and benefits, job classifications, appointments consultations, civil rights, training, exams, and recruitment and retention. The Personnel Management Division (PMD) within CalHR provides 150 department personnel offices statewide with day-to-day expert technical consultative services related to statewide personnel management policy, and interpretation of applicable human resource (HR) laws and regulations. The CalHR Selection Division (SD) serves as the state's principle advisor on matters related to recruitment strategies and job branding, examination development, validation, administration, selection, and hiring for state and county civil service.

CalHR notes that the state uses a distributed HR system rather than a centralized model for HR. CalHR and State Personnel Board (SPB) set the overarching rules that departments must follow. Independent departmental HR offices make daily HR decisions for their own employees on everything from examinations and hiring to discipline and layoffs. However, they must follow rules and policies established by CalHR and SPB because these control agencies are vested with statutory control of the State's civil service system.

When an HR function is determined to be routine and it is in the best interests of state efficiency to delegate the decision-making for the function to the individual departments, then those departments are considered to have authority for the decision as an extension of CalHR and SPB's authority. As a result of the 2013-2015 Delegation Project, CalHR delegated certain previously restricted HR functions to departments. CalHR and SPB maintain control over these functions by monitoring and auditing department decisions.

When a department is found to be non-compliant with the laws, rules, policies and best practices, CalHR and SPB have discretion to revoke their various delegated authorities over HR functions from departments, meaning departments lose the ability to make their own decisions on that HR aspect. The control of the errant department's HR function then "reverts" to CalHR or SPB, and the errant department must seek CalHR or SPB pre-approval to make those HR decisions. This is highly undesirable for departments as the extra layer of review adds significant time to the process to complete the HR task (such as hiring). When departments lose their delegation authority for appointments, for example, it means that they cannot make any hires without submitting the hiring paperwork to CalHR for pre-approval, which typically adds 2-3 weeks to each hiring timeline. For CalHR, the removal of delegation from a department means additional work brought in house.

CalHR notes that there has been a growing volume of new, demanding, consultation work related to resolution of unlawful appointments and other inappropriate HR practices discovered during CalHR's routine delegation reviews, and revealed by formal audits and special investigations by other oversight entities such as the California State Auditor (CSA) and the SPB Compliance Review Unit (CRU). This results in departments losing aspects of delegated HR authority, which generates new workload for

CalHR as PMD must then take a hands-on role in helping departments to correct specific violations and their ongoing practices, this includes taking responsibility for all hiring at departments.

Currently, the Board of Equalization and the Department of Industrial Relations have lost their delegated appointing authority, the Department of Insurance has lost delegated Examination authority, and the State Compensation Insurance Fund has temporarily lost exceptional allocation delegation for the Staff Services Manager series. CalHR has not identified any departments for new loss of delegation. However, special investigations and whistleblower complaints continue to identify critical areas in need of improvement. As loss of delegation is typically a resolution at the conclusion of an investigation, CalHR works with other control agencies and the departments to determine if a full restriction is necessary.

In addition to the increased workload associated with restricted delegation or loss of delegation authority, CalHR has provided emergency HR assistance to departments in need:

- CalHR's PMD was mission tasked by the Office of Emergency Services to assist the Emergency Medical Services Authority and Health and Human Service Agency with a massive hiring surge for the California Health Corps in response to the COVID-19 pandemic. CalHR's PMD set aside the majority of its critical work for several weeks while more than 25 staff reviewed 5,400 applications so medical personnel could be hired quickly and deployed. PMD spent 4,100 hours helping other departments meet their missions in response to the crisis.
- CalHR's Selections Division was asked to assist the Employment Development Department with mass hiring to keep pace with demand as a result of the COVID-19- related spike in unemployment claims.

Governor's Budget Proposal

The Governor's budget proposes an increase of five positions to assume HR support, intervention work for departments with ongoing restricted delegation, as well as any departments anticipated to end up with restricted delegation in the future. These positions will enable CalHR's PMD and SD to effectively rehabilitate faltering departments and ensure that all operational and regulatory requirements are met without delay. These five positions are requested at the Personnel Program Advisor level to assist departments in the following areas:

- Providing program direction by advising and recommending policy and program changes on a wide variety of personnel management and selections issues.
- Providing hands-on consultation and direction to department HR shops and Executives in order to address current needs and anticipate types of HR services necessary.
- Oversee the day-to-day administrative activities of a department's team of HR resources, providing leadership, mentoring, and knowledge transfer.
- Promote use of "best practice" management principles and provide departments a strong foundation for a future of good-faith, merit-based hiring.
- CalHR also envisions leveraging an existing position in the Business Process Improvement Office to provide objective process improvement services to departments.

Staff Recommendation. Approve as budgeted.

0559 LABOR AND WORKFORCE DEVELOPMENT AGENCY

Issue 8: Labor Law Implementation and Interpretation Workload

Summary. The Labor and Workforce Development Agency (Labor Agency) requests four positions and $765,000 from the Labor and Workforce Development Fund for 2021-22 and ongoing to increase its capacity to ensure consistent implementation and interpretation of laws within the Labor Agency's jurisdiction. This consistency includes working with state departments and boards under its jurisdiction to issue regulations, opinion letters and outreach publications, internal training materials regarding the state's labor laws. The initial workload of the new positions will focus on implementing laws enacted in response to the COVID-19 pandemic and the ongoing implementation and interpretation of Assembly Bill 5 (Gonzalez), Chapter 296, Statutes of 2019 and its anticipated amendments. Moving forward, the Labor Agency will use the positions and funding on a permanent basis to support these functions for all laws within the Agency's jurisdiction.

Background

The Labor Agency's legal staff supervises the legal affairs of the Agency's constituent units, and have two full-time civil service attorney positions (1.0 Attorney V and 1.0 Attorney III) and a limited-term Retired Annuitant appointed as an Attorney IV. Along with the General Counsel, this staff provides direction and guidance to the Labor Agency's units on the implementation and interpretation of laws those units enforce and with which they must comply, and provides direction or guidance on litigation legislation, rulemaking, Public Records Act requests, audit responses, compliance matters, and communications activities. This work is in addition to the services the legal staff provides to the Labor Agency itself, such as supervising litigation against the Secretary in her official capacity, providing legal advice to Agency leadership on various matters, responding to Public Records Act requests directed to the Agency, and drafting legislation.

The Labor Agency seeks to create more inter- and intra- agency collaboration, and to create consistencies and uniformity in the implementation and enforcement of labor laws. Additionally, Labor Agency also consults with constituent units on the production of education materials on labor laws to ensure accuracy and consistency.

Governor's Budget Proposal

The Governor requests four positions (two Attorney IIIs, and two Associate Governmental Program Analysts) and $765,000 from the Labor and Workforce Development Fund for 2021-22 and ongoing.

The Administration notes these positions will help provide consistent implementation and interpretation to laws enacted in response to the COVID-19 pandemic, and laws like AB 5, which impact multiple state entities. For example, the COVID-19 pandemic has required the Labor Agency legal team to work closely with its entities to implement Executive Orders, develop public outreach and education campaigns, and advise policymakers on changes to existing laws. Although the pandemic's direct effects are expected to wane during the upcoming budget year, Labor Agency expects ongoing changes to laws and policies based on the pandemic, all of which will require implementation resources.

Labor Agency's ongoing implementation of AB 5 also demonstrates the need for additional legal resources. Implementing the law has required Labor Agency to coordinate the work of the Employment Development Department (EDD), the Labor Commissioner's Office, Cal/OSHA, and the Division of Workers' Compensation, each of which have a role in AB 5's implementation. Such coordination entails ensuring that each unit applies the law uniformly, which requires thorough supervision of each unit's enforcement, education, and engagement around the law. The tasks involved in such supervision include providing direction and guidance on public information provided on the law, internal staff training, and any other advice necessary to the unit's implementation of the law. This work is necessarily iterative and ever-continuing to respond to the public's needs around the law and any judicial interpretations of the law.

Staff Recommendation. Approve as budgeted.

ITEMS PROPOSED FOR DISCUSSION

7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD

The California Workforce Development Board collaborates with both state and local partners to establish and continuously improve the state workforce system. The Board also provides leadership for a unified state plan that works in partnership with other state entities such as the Health and Human Services Agency, the Departments of Social Services and Rehabilitation, the Community Colleges, and the Department of Education. The workforce system is comprised of state and local programs and services that prepare current and future workers to meet the ever-evolving demands of California's businesses and industries. These services include matching job seekers with career opportunities and jobs; supplying high-skill workers to business and industry; providing labor market and economic information necessary for state, local, and regional planning; preparing the neediest youth for advanced learning and careers; and encouraging the inclusion of special populations as critical elements of the workforce.

3-YEAR EXPENDITURES AND POSITIONS †

		Positions			Expenditures		
		2019-20	2020-21	2021-22	2019-20*	2020-21*	2021-22*
6040	California Workforce Development Board	34.3	36.5	33.7	$52,579	$97,100	$15,315
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**34.3**	**36.5**	**33.7**	**$52,579**	**$97,100**	**$15,315**

FUNDING		**2019-20***	**2020-21***	**2021-22***
0001	General Fund	$46,607	$39,156	$1,287
0890	Federal Trust Fund	3,956	6,564	6,474
0995	Reimbursements	811	260	4
3228	Greenhouse Gas Reduction Fund	1,008	31,456	2,550
3290	Road Maintenance and Rehabilitation Account, State Transportation Fund	197	19,664	5,000
TOTALS, EXPENDITURES, ALL FUNDS		**$52,579**	**$97,100**	**$15,315**

Issue 9: High Roads Training Partnerships

Summary. The Governor's budget proposes an increase of $25 million General Fund one-time in 2021-22 to expand Earn and Learn/Apprenticeship training programs through High Roads Training Partnerships.

Background

The CWDB high road training portfolio includes three main components: High Road Construction Careers (HRCC), High Road Climate Action Partnerships, and High Road Training Partnerships (HRTP).

High Road Construction Careers (HRCC). HRCCs are projects that prioritize partnerships that link local building and construction trades councils to workforce boards, community colleges and CBOs to create pathways to state-certified apprenticeships in a variety of crafts. From 2014-19, the CWDB invested $13.3 million of Proposition 39 funds to build 12 multi-craft pre-apprenticeship partnerships (five in the Bay Area, two in the Los Angeles metro area, one in Sacramento, San Diego, Fresno, Central Coast and northern Sacramento Valley, in the building and construction trades.

In addition, Senate Bill 1 (Beall), Chapter 5, Statutes of 2017 appropriated $5 million annually for five fiscal years from the Road Maintenance and Rehabilitation Account. In June 2020, the CWDB announced awards for the first round of SB 1 funding totaling over $13 million to 11 regionally-scaled training partnerships. The CWDB will issue the last two years' of funding at future date. SB 1 funding is available through June 2027.

Additionally, the 2019-20 budget provided $35 million in Greenhouse Gas Reduction (GGRF) 2019-20 ($5 million in State Operations to build the program, $20 million is intended for HRTPs and $10 million is intended for HRCCs); and $32.5 million for 2020-21, 2021-22, 2022-23, and 2023-24 ($2.5 million in State Operations to build the program, $20 million for HRTPs, and $10 million for HRCCs). However, due to the economic impacts of COVID-19, Cap and Trade auction proceeds dropped, and as a result the 2019-20 local assistance amounts for HRTPS and HRCCs was reduced to $25.6 million, and is not expected to receive any local assistance funding to support HRTPS and HRCCs for 2020-21 and 2021-22. Of the $25.6 million in 2019-20 GGRF, there will be three rounds of grant funding. The first awards totaling in $10.8 million were announced in December 2020.

Project Name	Lead Applicant	Award Amount
High Road to Public Transit	California Labor Federation	$1,000,000
High Road to Janitorial	Building Skills Partnership	$939,134
High Road to Water	Jewish Vocational Services	$676,427
High Road to Public Service and Electric Bus Manufacturing	Worker Education and Resource Center	$998,455
High Road to Hospitality	Hospitality Training Academy	$1,000,000
High Road to Healthcare	Shirley Ware Education Center	$1,000,000
High Road to Energy Storage and Microgrids	California and Nevada IBEW/NECA Labor-Management Cooperation Trust	$1,250,000
High Road to Food Production	United Food and Commercial Workers Western States Council	$800,000
High Road to Agriculture	Equitable Food Initiative	$600,000
High Road to Public Utilities	Los Angeles Alliance for a New Economy	$500,000
High Road to Logistics, Manufacturing, Construction and Transportation	Inland Empire Labor Institute	$1,342,664
	Total	$10,106,680.00

Lastly, the state also received $12.5 million from the Federal CARES Act to support HRTPS and HRCCs for: manufacturing with the California Labor Federation, transit expansion with the California Labor Federation, construction pre-apprenticeship with the Fresno Workforce Development Board, tree trimmers with International Brotherhood of Electrical Workers, and water expansion to the inland region with Jewish Vocational Services.

High Road Climate Action Partnerships (HR CAP). HRCAP is an initiative to ensure that state investments in climate change mitigation lead to high quality jobs and greater access to jobs for disadvantaged communities. CWDB will develop formal partnerships with three to four agencies to advise and recommend changes in program guidelines, funding solicitations to ensure that state investments in climate mitigation result in high-quality jobs, and to participate in multi-agency taskforces and work groups to align policy research and planning.

High Roads Training Partnership (HRTP). Under the CWDB's HRTP framework, workers, labor and other worker organizations, and employers and work alongside community-based organizations and training institutions to provide custom workforce development solutions with pathways to quality jobs for all Californians, especially those from the most disadvantaged communities.

CWDB notes that the HRTP approach is beneficial for all parties involved: (1) workers gain access to training programs, on-the-job mentoring, and career pathways that help them achieve success on the job and economic security, such as stable pay, health benefits, pensions, physical safety, stable schedule (2) employers gain a high-performing and reliable workforce, (3) worker organizations and unions are able to set industry standards and secure higher wages when workers are trained to meet employer needs, and (4) communities become resilient by working alongside labor and worker organizations and employers to develop recruitment pipelines, equitable employment opportunities, climate mitigation strategies, and other worker-centered systems.

Prior Investments and Impacts. In 2016-17, the CWDB invested a $9 million from the Governor's discretionary federal Workforce Innovation Opportunity Act (WIOA) over three years in an HRTP demonstration project. Eight projects were awarded a total of $7.43 million, and $1.52 million was awarded for technical assistance and project evaluation. The eight projects were as follows:

1. **Transportation, Distribution and Logistics (TDL).** The West Oakland Job Resource Center (WOJRC) worked with the Northern California Teamsters Apprentice Training and Education Trust Fund, College of Alameda, Oakland Army Base and port employers to create a TDL Pre-Apprenticeship Training and Teamsters TDL Apprenticeship Program. The WORJC will also create a High Road Staffing Agency to help under-represented and low-income individuals secure decent commercial transportation jobs.

2. **Janitorial.** Building Skills Partnerships (BSP) is a statewide organization that provides vocational training in English language and green skills, financial and digital literacy, citizenship, higher education, and other workforce development and immigrant integration needs. Through the HRTP Initiative, BSP convenes industry leaders — including SEIU-United Service Workers West, the Building Owners and Managers Association of Los Angeles, the National Green Building Council, and California's leading janitorial service companies — to standardize the credentials, training, and professionalized career paths for property service workers. The Green Janitor Program will increase upward mobility for hundreds of immigrant workers with limited English proficiency.

3. **Healthcare.** The Shirley Ware Education Center (SWEC) will work with Kaiser Permanente, Dignity and Alameda Health Systems, and SEIU United Healthcare Workers West, to design and implement a multi-employer, multi- occupation pre-apprenticeship to provide entry-level health care workers with English proficiency, digital fluency, math, reading, and presentation skills. The pre-apprenticeship will also include an industry- recognized green-skills credential designed to meet the waste, water, and energy efficiency goals established as competitive benchmarks by California's major health systems. The training program will lead to a registered apprenticeship for nonclinical incumbent workers to transition into clinical positions. SWEC is also piloting a training program with two local educational partners: Merritt College and Sierra College-to create allied health career pathways for incumbent such as janitorial and dietary service workers and to train new workers from Oakland's low-income neighborhoods.

4. **Hospitality.** The Hospitality Training Academy (HTA) is the non-profit and training arm for UNITE HERE Local 11. Through the CWDB HRPT, HTA is launching the High Road to Hospitality Program to expand their training infrastructure to assist low-income, people of color, the LGBTQ community and residents with high barriers to employment in Los Angeles with training, employment readiness, and placement in union hospitality jobs, and to create pathways for incumbent workers to advance within the industry. HTA is designing and deploying an online and mobile-app-based roll call system that will place hotel room attendants on an availability list for shifts at other union hotels, thereby providing workers with the opportunity for full employment, and stable earnings.

5. **Port.** Through the CWDB HRTP initiative, the Port of Los Angeles (POLA) is creating the Port Workforce Training Center, designed for new and incumbent workers in the goods-movement industry. The center will promote more equitable hiring practices, provide training, and help the maritime goods movement workforce train and obtain the skills necessary to operate new equipment that will help the port meet its goal of zero emissions cargo handling equipment by 2030, and drayage trucks by 2035. The POLA created a new program to train entry-level lashers with the International Longshore and Warehouse Union (ILWU) Locals 13, 63, and 94 and the Pacific Maritime Association- the multi-port employer association that represents all 29 West Coast ports—with support from curriculum development experts.

6. **Public Sector.** Through CWDB HRTP the Worker Education and Resource Center (WERC) will prepare workers to fill entry-level jobs in several County departments in the County of Los Angeles. Prepare LA for County Employment will create hiring, training, onboarding, mentoring, and apprenticeship systems to increase the opportunity for residents with high barriers to employment, including a history of incarceration or homelessness, to obtain permanent county jobs.

7. **Public Transit.** The California Transit Works! (CTW) is a statewide consortium of transit agencies, labor unions, and community colleges that promotes high road training partnerships to address critical issues in public transit. The CTW and California Labor Federation will create the first formal "high road partnership of partnerships" model in California; and by extending access to online resources to develop and improve high road partnerships in public transit

8. **Water.** The Jewish Vocational Service (JVS) is a nonprofit organization in the Bay Area that provides education and training to residents with the skills employers need and connects them

with ready-to-hire employers in industries with in-demand occupations. JVS is partnering with BAYWORK, a consortium of 33 water and wastewater utilities, to create an HRTP that identifies in-demand occupations, training programs, and opportunities to build cross-sector recruitment pipelines for public utilities systems in the Bay Area. Through the Water Utilities Career Pathways Project (WUCPP), JVS is creating an industry partnership by helping BAYWORK increase its membership of public utility employers and by convening a consortium of water industry union leaders. Together, they partner with educational institutions, union-based pre-apprenticeship programs, career centers, and community-based organizations to recruit, train, and upskill job seekers and build new career pathways for workers in the water and wastewater industries.

The Administration notes that these HRTPS provided training, employment and career advancement to over 1,000 workers. The HRTPS also provided: (1) industry assessments, including research on occupations, pathways and current and future gaps, (2) new program designs and new curriculum, (3) formal workforce agreements among management, unions, workforce provides, and (4) new formalized apprenticeship programs.

Governor's Budget Proposal

The Governor's budget proposes $25 million one-time General Fund to support existing or new HRTPs, with up to five percent to support state operations and administrative costs. The encumbrance period will be until December 31, 2024. The Administration requests that this be a part of early budget actions. Priority sectors for immediate focus, based on projected hiring demand, will include:

- Construction: $8.5 million to expand access to the MC3 pre-apprenticeship programs for young adults, displaced workers and justice-involved individuals, including partnership with the Prison to Employment Initiative. The Administration estimates that 500 workers will be trained under this proposal.

- Forestry and Agriculture: $6.5 million to train tree trimmers, in partnership with the International Brotherhood of Electrical Workers Training Trust Fund, for jobs with PGE and other utility tree contractors for wildfire prevention, as well as new apprenticeship and earn-and-learn training in agriculture and food processing and sales, especially in the inland areas of the state and the Central coast. The Administration estimates that 500 workers will be trained under this proposal.

- Healthcare and Dental: $4 million to expand training for allied health roles to address COVID-related health care needs, including respiratory technicians and medical assistants, and to launch training for Registered Dental Assistants in partnership with the California Dental Association a recommendation of the Jobs and Recovery Task Force. The Administration estimates that 350 workers will be trained under this proposal

- Trade and Logistics: $4 million to pilot a training partnership with UPS and the Teamsters for opportunity youth in Ontario, Compton, Visalia, San Francisco and Oakland, through Youth Works, a recommendation of the Jobs and Recovery Task Force, as well as other training for high-road jobs in trade and logistics in the Inland Empire and Bay Area. The Administration estimates that 500 workers will be trained under this proposal.

- Information Technology: $2 million to expand cybersecurity training and apprenticeships with public and private employers, as well as other roles in information technology. The Administration estimates that 200 workers will be trained under this proposal.

Utilizing the High Road model of sector-led partnership development, CWDB and the Labor and Workforce Development Agency will work with the Division of Apprenticeship Standards, other state workforce development entities, employers, unions, local workforce boards and other community and labor partners to build bridges into good quality jobs, including across multiple employers with shared labor force needs.

The Administration notes that these sectors were chosen based on a combination of considerations, including geography, areas of current and projected job growth, areas important to economic and COVID recovery, and recommendations from the Governor's Task Force on Business and Jobs Recovery. The Administration notes that the intent for early action is to invest in existing and new projects that can scale up quickly. For example, the new projects proposed in dental and IT are already in development. Additionally, the healthcare HRTP proposal seeks to expand on a current HRTP with SEIU-UHW, Kaiser, Dignity Health and Alameda Health Systems. The Administration notes that many IT workers are employed in the public sector and have labor representation. Additionally, DIR has been working on building more IT apprenticeships for public and private sectors. The Administration notes that the dental project in partnership with the California Dental Association does not include organized labor at this time.

Staff Comments

The HRTP principles are to focus on quality jobs that provide a family sustaining wage; comprehensive employer provided benefits; values worker voice; provides security, fair scheduling, a safe and healthy work environment, and pathways to career advancement. The Administration notes while people who complete these programs are not guaranteed jobs afterwards, the HRTP model starts with jobs first, in industries driving employment, then connects workforce programs to these jobs, and provide up-skilling and backfilling of jobs. CWDB requires each training partnership to provide placement assistance to program graduates, and HRCC training partnerships have also created interim employment opportunities as graduates wait for apprenticeship slots or other employment opportunities to open.

The subcommittee may wish to consider some reporting requirements on the proposal including information on how funds were spent, for what purpose, information regarding grantees and awards, number of workers trained, demographics of the workers, outcomes for the workers, such as how many were able to be placed in jobs or apprenticeships related to the program, and types of industry and labor partnerships.

The subcommittee may wish to ask:

1. How will equity be considered in these partnerships? How will programs reach communities that are historically not included?
2. What are the expected outcomes for these investments and how will the Administration ensure accountability in these programs?

Staff Recommendation. Hold Open

0559 Labor and Workforce Development Agency

Established in 2003, the Labor Agency provides leadership on the issues relating to California workers and their employers. The Agency includes the Agricultural Labor Relations Board, the California Workforce Development Board, the Department of Industrial Relations and its various divisions and boards, the Employment Development Department, the Employment Training Panel, the Public Employment Relations Board, and the Unemployment Insurance Appeals Board. The Labor Agency is tasked with strengthening and improving the operation and management of programs and coordinating enforcement activities under its jurisdiction.

3-YEAR EXPENDITURES AND POSITIONS †

		Positions			Expenditures		
		2019-20	2020-21	2021-22	2019-20*	2020-21*	2021-22*
0350	Office of the Secretary of Labor and Workforce Development	37.2	39.2	38.2	$3,786	$44,719	$5,586
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**37.2**	**39.2**	**38.2**	**$3,786**	**$44,719**	**$5,586**

FUNDING		2019-20*	2020-21*	2021-22*
0001	General Fund	$1,014	$34,951	$1,618
0995	Reimbursements	2,701	2,616	2,751
3078	Labor and Workforce Development Fund	71	7,152	1,217
TOTALS, EXPENDITURES, ALL FUNDS		**$3,786**	**$44,719**	**$5,586**

Issue 10: COVID-19 Outreach, Training and Enforcement (Informational)

Background

Senate Bill 115 Outreach and Enforcement Funding. Senate Bill 115 (Committee on Budget), Chapter 40, Statutes of 2020, a 2020-21 budget bill, provided $32.5 million General Fund one-time to the Labor Agency to slow the spread of COVID-19 through employer and worker education and engagement, and enforcement. Of this funding: (1) $6 million is for the enforcement by DIR of anti-retaliation protections, employment maters related to employers' reopening or resumption of business operations during or after the COVID-19 state of emergency, and workplace health and safety protections, including enforcement of protections that assist hospitality workers in returning to work, and (2) $5 million is related to worker and employer training, which shall be available for liquidation until 2024. This item is intended to provide an update on the use of funds and associated activities.

As of January 21, 2021, the Administration notes that of the $6 million enforcement funding for DIR, $630,000 supported information technology and safety equipment and supplies for enforcement staff, and $1.4 million supported staffing over time, hiring of retired annuitants, and temporary inspection and enforcement staff loaned from the State Compensation Insurance Fund and the Department of Water Resources for Cal/OSHA enforcement. DIR estimates that an additional $1.6 million will be expended from February to June 2021.

In addition, DIR is working on automation initiatives that will support enforcement efforts and streamline internal processes. The online wage claim system will automate an existing paper driven process, that will improve access to filing wage claims. This will provide DIR staff with required information needed on the front end to ensure more timely and efficient responses to claimants and provide important enforcement information. DIR is also in the early stages of developing an interface tool for Cal/OSHA inspectors and staff to the Federal OSHA database that will allow more efficient access to information for inspectors in the field.

The Labor Agency has also conducted $25.9 million COVID-19 public education campaign, as follows:

- Public Awareness Media Campaign: $10 million through Runyon Saltzman, Inc. to conduct media campaigns to increase awareness about specific workplace protections to slow the spread of COVID-19 at worksites. Digital ads and PSA-style radio ads began in December with messages in English and Spanish on: workplace health an safety laws enforced by Cal/OSHA, paid sick leave enforced by the Labor Commissioner's Office, and anti-retaliation protections enforced by the Labor Commissioner's Office. In January and February, this will expand to new formats, languages and topics through June 2021.

- Community Engagement: $10 million through a contract with Sierra Health Foundation to select and administer subcontracts to 50 community-based organizations (CBOs) to conduct outreach to communities. The CBOs contract will run from February through July 2021 with awards ranging from $50,000 to $300,000. CBOs were selected based on their: (1) 501(c)(3) or 501(c)(5) status, (2) experience in conducting outreach to the identified communities, (3) contract experience with Census experience being prioritized, (4) past performance in contracts, (5) need, including COVID-19 rates and vulnerability by population and geography, capacity of other organizations within the same region, ability to conduct outreach in the primary language of the target population; appropriate staffing; operational budget.

  Labor Agency is targeting regions where high-risk/essential industries are concentrated. Based on workforce data, the following geographic regions have the highest concentrations of agriculture, food processing (including meatpacking), food service (restaurant and grocery), janitorial, warehouse/logistics, and manufacturing (including garment):

Region	**Counties**
San Francisco Bay Area	Santa Clara, San Mateo, Alameda, San Francisco, Contra Costa, Marin, Solano, Sonoma, Napa, Mendocino
Sacramento	Sacramento, Yolo, El Dorado, Placer, Yuba, Amador, Calaveras, Sutter
San Joaquin Valley	Kern, Tulare, Kings, Fresno, Madera, Merced, Stanislaus, San Joaquin
Central Coast	Ventura, Santa Barbara, San Luis Obispo, Monterey, San Benito, Santa Cruz
Los Angeles	Los Angeles, Orange, San Bernardino, Riverside
San Diego	San Diego, Imperial

  In addition, Labor Agency provided $1.15 million for a contract with two vendors to design and develop a central platform/ data hub that will allow subcontracted CBOs to access online visual data mapping system that will inform outreach strategy. The map will incorporate public health data and workforce data to identify where target communities are located. In addition, this platform will enable organizations to upload their planned activities and report on their completed activities. The contractors also will provide research, project management and technical assistance to plan and execute the community engagement work.

- Worker and Employer Training Resources: $4.3 million to partners at the University of California and other contractors to develop training curriculum and conduct live virtual training opportunities to employers and workers on COVID-19 safety guidance and compliance with labor law protections. These trainings include: (1) $129,400 online courses on COVID-19 prevention, (2) $3.14 million for agricultural industry COVID-19 prevention training for supervisors, agriculture workers, and farm worker organizations, (3) $535,000 food sector COVID-19 prevention training for employers and workers in food processing, meatpacking, and grocery/retail industries, (4) $164,000 COVID-19 prevention training program for Los Angeles area organizations with a focus on garment and warehouse industries, and (5) $135,000 for training CBOs on leave rights and protections for workers affected by COVID-19.

Labor Agency Outreach. The 2020 budget also provided $20 million and 19 positions in 2020-21 one-time to be spent over three years for outreach efforts on COVID-19 workplace safety and labor laws. The Labor Agency will target outreach to low-wage immigrant workers, and support employers as they navigate how to re-open and operate. Departments will work with community-based organizations, and outreach will prioritize language access.

The subcommittee may wish to ask the Administration:

1. How were funds were used to enforce of protections that assist hospitality workers in returning to work?
2. Nearly 40 percent of all California jobs lost during the pandemic have been in the hospitality and leisure industry. Half of the women who are housekeepers are over the age of 50, and women over 50 only get a job interview 30 percent of the time. How can the state help ensure that hospitality workers who were laid off due to COVID-19 are able to recover their jobs?

Staff Recommendation. None. This is an informational item.

Issue 11: Department of Better Jobs and Higher Wages

Summary. The Governor's budget proposes to consolidate the California Workforce Development Board, workforce services at the Employment Development Department (EDD), apprenticeship programs at the Division of Apprenticeship Standards (DAS) within DIR, and employer-sponsored training programs at the Employment Training Panel into a new state department, the Department of Better Jobs and Higher Wages.

Background

The aforementioned four departments and divisions are under the jurisdiction of the Labor and Workforce Development Agency, and each offer various employment and training programs and services.

The California Workforce Development Board. CWDB was established by an Executive Order in response to the federal Workforce Investment Act (WIA) of 1998. In 2014, the federal WIOA was signed into law and superseded WIA. CWDB is responsible for assisting the Governor in performing the duties and responsibilities required by WIOA. WIOA requires the CWDB to develop, implement and modify the Unified or Combined State Plan in order to receive federal funding for WIOA core programs. The Unified State Plan is a four-year strategic state workforce plan that is modified every two years to account for changing economic conditions or updates to state strategies.

CWDB is also responsible for implementing strategies to support staff training and awareness, dissemination of best practices, and providing support for effective local boards. In addition, CWDB is responsible for local area allocation formulas, development of the statewide labor market information system, and development, review and recommendation of policies and guidance related to the appropriate roles and resource contributions of One-Stop partners also known as American Job Centers of California (AJCC). CWDB is also administers various workforce-related initiatives and special projects, including: Breaking Barriers to Employment, High Roads Construction Careers and High Road Construction Careers, Prison to Employment, and Workforce Accelerator Funds.

DIR's Division of Apprenticeship Standards (DAS). DAS administers California's apprenticeship law and approves apprenticeship standards for wages, hours, working conditions, and the specific skills required for state certification as a journeyperson in an occupation appropriate for apprenticeship. DAS also consults with program sponsors and monitors programs to ensure high standards for on-the-job training and supplemental classroom instruction. DAS consultants work locally with employers—and their collective bargaining partners where applicable—to develop new apprenticeship programs, determining the length of training and specific skills necessary to perform at the level required in the occupation.

Existing law also requires DAS to evaluate apprenticeship and pre-apprenticehsip programs to ensure that they comply with state standards and provide positive outcomes for their students. These evaluations must be public, and if there is a deficiency, DAS is required to recommend remedial actions within a specified time frame. DAS is required to annually report to the Legislature regarding information on the demographic breakdown of program participants, types of programs participants are registered in, program completion, remedial actions, applications received, reimbursement for related supplemental instruction pursuant to community college and school districts, among others.

Employment Development Department (EDD). The EDD administers the Unemployment Insurance, Disability Insurance, and Paid Family Leave programs, and provides employment and training programs under the federal WIOA and Wagner-Peyser Act. Under the Wagner-Peyser Act, EDD works with state and local agencies and organizations through America's Job Center of California (AJCC) locations. AJCC customers may access services through AJCC staff or the self-service CalJOBS website. These services include job search assistance, job referral, placement assistance for job seekers, re-employment services to Unemployment Insurance claimants, and recruitment services to employers with job openings. The CalJOBS website helps job seekers and employers navigate the state's workforce services, such as searching for jobs, build resumes, access career resources and gather information on education and training programs, while employers can enter job openings and find qualified candidates. In addition to the AJCCs, the a few other employment programs, including the national dislocated worker grant, veteran training programs and services, and national farmworker jobs administration.

EDD is also responsible for providing financial accountability for the WIOA program, such as collecting and reporting data to the U.S. Department of Labor for WIOA Adult, Dislocated Worker, and Youth program funds and participants, providing technical assistance to program operators, and ensuring that the programs operate in compliance with federal and state requirements.

EDD also has a workforce services branch and labor market information division. This division collects, analyzes, and publishes state and regional statistical data and reports on California's labor force, industries, occupations, employment projections, wages, and other labor market and economic data for the US Bureau of Labor Statistics.

The Employment Training Panel (ETP). The ETP provides financial assistance to California businesses for customized worker training for new and existing employees. These programs are for current employees and companies facing out–of–state competition, recipients of unemployment benefits, and employers that meet certain criteria, such as those that are located in regions with high unemployment rates. The ETP reimburses the cost of employer-driven training for incumbent workers and funds the type of training needed by unemployed workers to re-enter the workforce. The ETP is funded by California employers through a special payroll Employment Training Tax.

Department Reorganization Process

The Legislative Analyst's Office (LAO) released a report on February 7, 2020, which described various methods that government reorganizations can be implemented. Typically, government reorganizations have been pursued either through the formal executive branch reorganization process laid out in statute or through budget trailer legislation. Historically, most major reorganizations have gone through the formal executive reorganization process.

Executive Branch Reorganization Process. Through the California Constitution, the Legislature authorized the Governor to reorganize the functions of state agencies through the executive branch reorganization process. In establishing this process, the Legislature stated that the Governor should determine if such changes are necessary to accomplish one or more broad purposes, such as to reduce expenditures, increase efficiency, or eliminate duplications of effort. Since 1968, various Governors have submitted 37 reorganization plans through this process. The executive reorganization process can be used to transfer, consolidate, or eliminate agencies and programs. The process can also be used to establish new agencies to perform the functions of existing entities.

The major steps required in the executive branch reorganization process include:

- **Submission of Plan for Statutory Drafting.** Before initiating the reorganization process, the Governor must provide a copy of the reorganization plan to Legislative Counsel for statutory drafting so that it reflects the form and language suitable for enactment in statute and to ensure that the plan clearly and specifically expresses its nature and purpose.

- **Submission of Plan for Independent Review.** At least 30 days before submitting a reorganization plan to the Legislature, the Governor must submit the plan to the Little Hoover Commission—an independent state oversight agency tasked with reviewing and making recommendations to the Governor and Legislature on state operations and any proposed government reorganization plan.

- **Review by Legislative Committees.** Once the Governor submits the plan to the Legislature, (1) the Little Hoover Commission has 30 days to issue a report reviewing the plan and (2) the Legislature has 60 days to consider the proposal. Upon receipt, the plan is referred to policy committees of each house of the Legislature. The committees study and report on the plan no later than ten days prior to the end of the 60-day period.

- **Legislative Action on Plan.** Either house can reject the proposal by majority vote—but not until its policy committee has issued a report or the report's deadline has passed. The Legislature can only vote to approve or reject the plan, it cannot amend it. If neither house rejects the reorganization plan during the 60-day period, it goes into effect on the 61st day.

Budget Trailer Legislation Process. Budget trailer legislation is used to implement specific changes to state laws to effectuate the annual state budget. Generally, a separate a piece of budget trailer legislation is needed for each major area of budget appropriations, such as transportation, human services, or education. The provisions of these bills are usually proposed by the Governor and negotiated as part of the budget package for each fiscal year. In recent years, several government reorganizations have been pursued through budget trailer legislation. For example, in 2019, the Governor proposed removing the Division of Juvenile Justice from the California Department of Corrections and Rehabilitation and making it a new department under the California Health and Human Services Agency (CHSSA) after a one-year planning and transition period. This proposal was ultimately implemented through budget trailer legislation approved as part of the 2019-20 budget package.

Reorganizations pursued through budget trailer legislation are exempt from the procedures outlined in statute for the executive reorganization process. Instead, reorganizations pursued through this process must follow the current rules and regulations associated with passing budget trailer legislation. For example, budget trailer legislation (like all bills) must be made available to legislators and posted on the Internet for at least 72 hours before the Legislature can vote on them. In addition, budget trailer legislation takes effect immediately when signed by the Governor.

Governor's Budget Proposal

Governor Proposes to Create New Department Using Statutory Process. The Governor's budget for 2021-22 proposes to consolidate state workforce programs under a new Department of Better Jobs and Higher Wages. Specifically, the Governor proposes to consolidate employment, training, and data collection services currently conducted at various entities—workforce services at the EDD, workforce training at the California Workforce Development Board, apprenticeship programs at the Division of Apprenticeship Standards within the DIR, and employer-sponsored training programs at the

Employment Training Panel. Currently, these entities all reside within the state's Labor and Workforce Development Agency, which integrates policy to align the state's workforce programs. According to the Administration, the new department is needed in order to "integrate policy development and workforce innovation with existing employment, training, and data collection services."

The Governor proposes over 200 pages of trailer bill language to establish the DBJHW and to make conforming changes to transfer existing statutory provisions of the various programs to the new labor code and department. The proposed trailer bill language specifically provides the DBJHW jurisdiction over workforce development and training, job creation activities, business services, and apprenticeship standards. The bill specifies that the Director shall be appointment by the Governor with the advice and consent of the Senate. There will also be two deputy directors of the department who will be appointed by the Governor.

While the proposal does not provide new resources or positions for the DBJHW, the Administration notes that it will redirect $2.4 million from existing resources to support up to 10 executive leadership positions. These executive positions that will be redirected from existing programs and divisions to support the transition of the DBJHW.

The Administration notes that there are 1,755 staff that are associated with the current departments and divisions that will be shifted to the DBJHW. The chart below provides a breakdown of associated positions.

State Entity	Funded position in 19/20
California Workforce Development Board	36
Division of Apprenticeship Standards	93
EDD/Workforce Services Branch	1466
Labor Market Information Division	75
Employment Training Panel	85
Total Positions	**1755**

The Administration notes that during the 2021-22 transition, staff will technically continue to be staffed and funded by existing sources, however direction and control will be shifted to the new Director and executive staff of the DBJHW. If the Legislature approves the proposal, the Administration notes that in 2022-23, the DBJHW will submit a budget proposal to request to move all positions over from EDD and DIR. Moving forward, the Administration will then submit BCPs requesting position and budget authority tied to existing resources. As of 2020-21, the total funding associated with these state entities is $772 million.

The Governor first proposed to create the DBJHW last year as part of the 2020-21 budget process. At that time, Legislative budget subcommittee hearings were consolidated due to the COVID-19 pandemic. The Legislature rejected the proposal without prejudice due to concerns that the Legislature did not have sufficient time or ability to hear or discuss the proposal in the regular subcommittee process.

Legislative Analyst's Office Comments

Labor Agency Serves Similar Functions as Proposed New Department. According to the Administration's budget change proposal for the new department, released last year, consolidating the entities will (1) improve equity for all workforce participants, (2) provide efficiency by bringing the programs together, and (3) enhance customer service for workers and employers. However, each of these entities resides currently within the Labor and Workforce Development Agency (LWDA). The LWDA was created in 2002 to (1) improve accountability and access to services, (2) eliminate program duplication, and (3) achieve cost-effectiveness. Achieving the objectives identified for the new department appears well within the original and ongoing responsibilities of the LWDA.

Not Clear What Problem the Reorganization Is Intended to Solve. To the extent that problems exist within the current structure that prevent LWDA entities from aligning resources, decision-making, and policy, the LAO is unsure how creating a new department addresses these problems. Without a clear problem definition, the Legislature may find it difficult to judge the proposal or establish accountability and expectations for the new department.

Reorganizing EDD During Unemployment Insurance Challenges Poses Risks. To create the new department, the administration proposes to shift about 1,600 staff from EDD to the new department. These staff currently work within EDD's workforce services branch and therefore are not responsible for the day-to-day administration of the state's unemployment insurance program. Nevertheless, a reorganization presents logistical and personnel challenges that call for considerable focus from EDD and Labor Agency leadership at a time when the state's urgent goal is to eliminate the backlog of unemployment insurance claims and prevent further fraud. In the LAO's view, the Administration's decision to move forward with a complex reorganization during the pandemic poses a potentially serious risk to the state's ongoing efforts to eliminate the backlog of unemployment insurance claims.

Staff Comments

Administration Believes the Current Structure is Inefficient and Fragmented. The Administration believes that the current workforce programs are too fragmented across state government, which makes it difficult to collaborate. The Administration notes that there are multiple inefficiencies and duplications in the current structure which results to unnecessary confusion, delay, and cost. Specifically, the Administration notes that a single program or funding stream can have overlapping State administrative oversight and management. As a result, a local entity can receive conflicting guidance, legal and data reporting functions, or grant contracts can be delayed. The Administration believes that this duplication reinforces silos between funding streams and adds complexity that confuses job seekers and employers. Additionally, each workforce entity within the Labor Agency has its own legal, contracting, administrative and HR departments (CWDB currently contracts with EDD for these). The Administration believes a consolidated DBJHW will allow for the sharing of these capacities, and save resources.

The LAO notes that Labor Agency was created to address these types of issues. The subcommittee may wish to ask what barriers does Labor Agency have in addressing these problems.

High Roads Principles. Though not specified in the proposed trailer bill, the Administration notes that the High Road principles will be the core of the DBJHW. The DBJHW will focus on quality jobs that provide a family sustaining wage; comprehensive employer provided benefits; values worker voice; provides security, fair scheduling, a safe and healthy work environment, and pathways to career advancement. The Administration notes that the DBJHW will have the following branches that will help support high roads principles:

- The Industry Engagement Branch of the DBJHW will focus on consolidating and aligning employer outreach activities with the focus on the regional organizing of High Road employers that offer quality jobs in industry sectors that are driving employment.

- The Workforce Employment Services & Training Branch of the DBJHW will focus on aligning programs and funding streams, service cultures, performance outcomes, reporting and data collection, etc. The intent is to improve access to and the navigability of programs for job seekers who are low-income and from communities or groups that are disadvantaged. This Branch will work closely with the Industry Engagement team to connect workforce programs to quality jobs.

- The Policy, Research and Evaluation Branch of the DBJHW will align all workforce policy work with a focus on program and system evaluation and research, program analysis that makes certain investments are high quality and are achieving desired outcomes, and aligned grant making to drive innovative workforce approaches. The Policy team will work with the Industry Engagement and Workforce Employment teams to improve and integrate workforce programs. The Policy team will also collaborate with other State agencies and departments, including continuing the CAAL-Skills work of comparing data across workforce programs to understand the relative impacts of the various interventions. The intent is provide policy guidance on building a comprehensive High Road workforce system.

Current Programs and Operations. The Administration notes that there will be no programmatic disruptions as a result of the transition, and programs will continue to receive all the oversight, compliance monitoring, stakeholder engagement, and labor law enforcement that exists under the existing organizational structure. However, the subcommittee may wish to consider the timing of this transition. As the LAO notes, the state has ongoing challenges with EDD's unemployment insurance claims backlog, fraud and frozen debit cards. Lastly, as discussed earlier in the agenda, the Governor also has a budget proposal to provide $25 million to CWDB to expand and create additional high roads training partnerships. In light of all these changes and developments, the subcommittee may wish to consider the capacity of the departments and their staff to conduct their responsibilities, while also transitioning into a new department, and the potential impact that it may have on the programs.

The subcommittee may wish to ask the Administration:

1. What is the rationale for creating the DBJHW through the statutory process rather than the executive branch reorganization process?
2. How will the DBJHW expand job training and apprenticeships, particularly for historically excluded communities?
3. As currently drafted, the trailer bill does not specify high roads training partnerships or programs principles. How does the state define what a high roads program is?
4. How will the Administration provide updates to the Legislature regarding the progress of DBJHW, including organizational structure, programs, and governance?

<u>Staff Recommendation. Hold Open.</u>

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

The Employment Development Department (EDD) connects employers with job seekers, administers the Unemployment Insurance, Disability Insurance, and Paid Family Leave programs, and provides employment and training programs under the federal Workforce Innovation and Opportunity Act. Additionally, EDD collects various employment payroll taxes including the personal income tax, and collects and provides comprehensive economic, occupational, and socio-demographic labor market information concerning California's workforce.

3-YEAR EXPENDITURES AND POSITIONS †

		Positions			Expenditures		
		2019-20	2020-21	2021-22	2019-20*	2020-21*	2021-22*
5900	Employment and Employment Related Services	1,331.7	1,331.7	1,331.7	$212,847	$224,134	$219,113
5915	California Unemployment Insurance Appeals Board	427.1	509.3	516.1	82,064	92,830	100,239
5920	Unemployment Insurance Program	2,691.3	9,286.2	6,366.7	50,563,549	109,545,911	34,620,935
5925	Disability Insurance Program	1,571.7	1,575.9	1,504.4	9,237,692	10,151,749	10,497,695
5930	Tax Program	1,818.7	1,728.3	1,728.3	244,644	455,522	381,872
5935	Employment Training Panel	85.1	85.1	85.1	105,839	100,760	81,299
5940	Workforce Innovation and Opportunity Act	202.2	202.2	202.2	419,669	404,363	402,021
5945	National Dislocated Worker Grants	1.5	1.5	1.5	45,000	45,000	45,000
9900100	Administration	701.0	701.0	701.0	400	400	400
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**8,830.3**	**15,421.2**	**12,437.0**	**$60,911,704**	**$121,020,669**	**$46,348,574**

Issue 12: EDD Unemployment Insurance Loan Interest Payment

Summary. The Administration proposes $555 million General Fund one-time to make an estimated interest payment on the federal loan that was necessary to pay benefits when the Unemployment Insurance (UI) Trust Fund became insolvent. The UI Trust Fund is the fund in which weekly UI benefits are paid to eligible claimants and the first interest payment is due by September 30, 2021.

Background.

The California labor market collapsed in late March and early April due to the COVID-19 pandemic. By April, 2.6 million California workers were unemployed and therefore eligible for state unemployment insurance (UI) benefits. For comparison, during the Great Recession, the number of unemployed workers peaked at 1.3 million. Due to this unprecedented level of unemployment, the state's UI Trust Fund, which collects payroll taxes that fund UI benefits, became insolvent during the summer of 2020. To continue paying weekly UI benefits after the fund became insolvent, the state took on available federal loans. Under federal law, the state must make annual interest payments on outstanding loans until the loans are repaid.

UI Program Assists Unemployed Workers. The UI program provides weekly benefits to workers who have lost their jobs through no fault of their own. The federal government oversees state UI programs but the state has discretion to set benefit and employer contribution levels. Under current state law, weekly UI benefit amounts are intended to replace up to 50 percent of a worker's prior earnings, up to a maximum of $450 per week, for up to 26 weeks. In 2019, the average benefit amount was $330 per week.

UI Trust Fund. Each individual employer's state UI tax rate is calculated annually using an experience rating system based in part on the usage of the UI system by the employer's former employees. The tax rates on an employer range from a low of 1.5 percent to a high of 6.2 percent. Due to longstanding solvency issues, the state's UI tax rate has been at the maximum amount since 2004. The federal UI tax, known as the Federal Unemployment Tax Act (FUTA) is typically used to pay for state UI program administration costs.

The tax rate assigned to each employer is then applied to a taxable wage base to determine the amount the employer owes in UI taxes for a particular employee. Since 1984 and the taxable wage base used to calculate California employers' UI state taxes is the lowest allowed under federal law. The taxable wage base is currently $7,000, and only Arizona, Florida, Tennessee, and Puerto Rico currently use the same wage base. For California, the maximum tax is $434 per employee per year. In 2019, the state collected $5.9 billion in UI taxes from employers and issued about $5.5 billion in total UI benefits.

UI Trust Solvency and Loan. During periods of high unemployment, the UI taxes paid by employers are not sufficient to cover the full cost of UI payments to the unemployed. When this occurs, the state receives federal UI loans to continue paying out benefits. These loans must be repaid, with interest (currently 2.3 percent annually), at a later time. The loan principal is repaid by automatic increases in the federal UI tax rate that are set out in federal law. The loan interest typically has been paid from states' General Funds.

All employers pay the same FUTA tax rate of six percent. However, employers in qualifying states receive a tax credit of 5.4 percent, so the actual tax rate is reduced to 0.6 percent. This rate is also applied to a taxable wage base of $7,000. These federal taxes are collected by the Internal Revenue Service and are used to provide UI administrative grants to the states, to cover the costs when states pay federal-state extended benefits, and to provide loans to insolvent states.

UI Trust Loan Repayment. When federal loans are issued due to an insolvent UI Trust Fund, the federal government facilitates the repayment of this debt by reducing the 5.4 percent FUTA tax credit that employers typically receive in qualifying states. The federal unemployment tax credit is reduced by 0.3 percent each year (resulting in incrementally higher federal taxes for employers) until the loan is repaid, or until the entire 5.4 percent credit has been reduced to zero and employers are paying the full 6.0 percent federal tax rate. When the federal loans are repaid, the temporary increases to employers' federal taxes will cease. To date, the increases in federal taxes following the insolvency period of the Great Recession has resulted in California employers paying an additional $9.6 billion in FUTA taxes. California experienced a 0.3 percent credit reduction each year from tax years 2011 through 2017. The outstanding loan balance was fully repaid after March of 2018, therefore, no 2018 or 2019 reduction was assessed.

Interest Payment and Relief. In addition to repaying any outstanding federal loan, states are also required to pay interest incurred on the loan. The interest on the federal loans during the Great Recession was waived for the first two years because of the American Recovery and Reinvestment Act, but beginning in 2011, California had to begin paying the associated interest on the outstanding loan balance. During and after the Great Recession California borrowed in total about $64 billion and paid a total of $1.4 billion in interest. All of the interest ultimately was paid with General Fund, however for the first two years of borrowing loans were made from the disability insurance to the General Fund due to General Fund constraints. The loans were ultimately repaid, with interest, in 2016, 2017 and 2019.

Similar to what occurred during the Great Recession, the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act which was signed into law on March 27, 2020, waives all interest due from states for any advances taken in 2020. California's UI Trust Fund became insolvent briefly in late April 2020 and early May 2020, and the EDD began borrowing funds from the federal government in order to continue paying UI benefits to qualifying unemployed claimants. The UI Trust fund became insolvent again in early June 2020 and is projected to remain insolvent through at least 2021, based on EDD's May 2020 UI Fund Forecast. As of January 28, 2021, the outstanding balance is $18.6 billion.

The Continued Assistance to Unemployed Workers Act which was signed into law on December 27, 2020, waives all interest due from state for any advances through March 14, 2021.

2020-21 UI Loan. California has used these federal loans to continue paying benefits during the pandemic. As of February 2021, the state has received $18.6 billion in federal UI loans to cover state UI benefit costs. This state debt is only related to paying regular state UI benefits. The state does not need to borrow to pay for the temporary benefit increases and extensions that the federal government enacted during the pandemic because these benefits are 100 percent federally funded. California also received federal loans during the Great Recession.

Rarely Used Provision of Federal Law Allows States to Defer UI Interest Payments. Under federal law (42 United States Code Section 1322), states are eligible to delay upcoming interest payments on federal UI trust fund loans under certain circumstances. Specifically, if the average state unemployment rate exceeded 7.5 percent during the first six months of the prior calendar year (in this case, January through June 2020), the state may pay 25 percent of the interest due. The remainder (75 percent) would be repaid in three 25 percent portions over the next three years. Interest payments deferred under this provision do not accrue additional interest. To the LAO's knowledge, no state has ever used this provision to defer accrued interest payments, largely because the provision is not widely known. At the LAO's request, however, the Administration received confirmation from the U.S. Department of Labor that California currently is eligible for this interest deferral**.**

<u>Governor's Budget Proposal</u>

The Governor proposes $555 million General Fund to make an estimated first annual interest payment on the federal loan received during the pandemic. The budget bill language authorizes the Department of Finance to augment this amount based on the calculation of the actual interest due to the federal Government. The Administration must report any interest payment to the Joint Legislative Budget Committee within 30 days. Additionally, the budget bill language specifies any funds appropriated in excess of the amount required will be reverted to the General Fund on October 15, 2021.

<u>Legislative Analyst's Office Comments</u>

$555 Million Interest Payment Estimate Based on Outdated Economic Forecast. The Administration's interest payment estimate is based on underlying economic assumptions made by the Department of Finance in April, 2020. At that time, both the Administration and the LAO estimated that the economic consequences of the pandemic would be severe and prolonged. Since then, the actual consequences have become clear and, though substantial, were not nearly as severe as was anticipated. However, the Administration's interest payment estimate is based on these outdated forecasts. Specifically, the estimate is based on the assumption that the average state unemployment rate in 2021 will be 18 percent. The state's current unemployment rate is about half that level. As a result, the $555 million interest payment is based on a large projection of outstanding federal loans at the end of 2021—$48 billion. Taking updated economic conditions into account, the LAO believes the 2021 year-end federal loan balance is likely to be closer to $25 billion.

Does Not Reflect Extended Interest Waiver Under Recent Federal Law. The federal Families First Coronavirus Response Act, enacted in March 2020 in response to the COVID-19 pandemic, allows states to waive interest accrued during calendar year 2020 on federal UI loans. The Administration's interest payment estimate accounts for this waiver. However, after the Administration developed its estimate, the federal government, on December 27, 2020 extended the interest accrual waiver from the end of 2020 through March 14, 2021. As a result, the state's interest payment for 2021-22 will cover roughly six months of accrued interest (March 15 through September 30), whereas the Administration's interest payment estimate reflects nine months of interest. The Administration has stated that it plans to update their interest payment estimate as part of the May Revision to account for the recent federal law change.

As a Result, Governor's Budget Overstates Interest Payment by Roughly $300 Million. The LAO estimates the state's first interest payment on federal UI loans will total roughly $260 million. This amount is roughly $300 million less than the amount estimated by the administration. This lower estimate reflects a lower projection of federal loans outstanding (based on current economic conditions) and a shorter interest accrual duration period (based on the recently extended waiver).

Adopt Updated $260 Million Estimate of Federal Interest Payment Due. The LAO recommends the Legislature adopt an up-to-date estimate of the overall interest amount likely due in September. For planning purposes, the LAO suggests the Legislature adopt their estimate of $260 million. This estimate reflects current economic conditions and federal law. If the federal government takes further action to extend the interest waiver beyond March 14, this estimate would need to be revisited and likely reduced accordingly. The Administration and the LAO will provide an updated estimate as part of the May Revision.

Defer Interest Until Later Years. In addition to adopting an up-to-date estimate of the total interest payment, the LAO recommends the Legislature adopt provisional budget legislation to request an interest payment deferral from the U.S. Department of Labor, given that the deferral does not have the effect of increasing state payments. This would allow the state to pay one-quarter of this year's interest payment in 2021-22 and an additional one-quarter in each of the next three years. Should the Legislature pursue this course, the LAO estimates that the total interest due this year would be roughly $65 million.

<u>The subcommittee may wish to ask:</u>

1. A recent LA Times article found that residents who believe that their unemployment benefit claims have been wrongly denied are waiting on average 92 days for assistance. Please explain the cause of this, and how the state can help address this?

<u>Staff Recommendation. Hold Open.</u>

7350 DEPARTMENT OF INDUSTRIAL RELATIONS

The Department of Industrial Relations is responsible for enforcing the sections of the Labor Code that protect the health and safety of workers; promulgating regulations and enforcing laws relating to wages, hours, and workers' compensation insurance laws; adjudicating workers' compensation claims, and working to prevent industrial injuries and deaths. The Department also promotes apprenticeship and other on-the-job training, as well as analyzes and disseminates statistics measuring the condition of labor in the state.

3-YEAR EXPENDITURES AND POSITIONS †

		Positions			Expenditures		
		2019-20	**2020-21**	**2021-22**	**2019-20***	**2020-21***	**2021-22***
6080	Self-Insurance Plans	22.8	22.8	22.8	$6,650	$6,440	$6,793
6090	Division of Workers' Compensation	928.6	991.0	1,021.0	242,758	248,524	265,967
6095	Commission on Health and Safety and Workers' Compensation	4.8	4.8	4.8	3,858	4,053	4,156
6100	Division of Occupational Safety and Health	727.7	738.7	779.2	172,173	172,772	186,102
6105	Division of Labor Standards Enforcement	605.9	658.9	671.9	122,531	129,247	130,583
6110	Division of Apprenticeship Standards	86.9	92.9	92.9	17,689	17,462	18,352
6120	Claims, Wages, and Contingencies	-	-	-	246,012	238,712	238,712
9900100	Administration	445.2	488.7	488.7	81,834	104,620	96,295
9900200	Administration - Distributed	-	-	-	-81,834	-104,620	-96,295
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**2,821.9**	**2,997.8**	**3,081.3**	**$811,671**	**$817,210**	**$850,665**

Issue 13: Division of Occupational Safety and Health (DOSH) or Cal/OSHA

Summary. The Governor proposes budget bill language to authorize the Department of Finance to provide up to an additional 70.0 positions in the 2021-22 fiscal year and up to $14.4 million ($13.3 million ongoing) from the Occupational Safety and Health (OSH) Fund to Cal/OSHA.

Background

The federal Occupational Safety and Health Act of 1970 provides that employers have a general duty to provide their employees with a place of employment that is free from recognized hazards that are likely to cause death or serious harm. Under the Act, the federal OSHA is responsible for setting specific standards related to workplace safety and health and has authority to inspect workplaces and enforce these standards. Federal law provides that states may, with federal approval and oversight, optionally assume responsibility for enforcement of federal occupational safety and health standards. States wishing to assume this responsibility develop "state plans" that must be at least as effective at enforcing federal occupational safety and health standards as the federal OSHA would be. In California, the Division of Occupational Safety and Health (DOSH) or Cal/OSHA is responsible for administering the state's responsibilities for occupational safety and health under the state plan.

Select Cal/OSHA Requirements in State Law

- Must investigate formal complaints made by employees or their representatives. Investigations into formal complaints of serious violations must begin within three working days, while investigations into formal complaints of nonserious violations must begin within 14 calendar days.
- Must reinspect at least 20 percent of business establishments with a serious violation.
- Must have a "high–hazard industry" inspection program that prioritizes planned inspections in industries with relatively high rates of workplace injury and illness.
- Must issue permits before certain high–risk projects can be undertaken (such as excavation of deep trenches, construction of tall structures, underground use of diesel engines, and others).
- Must dedicate certain budgetary resources for activities related to the Labor Enforcement Task Force, which targets coordinated enforcement activities of multiple state agencies, including Cal/OSHA, in business establishments participating in the "underground economy."

Cal/OSHA activities are primarily funded by (1) a federal grant and (2) an assessment levied on employers that is equal to a percentage of workers' compensation insurance premiums and is deposited into the Occupational Safety and Health Fund.

Federal OSHA and existing law requires the enforcement branch of Cal/OSHA have the staffing capability to receive and act upon complaints, accidents and referrals of health hazards in the workplace. Existing law requires Cal/OSHA to utilize as health inspectors, personnel with the competence, knowledge, and experience with industrial hygiene practices to recognize, evaluate, determine, and control health hazards in many different types of workplaces for the purpose of administrating and enforcing state law and regulations.

Cal/OSHA Staffing Levels. Over the past several years, Cal/OSHA has operated with a relatively high vacancy rate (above 20 percent) among its inspection staff, especially among inspection staff in its Bay

Area region offices. In 2019-20, Cal/OSHA had 73 vacancies, of which 50 were Safety Engineers (SE) and Industrial Hygienists (IH). As of December 2020, Cal/OSHA has 81 vacancies, of which 55 were SE and IH. The SE classification is responsible for identifying and evaluating safety hazards of the workplace. These inspections focus on workplace hazards that result in traumatic injury, such as equipment, machinery, guardrails on stairs, etc. The IH classification is responsible for identifying and evaluating health-related hazards as a part of inspections in workplace, such as airborne contaminants (lead, silica, organic vapors, wildfire smoke, etc.), physical and environmental agents (noise, heat) and pathogens, such as bloodborne pathogens, tuberculous, and COVID-19. Health can also include organizational systems related to root causes of injuries, such as workplace violence.

In 2018, there were only four IH state employees at Cal/OSHA. The Administration notes that as SE began to receive pay increases, it became harder to retain IH staff. In an effort to retain IH staff, historical IH positions were reclassified as SE staff. These staff continued to utilize their training to perform IH inspections. Over time, Cal/OSHA lost almost of these trained staff to attrition. The Administration will be working with CalHR to examine the pay scale of the IH classification and determine the best way to ensure staff retention.

The Federal OSHA has long criticized low staffing levels in the Cal/OSHA. In a recent evaluation report, Federal OSHA found that the state is delayed in issuing citations after a workplace has been inspected; understaffing is the cause for this problem, and for other enforcement shortcomings. Moreover, the Cal/OSHA plan failed to reach the benchmark established by Federal OSHA for the minimum number of health and safety inspectors, which prevents the CAL/OSHA from receiving final state plan approval and status.

Due to hiring infractions that occurred with the prior administration, in 2018-19, DIR was subject to a hiring freeze and also loss its hiring delegation authority. As noted in an earlier item in the agenda, when a department loses its hiring delegation authority, this function reverts to CalHR and the department must seek CalHR or SPB pre-approval to make those human resources (HR) decisions. This creates extra layers of review and adds significant time to the process to complete HR tasks. The DIR hiring freeze was not lifted until the last quarter of the 2018 calendar year. DIR also had to address barriers that prevented or delayed hiring. For example, many of Cal/OSHA’s entry-level examinations had expired and needed to be redesigned and re-implemented. Staff also had to re-trained on the correct hiring processes. The department believes that these factors contributed to delay in filing positions.

The 2014-15 budget provided funding to support 26 unfunded positions within enforcement (13 of which were inspector positions). The 2015-16 budget approved a Governor’s budget change proposal which provided an increase of 44 enforcement positions (18 of which were inspector positions). These previous budget actions did not increase the number of industrial health hygenist positions or provided additional resources for administrative staff to support operations or sufficient legal staff.

Industrial Hygienist (IH) and Safety Engineer (SE) Workload Study

Cal/OSHA entered into an agreement with CPS HR Consulting in March 2020 to conduct an independent workload and staffing analysis of the IH and SE classification groups and the required staffing to meet the mission-critical and mandated work of the Cal/OSHA staff, including but not limited to COVID inspections. This analysis includes a description of completed workload requirements, staffing gaps identified by unmet work requirements and work backlog based on 2018-19 activities and the identification of trends and new future work that may impact future workload. In 2018-19, there were a total of four IH and 171 SE (some SE staff conducted IH responsibilities).

Industrial Hygienist. The report reviewed and analyzed enforcement activities conducted by inspection staff in 2018-19. The report identified a total need of an additional 107.98 IH in 2020-21, 108.31 IH in 2021-22, and 108.66 IH in 2022-23 on net above existing vacancies and 2018-19 levels. These needs are based on three components:

1. **Health-Related Work Done in 2018-19.** The report found that of the industrial hygienist work conducted in 2018-19, 31.98 positions worth of work was conducted by non-industrial hygienist staff. At the time, there were only four authorized industrial hygienists staff, and as a result safety engineers conducted most of this work.

2. **Unmet Work Requirements.** The report found that in 2018-19, there was additional work worth 66.87 positions that was not completed. This uncompleted work included Department of Public Health lead notifications, additional workplace sampling and monitoring of 60 percent of health inspections, follow-up verification on non-serious and serious satisfactory complaint investigation letters, additional asbestos and lead notifications inspections, and follow-up inspections on 20 percent of health inspections resulting in serious violations.

3. **Increased Workload Projects.** The report projects the following workload increases: (1) 60 percent increase of workplace sampling and monitoring of health inspections, (2) 20 percent increase in accident and fatality inspections due to the increase in COVID-19 response, (3) indoor heat-related and wildfire smoke-related illness, (4) increase of 100 health complaints related to COVID-19 per month for the next few years, (5) increase in planned inspections for asbestos and lead, and (6) increase in follow-up, programmed and unprogrammed related inspections.

Safety Engineers. The study identified a need for an additional 34.17 SEs in 2020-21, 38.98 SE in 2021-22, and 43.97 SE by 2022-23 on net above existing vacancies and 2018-19 levels. These additional needed positions are based on three components: 1) safety-related work done in 2018-19; 2) annual unmet work requirements; and 3) additional work requirements based on anticipated trends, including COVID-19.

<u>Cal/OSHA Response to COVID-19</u>

With the COVID-19 pandemic, Cal/OSHA is being called upon for emergency response efforts fielding complaints of COVID-19 related hazards at almost 9,100 workplaces and providing compliance assistance to over 12,800 employers regarding COVID-19 hazards (as of mid-December 2020), while investigating over 600 serious illnesses and fatalities, with the number of investigations growing each day.

Cal/OSHA's lack of technical capacity in the field of industrial hygiene has frustrated the speed and scope of their response to the pandemic. Additional safety training is being provided to staff on an ongoing basis so they can assist without being exposed to the virus, but qualified staff are limited, and statutory mandates are not being met.

The Administration notes enforcement of health and safety regulations has been minimal to non-existent due to the lack of occupational health inspectors. As a result, workers in California continue to be exposed to COVID-related and other health hazards, and sustain serious illnesses and injuries, including death.

The Administration notes that in the past year, in general, the average length of time to respond to complaints by onsite inspections has been 15 workdays; the average length of time to respond to complaints by investigations by letter has been 11 workdays; the average time to issue citations as result of safety inspections has been 83 workdays, and as result of health inspections, 90 workdays.

In Response to COVID-19, Cal/OSHA Issued Industry Guidance and Adjusts Complaint Response. Cal/OSHA has taken two primary steps to respond to the COVID-19 pandemic. First, Cal/OSHA has prepared specific COVID-19 workplace guidance for high-priority frontline industries. Second, in anticipation of increased workload, Cal/OSHA temporarily adjusted how it responds to workplace safety and health complaints. Under the new protocol, in response to complaints, Cal/OSHA conducts fewer inspections and instead responds to a larger share of complaints by sending a letter to the employer. The employer letter directs the employer to address the alleged workplace safety or health violation.

Typical Cal/OSHA Complaint and Complaint Inspection Workload. Cal/OSHA normally receives between 11,500 and 13,000 complaints each year. Typically, Cal/OSHA conducts an inspection in response to about 20 percent of the complaints it receives. Between January 2020 and February 7, 2021, Cal/OSHA received roughly 11,000 COVID-19 safety and health complaints. Cal/OSHA conducted on-site inspections in response to 5.5 percent (600) of the COVID-19 complaints it received. Cal/OSHA also conducted 800 inspections due to fatal and non-fatal COVID-19 illnesses, and 700 other types of inspections were conducted. For over 6,500 complaints that did not trigger an inspection, Cal/OSHA sent letters to employers requiring the employer to address the workplace safety and health concerns raised in the complaint. DIR notes that the health care and social assistance, retail trade, manufacturing and accommodation and food services received the most complaints and violations.

Since August, Cal/OSHA Has Issued $3.4 Million in COVID-19 Related Citations. Cal/OSHA began issuing citations related to COVID-19 violations in August and has issued 147 citations as of February 5, 2021.

<u>Governor's Budget Proposal</u>

The Governor proposes budget bill language to authorize the Department of Finance to augment Cal/OSHA's budget by up to $14.4 million from the Occupation Health Safety Fund and 70.0 positions to help the workload demands of the Cal/OSHA program. The Department of Finance shall notify the Joint Legislative Budget Committee within 10 days of an augmentation pursuant to this provision. The chart on the following page provides a breakdown for the proposed 70 positions.

Classification	Positions
REGIONAL MGR	1.0
DIST MGR	3.0
SR SAFETY ENGR-INDUSTRIAL	2.0
ASSOC SAFETY ENGR	9.0
SR INDUSTRIAL HYGIENIST	10.0
ASSOC INDUSTRIAL HYGIENIST	12.0
STAFF SERVICES ANALYST-GEN	8.0
OFFICE TECH-TYPING	9.0
ATTORNEY IV	8.0
ATTORNEY III	2.0
LEGAL SUPPORT SUPVR I	1.0
LEGAL SECRETARY	4.0
OFFICE ASST-TYPING	1.0
Total Positions	70.0

The Administration notes that this is the first phase single year approach, which will allow for an ongoing evaluation of economic and other condition before additional phases of expansion are proposed or funded. That the new positions will be assigned to regions where there are the highest volume of complaints, accidents, occupational illnesses, and where industries with the highest risk of undetected occupational illness, as well as where workers are the most vulnerable in enforcement. The new positions will be assigned to respond to complaints that are not currently addressed within the timeframe mandated by statute. The Administration expects that these additional 70 positions will lead to 1,000 additional onsite inspections, of which 300 will be in response to worker complaints.

Staff Comments

In light of the COVID-19 pandemic, it is critical to ensure that employers and employees are following workplace health and safety practices and protocols to prevent the spread of COVID-19. The Legislative Analyst's Office produced a handout in November 17, 2020, which provided an overview of workplace safety and health during COVID-19. The LAO noted that certain workers—so-called "frontline workers"—regularly interact with the public or work in close proximity with their colleagues. As a result of COVID-19 these workers now may face heightened risks while performing their work and have had to take extra precautions in light of these heightened risks.

The LAO figure on the following displays information about workers in the state's frontline industries, as designated in the California Department of Public Health's July 14 guidance on coronavirus testing priorities. Leading up to the pandemic, about 5.7 million Californians typically worked in frontline industries, representing about 30 percent of all workers.

Overview of Frontline Industries in the State

Frontline Industry	Number of Workers	Average Annual Pay
Healthcare	1,640,000	$50,000
Restaurants and bars	1,260,000	19,000
Grocery, convenience, and drug stores	720,000	26,000
Childcare, homeless, food, and family services	500,000	23,900
Trucking, warehouse, and postal service	430,000	35,000
Agriculture	330,000	24,000
Public safety and corrections	310,000	80,000
Building cleaning services	230,000	16,000
Food and meat processing	120,000	30,000
Public transit	90,000	57,000
Garment manufacturing	50,000	25,000
Totals	**5,680,000**	**$30,000**

As shown above, the average annual pay of frontline workers is $30,000, and many of these workers are from vulnerable or underserved communities. Staff notes that it is laudable that the Administration acknowledges the additional need for IH and SE workers to inspect the states workplaces. However, the subcommittee may wish to seek additional clarification on how this proposal will be implemented.

<u>The subcommittee may wish to ask:</u>

1. DOF: What is the criteria DIR needs to meet in order to be authorized to hire the additional 70 positions outlined in BBL? Will DIR be authorized all these positions and classifications at once, or is it on a classification-by-classification basis?

2. DOF: In other DIR BCPs, it appears that that DOF is approving additional positions prior to eliminating the vacancy rates. What is the rationale for applying a different standard for the Cal/OSHA inspectors?

3. DOF: The Cal/OSHA work load study notes that 108 additional IH and 39 additional SE are needed in 2021-22 to meet current and future inspection needs, however, the BBL only provides 22 IH and 11 SE. Given that only 5.5 percent of COVID-19 complaints were inspected, can you please provide the rational for not making additional progress towards this benchmark? Does DIR have the capacity to hire these additional inspectors?

4. DOF and DIR: What changes to the hiring and recruitment/retention have been made or is being contemplated to help address Cal/OSHA's vacancy rates? When will these changes be implemented?

<u>Staff Recommendation. Hold Open.</u>

Issue 14: Garment Manufacturer's Special Account (Informational Only)

Background

Garment manufacturing continues to be one of the largest employment sectors in California and across the country, which has historically led to certain abuses of workers including wage theft, unsafe working conditions and the use of undocumented immigrant labor. In late 1999, AB 633, also known as the Garment Worker Protection Act, was chaptered and attempted to curb some of the more abusive practices within the garment manufacturing industry. Under this law, garment workers who are not paid for their work may file claims against the contractor who hired them, as well as the manufacturers whose garments they produced. In some cases, retailers may also be responsible for garment workers' unpaid wages. The law designated these manufacturers and retailers as "guarantors" and ordered that they be responsible for guaranteeing that garment workers receive their wages.

A 2016 study by the UCLA Labor Center found that garment workers in Southern California made an average of only $5.15 per hour, less than half the minimum wage. The report further noted, "60 percent [of workers] reported excessive heat and dust accumulation due to poor ventilation that rendered it difficult to work, and even to breathe." Additional studies at the federal level seem to confirm these trends. A 2016 Department of Labor survey found that 85 percent of garment shops in Southern California failed to pay minimum wage and in 2019 Labor Department investigators recovered more than $2 million for Southern California garment workers.

Due to the spread of COVID-19 in early March of 2020 demand for protective masks surged, sending ripples through the garment manufacturing industry. An article in the Los Angeles Times entitled "The claims outnumbered the registration fees and workers faced a years-long waiting list for restitution. To help temporarily shore up the account, Governor Newsom included more than most of the account's history, the wage $16 million in the 2019 state budget to clear the wait list. Future claims remain in question, as these funds were only included as a one-time payment. Sweatshops Are Still Open. Now They Make Masks" followed several low-wage garment workers as they adjusted to changes in their work brought on by the pandemic. Their accounts revealed that in addition to being stiffed on minimum wage and overtime payments, these workers are being asked to work in violation of statewide social distancing orders and against the recommendations of the CDC. The CDC recommends a boundary of 6 feet of distance from others and calls on companies to "increase ventilation by opening windows or adjusting air conditioning". Workers reported not having room to comply with these guidelines and complained of continued poor ventilation.

Unpaid Wage Fund. In 1975, the Unpaid Wage Fund (UWF) was established for all wages or benefits collected by the Labor Commissioner, to be remitted to the worker or the worker's lawful representative. This revenue is a result of monies collected from employers for workers who were victims of wage theft, who could not be located by the Division of Labor Standards Enforcement (DLSE). In general, after six months (the length of time may vary depending on circumstances) if a worker cannot be located the wages collected on behalf of that worker are transferred to the UWF. Beginning in 2005-06, at the end of each fiscal year, the unencumbered balance remaining in the Unpaid Wage Fund is transferred to the General Fund. The practice of depositing the remaining unencumbered balance into the General Fund was a result of concerns over General Fund solvency. The UWF transfers between $2 million to $6 million of unencumbered funds to the General Fund every year.

Garment Manufacturers Special Account. The Garment Manufacturers Special Account (GMSA) is administered by the Labor Commissioner and funds from this account are dispersed to persons to have been damaged by the failure of a garment manufacturer to pay wages and benefits. Most referrals for payment to the garment restitution fund derive from claims processed by the AB 633 Unit/Garment Enforcement Unit after a hearing is held and a final administrative decision is rendered in favor of a worker, which is subsequently converted to a judgment. In addition, citations issued by the Bureau of Field Enforcement for unpaid wages may be referred to the garment restitution fund for payment to workers that were included in the citation.

Existing law and regulations sets the fee structure for the GMSA, applicable to garment contractors and garment manufacturers based on their gross sales receipts. Fees for garment contractors range from $250 for contractors with $100,000 or less in gross sales to $1,000 for contractors who earn over $1 million in gross sales. In addition, $75 of each registration is deposited into the GMSA. This account has been insolvent since 2015-16 because the amount of new claims is greater than the account’s annual revenue. The Administration notes that this is due to several factors, including more effective labor law enforcement, a decline in the number of garment manufacturers registration, and increased claims. In 2017-18, this resulted in over $4.5 million of claims that could not be paid. Before the end of the 2018-19 fiscal year, the outstanding garment claim grew to more than $18 million. In past years, the GMSA received an average of $300,000 each year from fees but expended $800,000 to $1.5 million to unpaid wage claims, as a result, the GMSA was short $500,000 to $1.2 million to meet the needs of all wage claims each year.

Recent Budget Acts. The 2018-19 budget included budget bill language to authorize the transfer of any remaining unencumbered balance of the UWF into the GMSA, the Farmworker Remedial Account, or the Car Wash Worker Restitution Fund for the 2018-19 fiscal year only. The Administration did not anticipate an additional need in the Car Wash Fund or the Farmworker Account and included them in the budget bill as a precautionary measure in case there was a need.

In 2018-19, $5.7 million was transferred from the UWF to the General Fund, and $9 million was transferred from the UWF to the GMSA. For the 2019-20 fiscal year, UWF transferred $8.9 million from the UWF to the GMSA. In addition, the 2019 budget act also provided $7.3 million General Fund for this purpose.

The 2018-19 budget also included supplemental reporting language that required DIR to report by February 1, 2020 regarding: (1) a description of the historical information on the registration and fee structure, revenue, number of claims, (2) discussion of the causes for insolvency, (3) information on fund transfers, (4) recommendations on how to address fund solvency, and (5) recommendations on outreach efforts to improve labor law compliance in the garment manufacturing industry.

The report was submitted to the Legislature on July 17, 2020. The report notes that from July 2019 through June 2020 the department paid 567 garment claims, totaling $16.2 million. At the time, the report noted that there was another 270 claims in process, totaling $8.9 million. The report noted that there was over $11 million in unencumbered cash on deposit in the UWF. An Executive Order was processed to transfer monies from the UWF to the GMSA to pay all 270 claims in process. The report also noted that in order to address the structural solvency of the GMSA in the future, any change in the fee structure or fee amount needs to be discussed in an appropriate policy committee.

The report notes that the garment manufacturing industry has shifted from primarily existing in downtown Los Angeles and is spreading to the San Gabriel Valley, East Los Angeles, and South Central Los Angeles. This decentralization has put workers further away from the center of outreach efforts organized by advocate organizations and further away from the primary Labor Commissioner's Office. It is well documented that the garment manufacturing workforce is primarily immigrant labor from Mexico, Central America and Asia. Workers often experience multiple vulnerabilities in their employment; often are undocumented, monolingual non-English speakers, unfamiliar with their workplace rights, earn subminimum wages and have to provide for their family. The above shifts in the industry are further exacerbated by the prior Federal Administration's consistent attacks on immigrant communities with workplace and general immigration raids. These consistent attacks have a chilling effect on an already vulnerable population, further silencing them from exercising basic protections to earn minimum wage, overtime, meal and rest breaks, timely payment and many others. In an effort to address the operational shift of the industry, the Labor Commissioner's Office has initiated an effort with the UCLA Downtown Labor Center to evaluate industry trends and identify additional strategies to rebuild trust with the garment worker communities. The Labor Commissioner's Office is also engaging key community partners, such as the Garment Worker Center and Bet Tzedek House of Justice.

Update on the GMSA. As of February 5, 2021, there was $1.4 million in the GMSA compared to $7.3 million in claims (205 cases) pending referral or currently under review. The Administration notes that there is currently $11.6 million in the UWF, which will be processed for transfer pursuant to the 2020 budget act.

The Administration notes that the oldest are from 2015, which likely include an initial referral to GMSA that was rejected by the State Controller's Office and needs to be resubmitted. The average time for claims to be paid is 1.5 to 2 years, approximately. This average time frame spans the life of the claim, from the date the claim is received until the claim is decided/adjudicated and referred to GMSA. The Administration notes that the requests to pay from the GMSA are made on a first come first serve basis after all of the required documents are received from the worker, and after all claims filed where the responsible entities fail to pay become part of a final administrative decision or judgement.

Since February 1, 2020 to February 7, 2021, Cal/OSHA has received 21 complaints regarding the garment industry, addressed 16 of them through investigations by letter and two through onsite inspections. Additionally, Cal/OSHA opened four inspections in response to reports of fatalities, for a total of six onsite inspections. As result of one of the inspections (Los Angeles Apparel, Inc.), citations with penalties over $100,000 were issued.

Staff Recommendation. None. This item is informational.

7900 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
7920 CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM
VARIOUS DEPARTMENTS

Issue 15: State Retirement Liabilities

State Has Large Retirement Liabilities. The state has significant unfunded liabilities associated with retirement benefits for state employees and teachers. An unfunded liability occurs when the assets that have been set aside during a retiree's working years are insufficient to pay their future benefits As of June 30, 2019, the state has $186 billion in unfunded liabilities associated with retirement benefits—$92 billion for state retiree health benefits, $61 billion for state employee pension benefits administered by CalPERS, and $33 billion for teacher pension benefits (the state's share of the total $106 billion CalSTRS unfunded liability).

State Retiree Health. The state provides health benefits to retired state employees. Prior to 2015, the state essentially put no money aside to pay for this benefit while the eventual retiree was still working. As a result, the state accrued a significant unfunded liability associated with retiree health. In 2015-16, the state began a policy to prefund this benefit by setting aside funds annually. Over the last few years, the state's General Fund costs of prefunding have been paid using Proposition 2. Under the new policy to prefund retiree health, the state and employees each pay a percent of pay intended to equal one-half of the normal cost so that the entire normal cost is paid each year. Normal cost is the amount that actuaries estimate is necessary to be invested today to pay for the benefit in the future.

State Employee Pensions. The California Public Employees' Retirement System (CalPERS) administers pension benefits for state employees, state judges, certain elected state officials, and employees of local governments that contract with CalPERS (and their beneficiaries). Under the Constitution, CalPERS has "full rate setting authority," which means the board has authority to require employers to contribute an amount of money that the board determines is necessary to fund the system. With full rate setting authority, contribution requirements might change year over year in response to actuarial changes. This rate setting authority is important because it allows the system to (1) make up for losses that occur when actuaries determine that more funds are necessary to pay for benefits than what has already been set aside (that is, to address an unfunded liability over time) and (2) not charge employers more than is necessary for the system to become fully funded.

Teacher's Pensions. The California State Teachers' Retirement System (CalSTRS) administers pension and other retirement programs for current, former, and retired K-12 and community college teachers and administrators, as well as their beneficiaries. Under state law, currently about one-third of these liabilities are the responsibility of the state ($33 billion) and about two-thirds are the responsibility of school districts.

Prior to 2014, base contribution rates paid by districts, teachers, and the state were established in statute, and the CalSTRS board had limited authority to set a supplemental contribution rate for the state. Given its constraints, CalSTRS projected those losses would result in the system running out of assets in the mid-2040s. In 2014, the Legislature approved a plan AB 1469 (Bonta), Chapter 46, Statutes of 2014, to fully fund the CalSTRS defined benefit program by 2046. The funding plan scheduled increases to the contribution rates paid by districts, teachers, and the state to the system for several years and—after that point—granted the CalSTRS board limited rate setting authority. Specifically, the funding plan phased in increases to the state's contribution rates until 2016-17, after which the funding plan gave the CalSTRS board limited authority to adjust those rates. In particular, the board may increase the state's rate by 0.5 percent of pay each year

Policies in 2020-21 Grew Retirement Liabilities. As described below, policies enacted in 2020-21 to generate General Fund savings during the COVID-19 emergency directly contributed to growth in state retirement liabilities that will be reflected in future actuarial valuations.

- **Pensions.** The state and employees each contribute to CalPERS a specified percentage of pay to fund pension benefits. During 2020-21, state employees are subject to a Personal Leave Program (PLP), which reduces state employee pay in exchange for time off. During PLP, state and employee contributions to CalPERS are based on the reduced pay levels; however, the benefits earned by state employees are based on their full salary, systematically creating an unfunded liability.

- **Retiree Health.** The state and employees each contribute about one-half of normal cost—expressed as a percentage of pay—to prefund retiree health benefits. Labor agreements between the state and state employees suspended employee contributions to prefund retiree health benefits for the duration of PLP. The suspension of employee contributions combined with lower state contributions being made because of lower salary levels during PLP resulted in growth in retiree health unfunded liabilities.

- **CalSTRS.** The state, school employers, and teachers each contribute a percentage of pay to fund teachers' pension benefits. CalSTRS' board holds limited authority to adjust these contribution rates each year, pursuant to the provisions of the CalSTRS funding plan (AB 1469). In 2020-21, as a way to reduce state costs, the budget suspended the board's ability to increase the state's rate, holding the state's rate flat for one year. This budget action resulted in (1) General Fund savings of $169 in 2020-21 and (2) beginning in 2021-22, the state's contribution rate starting at a level that is lower by 0.5 percentage points relative to what it would have been in the absence of this action. The lower state contribution rate increases state unfunded liabilities over the long term. The Administration has proposed a one-time additional payment to CalSTRS in 2021-22 using General Fund dollars *outside* of the Proposition 2 requirement, which would offset the 2020-21 rate suspension for one year, but not on an ongoing basis.

Supplemental and Supplanting Payments. Over the last few years, the Legislature has made over $7 billion General Fund, Proposition 2, and loan from the Surplus Money Investment Fund (SMIF) in supplemental pension payments CalPERS state plans and the state share of the CalSTRS unfunded liability. In addition, the state has also provided $3.10 billion in supplanting payments to the school employers payments for CalSTRS and CalPERS schools pool. As a result of these supplanting payments, school district CalSTRS contribution rates decreased from 19.10 percent in 2020-21 to 16.15 percent, and the 2021-22 rate will be decreased from 18.10 percent to 15.92 percent.

Proposition 2 Debt Payments Vary From Year to Year. Proposition 2 (2014) contains a formula that requires the state to spend a minimum amount each year to pay down specified debts. The formula has two parts. First, the state must set aside 1.5 percent of General Fund revenues. Second, the state must set aside a portion of capital gains revenues that exceed a specified threshold. The state combines these two amounts and then allocates half of the total to pay down eligible debts and the other half to increase the level of the rainy-day fund (the Budget Stabilization Account). Because capital gains revenues can vary significantly from year to year, the annual amount of the Proposition 2 required debt payment has varied by hundreds of millions of dollars each year.

Administration Estimates Sizeable Capital Gains for 2021-22, Resulting in Large Debt Payment Requirements. Under the Administration's revenue estimates for 2021-22, the state will be required to set aside roughly $3 billion for debt payments. This is substantially higher than the debt payment requirement has been since Proposition 2 passed in 2014. Typically, the requirement is in the range of $1.5 billion to $2 billion. The key reason the estimate is significantly higher this year is that the Administration is estimating revenues from capital gains taxes will be high in 2021-22.

Governor's Budget Proposal

Governor Proposes Using Proposition 2 Funds to Accelerate Pay Off of Retirement Liabilities. The Governor proposes that the state use Proposition 2 funds in 2021-22 to accelerate pay off of all three of the state's retirement liabilities through one-time payments totaling $2.8 billion. Specifically, the Governor proposes one-time payments of:

1. $1.5 billion as a supplemental pension payment to CalPERS state pension plans (apportioned across the plans based on the annual General Fund contributions to each plan). The Administration estimates a net savings of $1.9 billion.

2. $926 million toward the state's retiree health unfunded liabilities ($616 million of this would be intended to make up for employee contributions that were suspended during PLP in 2020-21),

3. $410 million as a supplemental pension payment to CalSTRS to help pay down the state's share of unfunded liabilities. The Administration estimates a net savings of $313 million. The proposed payment to CalSTRS is equal to the difference between the statutorily-required state contributions and the actuarial need for state contributions.

Legislative Analyst's Office Comments

The LAO notes that the proposed use of Proposition 2 funds is consistent with past LAO recommendations. In March 2020, the LAO recommended that Proposition 2 funds be used to keep existing funding plans for CalSTRS and retiree health benefits on track to pay off the unfunded liabilities by the mid-2040s. In a 2019 analysis, the LAO also noted that additional capacity in Proposition 2 could be directed toward CalPERS because that would achieve the highest chances of state savings over the next few years. The proposed payment to CalPERS is also consistent with that consideration.

The total amount of Proposition 2 payments made in a given year depends on revenue levels. Accordingly, although the Administration's proposal's structure has merit, the LAO recommends that the Legislature hold open all proposals related to Proposition 2. At the time of the May Revision, the state will have some more information about revenues from capital gains taxes in 2021-22. At that time, the Legislature could consider all Proposition 2 proposals as one proposal when revenue outlook is slightly clearer.

Staff Recommendation. Hold Open.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Dave Cortese
Senator Shannon Grove
Senator Josh Newman

PART A

Thursday, March 4, 2021
10:00 a.m. or upon adjournment of session
State Capitol - Room 3191

Consultant: Yong Salas and Hans Hemann

ISSUES PROPOSED FOR VOTE-ONLY

ISSUES PROPOSED FOR DISCUSSION

Public Comment

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

Items Proposed for Vote-Only

0690 OFFICE OF EMERGENCY SERVICES (CAL OES)

Issue 1: Mather: Headquarters Lobby Security Enhancements

Request. Cal OES requests $251,000 General Fund for preliminary plans ($78,000) and working drawings ($173,000) for security improvements to the Headquarters' lobby.

Background. The project includes security enhancements to the main lobby at the Cal OES Headquarters facility. The current layout consists of an open lobby design with limited security, which allows visitors to access the stairwells that lead to Executive areas, employee point of entry areas, breakrooms, and the State Operations Center (SOC). Cal OES is visited by a number of legislators, dignitaries, and the Governor. During activation, visitation can increase by upwards of 400 visitors daily. Ensuring a secure facility during activations and normal business hours is key to maintaining operations and providing a safe and secure location for staff to conduct business. The facility has also served as a base for the Governor and his staff during various disasters, the most recent being the COVID-19 Pandemic.

The project consists of creating a free-standing security kiosk that is purpose built, Americans with Disabilities Act (ADA) compliant, and can house three security guards. This project will include systems furniture, information technology (IT) components, new counter tops, and storage. Badge access turnstiles will be added to the north and south entry points while being adjacent to the stairwell that provides access to the Executive suite. Planter boxes and other obstruction type barriers will be installed to ensure foot traffic is funneled through these three main points of entry. The project includes construction and installation of all items as well as the demolition and removal of existing furniture.

The estimated total project costs are $1.2 million including, preliminary plans ($78,000), working drawings ($173,000), and construction ($981,000). The construction amount includes $758,000 for the construction contract, $53,000 for contingency, $71,000 for architectural and engineering services, $60,000 for agency-retained items, and $39,000 for other project costs.

Staff Recommendation. Approve as requested.

Issue 2: Mather: State Operations Center Modification

Request. The Governor's Office of Emergency Services (Cal OES) requests a $465,000 General Fund for the preliminary plan ($116,000) and working drawing ($349,000) phases of the State Operations Center Modification project. This project will redesign and improve the existing State Operations Center in Mather, California, eliminating safety issues with the current facility. The project will also add additional second floor workspace, redesign the State Warning Center to add additional cubicles, and replace the aging technology wall.

Background. The SOC is used to coordinate resource requests, maintain situational awareness, resolve and set priority issues. The SOC is also where federal, state, and local agencies report during a disaster and in support of the National Response Framework. The SOC is currently set up in a war room model (a dedicated location for emergency personnel to co-locate and communicate the activities associated with the execution of the emergency at hand). Staff workspace is aligned in four rows facing the video wall at the front of the room. The rows are tiered and have three sections totaling 54 workstations, including a master control computer workstation for information technology support.

The current SOC structure (built in 2001) does not allow staff working in the same functional section to effectively and efficiently collaborate during disaster response efforts resulting in possible delays in timely responsiveness to life and safety issues. Currently, personnel have to step around each other in the row to talk face-to-face or stand behind one person in order to view one computer screen to work as a section and document section objectives. This design is not functional during an emergency response or disaster activation and causes safety concerns.

Additionally, access within the SOC is very restrictive for individuals with disabilities and mobility limitations which makes effectively participating and contributing in the SOC environment difficult. For example, individuals using a mobility device (wheelchair, scooter, walker, etc.) can only navigate the front floor area and the last row. All of these concerns have been documented in the After Action Reports, which is a process where all responding entities provide lessons learned and document what worked and did not work for future improvements.

Total project costs will be $12.6 million, of which $2.7 million will be for swing space.

Staff Recommendation. Approve as requested.

Issue 3: Deferred Maintenance

Request. The Governor's Office of Emergency Services requests $5 million one-time General Fund for deferred maintenance projects related to critical infrastructure needs.

Background. The Administration requests $5 million one-time General Fund for the following deferred maintenance projects:

Facility Location	Project Title and Description	Estimated Cost
3650 Schriever Ave, Mather CA 95655	Supplement funding shortage for employee breakroom renovations	$374,750
3650 Schriever Ave, Mather CA 95655	Upgrade Physical Security Systems: CCTV, Access Control Equipment, CPU hardware, software and door hardware	776,250
3650 Schriever Ave, Mather CA 95655	Curb and Sidewalk Repair - Replace cracked, crumbling, and broken concrete sidewalks and curbed areas.	1,550,000
3650 Schriever Ave, Mather CA 95655	Replace IT Network Fiber Optic Backbone	450,000
3650 Schriever Ave, Mather CA 95655	Replace IT Network Cabling (copper)	1,050,000
CSTI - Camp San Luis Obispo	Repave and restripe parking lot between Kern and Mendocino Avenue (14,000 sq. ft.)	124,000
CSTI - Camp San Luis Obispo	Streambed alterations to prevent further erosion of Howard Hall foundation due to creek overflow	375,000
CSTI - Camp San Luis Obispo	Main Campus: Hardscape, landscape and irrigation replacement	300,000
	Total	**$5,000,000**

Staff Recommendation. Approve as requested.

Issue 4: Next Generation 9-1-1 Grant Program

Request. The Governor's Office of Emergency Services requests a one-time increase of $570,000 in State Operations Federal Trust Fund authority to support the continued development of the Next Generation 9-1-1 program.

Background. The NTIA within the U.S. Department of Commerce and the National Highway Traffic Safety Administration (NHTSA) within the U.S. Department of Transportation are responsible for the joint 9-1-1 Implementation and Coordination Office (ICO). As authorized by the Middle-Class Tax Relief and Job Creation Act of 2012 (Act), NTIA and NHTSA nationally awarded $109.3 million of new funding to states for a grant program to upgrade public safety answering points (PSAPs) to NG 9-1-1 capabilities. California received $11.4 million in federal grant funding from the NG 9-1-1 Grant. The grant funds are being expended to help 9-1-1 call dispatchers use digital Internet Protocol-based, broadband-enabled technologies to coordinate emergency response.

During the first year of the grant (2019), Cal OES completed the request for proposal process and selected five vendors who began to build out the NG 9-1-1 system. In early 2020, Cal OES began to install NG 9-1-1 equipment at the 438 PSAPs throughout the state and completed the build out of the NG 9-1-1 core services. In fall 2020, Cal OES began to test the NG 9-1-1 system with the proposed go live date in 2021.

During the testing process, Cal OES determined a gap in Cal OES' ability to support the GIS services needed for NG 9-1-1. Cal OES requested and received a budget modification from NTIA and NHTSA to support a temporary 9-1-1 GIS team that support improved 9-1-1 location accuracy and call routing during the 2020-21 fiscal year (FY). In addition, an augmentation to Cal OES' budget was approved through a budget revision in FY 2020-21 to increase budget authority to support five (5) temporary help positions that are necessary to support NG 9-1-1 deployment. This BCP request is to increase the budget authority and allow for the continuation of temporary help positions through FY 2021-22 to ensure the critical GIS activities can be supported.

Cal OES' objective is to support the development and operation of 9-1-1 services. Under the scope of the grant, the temporary help supported by this request would allow the Public Safety Communications staff to continue collaboration with local governments and 9-1-1 call centers to upgrade equipment and operations.

The NG 9-1-1 grant funds will be used to support five temporary help positions that are part of a temporary 9-1-1 GIS team. The 9-1-1 GIS team is responsible for developing, implementing, and continued GIS research to improve 9-1-1 location information and 9-1-1 call routing. The 9-1-1 GIS team performs the tasks needed to support GIS data integration, data analysis, data visualization development, map development, testing and documentation needed to support the NG 9-1-1 system. This includes but is not limited to integrating road center lines, address points, PSAP boundary files and the integration, validation and generation of spatial data needed with particular emphasis on operational requirements utilized for NG 9-1-1. Improving 9-1-1 location and call routing will reduce 9-1-1 response times and has a direct correlation to saving lives. These responsibilities are critical to the successful deployment of NG 9-1-1.

Staff Recommendation. Approve as requested.

Items Proposed for Discussion

7870 California Victim Compensation Board (CalVCB)

Issue 5: Ongoing Backfill

Request. CalVCB requests $33 million General Fund in 2021-22 and $39.5 million General Fund thereafter to backfill a decline in revenues in the Restitution Fund.

Background. California funds services to victims of crimes through various programs administered by different entities, including: the Victim Compensation Board (VCB), the Governor's Office of Emergency Services (OES), the Department of Justice (DOJ), and the California Department of Corrections and Rehabilitation (CDCR). The 2018-19 Budget Act required the VCB and OES to work together to develop options and a recommendation for combining the state's victims programs under one organization. A Consolidation Working Group was convened to complete the report and provide recommendations for consolidating the victims' programs. The report was released in October 2018.

OES combines federal and state funding to support more than 1,200 projects providing victim services throughout the state, and in 2018-19, OES administered $486.5 million in grant funds. Likewise, VCB also combines federal and state funding—from fines and restitution orders paid by offenders convicted of traffic infractions, misdemeanors, or felonies—to offer compensation directly to, or on behalf of, victims and survivors who are injured or threatened with injury. Most recently, VCB approved more than 52,000 applications and provided more than $57 million in compensation for crime-related expenses, including income and support loss, medical and dental care, funeral and burial expenses, and other losses not reimbursable from another source.

Victim compensation has remained separate, in part, due to the significant logistical challenges in consolidating the entities, as well as the need to avoid negative impacts to those who receive funding and services to support victims and their families. However, the coordination of the state's delivery of victim services are necessary to ensure that the limited resources allocated for these programs are done so efficiently.

The Administration indicated its intent to consolidate the victims' programs operated by the CalVCB and Cal OES as part of the 2020-21 Budget. However, the Governor's Budget Summary from January 2020 stated that the Administration still intendeds to pursue this consolidation, but has put the plan on a temporary pause.

Staff Recommendation. Hold open.

0690 Office of Emergency Services (Cal OES)

Issue 6: Oversight: FEMA Reimbursements

Background. The federal Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) is intended to provide an orderly and continuing means of assistance by the federal government to state and local governments to alleviate the suffering and damage which results from disasters. The Stafford Act authorizes the President to issue "major disaster" or "emergency" declarations upon the request of a governor of an affected state. Emergency declarations trigger aid that protects property, public health, and safety and lessens or averts the threat of an incident becoming a catastrophic event. Given their purpose, the emergency declarations may precede an event. A major disaster declaration is generally issued after catastrophes occur, and constitutes broader authority for federal agencies to provide supplemental assistance to help state and local governments, families and individuals, and certain nonprofit organizations recover from the incident.

The assistance for individuals and households is called Individual Assistance (IA). But the bulk of FEMA's grants are for Public Assistance (PA), which reimburses state and local governments when disaster costs are too much for them to absorb. These programs are activated when the President signs a Major Disaster Declaration and orders either or both IA and PA to commence.

PA grants primarily reimburse state, county and local governments or any other political subdivision of the state including Native American tribes. Also eligible for grants are private nonprofit organizations, including houses of worship, which provide essential services to the general public. The funds are directed to the state (the recipient), which then reimburses "sub-recipients," the state agencies, local governments and eligible private-non-profits. FEMA will reimburse at least 75 percent of the eligible costs with a local match of 25 percent.

Disaster-related costs include repairs to damaged infrastructure, public services and facilities.

The Role of Cal OES. Cal OES acts as the grantee for FEMA's Public Assistance program, and serves as the official contact between subrecipients/applicants and FEMA. For COVID-19 declarations, FEMA developed a streamlined application that applicants fill out through FEMA's grants portal, which is housed with Cal OES. Cal OES has the responsibility to educate subrecipients/applicants on the Public Assistance program and other available assistance, in addition to providing technical support and assistance. The state also has the responsibility to collect cost data and prepare cost estimates. The state does not have a role in approving requests for FEMA reimbursement; that responsibility lies with FEMA.

COVID-19 Major Disaster Declaration. On March 22, 2020, Governor Newsom's request for a presidential major disaster declaration was approved for California's COVID-19 response. However, on January 21, 2021, the Biden Administration directed FEMA to provide assistance at a 100 percent federal cost share until September 30, 2021, and would cover costs dating back to January 2020. Governor Newsom issued a press release on February 5, 2021 regarding the President's announcement and stated that:

> " Programs eligible for full reimbursement under this new policy include: sheltering to protect unhoused Californians, including Project Roomkey; the purchase of personal protective equipment; Great Plates Delivered, which provides meals to seniors; National Guard deployments to support vaccination efforts and food banks; the California Healthcare Workers Program, which provides hotel rooms to doctors, nurses and other critical front-line health care workers for free or at a discount; Housing for the Harvest, which provides safe, temporary isolation spaces for agricultural and farmworkers who test positive or were exposed to the virus; and Project Hope, which provides hotel accommodations to people released from state prison who have a need to quarantine or isolate due to COVID-19 exposure or positive status."

Questions for the subcommittee to consider:

- Does the Administration know whether a portion or all of the costs incurred for programs like Project Roomkey, PPE procurement, Great Plates Delivered, etc., will be reimbursed given the President's recent announcement?

- Can Cal OES describe the process and average length of time that a recipient receives its reimbursements from the time those costs are incurred?

- What type of technical assistance does Cal OES provide to applicants/subrecipients for the FEMA reimbursement process?

Staff Recommendation. This is an oversight item.

Overview of COVID-19 Pandemic Spending

Issue 7: California's COVID-19 Pandemic Direct Response Expenditures

On March 4, 2020, Governor Newsom declared a state of emergency in response to the COVID-19 Pandemic triggering a disaster response effort unlike any other in California's history. Declaring the state of emergency paved the way for the expenditure of an unprecedented amount of disaster-related funding by federal, state and local governments. Because of the ever-changing nature of the pandemic and the sheer scope of the state's response, the Administration has responded by allocating billions of dollars in funding in an expedited manner using budget authority provided under the state's disaster response laws. Under the current state of emergency, the Administration has broad authority and flexibility to direct resources to programs it determines are needed. As a result, an extraordinary amount of state and federal funds have been allocated to new and quickly developed programs or augmented to existing programs that have seen increased levels of utilization.

As the Administration has allocated resources to response efforts during the pandemic, the Department of Finance (DOF) has continued to provide the Legislature with periodic estimates of projected spending for the state's direct response activities based on the "best available information" at the time. However, the estimates have often changed dramatically from one update to another with few details about how the funds would be spent.

When the 2020-21 Budget Act was approved by the Legislature, DOF estimated and the budget assumed that direct state response expenditures for fiscal years 2019-20 and 2020-21, combined, would total $8.6 billion. Since the adoption of the current year budget, DOF has revised its estimate of direct response spending to approximately $11.2 billion for the two fiscal years.

In addition, the Administration projects needing a least another $1.8 billion in General Fund resources for fiscal year 2021-2022, bringing the total estimate of COVID-19 direct response costs to nearly $13 billion for the three fiscal years. However, based on the varying estimates from last year, it is likely that the estimate will change significantly as the state continues to support additional response activities.

CHART 1 titled *COVID-19 Direct Response Cost Estimate* (below) shows the difference between DOF's estimate of $8.6 billion that was assumed in the 2020 Budget Act for fiscal years 2019-20 and 2020-21, and the updated estimate of $13 billion for fiscal years 2019-20, 2020-21 and 2021-22 combined. The estimate, which includes the addition of $1.8 billion General Fund for direct state spending in 2021-22, is $4.4 billion higher than the spending estimate in the budget approved by the Legislature last June.

CHART 1

COVID-19 Direct Response Cost Estimate: Total Expenditures Comparison

Cost Category	2020 Budget Act Estimate	2021 Governor's Budget Estimate	Difference
State Response Operations	**$589,128,000**	**$2,529,273,000**	**$1,940,145,000**
State Hospitals	$0	$82,698,000	$82,698,000
Testing	$0	$37,102,000	$37,102,000
Surge Capacity (Norwalk)	$0	$2,568,000	$2,568,000
Other Staffing and Operational Costs	$0	$43,028,000	$43,028,000
National Guard	$0	$32,848,000	$32,848,000
Corrections and Rehabilitations	$17,300,000	$1,418,988,000	$1,401,688,000
Community Supervision	$2,971,000	$45,340,000	$42,369,000
Temporary Suspension of Prison Intake	$14,329,000	$240,895,000	$226,566,000
Reentry Housing	$0	$15,000,000	$15,000,000
Project Hope	$0	$1,929,000	$1,929,000
Personal Protective Equipment	$0	$89,296,000	$89,296,000
Medical Surge/Tents	$0	$240,741,000	$240,741,000
Testing (Employee)	$0	$378,926,000	$378,926,000
Testing (Inmate)	$0	$175,533,000	$175,533,000
Cleaning	$0	$29,180,000	$29,180,000
Other Staffing and Operational Costs	$0	$202,148,000	$202,148,000
Other State Agency Response Operations Costs	$571,828,000	$994,739,000	$422,911,000
Procurements	**$4,363,764,000**	**$3,366,496,000**	**-$997,268,000**
OES Masks Contract (Global Healthcare Product Solutions, LLC)	$1,567,500,000	$920,600,000	-$646,900,000
DGS and Other Procurements	$2,796,264,000	$2,445,896,000	-$350,368,000
Hospital and Medical Surge (to support 5,000 beds)	**$1,325,023,000**	**$1,091,631,000**	**-$233,392,000**
Staffing Costs	$854,523,000	$768,421,000	-$86,102,000
Facilities and Operating Costs	$470,500,000	$323,210,000	-$147,290,000
Hotels for Health Care Workers/Support Staff	**$507,650,000**	**$368,957,000**	**-$138,693,000**
Housing for the Harvest	**$0**	**$9,623,000**	**$9,623,000**
Vulnerable Populations and Other Support Services	**$638,602,000**	**$1,888,547,000**	**$1,249,945,000**
Project Roomkey	$100,000,000	$162,000,000	$62,000,000
Food Banks	$70,000,000	$165,500,000	$95,500,000
Support for Small Businesses	$50,000,000	$562,500,000	$512,500,000
Great Plates Delivered	$25,000,000	$25,000,000	$0
Other Program Allocations	$393,602,000	$973,547,000	$579,945,000
Statewide Testing	**$527,000,000**	**$2,544,045,000**	**$2,017,045,000**
PerkinElmer	$0	$1,365,363,000	$1,365,363,000
Logistics Health, Inc. (Optum)	$0	$726,000,000	$726,000,000
FedEx Specimen Transportation	$0	$19,989,000	$19,989,000
Other Statewide Testing	$527,000,000	$432,693,000	-$94,307,000
Contact Tracing and Tracking	**$173,750,000**	**$646,339,000**	**$472,589,000**
Vaccine Task Force	**$0**	**$372,400,000**	**$372,400,000**
Other Response Costs	**$470,122,000**	**$0**	**-$470,122,000**
Community Engagement	**$0**	**$162,500,000**	**$162,500,000**
Totals	**$8,595,039,000**	**$12,979,811,000**	**$4,384,772,000**

Prepared by the Department of Finance

The unpredictable nature of the pandemic has driven the dramatic changes in the cost estimates. For example, the original estimates developed by DOF only included $17 million for COVID-19-related expenditures for the California Department of Corrections and Rehabilitation (CDCR), primarily to reimburse counties for housing inmates while prison intake was suspended. In the latest fiscal update provided this January, DOF estimates the state will spend over $1.4 billion for CDCR's COVID-19 response activities. Additionally, the original estimate included $527 million for testing. Now, the Administration estimates a total of more than $2.5 billion will be needed to support statewide testing activities, resulting in over a $2 billion increase. This estimate does not include the increased estimate of expenditures for testing being conducted by CDCR or the Department of State Hospitals.

Alternatively, a number of programs that received a lot of attention at the beginning of the pandemic never fully materialized. As such, DOF has reduced its estimate for statewide procurement including PPE by nearly $1 billion, hotels for health care workers by $138 million and hospital surge capacity by $233 million.

Based on history and the fluidity of DOF's estimates, it is fair to assume that the projections will fluctuate and continue to be revised through the remainder of this fiscal year and into the following fiscal year.

It must be noted that while the current estimate of total direct COVID-19 emergency response costs are approximately $13 billion, DOF estimates a net General Fund impact of approximately $2.5 billion. The Administration anticipates that a majority of the General Fund expenditures will be offset by federal funds and other available reimbursements, including reimbursements for eligible costs from the Federal Emergency Management Agency (FEMA). Historically, FEMA has reimbursed states up to 75% for disaster related expenditures but the federal government recently announced FEMA would reimburse states for 100% of "eligible" COVID-19-related expenditures dating back to January 20, 2020. (See discussion above.)

Issue 8: Budget Spending Authority

The budget spending authority in California's existing disaster response-related statute gives the Administration considerable flexibility in allocating funds during a declared state of emergency. The Administration, which has utilized a number of budget spending authorities for the state's COVID-19-related costs in 2019-20, 2020-21 is requesting the extension and expansion of spending authority for fiscal year 2021-22 (see Items for Discussion below).

Below are details about the various spending authorities that the Administration has utilized to respond to the COVID-19 pandemic.

Disaster Response-Emergency Operations Account (DREOA). DREOA, established in Government Code section 8690.6, provides the Director of Finance with the authority to make disaster-response allocations to state agencies and departments for immediate and necessary activities after a proclamation of emergency by the Governor. The Director is authorized to transfer money from the Special Fund for Economic Uncertainties (SFEU) to DREOA to pay for expenditures for disaster response operations costs. Funds in DREOA are continuously appropriated for disaster response and recovery operations that occur within 120 days and the Governor can extend the authority in 120-day increments through the notification of the Joint Legislative Budget Committee (JLBC). Generally, the spending authority only extends for the duration of the fiscal year in which the first extension occurred. As a result, the Administration cannot use DREOA in 2021-22 for COVID-19-related expenditures. The Governor's proposed budget includes a new budget control section that would extend DREOA for another year.

To date, the Administration has notified the JLBC of five DREOA transfers totaling $7.1435 billion:

DREOA Notification Date	Amount of Transfer
March 25, 2020	$1.3 billion
May 21, 2020	$1.831 billion
November 6, 2020	$1.5 billion
December 17, 2020	$.5125 billion
February 24. 2021	$2 billion
Total	**$7.1435 billion**

In addition, under the Emergency Services Act, established in Government Code section 8645, the Governor can transfer any fund legally available into DREOA in order to deal with the state of emergency. Until a few years ago, DREOA was rarely used and had a limited amount of funding because the Administration generally used existing program funding and authority to pay for disaster response. Prior to 2016-17, very little, if any funds were transferred to DREOA.

In 2019, recognizing that large wildfires response activities, like debris removal, tend to take longer than 120 days to complete, DREOA was amended to give the Administration the authority to extend and allocate disaster-related funding in 120-day increments for the duration of the fiscal year in which the first extension occurred. DREOA authority lasts for 120 days, but can be extended. The most recent extension occurred on February 24, 2021.

Until the COVID-19 pandemic, DREOA was generally only used for extraordinary emergency responses for events like wildfires, earthquakes, flooding, and other natural disasters. They were short-term, regional emergencies (generally natural disasters) and DREOA helped provide financial assistance for emergency work and the repair, restoration or replacement of public real property damaged or destroyed during a disaster. This is a funding source that provides the state an opportunity for a more expeditious response to and recovery from disasters.

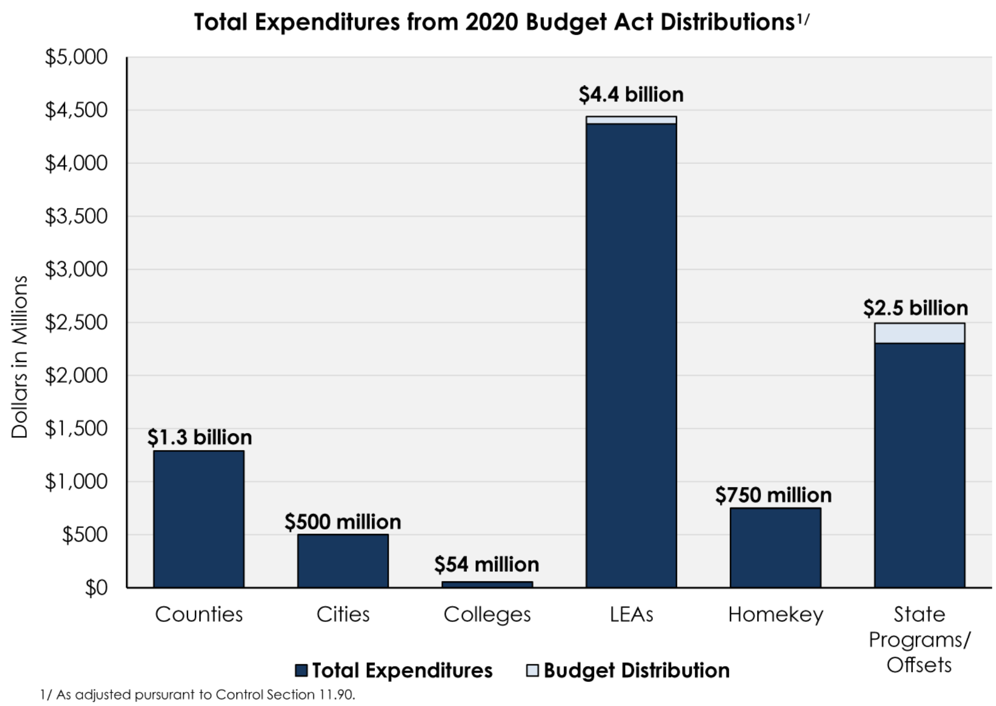
It should be highlighted that there are very limited reporting requirements associated with the use of DREOA. DREOA only requires the Director of Finance to notify the Legislature after the transfer of funds are made from the Special Fund for Economic Uncertainties to DREOA, but not the actual allocation or expenditure of funds. While the Administration has been granted significant latitude regarding expenditures for natural disasters, the response to the COVID-19 pandemic is decidedly different in terms of duration and scope. During the COVID-19 crisis the information provided to the Legislature about what programs and activities were being funded, the cost, and what contracts were anticipated and executed has been inconsistent.

California Emergency Services Act. The California Emergency Services Act (CESA) provides broad spending authority to the Administration during a declared emergency. The Act, which was enacted in 1970, gives the Governor the power to spend money "from any fund legally available" in response to an emergency and does not include any requirements to consult with or notify the Legislature when funds are redirected to emergency response activities. Under the authority granted by CESA, the Governor may redirect state resources in order to respond to the state of emergency without regard to statutory law. According to the LAO, the key authorities granted under CESA include: (1) spending legally available funds beyond the level of funding provided specifically for emergencies, (2) redirecting funding provided to departments for other purposes to a department's emergency response, and (3) redirecting funding provided for CESA purposes.

Control Section 36. SB 89, which passed the Legislature on March 17, 2020 with bipartisan support, added Control Section 36.00 to the 2019-20 Budget Act to address the Governor's March 4, 2020 COVID-19 Proclamation of Emergency. It included an appropriation of $1 billion in General Fund to be utilized, upon the order of the Director of Finance and a 72-hour written notification to the (JLBC, for any purpose related to the state of emergency. The funds were available until June 30, 2020 – the end of the 2019-20 fiscal year. In total, the Director made a total of $827 million in COVID-19-related augmentations. Control Section 36 was not included in the 2020-21 Budget Act. The Administration intends to offset approximately $423 million with federal Coronavirus Relief Funds as appropriated through Control Section 11.90 (see below).

Special Fund for Economic Uncertainties (SFEU) Set Aside . The 2020-21 Budget Act included contingency funding for COVID-19-related costs. Specifically, $2.9 billion was allocated to a discretionary reserve balance in the SFEU. Of that amount, $716 million was specifically set aside for COVID-19-related response expenditures and represents the state's 25 percent share of cost of the total $2.9 billion in estimated contingency funds needed by the Administration, with the remaining amount assumed to come from federal reimbursements. (This SFEU set aside was established as an alternative to providing the total $2.9 billion in estimated additional costs through the Control Section 36 process.) The Administration is accessing these funds through the DREOA process.

Control Section 11.90. Control Section 11.90 was added to the 2020-21 Budget Act and allocated $9.5 billion in funds from the federal Coronavirus Relief Funds (CRF), which was part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. These funds were allocated as follows:



Of the $9.5 billion that California received, $2.5 billion was allocated to offset direct state costs that were incurred between March 1, 2020 and December 31, 2020 for specified uses and cover costs that were necessary expenditures incurred due to the public health emergency or were not accounted for in the state's adopted budget. In December 2020, Congress approved a one-year extension, allowing the state to offset direct state costs for COVID-19-related expenditure made before December 31, 2021. To date, the Administration has identified more than $2 billion in General Fund offsets. Approximately, $1.1 billion will offset expenditures made through DREOA and as noted above, approximately $423 million will offset the costs associated with augmentations made through Control Section 36 in the 2019-20 Budget Act.

Control Section 11.95. Control Section 11.95 was added to the Budget Act of 2020-21 to give DOF the authority to allocate federal funding for testing and contact tracing. The federal Paycheck Protection Program and Health Care Enhancement Act provided the state with a total of $499 million for these purposes. In July 2020, as required in Control Section 11.95, DOF provided the JLBC a 10-day notification that it was allocating $286 million to local public health departments to assist with diagnostic and surveillance testing capacity, support individuals that need to isolate and quarantine, and aid local public health contact tracing efforts. $176 million was augmented to the Department of Public Health's budget to work in concert with the local public health departments and $37 million was allocated to a contract with Heluna Health for contact tracing services.

Control Section 11.95 was amended last week by AB 85 to allow the DOF to allocate approximately $889 million from the federal Coronavirus Response and Relief Supplemental

Appropriations Act for testing, contact tracing, food assistance, and vaccine distribution. It requires DOF to provide the JLBC with a 10-day notification prior to making any allocation or adjustment.

Funds allocated under this Control Section can be used to offset General Fund expenditures made for testing and contact tracing.

Control Section 28. Control Section 28, has historically been included in the annual state budget and gives the Administration the ability to spend unanticipated federal funds received after enactment of the state budget. It requires DOF to notify the JLBC 30-days prior to making the augmentation but that review period can be shorted upon a request from the Director of Finance and the approval of the JLBC Chair. Control Section 28, which is not limited to emergency or COVID-19-related response activities, is probably the most utilized of all of the control sections that the Administration has at its disposal. The Administration has utilized Control Section 28 numerous times, as federal COVID-19-related funds have been awarded to the state by the federal government. Most recently, the Department of Public Health's budget was augmented by $1.2 billion for a portion of unanticipated federal Epidemiology and Laboratory Capacity funds from the Centers for Disease Control and Prevention. CDPH distributed the money to local public health departments to support testing, contact tracing, vaccination, surveillance, containment and mitigation. The Chair of the JLBC waived the 30-day notification period.

Proposed Budget Control Sections

Overview. The Governor's 2021-22 Budget proposes a total of $1.8 billion in General Fund spending for COVID-19-related expenditures. Of that, approximately $1.4 billion in General Fund support is spread across multiple departments. Below is a summary chart of the proposed expenditures for each department. The appropriate Senate Budget Subcommittees will be hearing the specific details of each of the proposed expenditures.

COVID-19 Direct Response Cost Estimate:
2021-22 Appropriations Proposed in Department Budgets

Department	Proposed Appropriation
Office of Emergency Services	$119,753,000
Department of Public Health	$820,549,000
Department of Developmental Services	$36,746,000
Department of State Hospital	$51,982,000
Department of Social Services	$5,000,000
Department of Corrections and Rehabilitation	$281,279,000
Board of State and Community Corrections	$12,106,000
Department of General Services	$84,419,000
Department of Veteran Affairs	$5,295,000
Total	**$1,417,129,000**

The specified allocations for each department or entity are as follows:

- *Department of Public Health (DPH)* – DPH requests General Fund expenditure authority of $820.5 million in 2021-22 for statewide testing efforts at the Valencia Branch testing laboratory, testing specimen collection through OptumServe, and other miscellaneous services and procurements related to testing.

- *Department of General Services (DGS)* – DGS requests General Fund expenditure authority of $84.4 million in 2021-22 for three key pandemic-related programs: 1) Hotels for Healthcare Workers, which provides hotel rooms to healthcare workers providing critical care to COVID-19 patients to help them avoid bringing the virus home; 2) Housing for the Harvest, which provides hotel rooms for agricultural workers to isolate safely if they are exposed to, or test positive for COVID-19; and 3) Project Hope, which provides hotel rooms to individuals released from prison that need to quarantine safely. This request also includes DGS' contract with FedEx for testing specimen transportation costs, which would be shifted to the DPH budget.

- *Department of Corrections and Rehabilitation (CDCR)* – Funding for CDCR ($108.6 million) will primarily be used for tent and equipment rental contracts, custody overtime, cleaning, and purchasing of PPE. California Correctional Health Care Services' funding ($172.7 million) is mainly for inmate and staff testing, medical staffing registry and overtime, medical treatment, and purchasing PPE.

- *Department of Veterans Affairs* – The Department of Veterans Affairs requests General Fund expenditure authority of $5.3 million in 2021-22 to continue efforts to mitigate impacts of the pandemic in veterans' homes. These resources would support enhanced cleaning protocols, testing of staff and residents, procurement of PPE and cleaning products, and procurement of thermometers and medical devices.

- *Department of Social Services (DSS)* – DSS requests General Fund expenditure authority of $5 million in 2021-22 for its Rapid Response Program to support entities that provide assistance and services to immigrants during emergent situations when federal funding is not available.

- *Department of State Hospitals (DSH)* – DSH requests General Fund expenditure authority of $52 million in 2021-22 to support staff costs for cleaning, staffing coverage, environmental projects, custody tasks, screening and isolation. The request also covers commodity purchases, such as PPE, sanitation supplies, changes in food service, as well as equipment for heating and air, filtration, and information technology solutions. In addition, though most testing costs would be shifting to DPH, DSH expects some costs from a contractor hired to work onsite to collect, process, and report staff testing results.

- *Board of State and Community Corrections (BSCC)* – BSCC requests General Fund expenditure authority of $12.1 million in 2021-22 to support county probation departments with increased number of individuals released from state prison on Post-Release Community Supervision to reduce institutional populations in response to the pandemic.

- *Department of Developmental Services (DDS)* – DDS requests General Fund expenditure authority of $36.7 million in 2021-22 for development of surge sites to serve consumers diagnosed with, exposed to, or at high risk of COVID-19. The funding would support an average of 25 beds each at Fairview and Porterville Developmental Centers for six months.

- *Governor's Office of Emergency Services (CalOES)* – CalOES requests General Fund expenditure authority of $119.7 million in 2021-22 to reimburse local governments for eligible costs associated with emergency activities undertaken in response to the COVID-19 pandemic.

The Governor's Budget proposes adding Control Section 11.91 to give DOF the authority to transfer the proposed $1.4 billion in expenditures from one department to another department as response efforts and activities change.

The Administration is also proposing $406 million in General Fund support for direct state response. The Administration has estimated that it needs an additional and flexible source of General Fund for statewide hospital and medical surge, contact tracing, and other emergency operations costs. The proposal includes an estimate of approximately $84.5 million for statewide hospital and medical surge preparation, $143.8 million for contact tracing, and $177.5 million for emergency operations costs for which specific allocation to individual departments will follow once the Administration has determined what response efforts need funding.

The Administration argues that it needs the flexible source of funding for costs that are difficult to predict at this time. The funds would be allocated under a new Budget Control Section 11.92 that would continue to be administered through a mechanism that is consistent with the Disaster Response-Emergency Operations Account (DREOA).

Issue 9: Budget Control Section 11.91

Background. As discussed above, the Governor's Budget proposes $1.8 billion in General Fund expenditures for estimated COVID-19-related expenditures. Of that amount, approximately $1.4 billion is proposed for COVID-19-specific items within nine specific department budgets. These departments include the Office of Emergency Services, the Department of Public Health, the Department of Developmental Services, the Department of State Hospitals, the Department of Social Services, the Department of Corrections and Rehabilitation, the Board of State and Community Corrections, the Department of General Services, and the Department of Veterans Affairs. (The specific augmentations are being heard in the Senate Budget Subcommittees with jurisdiction over the various departments.) The remaining $406 million is an estimated amount for unanticipated COVID-19-related expenditures including statewide hospital and medical surge, contact tracing, and other emergency operations costs.

The Administration maintains "there is difficulty determining precise allocations given the uncertainty surrounding those programmatic and fiscal needs" which necessitates the need for a flexible funding source. The Governor's proposed budget includes new Control Section language that reflects the Administration's desire for a flexible funding source.

Governor's Budget Proposal. The Governor's Budget proposes adding Control Section 11.91 which would give the DOF the authority to transfer the proposed $1.4 billion in COVID-19 specific General Fund expenditures from one department to another department as response efforts and priorities change. Control Section 11.91 will allow the DOF to transfer any portion of $1.4 billion between any of the 12 departments.

In addition, Control Section 11.91 would allow the DOF to increase the spending authority of any of the 12 departments or create new items of appropriation to allocate these funds to any other department outside of the 12 to account for any unanticipated federal funds received, estimates of funds that will be received from the federal government or private sources if DOF determines all of the following:

The funds will:

1) Support the state's response to the COVID-19 public health emergency.
2) The expenditure is consistent with state law.
3) The funds will only be used for COVID-19-related response and recovery.
4) The state is not required to expend any other state funds.

Potential Questions for the Subcommittee to Consider:

- What is the problem with using the existing budget control sections to allocate or reallocate General Fund money?

- How does the Administration plan to notify the Legislature when it makes changes in expenditures?

- Budget Control Section 28 currently provides DOF with the authority to approve increased spending authority to any department that receives unanticipated federal funding after providing the Joint Legislative Budget Committee (JLBC) with a 30-day notification which can be waived to expedite the process. Why is the Administration seeking this broader authority without providing any Legislative notification?

- Why is the Administration seeking to expand DOF's authority to increase spending authority for funds it estimates will be received federal government or private sources?

Staff Recommendation. Hold open.

Issue 10: Budget Control Section 11.92

Background. As described above, DREOA gives the DOF the authority to make disaster-response allocations to state agencies and departments for immediate and necessary activities that occur within 120 days after a proclamation of emergency by the Governor and can be extended in 120-day increments through notification of the JLBC. However, the spending authority generally only extends for the duration of the fiscal year in which the first extension occurred. As a result, the Administration is seeking to extend the spending authority authorized by DREOA for an additional year for COVID-19-related activities.

Governor's Proposal. The Governor's proposed budget adds Control Section 11.92 which would authorize the Administration the use of DREOA for expenditures to respond to the March 4, 2020 proclamation of a state of emergency for COVID-19 for the 2021-22 fiscal year. Control Section 11.92 would allow the Director of Finance to allocate at least $406 million for unanticipated COVID-19-related expenditures including statewide hospital and medical surge, contact tracing, and other emergency operations costs. In addition, the new control section would allow the Administration to transfer any additional funding it deems necessary for COVID-19-related response efforts from the SFEU to DREOA or using the broader authority under CESA.

Potential Questions for the Subcommittee to Consider:

- Did the Administration consider using Control Section 36 instead of proposing Control Section 11.92 to appropriate the $406 million and/or any additional COVID-19 response funding?
- How does the Administration plan to notify the Legislature of future COVID-19-related expenditures made through Control Section 11.92?

Staff Recommendation. Hold open.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman

Thursday, March 4, 2021
30 Minutes after adjournment of PART A
State Capitol - Room 3191
PART B

Consultant: Christopher Francis, Ph.D.

Public Comment

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

DISCUSSION ITEMS

0552 OFFICE OF THE INSPECTOR GENERAL (OIG)
5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

Issue 1: Special Review of the CDCR's New Procedure for Handling Grievances Involving Staff Misconduct

Background and Timeline.

The CDCR defines a staff misconduct grievance as an allegation that staff violated a law, regulation, policy, or procedure, or acted contrary to an ethical or professional standard, that would more likely than not subject a staff member to adverse disciplinary action if it were found to be true. In January 2018, the Secretary of the CDCR and attorneys from the Prison Law Office requested that the OIG assess Salinas Valley State Prison's (SVSP) process of handling inmate allegations of staff misconduct, referred to as "staff complaints." The OIG conducted an investigation and released a report with findings on January 24, 2019. The findings included the following:

- Between December 1, 2017 through May 31, 2018, there were 3,218 staff complaint appeals statewide. SVSP received 298 during this same period of time which was significantly higher than other institutions.

- The process utilized at SVSP to review allegations was inadequate and the assigned staff investigators were inadequately trained.
  - Of the 188 staff complaint inquiry reviews, 55 percent were found to be inadequate and 92 percent had at least one significant deficiency.
  - Of the 150 staff complaint inquiries that could have had relevant evidence to collect, reviewers failed to do 60 percent of the time.
  - Of the 61 reviewers at this one prison, only 23 percent had received any relevant training on the complaint inquiry process and 8 percent had received none.

- Staff Complaint Reviewers were not independent and, at times, displayed bias in favor of their fellow staff members, ignored inmate witness testimony, and often compromised confidentiality.
  - The prison assigned a reviewer who worked on the same yard and shift as the subject of the inquiry 60 percent of the time.
  - In at least 5 instances, the reviewer was actually involved in the incident giving rise to the staff complaint.
  - In a significant number of appellant and witness interviews, reviewers compromised the confidentiality of the process.

- While most of the staff complaint inquiries were completed within the required time frames, inmates were not notified, as required, when inquiries were overdue.

- SVSP staff worked more thoroughly when reviewing complaints submitted by attorneys who represented inmates but they still did not complete high quality inquiries.

OIG Recommendations in 2019 Report. Amongst the OIG's recommendations were the following:

- To address the independence and quality issues identified in the report, a complete overhaul of the staff complaint process and reassignment of the responsibility of conducting staff complaint inquiries to employees who work outside of the prison's command structure which is the Division of Adult Institution is needed. To achieve this, a regionalized model should be adopted so that reviewers are not co-located in the facilities where they conduct staff complaint inquiries.

- Provide comprehensive and ongoing training to all staff members who may be assigned to conduct staff complaint processes and assign inquiries to only to those individuals who have received training and are certified.

- Consider requiring reviewers receive a certificate from the California Commission on Peace Officer Standards and Training with respect to conducting investigations.

- Consider requiring audio-recorded interviews of staff subjects and witnesses and video-record or at least audio-record all appellant and inmate witness interviews.

Although the OIG only reviewed one institution, the policies and procedures at SVSP are in place statewide. Any structural limitations or weaknesses of the grievance process at SVSP likely exist at other institutions.

CDCR's 2019 proposal in response to OIG report-staffing and location. To address the independence and quality issues raised in the OIG audit, CDCR submitted a budget proposal to the Legislature, requesting $9.8 million General Fund and 47 positions in 2019-20 and ongoing to implement a new regional model for reviewing and investigating inmate complaints of staff misconduct, as well as revise CDCR's grievance review process. This new process would conduct inquiries into incarcerated persons' allegations of staff misconduct through a new unit, called the Allegation Inquiry Management Section (AIMS).

The department proposed, at the time, to establish 47 positions: one chief deputy administrator, six captains, 36 correctional lieutenants, one analyst, and three office technicians. CDCR also proposed to structure the unit similar to OIA's regionalized investigative staffing model, in which correctional lieutenants would be assigned to specific adult institutions. Under this model, their sole responsibility would be to conduct staff complaint inquiries, of which there were 6,259 in 2018 at the institutional level. CDCR estimated that a complete and thorough inquiry of a staff complaint, including interviews, evidence gathering, report writing, and management review, will take an average of 12 hours. The inquiry unit staff work locations would be based in the three OIA regional offices overseen by the chief deputy administrator.

The department's proposal was included in the 2019 Budget Act. In turn, the department developed new regulations and procedures for handling grievances involving staff misconduct; it also established AIMS and hired staff. The new process went into full effect on April 1, 2020.

The Allegation Inquiry Management Section (AIMS) processes. Below is a summary of the AIMS process:

1. An incarcerated person files a grievance with the prison's Office of Grievances where it is reviewed, logged and then passed to a coordinator. The coordinator selects those grievances that they believe contains an allegation of staff misconduct using the definition in 2(a) below as reference. This is then sent to the reviewing authority (the prison's warden or deputy warden).
2. The warden or chief deputy warden then determines whether the allegation meets the following definition of staff misconduct:

a) An allegation that departmental staff violated a law, regulation, policy, or procedure, or acted contrary to an ethical or professional standard, which, if true, would more likely than not subject a staff member to adverse discipline.

3. If the allegation does meet the definition, the warden or chief deputy warden is required to refer the grievance to the OIA. If the grievance provides sufficient information to establish a reasonable belief that the alleged misconduct happened, it must go to the OIA's Central Intake Unit, with a request for a formal investigation or permission to take adverse action without additional investigation. If not, it goes to AIMS with a request for an inquiry.

4. AIMS first reviews the grievance to see if it meets threshold requirements which includes considerations such as whether AIMS disagrees with the warden's determination that the allegation meets the definition of staff misconduct or the claim concerns harm to a person other than the person who signed the grievance, among others. If the grievance meets any of these criteria, the grievance is returned with no inquiry or investigation. For those that meet the threshold criteria, AIMS performs an allegation inquiry that involves interviews, and information gathering. Once AIMS staff establish a reasonable belief that staff misconduct occurred, they stop the inquiry and are not required to complete it. AIMS staff then summarize the information into a report without a judgement of guilt or innocence. The regulations are silent as to what happens to the report but the OIG observed its return back to the prison warden. If the warden determines that the report establishes a reasonable belief that the staff member engaged in misconduct, the report is returned to the OIA's Central Intake Unit where it reviews the report and takes one of three actions:

a) If the Central Intake Unit concludes there is sufficient evidence to sustain the allegations by a preponderance of the evidence, it will authorize the warden to take adverse action against employee without any further investigation;
b) If the Central Intake Unit concludes that there is reasonable belief that misconduct occurred, it will approve and open a formal investigation into the allegation; or
c) If the Central Intake Unit concludes there is no reasonable belief that misconduct occurred, it will reject the request to open an investigation and return the report to the warden.

Exclusions to the AIMS process. The following types of allegations are not referred to AIMS and are retained at the prison level:

a) Unnecessary or excessive use of force that was reported by staff but did not result in serious bodily injury.
b) Sexual misconduct or sexual harassment against an incarcerated person.
c) Staff involvement in due process violations during the disciplinary process.
d) Disagreement with staff decisions during the disciplinary process
e) Issuance of false rules violation reports

f) Staff misconduct in connection with the Americans with Disabilities (ADA) reasonable accommodation process.

OIG 2021 Special Review on CDCR's Staff Misconduct Inquiry Process (AIMS). The OIG's report covers a five month period to assess the AIMS process. Some of the results are as follows:

- Between April 1, 2020 and August 31, 2020, a five month period, AIMS process handled about 86 total staff misconduct grievances per month. Prisons received 468 staff misconduct grievances per month, nearly the volume the department projected AIMS could perform.

- During this same period of time, wardens exonerated 98.3 percent of the allegations of staff misconduct.

- There were 50,412 grievances filed by an incarcerated person to the local prison's Office of Grievances where staff and the warden made determinations:
    - 48,073 grievances were retained at the prison level and characterized as routine grievances. The OIG estimates that 4,200 of these may have been mischaracterized as a routine grievance when they should have been characterized as a staff misconduct grievance
    - 2,339 grievances were characterized as staff misconduct grievances.
        - 1,798 were retained the grievance at the prison for a local inquiry or a supervisory review
        - 541 were referred to the Office of Internal Affairs' AIMS for inquiry.
        - Zero were referred to the Office of Internal Affairs' Central Intake Unit for consideration of a formal investigation or for permission to take adverse action without an investigation.

- Of the 541 grievances wardens referred to AIMS, the new unit accepted 428 (79 percent) and returned 113 (21 percent) without an inquiry.

- Grievances AIMS refused to accept included allegations of unreasonable use of force, threats and intimidation, dishonesty, neglect of duty, sexual misconduct, and retaliation, among other serious allegations.

- AIMS investigators abruptly stop their work as soon as they form a reasonable belief that staff misconduct occurred and before they gather all witnesses' risks, leaving undiscovered relevant evidence and may cause related allegations to pass uninvestigated.

Staff Recommendation. Oversight item. No action is needed at this time.

Issue 2: *Armstrong* Court Compliance

Governor's Budget. The budget includes $13.5 million General Fund and 22.8 positions in 2020-21, $10.1 million General Fund and 34.9 positions in 2021-22, and $7.0 million and 34.9 positions in 2022-23 and ongoing to deploy the Audio Video Surveillance System (AVSS) and body-worn cameras at Richard J. Donovan (RJD) Correctional Facility, AVSS at part of California State Prison, Los Angeles County, create the Staff Complaint Screening Process, and expand the Allegation Inquiry Management

Section in order to reform the staff complaint process to comply with the requirements ordered by the United States District Court in *Armstrong v. Newsom* (No. 4:94-cv-02307-CW N.D. Cal.).

Background.

Armstrong lawsuit. The federal Americans with Disabilities Act (ADA) provides civil rights protections and equal access to public and private services and facilities for individuals with disabilities. The Prison Law Office and Rosen Bien Galvan and Grunfeld (RBGG) filed the class action lawsuit *Armstrong* in federal court in 1994 against the Governor of California and CDCR because people with certain disabilities did not have equal access to prison programs, services, and activities, as required by the Americans with Disabilities Act (ADA). Over the years, the name of the case has changed as different Governors came into office. Currently the case is named *Armstrong v. Newsom*, but it normally is referred to simply as *Armstrong*. In 1999, CDCR negotiated a settlement in the lawsuit and developed the Armstrong Remedial Plan (ARP) to address the areas of noncompliance. The federal court as a result ordered prison officials to follow the ADA, to provide disability accommodations, and to make sure that the prisons are accessible for class members. In 2007, the court issued an injunction because it found CDCR to be in continued violation of the ADA and ARP.

Between 2015 and 2019, the parties filed several joint status reports. As of May 2020, the most recent status report was filed on January 15, 2020. The statement presented the status of issues such as allegations of abuse and violence by CDCR staff, accommodations for deaf prisoners, the problem of equal access to job and program assignments for people with disabilities, statewide durable medical equipment reconciliation and accuracy of disability tracking information, accommodations for blind and low vision class members, and more. For the most part, the parties continued to work collaboratively and in good faith. However, the plaintiffs expressed concern about ongoing reports of discrimination by CDCR staff against class members. In 2019, the plaintiffs had sent a letter cataloguing multiple incidents of staff misconduct against Armstrong and Coleman v. Brown (E.D. Cal.) class members at Richard J. Donovan Correctional Facility (“RJD”) over the past two and a half years and demanding that CDCR implement remedial measures by January 1, 2020. Given the ongoing reports of abuse, plaintiffs had begun taking depositions of CDCR staff members in January 2020. Additionally, plaintiffs remained concerned about accommodations for D/deaf prisoners, in particular with respect to defendants’ heavy reliance on video remote interpretation (VRI), which plaintiffs’ counsel have observed to be inadequate in many group settings, in violation of the ADA and court orders.[1]

On February 28, 2020, the plaintiffs filed a sealed motion for an injunction stopping defendants from assaulting, abusing and retaliating against people with disabilities at RJD. In support of their motion, 54 incarcerated people submitted declarations. Some of the declarants alleged instances in which correctional officers at RJD retaliated against them or others for, among other things, submitting or threatening to submit complaints regarding staff misconduct or failures to provide disability accommodations. Some of the declarants also alleged instances in which correctional officers at RJD retaliated against incarcerated people by charging incarcerated people with false rules violations reports.[2]

Coleman v. Newsom. On September 13, 1995, a federal court in Sacramento ruled that the CDCR is not providing adequate mental health care. The ruling was in a case called *Coleman v. Wilson* (now *Coleman*

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[1] Description taken from: University Of Michigan Law School Civil Rights Litigation Clearinghouse, *Armstrong v. Newsom*, https://www.clearinghouse.net/detail.php?id=572.

[2] *Ibid.*

v. Newsom). The case covers all prisoners with serious mental disorders housed in California state prisons. The case continues today.
The Court said that prison officials violated the cruel and unusual punishment clause of the Constitution because they did not provide adequate mental health care. The Court identified six areas where the CDCR needs to make improvements: screening, treatment programs, staffing, accurate and complete records, medication distribution, and suicide prevention. Also, the Court found that prison officials violated the law by depriving prisoners of involuntary medication. Finally, the Court found that prison officials violated the Constitution by punishing prisoners for misconduct, placing them in Administrative Segregation, and using a taser or 37 mm gun without considering the mental health needs of the prisoners. The Court approved CDCR's plan for providing mental health care. That plan is now set forth in the "Mental Health Services Delivery System Program Guide." The Court also appointed a Special Master who, among other things, monitors and reports on CDCR's compliance with the mental health Program Guide.

Video Surveillance at Prisons. In 2015, the Office of Inspector General (OIG) conducted a special review of High Desert State Prison (HDSP). The resulting report stated, "Surveillance is invaluable in capturing misconduct, documenting inmate activity, and exonerating employees who have been wrongly accused of misconduct. High quality visual recordings of incidents can serve to resolve…conflicting accounts. In addition, there are many rule violations and crimes inmates commit that visual recordings could memorialize for just resolution." The report further recommended CDCR "immediately install cameras in all inmate areas, including, but not limited to, the exercise yards, rotundas, building dayrooms, patios, and program offices of HDSP."

In 2016, CDCR installed an Audio Video Surveillance Solution (AVSS) with 207 high definition cameras in designated high traffic and large congregation areas at HDSP. This served as a technical pilot, enabling CDCR to test the viability of operating this type of equipment on CDCR's network. In 2017-18, CDCR received funding to complete the AVSS at HDSP and install the AVSS at Central California Women's Facility (CCWF). These locations were determined to have an immediate need for AVSS based on criteria such as the number of violent incidents in FY 2015-16.

Also in 2016, a *Coleman* Special Master monitoring team toured California State Prison, Sacramento (SAC) due to an increased number of allegations against the staff within their Psychiatric Services Unit, Treatment Centers, and Administrative Segregation Units. The resulting report recommended CDCR install video surveillance cameras to increase observation and provide transparency in areas where actions leading to allegations commonly occur. In 2018-19, CDCR received funding and installed 178 video surveillance cameras at SAC.

2020 U.S. District Court Order in response to plaintiffs' motions. In September 2020, the U.S. District Court of California also ordered CDCR in *Armstrong v. Newsom* (No. 4:94-cv-02307-CW N.D. Cal.) to install surveillance cameras in all areas of RJD to which incarcerated people have access, including, but not limited to, all exercise yards, housing units, sally-ports, dining halls, program areas, and gymnasiums within 90 days. CDCR was further ordered to retain all footage for a minimum of 90 days and footage of use of force and other triggering events retained indefinitely. The Court further ordered CDCR to begin using body-worn cameras (BWC) for all correctional officers and Sergeants at RJD who may have any interaction with protected class members within 60 days. The court ordered the CDCR to develop this plan within 21 days after finding that systemic abuses against incarcerated people with disabilities

existed, were documented in more than one hundred declarations, and that the CDCR were aware of these abuses violated the ADA and court orders previously issued in *Armstrong v. Newsom*.
The Court contended that BWCs are likely to improve investigations of misconduct by staff and reduce the incidence of violations of class members' rights under the Armstrong Remedial Plan (ARP) and American with Disabilities Act (ADA).

The Court also ordered CDCR to develop measures in order to reform its staff complaint, investigation, and discipline processes, which shall be included in the RJD ARP.

In addition, the court order expands the responsibility of AIMS to conduct inquiries on not only staff complaints, but also alleged violations pertaining to other categories such as ADA, ARP, Health Care, Use of Force, and the Prison Rape Elimination Act. The state is currently appealing the order.

CDCR Justification and Projected Use of Resources.

Request Components, by Program

Program Component	2020-21 Positions	2020-21 Dollars	2021-22 Positions	2021-22 Dollars
Supervisory Staffing at RJD	11.8	$1.8 million	17.9	$3.0 million
Staff Complaint Screening Unit and Allegation Inquiry Management Section	6.8	$1.5 million	10.0	$2.3 million
AVSS/BWC Technology at RJD	4.2	$10.2 million	6.0	$1.3 million
AVSS Technology at LAC	-	-	1.0	$3.5 million
Total	**22.8**	**$13.5 million**	**34.9**	**$10.1 million**

Depending on the institution size and design, each AVSS may consist of approximately 500 to 1,000 digital cameras installed inside and outside the buildings throughout an institution. Typical locations include, but are not limited to: yards, housing units, program buildings, administration buildings, visiting rooms, gymnasiums, sally ports, and visitor processing areas. This proposal, unlike existing AVSS in the department, also includes a BWC for each correctional officer and sergeant identified at RJD as having regular interaction with inmate Armstrong class members. This equates to approximately 735 BWCs for correctional officer and sergeant positions at RJD, along with 960 fixed cameras that include audio recording capabilities.

CDCR requests a supervisory component consisting of nine Correctional Sergeants and one Correctional Lieutenant 7-day posts with relief at RJD to ensure oversight and implementation. These staff will ensure compliance with newly established guidelines, policies, and procedures. Some of the duties include, but are not limited to, training personnel, reviewing video footage, conducting daily tours of housing units, leading investigations of allegations and grievances, identifying corrective measures, reporting findings, monitoring appropriate housing of inmates, and ensuring equal access to programs, services, and activities.

This proposal also includes funding for camera installation at LAC as a proactive approach to address similar issues to those at RJD. The selection of these yards was based on the population demographics and the nature of the allegations received. This approach demonstrates the Department's commitment to this strategy while balancing current budget constraints with the efficient use of state funds to focus on specific locations within the Department. This would provide CDCR the resources to immediately procure and deploy AVSS for Facilities B and D at LAC, which includes one Correctional Officer positon without relief and 269 fixed cameras.

Staff Recommendation. Hold open.

0530 CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY (HHSA)

Issue 3: Office of Youth and Community Restoration

Governor's Budget. The Governor's budget includes 19.0 permanent positions and $3.4 in 2021-22 and $3.1 in ongoing General Fund to establish and operate the Office of Youth and Community Restoration (OYCR).

Background.

The Governor's January Budget in 2020 proposed to transfer the Division of Juvenile Justice (DJJ) to a newly created independent department within the Health and Human Services Agency (HHS) on July 1, 2020. That approach was intended to align the rehabilitative mission of the state's juvenile justice system with trauma-informed and developmentally appropriate services supported by programs overseen by the state's HHSA. The unprecedented fiscal impact of COVID-19 resulted in the withdrawal of this proposal. Subsequently, the 2020 May Revision proposed to expand on previous efforts to reform the state's juvenile justice system by transferring the responsibility for managing all youthful offenders to local jurisdictions.

SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020. SB 823 established a plan to fully realign the state's juvenile justice responsibilities to counties. DJJ will generally stop intake beginning July 1, 2021. Going forward, youths who would otherwise have been placed in DJJ will instead be supervised by county probation departments. The 2020-21 budget provides BSCC with $9.6 million (one-time General Fund) for competitive grants to counties intended to support the implementation of SB 823. Funds can be used for infrastructure-related needs and improvements associated with the realigned responsibilities. Recipients must submit a report on how the funding is used. Pursuant to SB 823, the state will provide annual General Fund support to counties beginning in 2021-22 with $46.5 million— increasing to about $208 million by 2024-25—to support the juvenile justice realignment. Funding will be distributed based on each county's total youth population, historical use of DJJ, and the number of youth with adjudications for certain serious or violent crimes. Beginning in 2022-23, counties will need to submit for state approval plans on how the funding would be utilized.

Statute establishing OYCR. SB 823 established the Office of Youth and Community Restoration (OYCR) within the Health and Human Services Agency (HHSA), effective July 1, 2021. The objective of the OYCR is to fulfill the rehabilitative purpose of the state's juvenile justice system through trauma-informed and developmentally appropriate services and programs. Per statute, the office assumed the following responsibilities:

"(a) Commencing July 1, 2021, there is in the California Health and Human Services Agency the Office of Youth and Community Restoration.

(b) The office's mission is to promote trauma responsive, culturally informed services for youth involved in the juvenile justice system that support the youths' successful transition into adulthood and help them become responsible, thriving, and engaged members of their communities.

(c) The office shall have the following responsibility and authority:

(1) Once data becomes available as a result of the plan developed to Section 13015 of the Penal Code, develop a report on youth outcomes in the juvenile justice system.

(2) Identify policy recommendations for improved outcomes and integrated programs and services to best support delinquent youth.

(3) Identify and disseminate best practices to help inform rehabilitative and restorative youth practices, including education, diversion, re-entry, religious and victims' services.

(4) Provide technical assistance as requested to develop and expand local youth diversion opportunities to meet the varied needs of the delinquent youth population, including but not limited to sex offender, substance abuse, and mental health treatment.

(5) Report annually on the work of the Office of Youth and Community Restoration.

(d) The office shall have an ombudsman that has the authority to do all of the following:

(1) Investigate complaints from youth, families, staff, and others about harmful conditions or practices, violations of laws and regulations governing facilities, and circumstances presenting an emergency situation.

(2) Decide, in its discretion, whether to investigate a complaint, or refer complaints to another body for investigation.

(3) Resolve complaints when possible, collaborating with facility administrators and staff to develop resolutions that may include training.

(4) Publish and provide regular reports to the Legislature about complaints received and subsequent findings and actions taken. The report shall comply with all confidentiality laws.

(e) The Office of Youth and Community Restoration shall evaluate the efficacy of local programs being utilized for realigned youth. No later than July 1, 2025, the office shall report its findings to the Governor and the legislature.

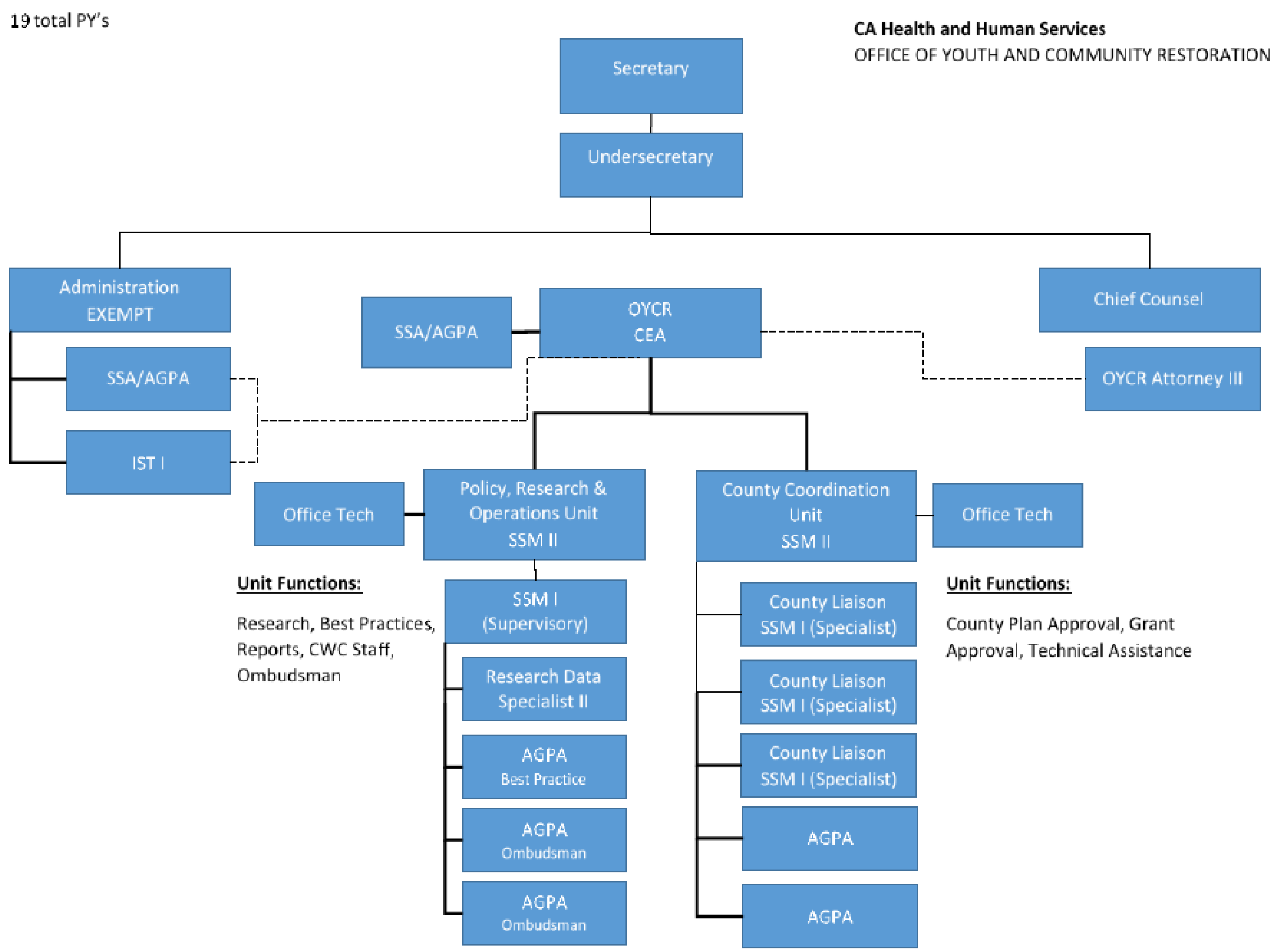
(f) Juvenile grants shall not be awarded by the Board of State and Community Corrections without the concurrence of the office. All juvenile justice grant administration functions in the Board of State and Community Corrections shall be moved to the office no later than January 1, 2025."

2201.

(a) Until July 1, 2023, the committee established pursuant to Section 12824 of the Government Code shall be responsible for advising and providing recommendations related to policies, programs, and approaches that improve youth outcomes, reduce youth detention, and reduce recidivism for the population in subdivision (b) of Section 1990.

(b) The committee established pursuant to Section 12824 of the Government Code shall work directly with the Office of Youth and Community Restoration, the Division of Juvenile Justice, and shall be staffed by the California Health and Human Services Agency."

Staffing and Resource Request. In order to implement the provisions of SB 823, HHSA's proposal includes resources for 19 full-time employees. A proposed organizational chart for the office is below.



Staff Recommendation. Hold open.

VARIOUS DEPARTMENTS

Issue 4: Various County Probation Proposals

Governor's Budget. The Governor's budget for 2021-22 includes three proposals to increase state General Fund support for county probation departments:

1. ***SB 678 (Leno), Chapter 608, Statutes of 2009 Grant Modification***—A proposed modification to the grant program created by The California Community Corrections Performance Incentives Act of 2009 which provides grants to counties through the CDCR. Specifically, the proposal freezes the SB 678 formula and includes an adjustment to the SB 678 grant program to provide each county with their maximum SB 678 grant award from the prior three fiscal years through trailer bill language. In order to support this adjustment, CDCR's proposed budget includes a $10.3 million General Fund augmentation, bringing the total SB 678 grant awards to $123 million in 2021-22 and ongoing.

2. ***New Probation Grant Program***—$50 million one-time in 2020-21 to support a new county probation grant program that would be administered by the Board of State and Community Corrections (BSCC). According to the administration, the funds are intended to assist with the potential decline in SB 678 grants (as previously discussed) and help probation departments implement SB 823 and AB 1950.

3. ***Funding for COVID-19-Related Releases***—$12.1 million one-time in 2021-22 for BSCC to support county probation department workload associated with supervising certain people released from state prison early in response to the novel coronavirus disease 2019 (COVID-19). Staff notes that this item was also heard on February 4, 2021 in Subcommittee No. 5.

Background.

SB 678 and modifications. The Legislature designed the California Community Corrections Performance Incentives Act of 2009, or SB 678 program with two purposes: 1) to alleviate state prison overcrowding and 2) save state General Fund. These purposes are to be accomplished without compromising public safety by reducing the number of individuals on felony supervision (i.e. felony probation, mandatory supervision, post release community supervision) who are sent to state prison. The program is also designed to encourage county probation departments to use evidence-based supervision practices to accomplish these goals.

Since passage of the act, the State of California has adopted significant changes in criminal justice policies that directly impacted SB 678—most notably the 2011 Public Safety Realignment, which reduced the number of probationers eligible for revocation to state prison and created two new groups of offenders subject to local supervision. In order to maintain effective incentives and account for the significant changes in criminal justice policy, SB 85, adopted as a trailer bill to the 2015–2016 State Budget, revises the SB 678 funding formula and creates a funding methodology that should serve as a long-term formula.

Below is a summary of the SB 678 funding formula, which includes three funding components:

- ***Funding Component #1:*** *Comparison of county to statewide return to prison rates.* The first funding component measures each county's performance against statewide failure rates. Each county's return to prison rate (RPR), which equals the number of individuals on felony probation, mandatory supervision, and PRCS sent to prison as a percentage of the total supervised population, is compared to statewide RPRs since the original SB 678 baseline period (2006–2008).

- ***Funding Component #2:*** *Comparison of each county's return to prison rate and its failure rate in the previous year.* The second funding component is based on how each county performs in comparison to its performance the previous year. Each year a county's RPR from the previous year is applied to its current year's felony supervised populations to calculate the expected number of prison revocations. If a county sends fewer individuals on felony supervision to prison than the expected number, the county will receive 35% of the state's costs to incarcerate an individual in prison multiplied by the number of *avoided* prison stays. The number of avoided prison revocations are calculated separately for each felony supervised population (i.e. felony probation, mandatory supervision, Post-Release Community Supervision).

- ***Funding Component #3:*** *$200,000 minimum payment.* The third funding component guarantees a minimum payment of $200,000 to support ongoing implementation of evidence-based practices. If a county's total payment (from funding components 1 and 2) is less than $200,000, the Department of Finance will increase the final award amount so that it totals $200,000.

- ***Yearly Allocations from SB 678.*** At the end of each calendar year the California Department of Finance determines each probation department's SB 678 funding allocation based on each county's performance as described above. County probation departments must spend SB 678 funds on the implementation or enhancement of evidence-based practices, including, but not limited to, risk/needs assessment, use of graduated sanctions, and provision of evidence-based treatment modalities such as cognitive behavioral therapy.

Recent Policy Changes that Impact Probation Departments. The following changes will or have had impacts on probation departments:

- ***Reduction in Maximum Probation Terms AB 1950 (Kamlager), Chapter 328, Statutes of 2020.*** AB 1950 reduced maximum probation terms to one year for misdemeanors and two years for felonies. Previously, misdemeanor probation terms could last up to three years and felony probation terms could last up to five years or the maximum sentence for the offender's crime, whichever was greater.

- ***COVID-19-Related Prison Releases to PRCS.*** Beginning in April 2020, CDCR began releasing certain incarcerated persons with nonviolent offenses who are within 180 days of their release date in order to mitigate the spread COVID-19 by reducing the population density in prisons. This policy has resulted in a temporary increase in the PRCS population. The state has been providing county probation departments with about $28 per day for each day that an inmate is released early.

- ***Juvenile Justice Realignment SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020*** established a plan to fully realign the state's juvenile justice responsibilities to counties. DJJ will generally stop intake beginning July 1, 2021. Going forward, youths who would otherwise have been placed in DJJ will instead be supervised by county probation departments. The 2020-21 budget provides BSCC with $9.6 million (one-time General Fund) for competitive grants to counties intended to support the implementation of SB 823. Funds can be used for infrastructure-related needs and improvements associated with the realigned responsibilities. Recipients must submit a report on how the funding is used. Pursuant to SB 823, the state will provide annual General Fund support to counties beginning in 2021-22 with $46.5 million— increasing to about $208 million by 2024-25—to support the juvenile justice realignment. Funding will be distributed based on each county's total youth population, historical use of DJJ, and the number of youth with adjudications for certain serious or violent crimes. Beginning in 2022-23, counties will need to submit for state approval plans on how the funding would be utilized.

LAO Assessments and Recommendations for SB 678 Proposal

- ***Adjustment to SB 678 Grant Appropriate in Near Term.*** Given that the COVID-19-related releases to PRCS and AB 1950 will likely reduce SB 678 grant awards for reasons unrelated to their performance, we find that it is appropriate to temporarily adjust the grant formula.

- ***Recommendation: Approve Proposed SB 678 Grant Modification for One Year.*** The SB 678 grant program provides funding to county probation departments as an incentive for them to reduce the percentage of felons on county supervision sent to state prison. The Governor proposes to modify the program so that counties receive their maximum grant from the prior three years and provide $10.3 million (General Fund) to support this modification. Otherwise, grant amounts would decline due to policy changes unrelated to county performance. Given this, the LAO recommend approving the modification but only for one year and directing the Administration to provide a plan for incorporating performance into the grant in the future—consistent with the original intent of the program.

- ***Recommendation: Direct Administration to Provide Long-Term Plan for SB 678.*** To ensure the intent of SB 678 is preserved in the long run, the LAO recommends that the Legislature adopt budget trailer legislation directing the Department of Finance to provide a long-term plan for adjusting the SB 678 formula to preserve its incentive structure no later than January 10, 2022.

LAO Assessments and Recommendations for New Probation Grant Program

- ***No Apparent Need for Requested Funding.*** At the time of this analysis, the administration has not provided any information to justify the need for the proposed $50 million. Moreover, it has not defined a particular problem that cannot be addressed with the state resources currently available to county probation departments, including funding to implement SB 823 which will increase over the next few years. In addition, since the Governor's budget also includes additional funding to specifically prevent a decline in SB 678 grant awards (as discussed earlier), it is unclear why additional funds are needed for the same purpose. The LAO also note that AB 1950 is not expected to lead to any direct costs for probation departments. This is because AB 1950 actually reduces the amount of time people spend on probation, which, in turn, should significantly reduce probation workload and costs.

- ***No Allocation Plan Provided.*** The Administration has not provided a plan for how the grant funding would be allocated. For example, the administration has not indicated what criteria would be used to determine the amount of funding each county would receive. Without this such information, it is difficult for the Legislature to determine if the requested resources will be targeted effectively at achieving expected outcomes.

- ***Lack of Accountability.*** The Administration has not provided any language that specifically requires counties to use the funds for activities consistent with the proposal's intent. Moreover, unlike funding provided through SB 678 and SB 823, the proposal does not include any requirements for county probation departments to report on how they plan to spend (or actually spent) the funds. Accordingly, probation departments would have the ability to use the funding for purposes unrelated to the implementation of recent policies or keeping youth and adults out of the criminal justice system. Recommendation

- ***<u>Recommendation:</u> Reject Proposed Probation Grant Program.*** In view of the lack of justification, allocation plan, and accountability mechanisms, the LAO recommends that the Legislature reject the Governor's proposal to establish a new grant program for county probation departments.

LAO Assessment and Recommendations for Funding for COVID-19 Related Releases

- ***Uncertain How Many COVID-19-Related Releases to PRCS Will Occur in 2021-22.*** There is significant uncertainty as to the exact number of inmates who will be released early onto PRCS in 2021-22 to mitigate the spread of COVID-19 in the state's prisons. This is due to two primary reasons:

1. First, as vaccines become more widely available over the next few months, there will likely be less of a need to reduce the density of the prison population. The LAO notes that vaccinations are already taking place in prison and the federal Receiver responsible for overseeing inmate health care reports that all interested inmates could be vaccinated within weeks if a sufficient amount of vaccines become available.

2. Second, while this proposal assumes 2,600 COVID-19-related releases to PRCS in 2021-22, other portions of the proposed budget assume that there will be no COVID-19-related releases. Specifically, the proposed CDCR budget is based on population estimates that assume COVID-19-related releases to PRCS will stop by June 30, 2021 (before the start of the next fiscal year). This suggests that either (1) the proposed funding for PRCS due to COVID-19-related releases is not needed or (2) CDCR's budget for 2021-22 should be reduced to reflect a lower inmate population resulting from the anticipated COVID-19-related releases.

<u>Recommendation:</u> Withhold Action on Proposed Funding for Expedited Releases to PRCS. Given the above uncertainty, we recommend that the Legislature withhold action on the Governor's proposal until the May Revision. By the time of the May Revision, there should be greater clarity on the likelihood of the COVID-19-related releases to PRCS continuing into 2021-22 and the potential implications this would have on the budget.

Staff Recommendation. Hold open all proposals.

0820 DEPARTMENT OF JUSTICE (DOJ)

3-YEAR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2018-19	2019-20	2020-21	2018-19*	2019-20*	2020-21*
0435	Division of Legal Services	1,650.5	1,686.8	1,718.8	$465,171	$546,740	$558,705
0440	Law Enforcement	941.8	1,046.2	1,052.8	230,215	300,309	287,705
0445	California Justice Information Services	1,024.9	1,082.3	1,120.4	206,281	239,119	245,159
9900100	Administration	897.8	897.2	909.2	116,825	140,665	143,813
9900200	Administration - Distributed	-	-	-	-116,825	-140,665	-143,813
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**4,515.0**	**4,712.5**	**4,801.2**	**$901,667**	**$1,086,168**	**$1,091,569**

*Dollars in Thousands

Issue 5: Various Legislative Proposals

Governor's Budget. The budget includes the following proposals to implement legislation passed during the 2020 session:

BCP/PROJECT NAME	PROPOSED RESOURCES	DESCRIPTION
Police Use of Force AB 1506 (McCarty), Chapter 326, Statutes of 2020	67 positions and $13 million General Fund in 2021-22, and $13.5 million in 2022-23 and ongoing	**Background.** AB 1506 requires DOJ to investigate all Officer-Involved Shootings (OISs) resulting in the fatality of a civilian who was not armed with a deadly weapon. This bill creates a division within the Department of Justice to, upon the request of a law enforcement agency, review the use-of-force policy of the agency and make recommendations, as specified. This bill requires a state prosecutor to investigate incidents of an officer-involved shooting resulting in the death of an unarmed civilian, as defined. The bill would make the Attorney General the state prosecutor unless otherwise specified or named. The bill authorizes the state prosecutor to prepare a written report, and would require the state prosecutor to post any reports made on a public internet website.

		The bill requires, commencing July 1, 2023, the Attorney General to operate a Police Practices Division within the department to review, upon the request of a local law enforcement agency, the use of deadly force policies of that law enforcement agency and make recommendations, as specified. OISs account for roughly 140 civilian fatalities per year. **Proposed use for resources.** Overall, DOJ proposes to use the requested resources to provide crime scene response and investigation, investigative analysis and reporting, legal support, review cases for possible charges, criminal case assistance, parallel criminal investigations, and administrative case oversight. The DOJ will establish three teams, one in each of the northern, central, and southern regions of California, to conduct investigations across the state per the mandates of AB 1506.
Reparation Task Force AB 3121 (Weber), Chapter 319, Statutes of 2020	$1.1 million General Fund and 5 positions in 2021-22 and 2022-23	**Background.** The passage of AB 3121 establishes the Task Force to Study and Develop Reparation Proposals for African Americans (Task Force). DOJ will oversee the Task Force, which will consist of nine members appointed by a specific selection process. During the Task Force's two-year effective period, the Task Force will be required to compile a detailed report on slavery in the United States, and recommend the methods, forms, and eligibility criteria for compensation related to slavery. Ultimately, the Task Force is required to produce a written report of its findings and recommendations to the Legislature. Without an appropriation by the Legislature, Task Force membership will be limited to agencies with an ability to reallocate preexisting resources for staff involvement, thereby potentially eliminating agencies that could be critical in assessing issues and recommending solutions. Civil Rights Enforcement Section is the DOJ section responsible for handling the investigation of violations of state and federal civil rights laws, and the enforcement of those laws through civil litigation and judgment implementation against those who violate those laws. **Proposed use of resources.** AB 3121 requires CRES to staff, convene, manage, and advise the Task Force, and will require DOJ to engage in substantial work to develop a written final report for the Legislature. This

		work will commence immediately given the statutory requirement to convene the Task Force prior to June 1, 2021. The Deputy Attorney General IV will have primary responsibility for developing the written work product and handling all legal research, review, and analysis. The Senior Legal Analyst will work with the Deputy Attorney General to support legal aspects, and will also handle many of the non-legal aspects of the development of information to support the Task Force's work. Finally, the Associate Governmental Program Analyst will have primary responsibility for all management and coordination aspects of the Task Force's work and regularly scheduled meetings.
Juvenile Court and Probation Statistical System Update (JCPSS) SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020	$1.9 million General Fund in 2021-22 and $1 million in 2022-23	**Background.** JCPSS is the primary statewide database of information collected from county agencies on all youth probation referrals, court actions, and final dispositions. The system also maintains data on a defined universe of data elements for each individual juvenile whose identifying information is entered into the system. Counties submit data into JCPSS on a monthly basis, via manual data entry or by web enabled uploading process. SB 823 established a plan to fully realign the state's juvenile justice responsibilities to counties. DJJ will generally stop intake beginning July 1, 2021. Going forward, youths who would otherwise have been placed in DJJ will instead be supervised by county probation departments. Moreover, SB 823 requires DOJ to, "submit a plan for the replacement of JCPSS with a modern database and reporting system." SB 823 will require DOJ to submit a plan to the Legislature by January 1, 2023, to replace JCPSS with a modern database and reporting system. SB 823 also requires DOJ to convene a working group consisting of key stakeholders for this effort. To develop the plan, SB 823 requires DOJ to create a working group to consider a wide variety of factors including many with significant legal consequences, such as privacy, pre and post adjudication detention terms, operation of the juvenile detention system, and the operational feasibility of the new system. **Proposed use of resources.** To convene a working group necessary to submit a plan for the replacement of the Juvenile Court and Probation Statistical System with a modern database and reporting system.

Pawnbrokers, AB 1969 (Blanca Rubio), Chapter 185, Statutes of 2020	$491,000 Secondhand Dealer & Pawnbroker Fund in 2021-22 and $114,000 in 2022-23	**Background.** Assembly Bill 391, enacted on August 17, 2012, mandated the DOJ develop and implement a single, statewide, uniform electronic reporting system. The system that is known as the California Pawn & SecondHand Dealer System (CAPSS) will be used by licensed secondhand dealers and pawnbrokers to report tangible personal property transactions as required by current law and it will serve as the single, statewide repository for this information. The CAPSS is funded entirely by secondhand dealers and pawnbrokers license fees and will be made available free of charge to authorized law enforcement agencies. Because CAPSS is made widely available to law enforcement agencies, it is conceivable that sworn officers employed by the federal agency Immigration and Customs Enforcement (ICE) would be authorized to perform queries and obtain reports from the system. According to the author, there is some anecdotal evidence that ICE agents have used CAPSS reports to identify potential subjects of interest in immigration enforcement activities, since many undocumented communities rely on a Matricula Consular to prove their identities. AB 1969 eliminates the requirement that the name and address of a seller or pledger of secondhand goods be reported to law enforcement when the seller or pledger verifies their identity with a Matricula Consular, and requires the state's database of secondhand property transactions to direct law enforcement to the dealer to obtain the seller or pledger's identity. **Proposed Use of Resources.** The passage of AB 1969 requires DOJ to perform database upgrades/modifications to include the option of “on file” for specified data fields in lieu of required personal identifying information when a Matricula Consular is used. The resources would be used to perform database upgrades and modifications to comply with the mandates.
Personal information: Social Security Numbers: State Agencies AB 499 (Mayes), Chapter 292, Statutes of 2020	$425,000 General Fund in 2021-22 and $168,000 in 2022-23	**Background.** Beginning January 1, 2023, AB 499 prohibits a state agency from sending outgoing United States mail to an individual if the mail contains the individual’s full social security number unless the number is truncated to its last four digits. By September 1, 2021, this bill requires state agencies to report to the Legislature on why full social security numbers are included on any mailed documents.

		The bill requires a state agency that, in its own estimation, is unable to comply with the restrictions on mailing social security numbers that have not been truncated to submit an annual corrective action plan to the Legislature until it is in compliance. The bill makes the reports, action plans, and related correspondence confidential and would prohibit their public disclosure. Existing law, Penal Code sections 11121 through 11127, allows persons for whom DOJ maintains a criminal history record to engage in the record review process. This process allows applicants to obtain a copy of their personal criminal history record that is compiled from DOJ's files, and allows the applicant to refute any inaccurate information in the record. Penal Code section 11124 requires DOJ to furnish a copy of the criminal history record—which contains the applicant's social security number—to the applicant or to an individual designated by the applicant. **Proposed Use of Resources.** AB 499 therefore requires DOJ to remove the applicant's full social security number from the record before a copy of the record is mailed to the applicant or an individual designated by the applicant. To meet these mandates, DOJ will need to make modifications to various systems, including the Automated Criminal History System, the California Restraining and Protective Order System, and the Wanted Person System. To make necessary information technology upgrades, DOJ intends to use consultant and staff resources.
Firearms: Inspections AB 2061(Limón), Chapter 273, Statutes of 2020	2 positions and $152,000 Dealers' Record of Sale Special Account in 2021-22, $600,000 in 2022-23, and $445,000 annually thereafter	**Background.** AB 2061 will, beginning July 1, 2022, allow DOJ to inspect firearms dealers, ammunition vendors, or manufacturers participating in a gun show or event, to ensure that all transfers or sales are conducted in compliance with applicable state and local laws. The bill will also allow DOJ to inspect ammunition vendors to ensure compliance with applicable state and federal laws. Finally, the bill will allow the department to adopt regulations to administer the application and enforcement of laws relating to gun shows and ammunition vendors. Although current law allows DOJ to inspect the records of some vendors at gun shows, historically, the Bureau of Firearms has been unable to execute compliance inspections due to a lack of program dedicated resources. This has obstructed DOJ's

		ability to establish a comprehensive, proactive inspection procedure and visible footprint at gun shows. Furthermore, a lack of administrative authority has impaired DOJ's ability to effectively account for, plan, and schedule inspections. **Proposed Use of Resources.** DOJ will be able to write gun show compliance regulations, hire two permanent staff dedicated to conducting inspections, and support overtime hours for existing staff, to inspect approximately 40 percent of gun shows throughout California and request Special Agent enforcement assistance when potential criminal activity has been identified. The requested resources and overt gun show inspection authority provided by AB 2061 will allow DOJ to deploy Field Representatives to inspect vendors at gun shows, which currently is not occurring. For context, an "inspection" is conducted by Field Representatives and criminal investigations are conducted by Special Agents. An inspection by Field Representatives may lead to a criminal referral to Special Agents who would potentially open an investigation. Without Field Representative involvement, Bureau of Firearms Special Agents have attended 46 gun shows between January 1, 2016 and December 31, 2020, averaging 9 per year. With AB 2061, DOJ anticipates the inspection of gun show vendors by Department Field Representatives will increase compliance with existing laws and regulations and will result in criminal investigations of ammunition vendors and licensed gun dealers. With the resources requested, DOJ anticipates attending 40 gun shows per year to conduct the requisite vendor inspections.
Firearms Dealers: Conduct of Business AB 2362 (Muratsuchi) Chapter 284, Statutes of 2020	$301,000 Dealers' Record of Sale Special Account in 2021-22 and $139,000 annually thereafter and one position	**Background.** To operate in California, firearms dealers and license holders must have: (1) a valid federal firearms license, (2) a regulatory or business license issued by a county or other local agency, (3) a valid seller's permit issued by the State Board of Equalization, and (4) a Certificate of Eligibility issued by DOJ. If firearms dealers and license holders have all of these items, they are included on a DOJ-maintained, centralized list that allows them to operate their business. DOJ conducts spontaneous, on-site inspections of firearms dealers and license holders to verify they are complying with California's firearms laws. DOJ's Field Representatives review dealers' records to ensure compliance with transfer requirements, dealer record and record retention

		requirements, facility maintenance and security requirements, and waiting period requirements. If a dealer or license holder is out of compliance, DOJ may provide verbal warnings to the dealer or license holder. DOJ may also send written notification to the dealer or license holder requesting corrective action. Follow up inspections may be performed to confirm if the corrective action has been taken. AB 2362 authorizes, commencing July 1, 2022, DOJ to impose civil fines on firearms dealers for breaches of regulations or prohibitions related to their firearms dealers license. Specially DOJ is authorized to impose a civil fine not exceeding $1,000 for a violation of those prohibitions, and a civil fine not exceeding $3,000 for a violation of those prohibitions when the licensee has received written notification from the department regarding the violation and fails to take corrective action, as specified, or the department determines the licensee committed the violation knowingly or with gross negligence. **Proposed Use of Resources.** To promulgate regulations, process an increase in citation assessments and forfeiture hearings for licensed dealers, update information technology infrastructure, and for licensing costs. The Bureau of Firearms is requesting one permanent Associate Governmental Program Analyst for the Training, Information and Compliance Section to track violations and fines issued, follow up on corrective actions with Field Representatives, and distribute notices to the industry, beginning July 1, 2021. The Bureau of Firearms is also requesting one limited-term Associate Governmental Program Analyst for the Legislation, Regulations and Public Records Act Unit for promulgating regulations regarding civil fines for non-compliant firearms dealers, beginning July 1, 2021.
Firearms: Unsafe Handguns AB 2847 (Chiu), Chapter 292, Statutes of 2020	$674,000 Dealers' Record of Sale Special Account in 2021-22 and $1.2 million in 2022-23	**Background.** Federal law currently imposes no design safety standards on domestically manufactured firearms. As a result, due to poor construction or design, firearms may jam, misfire, or malfunction. In 1999, California acted to fill gaps in the federal product safety law by enacting the Unsafe Handgun Act (UHA), which required that all newly developed handgun models meet basic reliability and safety standards to be certified for sale or manufacture by DOJ. In California, the only

		handguns that may be imported by gun manufacturers to be sold as new in the state are those that are listed on DOJ's "handgun roster." The handgun roster is a list of firearms deemed "not unsafe" after having passed numerous safety tests. DOJ determines what can or cannot go on the handgun roster. AB 2847 requires, commencing July 1, 2022, all semiautomatic pistols not already listed on the Department of Justice (DOJ) roster of "not unsafe" handguns be equipped with chamber load indicators, magazine disconnect mechanisms, and microstamping technology. AB 2847 eases compliance by requiring that newly developed semiautomatic pistol models etch microstamping characters on one place on the interior of the firearm, as opposed to two as currently required. Additionally, AB 2847 furthers implementation of the new UHA requirements by directing the Attorney General to remove three previously grandfathered handgun models from the roster for each new compliant handgun model that is introduced. **Proposed Use of Resources.** To promulgate regulations prompted by this measure and, potentially, related to IT system changes and litigation. Specifically, the DOJ states that changes need to be made to the Automated Firearms System, Dealers' Record of Sale (DROS), DROS Entry System (DES), and Consolidated Firearms Information System. The requested resources would be dedicated to ensuring that the functionality specific to AB 2847 remains operational as subsequent changes are made to the impacted systems.

Staff Recommendation. Hold open all proposals.

Issue 6: Bureau of Forensic Services (BFS) Proposals

Governor's Budget. The budget includes two proposals related to the Bureau of Forensic Services:

1. ***Ongoing General Fund Backfill.*** The Governor's budget proposes $16 million to backfill a projected decline in criminal fine and fee revenue in the DNA Identification Fund in order to maintain existing service levels in the budget year. Specifically, the budget proposes (1) a $6 million ongoing General Fund augmentation in 2021-22 (increasing to $18.3 million annually beginning in 2022-23) and (2) an ongoing redirection of $10 million General Fund from the

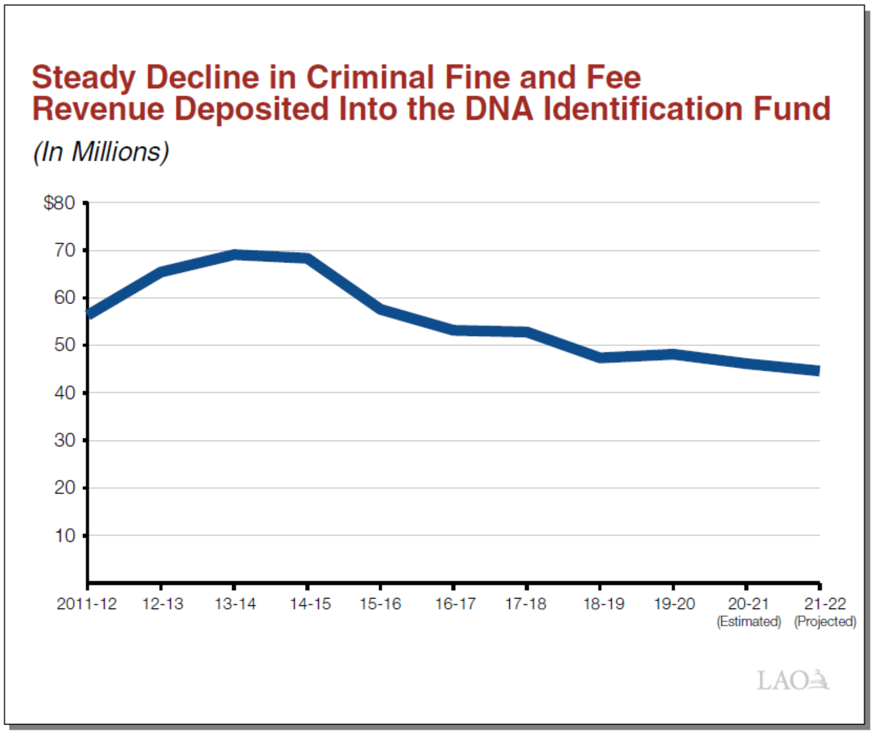
California Justice Information Services Division (CJIS). As a result of these proposed actions, the Governor's budget includes $94 million in total operational support for BFS in 2021-22, nearly the same as the current year. The Governor proposes to backfill the $10 million redirection from CJIS from another DOJ special fund—the Fingerprint Fees Account (FFA). (FFA cannot directly backfill BFS due to statutory limits on how the funds in FFA can be used.)

2. ***One-Time Funding for New Consolidated Forensic Laboratory Campus.*** The Governor's budget includes $6.5 million one-time General Fund for the performance criteria phase for a proposed consolidated forensic campus on land leased from the California State University, Sacramento. The campus would consolidate the state's DNA laboratory, the Sacramento regional laboratory, the state's criminalistics training institute, and BFS headquarters into one facility. The estimated total cost of the project is $435 million.

Background.

Overview of BFS. The bureau's ten regional laboratories provide criminal laboratory services—such as DNA testing and on-site crime scene investigative support—at no charge for local law enforcement and prosecutorial agencies in 46 counties that do not have access to these services. BFS also assists the 12 counties and 8 cities that operate their own laboratories in cases where BFS offers services their laboratories lack. (Local agencies also contract with private or other governmental laboratories for services.) Additionally, BFS operates the state's DNA laboratory as well as the state's criminalistics training institute.

BFS Funding Sources. BFS receives support primarily from the DNA Identification Fund (a state fund that receives criminal fine and fee revenue) and the state General Fund. As shown in the figure, the amount of revenue deposited into the DNA Identification Fund has steadily declined since 2013-14. To help address this steady decline and to maintain BFS service levels, the state has provided the fund a General Fund backfill since 2016-17.



LAO Assessment and Recommendation for BFS Backfill

Proposal Addresses DNA Identification Fund Revenue Decline. The Governor's backfill proposal would address the decline in revenue deposited into the DNA Identification Fund and maintain current BFS service levels.

However, Unclear if FFA Redirection Is Sustainable. FFA generally receives revenues from fees charged for employment- or licensing-related background checks. FFA revenues are projected to decline. Specifically, revenues in 2019-20, 2020-21, and 2021-22 are estimated to be nearly 25 percent lower than 2018-19 levels. This could be due to the pandemic reducing the number of people seeking background checks. If revenues do not sufficiently increase, FFA may become insolvent in 2022-23. Thus, it is unclear whether it is sustainable to redirect FFA funds to the DNA Identification Fund on an ongoing basis as proposed.

BFS Provides Certain Local Governments Substantial Benefits. A large share of BFS resources are dedicated to providing forensic services to local law enforcement and prosecutorial agencies, which are predominantly responsible for collecting and submitting forensic evidence for testing and using the evidence to pursue criminal convictions. However, certain counties and cities benefit significantly more than others. Specifically, BFS effectively subsidizes agencies in 46 counties that generally do not use any of their own resources for criminal laboratory services.

Local Governments Lack Incentive to Use BFS Services Cost-Effectively. Since BFS does not charge for its services, local agencies lack incentive to prioritize what forensic evidence is collected and submitted for testing. Submissions are generally only limited by BFS's overall capacity and funding. In contrast, the 12 counties and 8 cities that support their own labs—and those agencies that pay to use private laboratories—have greater incentive to carefully prioritize what evidence should be tested and how quickly it should be done.

Recommendation:* *Approve Governor's Proposed Backfills for Two Years. The LAO recommends that the Legislature approve the Governor's proposed backfill proposal, but only for two years to ensure FFA can provide the level of support proposed on an ongoing basis. This would also support BFS until the new funding framework discussed below can be implemented.

Recommendation:* *Require Local Governments to Partially Support BFS Beginning in 2023-24. Given the substantial benefit that local agencies receive from BFS services, the LAO recommends that the Legislature take steps to require local agencies to partially support BFS beginning in 2023-24. Agencies would be required to pay for a portion of services they receive, providing greater incentive to prioritize workload submitted to DOJ. The delayed implementation date provides time for DOJ to calculate each agency's share of costs and to allow agencies to adapt to the new funding framework.

Recommendation:* *Require DOJ Develop Plan for Calculating Local Government's Share of BFS Support. The LAO recommends that the Legislature direct DOJ to submit a plan for calculating each local agency's share of the BFS services it uses—including operating and facility costs—and report on this plan no later than October 1, 2022 to allow for its consideration as part of the 2023-24 budget. The LAO recommends that the Legislature provide guidance on the development of this plan. This includes requiring that at least half of BFS operating revenues come from local agencies, in order to generally reduce the need for the General Fund to support BFS costs on an ongoing basis. DOJ would have flexibility to develop the specifics of the plan after consulting with stakeholders. For example, DOJ could require local agencies to pay more or less based on various factors—such as the specific type of forensic service sought, the speed of the service, or the size of the agency.

LAO Recommendation for Consolidated Forensic Laboratory

Recommendation:* *Consider Facility Proposal After Implementing New Funding Structure. The LAO recommends that the Legislature reject the Governor's facility proposal until the new funding framework is implemented. The new framework would incentivize local agencies to find the most cost-effective way to obtain laboratory services. This could impact the volume and type of cases sent to BFS, which could then require BFS to modify the amount or type of services it provides or how it provides such services. Changes to BFS's overall workload or organization could change its need for the proposed consolidated forensic science laboratory campus.

Staff Recommendation. Hold open.

Issue 7: Healthcare Rights and Access Workload

Governor's Budget. The Department of Justice requests 10 positions and $2.1 million Public Rights Law Enforcement Special Fund in 2021-22 and ongoing to address the workload related to healthcare rights and access.

Background. Ranging from abortion rights to drugs costs, and from the price of insurance to the availability of affordable elder care facilities, healthcare issues affect the lives of nearly all Californians every day. The Healthcare Rights and Access Section conducts proactive legal and policy work to increase and protect access to quality and affordable healthcare in the State of California, and oversees and leads all work in the area of consumer healthcare rights, including healthcare and prescription drug marketing, nonprofit healthcare transactions, violations of antitrust laws, healthcare privacy, and healthcare civil rights. The Attorney General has challenged or resisted changes in the law that would curtail reproductive rights, exclude health coverage for the LGBTQ community and permit businesses to avoid or reduce their obligations to provide health insurance. The section also ensures consumer protection involving healthcare privacy, medical debt, healthcare fraud and false advertising cases.

The 2020 Budget Act included $6.9 million in 2020-21 ($3.7 million Attorney General Antitrust Account and $3.2 million Unfair Competition Law Fund) and $6.7 million annually thereafter ($3.6 million Attorney General Antitrust Account and $3.1 million Unfair Competition Law Fund) to establish the Healthcare Rights and Access Section to consolidate and centralize healthcare litigation within DOJ. The creation of the Healthcare Rights and Access Section centralized the Division of Public Rights' healthcare expertise into one section to provide for increased focus, efficiency, collaboration and coordination on healthcare issues.

Staff Recommendation. Hold open.

Issue 8: Continuation of CURES Help Desk Resources

Governor's Budget. The Department of Justice requests $484,000 Reimbursement authority in 2021-22 and ongoing to support the Controlled Substance Utilization Review and Evaluation System (CURES) Program. The Department of Consumer Affairs is responsible for reimbursing the Department of Justice for the maintenance and operation of the CURES system via an interagency agreement. A commensurate CURES Fund augmentation has been included in the Department of Consumer Affairs' budget to support this proposal.

Background. CURES is a database of Schedule II, Schedule III, Schedule IV and Schedule V controlled substance prescriptions dispensed in California serving the public health, regulatory oversight agencies, and law enforcement. CURES is committed to the reduction of prescription drug abuse and diversion without affecting legitimate medical practice or patient care.

Health and Safety Code section 11165 requires DOJ to maintain the CURES database and make information available to health care practitioners, pharmacies, and clinics to assist in their efforts to ensure appropriate prescribing, ordering, administering, furnishing, and dispensing of these controlled substances; to law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II through IV controlled substances; and for statistical analysis, education, and research.

Health and Safety Code section 11165 requires the CURES database to comply with federal and state privacy and security laws and regulations, and authorizes the disclosure of data obtained from the CURES database to agencies and regulations regarding the use, access, disclosure, and security information within the CURES database.

The operation of CURES complies with all applicable federal and state privacy and security laws and regulations. The controlled substances dispensation history of an individual that is received by a practitioner or pharmacist from CURES is subject to the Confidentiality of Medical Information Act and the Health Insurance Portability and Accountability Act of 1996 (HIPAA), including the HIPAA regulations in 45 Code of Federal Regulations parts 160 and 164.

Access to CURES is strictly limited. Licensed health care practitioners and licensed pharmacists may access information in CURES only for patients under their care. Regulatory agency officials and law enforcement officials may access information in CURES only to assist the efforts of their agencies to control the diversion and resultant abuse of controlled substances.

Resource Justification. As of 2019-20, CURES system usage has remained steady with the volume of requests for access assistance, CURES usage training, and other related inquiries. In 2019, the CURES program received an average of 4,834 calls and emails per month. As the workload will be ongoing, the CURES Program will need to continue to provide timely responses and needed assistance critical to the work and mission of health care practitioners, law enforcement agencies, and regulatory board officials.

The 2019 Budget Act included two year limited-term funding associated with four help desk positions (two Associate Governmental Program Analysts and two Staff Service Analysts) for the CURES Program, which expire on June 30, 2021. Permanent funding is being requested to continue addressing the workload resulting from the CURES consultation requirements.
The costs of this proposal are to be reimbursed by the CURES Fund, which was established to reimburse DOJ for costs to operate and maintain CURES, via an interagency agreement with the Department of Consumer Affairs. As such, a commensurate CURES Fund augmentation has been included in the Department of Consumer Affairs' budget to support this proposal. It is anticipated that the CURES Fund will be sufficient to support the costs of this proposal.

Staff Recommendation. Hold open.

5227 BOARD OF STATE AND COMMUNITY CORRECTIONS (BSCC)

Issue 9: Increase Title II Spending Authority

3-YEAR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2018-19	2019-20	2020-21	2018-19*	2019-20*	2020-21*
4940	Administration, Research and Program Support	31.7	24.8	27.8	$6,305	$12,601	$18,541
4945	Corrections Planning and Grant Programs	22.1	27.6	31.6	157,873	343,019	291,476
4950	Local Facility Standards and Operations	14.0	8.4	8.4	2,386	2,709	2,706
4955	Standards and Training for Local Corrections	11.8	11.5	11.5	16,893	23,777	23,765
4965	County Facility Construction	8.0	8.9	8.9	1,759	1,959	1,961
TOTALS, POSITIONS AND EXPENDITURES (All Programs)		**87.6**	**81.2**	**88.2**	**$185,216**	**$384,065**	**$338,449**

*Dollars in Thousands

Governor's Budget. The Board of State and Community Corrections requests a one-time $500,000 increase in 2021-22 in its Title II state operations federal spending authority to utilize federal funds to pay for a Reducing Racial and Ethnic Disparities consultant contract.

Background and Justification. The Title II grant program is funded by U.S. Office of Juvenile Justice and Delinquency Prevention. It grants funds in different areas and the projects are meant to reduce overrepresentation of youth of color in the justice system.

Per federal guidelines that states receiving Title II must created an advisory group to develop spending priorities, CA created the State Advisory Committee on Juvenile Justice and Delinquency Prevention (SACJJDP).

The SACJJDP approved the hiring of a consultant to develop a detailed review of each county, including the assessment of county interventions that result in the reduction of racial and ethnic disparity, and the identification of challenges and barriers that may exist within the county juvenile justice. The position is federally funded but the BSCC indicated that it does not have sufficient budget authority to draw down on the federal funds.

Staff Recommendation. Hold open.

8830 California Law Revision Commission

Issue 10: Additional Resources for the Committee on Revision of the Penal Code

3-YEAR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2019-20	2020-21	2021-22	2019-20*	2020-21*	2021-22*
6740	California Law Revision Commission	5.3	7.6	10.6	$1,630	$1,540	$2,139
	TOTALS, POSITIONS AND EXPENDITURES (All Programs)	**5.3**	**7.6**	**10.6**	**$1,630**	**$1,540**	**$2,139**

*Dollars in Thousands

Governor's Budget. The California Law Revision Commission (Commission) requests 3 positions and $494,000 in reimbursement authority from the Office of the Legislative Counsel (with a corresponding augmentation to that office's budget), in 2021-22 and ongoing on behalf of the Committee on Revision of the Penal Code (Committee), to increase the Committee's efficiency and productivity and to address increased workload.

Background. The California Penal Code has dramatically increased in size from about 234,000 words in 1965 to 1.2 million in 2018. There are more than 5,000 separate criminal provisions specifying criminal behavior, penalties for convictions, additional enhancements, and credit earning once incarcerated. This complex statutory structure requires study and recommendations to revise the Penal Code. The reason for the new committee to be established as a component of the California Law Revision Commission is first because it would help the committee get up and running quickly, without the need to create new administrative and operational practices. Second, it would allow both the committee and Commission to work on separate tracks, without interfering with each other's progress. Finally, it would allow for specialization of the membership of the two panels.

Historically, the Commission's work has not focused on criminal justice reform. Its members were not chosen for expertise in that subject and generally have careers in civil, rather than criminal law. By contrast, the members of the Committee could be selected for their experience in criminal law and policy. While the committee would be a part of the Commission for the purposes of administration and staffing, the committee would have independent authority to make recommendations to the Legislature and the Governor—Commission approval would not be required for any policy decision of the committee. The committee would conduct its own meetings, based on its own deliberative materials. The Commission would not duplicate that work nor weigh-in on the committee's recommendations. The independence of the committee is also important to maintaining the effectiveness of the Commission.

2019 Budget Act and Committee establishment. The Budget Act of 2019 included $576,000 to support a new Committee that was established under the California Law Revision Commission. The new Committee has separate powers to make policies and take actions, and to review and make recommendations to the Legislature and the Governor on revisions to the Penal Code. The Committee began an effort to simplify and rationalize criminal law and criminal procedures, establish alternatives to incarceration that aid rehabilitation and protect public safety, improve parole and probation systems, and adjust the length of sentence terms based on certain considerations. The proposal included $25,000 for the committee to hire an outside consultant to serve the committee's needs.

The Committee was formed on January 1, 2020. In 2020, the Committee established a new set of policies, procedures, and practices to structure the conduct of its work, hired legal staff, began building a statewide aggregation of empirical data, secured significant donations of resources, and held 13 days of public meetings, with testimony from over 50 invited panelists from all interested groups. At its December meeting, the Committee approved 10 substantive recommendations for reforms to improve the criminal justice system.

Justification of resources from BCP: The Committee is a multi-member body that is governed by the Bagley-Keene Open Meeting Act. This means that the Committee can only deliberate and make decisions in public meetings. This is a significant constraint on the Committee's productivity. It is therefore essential that the Committee have staffing levels that are sufficient to support the Committee in making the best use of its limited meeting time.

Staff Recommendation. Hold open.

CALIFORNIA LEGISLATURE

STATE CAPITOL
SACRAMENTO, CALIFORNIA
95814

SENATE TRANSPORTATION COMMITTEE
& SENATE BUDGET SUB-COMMITTEE #5
JOINT INFORMATIONAL HEARING

REVIEW OF THE CALIFORNIA HIGH-SPEED RAIL AUTHORITY REVISED DRAFT 2020 BUSINESS PLAN

MARCH 16, 2021
AGENDA

I. Opening Remarks
- Senator Lena A. Gonzalez, Chair, Senate Transportation Committee
- Senator Maria Elena Durazo, Chair, Senate Budget Subcommittee #5

II. California High-Speed Rail Authority
- Brian Kelly, Chief Executive Officer, California High-Speed Rail Authority
- Brian Annis, Chief Financial Officer, California High-Speed Rail Authority

III. Fiscal and Program Analysis
- Helen Kerstein, Principal Fiscal and Policy Analyst, Legislative Analyst's Office
- Lou Thompson, Chair, High-Speed Rail Peer Review Group

IV. Regional Partners
- Stacey Mortensen, Executive Director, San Joaquin Regional Rail Commission
- Jim Hartnett, Executive Director, Caltrain
- Jeanet Owens, Senior Executive Officer for Program Management/Regional Rail, Los Angeles Metropolitan Transportation Authority

V. Public Comment

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MARCH 16, 2021
BACKGROUND PAPER

Introduction

The purpose of this hearing is to review the California High-Speed Rail Authority's (Authority) Revised Draft 2020 Business Plan (Plan). Hearing panelists include representatives from the Authority, the Legislative Analyst's Office (LAO), the High-Speed Rail Peer Review Group (PRG), and partner transportation agencies responsible for projects that will become part of the high-speed rail system. The high-speed rail program is facing its biggest challenge to date. The Authority remains committed to the completion of a high-speed operating segment in the Central Valley, as costs continue to rise and schedules continue to slip. The high-speed rail project is the largest public works project in the country and has a major impact on the economy, especially in the Central Valley. To date, high-speed rail investments have generated over 55,000 job-years of employment, with over $4 billion in labor income, and $11 billion in economic output.

Today's hearing is an opportunity for Legislators and the public to gain a better understanding of the costs, funding sources, and associated risks facing the project; the Authority's renewed relationship with Washington D.C.; and the ongoing investments in projects in the Bay Area and Southern California. The Legislature may be asked to take budget action on the project this year, as the Authority plans to request appropriations of the remaining Proposition 1A bonds. The hearing will help Legislators and the public get a clear picture of the scope of the project being funded, the timeline for delivery, and its value in meeting the state's infrastructure, environmental, and economic goals.

Background

The Business Plan Delayed

The Authority is statutorily required to prepare, publish, and adopt a Business Plan every two years outlining key required elements of the high-speed rail project. Those elements include project development information, including a description of the type of service being developed; the timing and sequencing of project phases and segments; estimated capital costs; ridership estimates; and a discussion of reasonable foreseeable risks and strategies to manage those risks. Additionally, the Business Plan is required to contain estimates and descriptions of the total anticipated federal, state, local, and other funds the Authority intends to access for the construction and operation of the system. The Business Plan is required to be published in draft form for public comment and submitted to the Legislature for review.

The Draft 2020 Business Plan was released on February 12, 2020 to begin a 60 day public comment period. However, shortly thereafter, the nation shut down due to COVID-19. The Authority, following state agency guidelines, shifted away from in-person operations and moved to a virtual format for meetings. The Authority postponed the final adoption of the Plan. Since then, there have been dramatic changes in the operation of public agencies, construction projects, and revenue estimations. Therefore, the Authority updated many of the projections and released the Revised Draft 2020 Business Plan on February 9, 2021. This began an additional 30 day public comment period, with a planned adoption date of March 25, 2021 by the Authority Board of Directors.

History of High-Speed Rail in California

Development of high-speed rail in California began more than 20 years ago. SB 1420 (Kopp), Chapter 796, Statutes of 1996, created the Authority to direct development and implementation of intercity high-speed rail service that would be fully coordinated with other public transportation services. The Authority reports to the California State Transportation Agency and is governed by an eleven-member Board of Directors. The Governor appoints five members of the board, the Senate Rules Committee appoints two, and the Assembly Speaker appoints two. Additionally, the board includes two ex-officio, non-voting members, one member of the Assembly and one member of the Senate.

Assembly Bill 3034 (Galgiani), Chapter 267, Statutes of 2008, placed before the voters the Safe, Reliable High Speed Passenger Train Bond Act for the 21st Century (Proposition 1A) in November of 2008. California voters approved the initiative, which authorized $9.9 billion in general obligation bonds for two distinct purposes: $9 billion to develop and construct a high-speed rail system connecting San Francisco Transbay Terminal to Los Angeles Union Station and Anaheim; and $950 million for connecting intercity and commuter rail systems that would enhance those systems' capacity, safety, or connectivity to the high-speed rail system.

Proposition 1A prescribes specific route and design requirements for the high-speed rail system including that it must be electrified, be capable of sustaining speeds of no less than 200 miles per hour, and have the capacity to achieve travel times between San Francisco and Los Angeles of 2 hours and 40 minutes. Additionally, Proposition 1A requires a one to one match of all bond funds from other sources and lays out specific requirements the Authority must meet in order to access and spend the bond funds, including submission of detailed funding plans to the Legislature and Department of Finance. Furthermore, Proposition 1A requires high-speed rail to operate without government subsidies. At the time of the passage of Proposition 1A, estimates for the cost of the system varied. The analysis by the LAO that accompanied the ballot measure referenced a 2006 estimate from the Authority that the total cost to develop and construct the entire high-speed rail system would be about $45 billion.

In July 2012, the Legislature approved SB 1029 (Committee on Budget and Fiscal Review), Chapter 152, Statutes of 2012, that appropriated nearly $8 billion in federal and state funds to begin the construction between Madera and Bakersfield. SB 1029 funded three components of the project, including $5.8 billion ($3.2 billion federal grants and $2.6 billion Proposition 1A) to fund the construction of the high-speed rail "backbone" in the Central Valley; $819 million of Proposition 1A bonds for "connectivity" projects on existing rail and transit systems throughout the state; and $1.1 billion for the "bookends" projects in the Bay Area and Southern California ($600 million for the electrification of Caltrain and $500 million for projects in the Los Angeles Basin) to improve existing rail corridors for eventual use by the high-speed rail system.

Further, a 2014-15 state budget trailer bill [SB 862 (Committee on Budget and Fiscal Review), Chapter 36, Statutes of 2014], continuously appropriated 25 percent of the revenues derived from the state's Cap-and-Trade program to the project. In July 2017, the Legislature extended the state's Cap-and-Trade program through 2030, in AB 398 (Garcia), Chapter 135, Statutes of 2017. The Authority estimates that this equates to a range of $500 to $750 million annually in funding for the program.

In 2015, the Authority broke ground on the first construction segment in the Central Valley, starting work on 119 miles from Madera to Poplar Avenue outside of Shafter. This work was reflected in the Authority's grant agreement with the Federal Railroad Administration (FRA) to spend the federal and state monies appropriated in SB 1029. The FRA grant agreements require the Authority to complete construction of this section by December 2022.

Evolution of the Project

Overall, the project is to be built in two phases, with Phase I covering roughly 500 miles from San Francisco to Anaheim. Phase II would extend the system to Sacramento in the north and San Diego in the south. The delivery of the project is broken into segments, including an Initial Operating Segment (IOS), which over the years has changed from a southern-focused route to Los Angeles, to the current northern-focused route from San Francisco to Bakersfield, the so-called Silicon Valley to Central Valley Line (Valley to Valley).

Specifically, the 2016 Business Plan unveiled this new northern-focused route defining the Valley to Valley Line to run from 4th and King Streets in San Francisco south through the Silicon Valley turning east across the Pacheco Pass to Madera and then south to Bakersfield at a cost of roughly $20.7 billion and would be up and running by 2025. The funding plan for the Valley to Valley segment includes existing sources of Proposition 1A bonds, federal funds, continued Cap-and-Trade pay-as-you-go funding and a Cap-and-Trade financing plan to 2050. The Cap-and Trade financing plan continues to be a major source of possible revenue for the project. The Authority continues to request three things from the Legislature to make it successful: an extension of the Cap-and-Trade program through 2050, no-impairment of their current dedicated appropriation of 25 percent of Cap-and-Trade proceeds, and a minimum guarantee of funding. The Authority proposes that these factors would allow them to securitize the future stream of revenues to receive up front funds to continue construction.

In February 2019, Governor Newsom delivered his State of the State address and he appeared to signal a change in the project, shifting emphasis to completing a workable rail line in the Central Valley, but casting doubt over the completion of the full Phase I. Specifically, Newsom noted, “the project, as currently planned, would cost too much and take too long. There’s been too little oversight and not enough transparency.” He outlined a new Central Valley construction plan, including extending the current line north to Merced and south to Bakersfield, stating, “High-Speed Rail is much more than a train project. It’s about economic transformation and unlocking the enormous potential of the Valley.”

The statement caused serious confusion about the future of the project and created a public schism with the Trump Administration over the federal funding agreement and ongoing federal participation and commitment to the project. Specifically, the FRA moved to de-obligate $929 million awarded to California stating that the Authority “failed” to comply with the terms of the agreement, and has failed to make reasonable progress on the project.” Additionally, the FRA stated that they would possibly attempt to claw back, the remaining $2.6 billion in federal grants which had already been expended. Subsequently, the State of California sued the FRA over the de-obligation. This issue is still without resolution. The FRA also continued a pattern of “disengagement” with the Authority, including delaying approvals of environmental documents and financial reimbursements to meet the matching requirements of the grant agreement.

Newsom’s Valley Vision

Governor Newsom’s new focus on the Valley construction was detailed in the 2019 Project Update Report (PUR). The PUR committed the Authority to completing an initial “building block” of a high-speed system in the Central Valley. Specifically, the new Central Valley Line was a 171 mile high-speed rail line from Merced to Bakersfield, with stations planned for Merced, Madera, Fresno, Kings/Tulare, and Bakersfield F Street. The Central Valley Line included all of the current Central Valley construction (119 miles), with extensions to Merced and Bakersfield. In 2019, the Central Valley construction was estimated to cost $12.4 billion and the complete new Central Valley Line was estimated to cost $20.4 billion to be completed by 2028. The Central Valley Line scope included the extensions in the north and south, double track and systems, new high-speed trains, and several maintenance facilities. The new line would be operated by an interim passenger rail operator, likely a partnership with the existing San Joaquins service.

2020 Revised Draft Business Plan

The 2020 Revised Draft Business Plan continues to focus on the Governor's two main objectives: completion of the 119 miles Central Valley Segment from Madera to Shafter, in compliance with the FRA grant agreement; and the path forward for the Central Valley Line for high-speed train service from Merced to Bakersfield. In addition to costs increasing for the two segments, the Plan changes the scope of the project including planning for a single track to start, instead of full double tracking outlined in 2019; changes to potential station design; and the possible purchase or lease of high-speed trains.

As mentioned, the 2020 Draft Business Plan adoption was delayed due to COVID-19. The Authority details the effects of COVID-19 on the ongoing construction and other planning, design, and environmental review activities. Specifically, the Authority shifted 90 percent of its administrative workforce to telework, public meetings are conducted in a virtual format, and they have implemented safety standards to protect essential workers at construction sites. Additionally, COVID-19 has affected project costs, schedules, and revenues, with delays adding $330 million to the current construction packages with completion now expected by 2023. As noted, the Authority relies on funding from the state's Cap-and-Trade program and they estimate a loss of $288 million in funding over the last year due to lower auction proceeds.

Specifically, the Plan focuses on and provides updated estimates for the two main projects. The Central Valley Segment is 119 miles from Madera to Shafter with a single track, no stations, and trainsets either purchased or leased. The estimate for the segment is $13.8 billion with civil works complete by 2023 and track installed by 2025. The full Central Valley Line is a 171 mile high-speed rail line from Merced to Bakersfield with a single track, stations at Fresno and Kings/Tulare, and more trainsets to be purchased. The Central Valley Line is estimated to cost between $21.3 and $22.8 billion and be completed by the end of the decade. This scope is substantially diminished from the previous plans, with a single track and reduced station design. The Authority estimates that the double tracking of the full Central Valley Line would cost an additional $1.1 billion.

Additionally, the Plan stresses the need to move forward with the contract award for the track and systems, which could have a 30 year term, at an estimated cost of $2.3 billion. This raises questions about the contract size, the risk associated with the long term and whether the contract is needed now. In December 2019, the Authority released a track and systems Request for Proposals (RFP) and bid proposals are due in April 2021.

As mentioned, after the completion of the Central Valley Line, the Plan envisions an independent operator for the interim high-speed service. This could be the San Joaquin Regional Rail Commission (SJRRC), which currently operates the San Joaquins intercity passenger rail (Amtrak) service in the Central Valley and the Altamont Corridor Express (ACE) to the Bay Area. It is unclear how this agreement would work in practice and how much it may cost the state. Proposition 1A requires "planned passenger train service to be provided by the Authority, or pursuant to its authority," to operate without a subsidy. The Authority believes that by leasing the state rail asset to the SJRRC to operate that they would not be in violation. However, SJRRC may need additional subsidies from the state if revenue from the farebox does not cover operating expenses. In November, 2020, the Authority entered into a Memorandum of Understanding with the California State Transportation Agency and SJJPA for the "cooperation and coordination in the development of an interim service plan."

The line would connect, cross platform, with the existing San Joaquins and ACE service at Merced. In the south, the high-speed rail line would connect with Amtrak bus service to Southern California. Currently, the San Joaquins is one of the busiest Amtrak routes in the United States, connecting the Central Valley to Sacramento and Oakland, with bus connections south to Los Angeles. ACE connects nearly 1.5 million commuters per year to the Bay Area. Authority's ridership studies of the Central Valley corridor concluded that the route would generate the largest ridership increase of 4.8 million additional system-wide riders, the highest revenue increase of $117.2 million in additional system revenues from passenger fares, and roughly 90 minutes would be shaved off travel times. However, the Plan also relies on additional state funding, not Authority funds, to complete the construction and service plans envisioned by the San Joaquins/ACE Valley Rail Plan to extend ACE and San Joaquins service.

Where will the money come from?

The Authority identifies numerous existing sources of funding to complete the **Central Valley Line.**

Federal Funds:

- $2.6 billion ARRA
- $929 million FY 2010

State Funds:

- $3.3 billion Proposition 1A (non-bookends)
- $3.6 billion Cap-and-Trade received through November 2020
- $4.1 billion Proposition 1A (must be appropriated by Legislature)
- $5 — $7 billion Cap-and-Trade future revenue through 2030

$20.6 — $23.1 billion total funding available

$21.3 - $22.8 billion estimated cost (an additional $1.1 billion to double track)

This assumes the FRA will re-obligate the $929 million to the project and estimates the Authority's portion of Cap-and Trade revenue at $500 to $750 million/annually. The PRG notes, in their comments on the Plan, they believe the Authority will be able to complete the 119 miles as required by the federal grant, but due to substantial risks facing the Merced and Bakersfield extensions, the Central Valley Line cannot be completed without additional funding.

The Authority anticipates the potential for new funding from the federal government. The Biden Administration is currently working with Congress on a large scale infrastructure proposal, the "Build Back Better" plan. Additionally, Congress is moving forward with reauthorization of the federal surface transportation act. Both of these proposals could include billions of dollars of funding for the nation's rail and high-speed networks. It is unclear at this time whether these proposals will be approved or how much funding California would receive.

The Next Big Step

As noted, the Plan focuses on achieving the goal of completing the two building blocks in the Central Valley. What is the next big step? The next big step would be the completion of the Valley to Valley line connecting the Central Valley with Silicon Valley. In the 2016 Business Plan the project was estimated to cost $20.7 billion and be completed by 2025. The Authority did not provide a specific estimate for Valley to Valley in the current Plan but did break out the costs for the remaining segments of Phase I which could put Valley to Valley at roughly $41 billion.

As the Authority builds in the Central Valley, they continue to do extensive work in planning, design, and environmental clearance throughout the entire San Francisco to Los Angeles, full Phase I system. As new funding becomes available, the Authority would be ready to move forward on additional segments. When the Legislature took action on SB 1029 in 2012 Phase I was estimated to cost $68 billion and be up and running by 2029. The current Plan estimates the Phase I cost at $83.2 billion to be complete by 2033.

To move forward with the next steps of the program, the Authority would need a large amount of additional, dedicated, stable funding. Options could include the possible financing of Cap-and-Trade revenues which has been proposed repeatedly since 2016; additional state resources; or the possibility of new federal funding. The PRG has recommended numerous state funding options over the years, such as a state sales tax or gasoline tax, to provide stable funding for the project.

Bookends – Partners in Bay Area and LA

As previously described, the so-called bookend projects were defined and funding was appropriated by SB 1029 in 2012. Specifically, the Authority has committed a total of $714 million to the Northern California project, the electrification of Caltrain, with $600 million in Proposition 1A bond funds and the remainder in state Cap-and-Trade funds. The Caltrain electrification project, which is scheduled to be completed by 2022, will electrify and upgrade Caltrain's commuter rail service between San Francisco and San Jose. The total cost of the Caltrain project is estimated at $2 billion. Additionally, the Authority committed $84 million of $180 million total to the San Mateo Grade Separation project on the Caltrain corridor.

In Southern California, two projects have been identified for funding from the $500 million in Proposition 1A bond funds appropriated in SB 1029. $76.7 million was approved for the Rosecrans/Marquardt grade separation project, which is in Santa Fe Springs on the BNSF mainline tracks at the intersection of Rosecrans and Marquardt Avenues. The intersection is also on the Los Angeles/San Diego/San Luis Obispo (LOSSAN) corridor, which is utilized by Amtrak and Metrolink. The intersection sees more than 112 freight and passenger trains per day and has been rated by the California Public Utilities Commission (CPUC) as the most hazardous grade crossing in California. The project is expected to be completed by 2023.

The remainder of the Proposition 1A bonds funds for Southern California, $423.3 million, is dedicated to Los Angeles Union Station (LAUS) for the Link Union Station (Link US) project in downtown Los Angeles. The Link US project will extend up to 10 rail tracks at LAUS to the south of the station over U.S. Highway 101, including platforms and tracks for use by future high-speed rail. The project allows trains at LAUS to "run through" the station rather than head in and back out through a single entrance. The project is planned for two phases of construction with the cost of Phase A estimated at $950.4 million, which is fully funded including Proposition 1A bond funds, and the cost of Phase B estimated at $1.14 billion but is not currently funded.

Conclusion

The Authority is charged with planning, designing, building, and operating the nation's first high-speed rail system. It is a daunting task. The sheer size of the program, coupled with inadequate, unstable funding; rigid design criteria; constant legal threats; environmental and geological concerns; and difficult engineering challenges make success seem impossible. Additionally, the project has been plagued with cost increases and project delays, internal restructuring and staffing issues, and a federal government not interested in being a full partner.

The Authority's new Plan continues the vision of Governor Newsom to complete a working high-speed rail line in the Central Valley and then looking forward to completing the remainder of the system. The Authority estimates that the Merced to Bakersfield line could be completed with funding currently projected, if the volatile Cap-and-Trade program performs well. But the project is a diminished version of the original with a single track, reduced station design, and less trains. The Legislature will be asked to take budget action on this Plan in the coming year. This approach raises questions that the Legislature may consider:

- Does the proposed project serve the transportation needs of the state? At what point will the state see the benefits of the project?
- Can the Central Valley Line be built at the current cost and schedule?
- Will all of the pieces, such as the ACE/San Joaquins build out, come together on time and provide the level of service anticipated?
- Will the Authority be able to renegotiate the current grant agreement with the federal government to loosen some impending deadlines and recover the federal funding?
- Will the Administration pursue additional funds for the Authority or its partners to ensure project success?
- Would more independent oversight of the project lead to better outcomes?

Today's witnesses will share their expertise and insights on these and other questions.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman

Public Safety, the Judiciary, Labor and Transportation

Thursday, May 6, 2021
State Capitol - Room 4203
10:00 a.m. or upon adjournment of session

Consultant: Christopher Francis, Ph.D.

TABLE OF CONTENTS

Vote-Only Calendar

Items for Discussion

Vote Only Calendar for Governor's Budget Proposals from January and April 1

Issue #	Department	Proposal	Fund Source and Positions	Notes	LAO Notes	Staff Recommendation
1	CDCR	Cellular Interdiction Program	$1.8 million General Fund in 2021-22 and ongoing	To maintain the existing system at 18 institutions that prevents cell phones from connecting to cellular service inside the prison Heard on 2/4	No concerns with this proposal	Approve as budgeted
2	CDCR	Increased Canteen Resources	$2 million Inmate Welfare Fund (IWF) and 7.0 positions in 2021-22 and $1.8 million IWF and 7.0 positions in 2022-23	To meet growing demand for canteen items and provide increased and equal access to canteen for the incarcerated population. Heard on 2/4	No concerns with this proposal	Approve as budgeted
3	CDCR	Receiver-Quality Management and Patient Safety	$4.0 million General Fund and 23.0 positions in fiscal year 2021-22, $7.5 million General Fund and 45.0 positions in fiscal year 2022-23, and $11.7 million General Fund and 75.0 positions in fiscal year 2023-24 and ongoing	Expands the Quality Management System (QMS) to better address patient safety risks. The QMS California Correctional Health Care Services comprises two major interrelated programs: Quality Management and Patient Safety. Heard on 2/4	The LAO notes an error regarding the number of positions requested beginning in 2022-23 and ongoing because the proposal does not take into account two planned prison closures. As such, there should be a reduction in two health program managers and two	Adopt LAO Recommendation

					health program specialist positions in 2022-23 and ongoing, resulting in reduced costs of about $500,000 General Fund annually.	
4	CDCR	Fire Alarm Replacement and Fire Suppression Repair Reappropriation at Mule Creek State Prison (MCSP), Richard J. Donovan Correctional Facility (RJD), and California State Prison-Sacramento (SAC)	A reappropriation of $54.5 million General Fund	The proposed reappropriation is for the replacement of fire alarm systems and repair fire suppression systems The Department also requests provisional language to extend the expenditure and encumbrance period through June 30, 2024. The 2019 Budget Act included $4.5 million General Fund in 2019-20 for performance criteria and $54.5 million General Fund in 2020-21 for design-build activities to address fire alarm and fire suppression system deficiencies at MCSP, RJD, and SAC. Heard on 2/11	No concerns with this proposal	Approve as budgeted

5	Judicial Branch	One-time Deferred Maintenance	$30 million one-time General Fund in 2021-22 This funding is also available for encumbrance or expenditure until June 30, 2024.	Address the most vital deferred maintenance in trial courts and appellate courts. These funds will support the modernization of building management systems, HVAC, elevators, and roof replacements for the projects on the attached 2021-22 deferred maintenance list. Heard on 2/18	No concerns with this proposal	Approve as budgeted
6	Judicial Branch	Trial Court Facility Modifications	$18.9 million General Fund in 2021–22 and $48.8 million in 2022-23	For the Judicial Council of CA (JCC) estimated share of the total cost of trial court facility modification projects that resolve deficiencies by expanding the fire and life safety (FLS) systems at the Central Justice Center (CJC) in Orange County and correcting FLS-egress deficiencies at the East County Regional Center (ECRC) in San Diego County. Funds would be used for these facility modification (FM) projects as follows: $52.8 million for the JCC's estimated share of the total project cost at the CJC in Orange County, and $14.9 million (for the JCC's estimated share of the total	No concerns with this proposal	Approve as budgeted

				project cost at the ECRC in San Diego County. As these are shared-use facilities between the JCC and local counties, the JCC and the counties of Orange and San Diego would be responsible for its share of the total project costs based on its percentages of occupancy. Heard on 2/18		
7	Judicial Branch	Trial Courts and Courts of Appeal Facilities, Maintenance, and Leases	5.0 positions and $53.5 million ongoing General Fund	This proposal requests 5.0 additional positions to provide oversight of the trial court facilities services maintenance. The JCC portfolio spans the state's breadth, with courthouses in 57 of the 58 counties totaling 28 million gross square feet. The size of the state makes access to all the facilities in the portfolio time-intensive due to the extensive travel that is required. Currently 43.0 JCC positions are dedicated to facility operations. Heard on 2/18	No concerns with this proposal	Approve as budgeted
8	Judicial Branch	Construction Fund Consolidation Trailer Bill Language		Includes trailer bill language that would combine the Immediate and Critical Needs Account (ICNA) and the State Court Facilities	Approve Governor's Approach to Fund New Projects From General	Adopt placeholder trailer bill language to consolidate the State Court Facilities Construction Fund

				Construction Fund (SCFCF) which were facing insolvency due to steady decreases in fine and fee revenue. Consolidation allows the remaining fund to be solvent in 2021-22. The Governor's budget projects a SCFCF fund balance of $177.5 million for 2021-22. This fund balance is from $569.4 million in revenues, transfers from ICNA to SCFCF of $232.1 million, and other adjustments $391.9 million in expenditures and expenditure adjustments. The Governor's budget does not propose any changes to the level of expenditures from the combined account. For example, it maintains spending on facility modification projects at $65 million for 2021-22. Heard on 2/18	Fund, Shift Responsibility for Current SCFCF and ICNA Obligations to General Fund as Well, Rather Than Consolidate Accounts, Shift Nonconstruction-Related SCFCF and ICNA Expenditures to the General Fund, Shift SCFCF and ICNA Revenues to the General Fund, and Appropriate Funding for Trial Court Construction Based on Legislative Priorities.	and the Immediate and Critical Needs Account.
9	Judicial Branch	Spring Budget Proposal: Stanislaus County-New Modesto Courthouse Reappropriation	$250.49 million from the Public Building Construction Fund	A reappropriation of for the construction phase of the Stanislaus County—New Modesto Courthouse. The construction start has been delayed due to an extended review period of the working drawings.	No concerns with this proposal	Approve as budgeted

10	Judicial Branch	Spring Budget Proposal: Riverside County: New Mid-County Civil Courthouse Reappropriation.	$75.79 million from the Public Building Construction Fund	For the construction phase of the Riverside County—New Mid-County Civil Courthouse. The construction start has been delayed due to an extended review period of the working drawings.	No concerns with this proposal	Approve as budgeted
11	BSCC	Increase Title II Spending Authority	One-time $500,000 increase in spending authority	Increase in 2021-22 in BSCC's Title II state operations federal spending authority for BSCC to utilize federal funds to pay for a Reducing Racial and Ethnic Disparities consultant contract. Heard on 2/11	No concerns with this proposal	Approve as budgeted
12	California Law Revision Commission	Additional Resources for the Committee on Revision of the Penal Code	3 positions and $494,000 in reimbursement authority from the Office of the Legislative Counsel (with a corresponding augmentation to that office's budget), in 2021-22 and ongoing	On behalf of the Committee on Revision of the Penal Code (Committee), to increase the Committee's efficiency and productivity and to address increased workload. Heard on 3/4	No concerns with this proposal	Approve as budgeted
13	DOJ	Reparation Task Force AB 3121 (Weber), Chapter 319, Statutes of 2020	$1.1 million General Fund and 5 positions in 2021-22 and 2022-23	The passage of AB 3121 establishes the Task Force to Study and Develop Reparation Proposals for African Americans (Task Force). DOJ will oversee the Task Force, which will consist of nine members appointed by a specific	No concerns with this proposal	Approve as budgeted

				selection process. During the Task Force's two-year effective period, the Task Force will be required to compile a detailed report on slavery in the United States, and recommend the methods, forms, and eligibility criteria for compensation related to slavery. Heard on 3/4		
14	DOJ	Juvenile Court and Probation Statistical System Update (JCPSS) SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020	$1.9 million General Fund in 2021-22 and $1 million in 2022-23	JCPSS is the primary statewide database of information collected from county agencies on all youth probation referrals, court actions, and final dispositions. SB 823 requires DOJ to, "submit a plan for the replacement of JCPSS with a modern database and reporting system." SB 823 will require DOJ to submit a plan to the Legislature by January 1, 2023, to replace JCPSS with a modern database and reporting system. SB 823 also requires DOJ to convene a working group consisting of key stakeholders for this effort. To develop the plan, SB 823	No concerns with this proposal	Approve as budgeted

				requires DOJ to create a working group to consider a wide variety of factors including many with significant legal consequences, such as privacy, pre and post adjudication detention terms, operation of the juvenile detention system, and the operational feasibility of the new system. Heard on 3/4		
15	DOJ	Personal information: Social Security Numbers: State Agencies AB 499 (Mayes), Chapter 292, Statutes of 2020	$425,000 General Fund in 2021-22 and $168,000 in 2022-23	Beginning January 1, 2023, AB 499 prohibits a state agency from sending outgoing United States mail to an individual if the mail contains the individual's full social security number unless the number is truncated to its last four digits. By September 1, 2021, this bill requires state agencies to report to the Legislature on why full social security numbers are included on any mailed documents. To meet these mandates, DOJ will need to make modifications to various systems, including the Automated Criminal History System, the California Restraining and Protective	No concerns with this proposal	Approve as budgeted

				Order System, and the Wanted Person System. To make necessary information technology upgrades, DOJ intends to use consultant and staff resources. Heard on 3/4		
16	DOJ	Pawnbrokers, AB 1969 (Blanca Rubio), Chapter 185, Statutes of 2020	$491,000 Secondhand Dealer & Pawnbroker Fund in 2021-22 and $114,000 in 2022-23	AB 1969 eliminates the requirement that the name and address of a seller or pledger of secondhand goods be reported to law enforcement when the seller or pledger verifies their identity with a Matricula Consular, and requires the state's database of secondhand property transactions to direct law enforcement to the dealer to obtain the seller or pledger's identity. AB 1969 requires DOJ to perform database upgrades/modifications to include the option of "on file" for specified data fields in lieu of required personal identifying information when a Matricula Consular is used. The resources would be used to perform database upgrades	No concerns with this proposal	Approve as budgeted

				and modifications to comply with the mandates. Heard on 3/4		
17	DOJ	Firearms: Inspections AB 2061(Limón), Chapter 273, Statutes of 2020	2 positions and $152,000 Dealers' Record of Sale Special Account in 2021-22, $600,000 in 2022-23, and $445,000 annually thereafter	AB 2061 will, beginning July 1, 2022, allow DOJ to inspect firearms dealers, ammunition vendors, or manufacturers participating in a gun show or event, to ensure that all transfers or sales are conducted in compliance with applicable state and local laws. The bill will also allow DOJ to inspect ammunition vendors to ensure compliance with applicable state and federal laws. Finally, the bill will allow the department to adopt regulations to administer the application and enforcement of laws relating to gun shows and ammunition vendors. Heard on 3/4	No concerns with this proposal	Approve as budgeted
18	DOJ	Firearms Dealers: Conduct of Business AB 2362 (Muratsuchi) Chapter 284, Statutes of 2020	$301,000 Dealers' Record of Sale Special Account in 2021-22 and $139,000 annually thereafter and one position	AB 2362 authorizes, commencing July 1, 2022, DOJ to impose civil fines on firearms dealers for breaches of regulations or prohibitions related to their firearms dealers license. Specially DOJ is authorized to impose a civil fine not exceeding $1,000 for a violation of	No concerns with this proposal	Approve as budgeted

				those prohibitions, and a civil fine not exceeding $3,000 for a violation of those prohibitions when the licensee has received written notification from the department regarding the violation and fails to take corrective action, as specified, or the department determines the licensee committed the violation knowingly or with gross negligence. **Proposed Use of Resources.** To promulgate regulations, process an increase in citation assessments and forfeiture hearings for licensed dealers, update information technology infrastructure, and for licensing costs. Heard on 3/4		
19	DOJ	Firearms: Unsafe Handguns AB 2847 (Chiu), Chapter 292, Statutes of 2020	$674,000 Dealers' Record of Sale Special Account in 2021-22 and $1.2 million in 2022-23	AB 2847 requires, commencing July 1, 2022, all semiautomatic pistols not already listed on the Department of Justice (DOJ) roster of "not unsafe" handguns be equipped with chamber load indicators, magazine disconnect mechanisms, and microstamping technology.	No concerns with this proposal	Approve as budgeted

				AB 2847 eases compliance by requiring that newly developed semiautomatic pistol models etch microstamping characters on one place on the interior of the firearm, as opposed to two as currently required. Additionally, AB 2847 furthers implementation of the new UHA requirements by directing the Attorney General to remove three previously grandfathered handgun models from the roster for each new compliant handgun model that is introduced. **Proposed Use of Resources.** To promulgate regulations prompted by this measure and, potentially, related to IT system changes and litigation. Specifically, the DOJ states that changes need to be made to the Automated Firearms System, Dealers' Record of Sale (DROS), DROS Entry System (DES), and Consolidated Firearms Information System. The requested resources would be dedicated to ensuring that the functionality specific to AB 2847 remains operational as		

				subsequent changes are made to the impacted systems. Heard on 3/4		
20	DOJ	Continuation of CURES Help Desk Resources	Requests $484,000 Reimbursement authority in 2021-22 and ongoing	To support the Controlled Substance Utilization Review and Evaluation The 2019 Budget Act included two year limited-term funding associated with four help desk positions (two Associate Governmental Program Analysts and two Staff Service Analysts) for the CURES Program, which expire on June 30, 2021. Permanent funding is being requested to continue addressing the workload resulting from the CURES consultation requirements. A commensurate CURES Fund augmentation has been included in the Department of Consumer Affairs' budget to support this proposal. Heard on 3/4	No concerns with this proposal	Approve as budgeted

ITEMS FOR DISCUSSION

0250 Judicial Branch

Issue 21: Remote Court Proceedings

Governor's Budget. The budget proposes the following:

1. Authorizes Remote Proceedings in All Civil Cases

- The Governor proposes budget trailer legislation authorizing trial courts to conduct all proceedings (including trials and evidentiary hearings) in civil cases remotely when the court deems it appropriate and practicable. Judicial Council would be authorized to adopt statewide Rules of Court for implementation.
- The proposed legislation also includes intent language that this authorization "be interpreted broadly to provide safe and reliable access to justice."

2. Authorizes Remote Proceedings in All Infraction Cases

- The Governor proposes budget trailer legislation authorizing trial courts to conduct all proceedings (including arraignments and trials) in infraction cases remotely upon consent of the defendant. Judicial Council would be authorized to adopt statewide Rules of Court for implementation.

Background. Technology Allows Individuals to Participate in Court Proceedings Remotely

- Remote proceedings involve one or more parties using technology—ranging from calling in by telephone or through video conferencing—to participate in a court case, rather than being physically present in court.
- The use of remote proceedings—including the types of technology used and the case types or proceedings they are offered in—differs by trial court and is guided by state law and court rules.

Remote Proceedings in Civil Cases

- State law, as well as statewide and local Rules of Court, authorize telephone appearance for certain proceedings (such as discovery motion hearings) in certain civil case types (such as unlawful detainer and probate cases).
- State law requires Judicial Council enter into a master agreement with at least one vendor to provide for telephone appearances in civil cases. However, state law authorizes trial courts to directly provide such services as well outside of the master agreement.

- State law also requires Judicial Council establish civil fees for each telephone appearance. The current fee, which is paid by each party, is generally $94 (which may be waived by the court), with state law requiring that $20 of this fee go to support trial court operations. Telephone appearance fees generate roughly $7 million annually for trial court operations. The remainder of the fee supports the entity that provided the service.

- While state law does not specifically authorize videoconferencing in civil cases, state law authorizes courts to charge a "reasonable" fee to cover the costs of appearing in this manner.

Remote Proceedings in Criminal Cases

- For misdemeanor and felony cases, state law authorizes defendants (upon their consent) to appear through video conferencing in certain proceedings—such as arraignment. State law generally requires physical presence in other proceedings, such as preliminary hearings, unless waived by the defendant.
- A statewide Rule of Court authorizes the use of video conferencing in traffic infraction cases under certain conditions.

Remote Proceedings Temporarily Permitted on Broader Basis Due to Pandemic

- In response to the coronavirus disease 2019 (COVID-19) pandemic state of emergency declared by the Governor in March 2020, Judicial Council enacted emergency rules allowing trial courts to require remote proceedings in all case types—but requiring the consent of the defendant in criminal proceedings. These emergency rules will remain in effect until 90 days after the pandemic state of emergency is lifted or until amended or repealed by Judicial Council.
- Trial courts have flexibility in how they use this emergency authority. Most courts have pivoted quickly to use technology to help move proceedings in certain case types forward during the pandemic. However, due to differences in existing local court infrastructure and priorities, the use of remote proceedings can differ substantially by trial court. Additionally, trial courts continue to adopt new technology and modify how they use technology based on their experiences. Accordingly, the extent to which trial courts have implemented remote proceedings and how such proceedings differ by court is unclear**.**

LAO Assessment

Remote Proceedings Could Create Benefits. Expanding the use of remote proceedings merits legislative consideration as it could help increase equity and access to the courts by making it easier for court users (such as those who live far from the court) to interact with the court.

To the extent remote proceedings reduce the amount of time proceedings take, the Governor's proposal could reduce litigation costs (such as from the number of hours attorneys bill their clients) and could help process cases more efficiently and effectively.

Consider Whether Proposed Authority Is Appropriate for All Case Types and Proceedings. While remote proceedings can create benefits, the Legislature will want to consider whether remote proceedings would be appropriate for use in all case types or proceedings. For example, it could make sense for certain family law proceedings to take place in-person, such as to ensure children involved are not inappropriately influenced by adults. Additionally, the Legislature will want to consider whether state law should include certain minimum standards for the use of remote proceedings to ensure that court users across the state have similar experiences. However, under the broad authority provided to the judicial branch, no such minimums would be required.

Proposal Leaves Significant Implementation Details to Judicial Branch. Additionally, the proposed budget trailer legislation lacks specificity and leaves nearly all implementation details to the judicial branch, with little role for the Legislature. This is because the proposed language defers answers to key implementation questions to the judicial branch. Answers to these questions can have significant impacts on trial court operations, court processes, and appropriate funding levels. These key questions include:

— **How Would Courts Use the Authority to Conduct Remote Proceedings?** It is unclear whether remote proceedings will be required by Judicial Council or local courts, how this authority would be used, and in which case types or proceedings it would be used. For example, under the proposal, Judicial Council or local trial courts could require that all civil proceedings take place remotely—or alternatively, none at all.

— How Would Court Processes Change? It is unclear how the judicial branch would change existing court processes in order to facilitate remote proceedings. For example, it is unclear how much notice (if any) court users would need to provide if they would like to appear remotely or what specific rules for conducting jury trials remotely there would be.

— Would Fairness, Equity, and Other Issues Be Addressed and in What Manner? It is unclear how issues related to fairness, equity, privacy, and public access would be addressed in remote proceedings. For example, it is unclear whether parties who lack the necessary equipment for remote proceedings could choose for proceedings to occur in person. (Under the proposed language for infractions, remote proceedings require the consent of the defendant.)

Impacts on Trial Courts Would Depend on Implementation. The lack of key implementation details, in turn, makes it difficult to determine how the Governor's proposal would impact trial court costs and revenues, as well as future court facility needs, which could be significant. Specifically, these impacts include:

— Additional One-Time or Ongoing Technology-Related Costs. It is unclear the extent to which trial courts would incur additional one-time or ongoing costs (beyond those from the pandemic) for equipment and infrastructure to support remote proceedings. For example, it is unclear the extent to which trial courts would need to provide certain court employees, such as court interpreters, with equipment or Internet access to operate remotely on an ongoing basis.

— **Court Operations Costs and Workload.** On the one hand, court costs and workload could increase. For example, the convenience of remote proceedings (particularly if offered at no cost to court users) could result in more individuals choosing to file cases than otherwise or interacting with the court in a manner that requires more resources (such as filing more motions in a particular case). On the other hand, court costs and workload could decrease. For example, depending on implementation, courts could address cases more quickly than otherwise.

— **Court Revenues.** The impact on civil fees that support trial court operations (such as telephone appearance fees) is unknown. For example, it is unclear whether the use of video conference proceedings will result in the reduction or elimination of telephone appearance fee revenues and whether Judicial Council or local courts will adopt a fee for the use of video conference proceedings. The LAO notes that, under existing practices, any revenue losses would likely be backfilled by the General Fund.

Ongoing Facility Needs. A significant shift of proceedings to a remote platform could impact ongoing facility needs. On the one hand, existing facilities may require modernization and maintenance to support extensive video streaming. On the other hand, the number or size of physical courtrooms needed could decrease.

LAO Recommendations

1. ***Direct Judicial Branch Submit Implementation Plan.***
   Given the potential benefits, the LAO thinks the expansion of remote proceedings is warranted. However, the LAO recommends that the Legislature direct the judicial branch to submit a detailed plan for how remote proceedings would be implemented by case and/or proceeding type. At minimum, this plan should answer the key implementation questions described earlier to ensure the judicial branch has fully evaluated how court operations and court users would be impacted.

   After receiving this plan, the Legislature would be in a much better position to determine whether and how to modify the proposed legislation to ensure that the use of remote proceedings reflect its priorities. For example, the Legislature could decide to specify minimum procedural requirements or prohibitions on use in certain case types or proceedings.

   To the extent the judicial branch is able to provide a plan in the next couple of months, the Legislature could consider this proposal as part of the 2021-22 budget. Otherwise, the Legislature could consider the proposal as part of the 2022-23 budget.

2. ***Could Implement Pilot in Less Complex Cases or Proceedings if Priority to Authorize Remote Proceedings in 2021-22.*** The LAO states that they recognize that the Legislature may be interested in providing immediate authorization before it receives an implementation plan. If so, the LAO would recommends the Legislature pilot remote proceedings for two years in less complex case types or proceedings (such as infractions and/or small claims cases that do not require jury trials) and require an evaluation by November 1, 2022. The LAO would recommend the Legislature ensure the pilot reflects its priorities for remote proceedings.

   The pilot would inform legislative decisions on whether to extend, expand, or modify the authorization of remote proceedings in 2023-24 when the pilot would end. Testing remote proceedings in such a manner could help ensure that implementation issues are identified and resolved in areas that have less impact on court user lives before expanding to more complex case types and proceedings. This more measured approach, along with an implementation plan for the more complex cases and proceedings, allows for the minimization of unintended consequences and costs while key implementation questions are being addressed through the pilot.

Staff Recommendation. Hold open

Issue 22: Recidivism Reduction Strategies through Collaborative Courts

Background. Collaborative justice courts, also known as problem-solving courts, combine judicial supervision with rehabilitation services that are rigorously monitored and focused on recovery to reduce recidivism and improve offender outcomes.[1] Collaborative courts have a dedicated calendar and judge for specific types of offenders.

Adult criminal collaborative court programs combine intensive judicial supervision and collaboration among justice system partners with rehabilitation services to reduce recidivism and improve outcomes for moderate- and high-risk offenders with significant treatment needs. Although program models differ among court types and local jurisdictions, adult criminal collaborative courts are generally led by a judge and include an interdisciplinary team consisting of a defense attorney, a prosecutor, a representative from probation or parole, and treatment staff and/or case managers or other representatives specific to the particular court.

Collaborative courts focus on high risk/high needs cases and utilize evidence-based practices. Collaborative court participants are typically assessed for their risk of recidivating and for their mental health issues, substance-use disorders, and other treatment needs. Community supervision and treatment plans are created based on the information obtained from these assessments. Participants also attend regularly scheduled court sessions—usually one to four times a month— to discuss their adherence to individualized supervision/treatment plans and other program requirements. Graduated sanctions (e.g., admonishments, increased frequency of court sessions, and jail sanctions) are used to respond to noncompliant behaviors, and incentives (e.g., verbal praise, reduced frequency of court hearings, and transportation or food vouchers) are used to reward prosocial behaviors and encourage participants' progress.

History. In January 2000, then Chief Justice Ronald M. George appointed the Collaborative Justice Courts Advisory Committee to explore the effectiveness of such courts and advise the Judicial Council about the role of these courts in addressing complex social issues and problems that make their way to the trial courts. Formation of the committee expanded the scope of the Oversight Committee for the California Drug Court Project, which was appointed by Chief Justice George as of July 1, 1996, and continued until December 31, 1999. On August 3, 2000, the Conference of Chief Justices and the Conference of State Court Administrators passed a resolution to support collaborative justice courts.

Numbers and types of collaborative courts. California currently has more than 400 collaborative courts in all but three small jurisdictions, with many jurisdictions having four or more types of collaborative courts. The most numerous types of collaborative courts include adult drug courts (84), adult mental health courts (52), veterans' courts (46), dependency drug courts (35), juvenile drug courts (19), DUI courts

[1] Citation: http://www.courts.ca.gov/programs-collabjustice.htm

(23), reentry courts (20), homeless courts (18), community courts (11), and juvenile mental health courts (8). Newer courts such as girls' courts and CSEC courts for commercially sexually exploited children are also growing. The balance of collaborative courts includes dual diagnosis courts, family law drug courts, truancy courts, prop 36 courts. Participant caseload sizes vary depending on the type of court. Most drug court caseloads average between 75 and 100 participants while other collaborative courts tend to have smaller caseloads.

Staff Recommendation. This is an informational item. No action needed at this time.

Issue 23: Access to Justice for Court Users

Background. The following panel will highlight some services delivered to court users from the perspective of the service provider. This background document summarizes activities for each service provider participating in the panel:

Legal Aid. Civil legal aid organizations provide free legal assistance to low-income Californians, people with disabilities, and seniors. Legal aid helps people with problems such as foreclosure, unemployment, domestic violence, health access, consumer debt, housing, and reentry. Although many people believe that they have a "right to an attorney," there is no right to an attorney in civil cases. Legal aid attorneys help those who are most vulnerable and who most need an attorney's assistance. The Equal Access Fund and IOLTA ("Interest on Lawyer Trust Accounts") funding are the two relevant funding sources for legal aid in California.

The EAF supports approximately 100 legal aid non-profits providing critical assistance to low-income Californians throughout the state. The EAF was established in 1999 with a $10 million ongoing General Fund appropriation. In subsequent years, the EAF began to receive a portion of court filing fees. Legal aid services providers argue that their funding remains unchanged despite significant increases in the number of clients who need their services. Providers further note that, as of 2018, California was 10th in the nation in state funding for legal services, but has now fallen to 22nd in the nation. They further note that the state of New York provides $85 million per year for their legal aid programs. The 2017 Budget Act included a two-year $10 million augmentation for the Equal Access Fund. The 2018 Budget Act made that limited-term augmentation a permanent $10 million General Fund augmentation, beginning in 2019-20, and ongoing, to support the EAF. The 2019 Budget Act included an additional $20 million one-time General Fund for the Equal Access Fund.

IOLTA stands for "Interest on Lawyers' Trust Accounts." Rule 4-100 requires that attorneys who handle money belonging to their clients, including settlement checks, fees advanced for services not yet performed or money to pay court fees, deposit the funds in one or more clearly identifiable trust accounts. "All funds received or held for the benefit of clients by a member or law firm, including advances for costs and expenses, shall be deposited in one or more identifiable bank accounts labeled, 'Trust Account,' 'Client's Funds Account' or word of similar import..." If the amount is large or the funds are to be held for a long period of time, the attorney must place the money at interest for the benefit of the client. However, if the client funds are not capable of earning income for the client in excess of the costs of securing such income, including staff time and expenses to segregate those amounts, then they are pooled in a single account with similar funds of other clients.

In California, IOLTA interest income supports approximately 100 nonprofit legal aid organizations that provide civil legal aid to indigent and low-income people, seniors and persons with disabilities. Similar to other recessions, the COVID-19 pandemic has led to a dramatic decrease in IOLTA funding, due to a decrease in the money kept in accounts by attorneys as well as a significant drop in the federal funds rate. From 2019 to 2020, IOLTA revenue dropped from $46 million to $26 million. In 2021 it is projected to fall even further.

County Law Libraries. The California Judicial Council has reported that 75 percent of civil cases nationally, and more than 80 percent of family law matters in California, involve at least one self-represented litigant. Many self-represented litigants in California cannot afford representation. The cost of hiring a private attorney is simply prohibitive for the majority of Californians. Legal aid, pro bono organizations and court-based self-help centers assist but can only address a very small portion of the need (and only a small portion of those in need are even eligible, because of income and subject matter limitations). The County Law Library system- the libraries provide access to legal information for Californians who are without the means to hire a lawyer and would be without help but for their local public law library.

In 1891 the State of California, recognizing the need for free public access to legal information, authorized the formation of county law libraries in all 58 counties and provided for their funding via civil filing fees. Up until 2005, the Legislature provided for local control over library revenue by periodically authorizing County boards of supervisors to increase filing fees to enable law libraries to fulfill their defined mission. From 1994 to 2005, 75 percent of all counties used this authority to raise the local law library portion of the civil filing fee to maintain an adequate level of funding and public access to legal resources. However, the Uniform Civil Fee and Standard Fees Schedule Act of 2005 (UCF) established a schedule for trial courts across the state and provided a sunset to the authority of counties to adjust filing fees. Over 90 percent of County Law Library funding comes from a small portion of civil filing fees (ranging from $2 to $50 per case, depending on the county and type of case). The civil filing fee revenue that County Law Libraries depend on has dropped since 2009. The 2018 Budget Act included a one-time $16 million appropriation for County Law Libraries to address a decline in civil filing fee revenue.

Most recently, since March of 2020, law library revenue has fallen by nearly 40 percent statewide. The 2020 Budget Act included a one-time $7 million in 2020-21 to backfill County Law Libraries for lost revenue due to the reduction in civil case filings from COVID-19.

Dependency Counsel. Court-Appointed Dependency Counsel became a state fiscal responsibility through the Brown-Presley Trial Court Funding Act AB 1197 (W. Brown), Chapter 944, Statutes of 1988, and SB 612 (Presley), Chapter 945, Statutes of 1988, which added section 77003 to the Government Code and made an appropriation to fund trial court operations. Welfare and Institutions Code section 317(c) requires the juvenile court to appoint counsel to represent all children in dependency proceedings absent a finding that the particular child will not benefit from the appointment. The court must also appoint counsel for all indigent parents whose children have been placed out of the home or for whom out-of-home placement is recommended, and may appoint counsel for all other indigent parents. The statewide funding need for court-appointed counsel is based primarily on the number of children in court-ordered child welfare supervision. In 2018, federal Title IV-E policy changed to allow states to begin drawing down reimbursement for dependency counsel funding through the Federal Funded Dependency Representation Program (FFDRP). With the state dedication of stable General Funds and the newly available federal dollars, it was anticipated that caseloads would be reduced to at most 141 clients per attorney, a standard set by Judicial Council.

The Judicial Council has established a caseload standard of 141 clients per full time equivalent attorney and a total funding need of $207 million to achieve this standard. Inadequate funding and subsequent high caseloads lead to high attorney turnover and lack of retention of qualified advocates for children. Effective counsel will ensure that the complex requirements in juvenile law for case planning, notice, and timeliness are adhered to, thereby reducing case delays, improving court case processing and the quality of information provided to the judge, and ultimately shortening the time children spend in foster care.

In each of the past two years, the state budget appropriated $157 million General Fund for dependency counsel. According to stakeholders, the first opportunity for attorney groups to claim federal FFDRP matching funds came in 2019-20, but actual claims fell far short of state estimates. In Governor's January 2021-22 budget, the FFRDP drawdown is projected as $49 million in 2019-20 and $57 million anticipated ongoing.

During the COVID-19 pandemic, California saw a 7 percent increase in the foster care population due to court backlogs, mostly attributable to a 14 percent increase in Los Angeles County – approximately 5,000 more children and 5,000 more parents required representation throughout out the year.

Court Reporters. Court reporters serve a critical function in court proceedings. They stenographically preserve the words spoken in a wide variety of official legal settings such as court hearings, trials, and other pretrial litigation-related proceedings, namely depositions. Judicial court reporters work either in courtrooms as official reporters or in the private sector as freelance reporters who provide deposition services as well as reporting civil proceedings in court and arbitrations. Current law requires court reporters to make a verbatim record of court proceedings and to create transcripts from them. Without a transcript of the proceedings, litigants are: (1) unable to appeal decisions; (2) unable to draft orders effectively; and (3) unable to accurately recount what actually happened during proceedings. Recent Issues include the following:

1. In *Jameson v. Desta* in 2018, the California Supreme Court found that a litigant cannot be denied a court reporter due to an inability to pay for one (5 Cal.5th 594.). As part of the Budget Act of 2018, budget bill language was attached to the $75 million by the Legislature. The language expressed the following: " it is the intent of the Legislature that $10,000,000 be utilized to increase the level of court reporters in family law cases. Further, it is the intent of the Legislature that the $10,000,000 not supplant existing trial court expenditures on court reporters in family law cases."
2. The per folio rate for original transcripts prepared by official court reporters and court reporters pro tempore have not been adjusted in 30 years while fees for copies purchased at the same time as the original transcript have only increased once in 105 years.

3. As well, for years, the Transcript Reimbursement Fund (TRF) has faced decreased funding resulting in litigants losing access to transcripts and impacting court efficacy through delayed hearings as a litigant awaits a transcript. Since 1981, the Court Reporters Board has administered the TRF, which is funded by annual license fees of Certified Shorthand Reporters. The purpose of the TRF is to provide transcript reimbursement costs to indigent litigants in civil matters. There are two pathways to access the TRF: One path is available to pro bono attorneys representing indigent litigants. The other path is available to indigent litigants representing themselves (pro per, pro se, in propria persona). There are certain criteria to determine eligibility.

Staff Recommendation. This is an informational item. No action is needed at this time.

0820 DEPARTMENT OF JUSTICE (DOJ)

Issue 24: DOJ Spring BCPs

Spring BCP Requests and Background.

1. ***Bureau of Gambling Control Licensing Positions and Support.*** The Governor's Budget requests $3.4 million Gambling Control fund in 2021-22 and ongoing to process California Cardroom and Third-Party Providers of Proposition Player Services license applications. Specifically, this funding would (1) make permanent 20 existing positions currently supported by temporary funding and (2) add 6 new clerical support positions.

The Bureau of Gambling Control (BGC), within the DOJ, is the state law enforcement authority with special jurisdiction over gambling activities within the state of California and is the entity that conducts background investigations for the California Gambling Control Commission (Commission) on gaming license and work permit applications. The BGC regulates legal gambling activities in California to ensure that gambling is conducted honestly, competitively, and free from criminal and corrupt elements. The Division of Gambling Control (now the BGC) was created on January 1, 1998, with the enactment of the Gambling Control Act (Act).

The Act established a comprehensive plan for the statewide regulation of legal gambling. It provides a bifurcated regulatory system whereby the BGC serves in an investigative role and the Commission serves in an adjudicatory role. The Cardroom Gaming Unit within the bureau is responsible for the bureau's cardroom-related licensing responsibilities. There are four categories of applicants associated with gambling establishments:

1. All persons and/or business entities that have control or ownership interest in a gambling establishment, or third-party providers of proposition player services (TPPPPS).

2. A cardroom key employee license for all persons employed in a supervisory capacity or empowered to make discretionary decisions over the establishment's gambling operations.

3. A work permit is required of all persons employed in a gambling establishment for certain positions such as dealer, waitress/waiter, surveillance, etc.

4. TPPPPS Supervisors and Players.

Businesses or individuals submit applications to either obtain a license or renew a license, along with a processing fee, to the bureau. The bureau is then responsible for conducting background investigations and making recommendations to the Gambling Control Commission on whether licenses should be approved, renewed, or denied. The scope of each background investigation varies depending on the license type, applicant, and the complexity of the applicants' history, but normally includes in-depth research and analysis of each applicant's background through inquiries of various personal, public, and law enforcement sources. Also, the financial aspects of business owners and entitles are closely examined to verify that all persons with ownership/control interest in the gambling operation are identified and properly licensed. The length of time it takes to conduct such investigations depends on the type of license. For example, the investigations related to business owner license applications can be significantly more extensive than for a regular cardroom employee. These investigations include various inquiries, such as a criminal background check and a review of financial statements. The 2019 Budget Act approved $4.4 million and the retention of 32 limited term positions for two years.

Table 2: Workload History for the Licensing Section

Fiscal Year	2015-16	2016-17	2017-18	2018-19	2019-20
Beginning	2,696	2,153	1,991	1,806	1,786
Incoming Cases (Initial)	3,811	4,129	3,947	3,995	4,776
Incoming Cases (Renewal)	*1,568*	*1,437*	*1,208*	*2,304*	*1,334*
Cases Closed (Initial)	3,403	4,209	3,107	3,104	4,223
Cases Closed (Renewal)	*1,523*	*1,352*	*1,208*	*2,182*	*1,302*
Abandon/Withdraw/Other[2]	996	167	1,025	1,033	1,529
Ending	2,153	1,991	1,806	1,786	842

2. ***Medi-Cal Fraud and Elder Abuse Workload.*** The Governor's Budget requests $10.5 million Federal Trust Fund and $3.5 million False Claims Act Fund to allow full expenditure of a reoccurring federal grant which supports its current operations of eight regional offices.

The Bureau of Medi-cal Fraud and Elder Abuse is responsible for the investigation and prosecution of Medi-Cal fraud in both criminal and civil courts and the investigation and prosecution of elder and dependent adult abuse and neglect. On September 23, 2020, the Bureau of Medi-Cal Fraud and Elder Abuse became its own division: the Division of Medi-Cal Fraud and Elder Abuse. The DOJ states that the increasing federal Medicaid budget presents substantial challenges without the commensurate increase in State spending authority to keep up with the increasing demands related to fraud, abuse and neglect. From 2016 through 2019, the budget allotment for Medi-Cal has increased from $538.9 million to $705.8 million.

Staff Recommendation. Hold Open both proposals.

5227 Board of State and Community Corrections (BSCC)

Issue 25: Strengthening Jail Oversight

Spring BCP and Trailer Bill Language. The Governor's Budget requests $3.1 million General Fund and 14 positions ongoing to the BSCC for the oversight of county jails. This proposal also includes proposed trailer bill language to allow properly identified and authorized BSCC staff to enter a local detention facility without advance notice to conduct inspections to determine compliance with the Board's regulations. This proposal would allow for BSCC to move from biennial inspections to annual inspections and would allow for additional technical assistance.

Background. Local governments are responsible for operating certain detention facilities (such as jails) to incarcerate people in various stages of the criminal justice system. Detention facilities often engage in high stakes activities—including delivery of health care and use of force—that can have life and death consequences for those incarcerated as well as staff. Accordingly, proper facility policies and operations are critical to ensuring safety and humane treatment, protecting the rights of those incarcerated, and minimizing exposure to legal liability.

Several states—including California—set minimum standards for the operation of local detention facilities and inspect facilities relative to those standards. Such programs can provide state assistance for and oversight of local detention facilities. The operation of local detention facilities is currently of particular interest to members of the Legislature in light of recent concerns raised around conditions of jails in California.

Overview of Local Detention Facilities. In California, counties are responsible for detaining, in secure facilities, both youth and adults who (1) have been arrested for a crime and are awaiting trial or court decisions or (2) are serving time for committing a crime. In addition, some city police departments operate detention facilities used to detain arrestees on a short-term basis. In total, there are about 550 local detention facilities in the state.

Adult Detention Facilities House Adults in Various Stages of the Criminal Justice System. There are 457 local detention facilities that house people in various stages of the adult criminal justice system. Of these, 281 are operated by counties and 176 are operated by cities. These facilities include:

- *Jails.* These facilities can house people for significant periods of time including while they are serving multiyear sentences, though also may hold people for short periods following arrest. Statewide, jails have a capacity of 80,000 and had an average daily population of 73,500 in 2019. Of this population, 67 percent were unsentenced, 82 percent were charged with or convicted of a felony, and 87 percent were male.

- *Short-Term Detention Facilities.* These facilities hold people for less than 96 hours, such as some police facilities that hold people following arrest. Statewide, short-term detention facilities have a capacity of 4,000. The state does not collect population data for these facilities.
- *Holding Cells.* These facilities hold people for less than 24 hours, such as courthouse cells that hold people for their hearings. The state does not collect capacity or population data for these facilities.

While counties operate all of the different types of facilities, cities generally operate holding cells and short-term detention facilities, though one city—Santa Ana—operates a jail.

Typically Operated by County Sheriffs or Police Chiefs. County detention facilities are generally operated by elected sheriffs while city detention facilities are operated by chiefs of police who are appointed by elected city officials. Sheriffs and police chiefs typically maintain internal policy and procedure manuals that instruct staff in matters of facility operations. For example, a jail's policy regarding external visitors may outline when staff can deny or terminate a visit, such as if the visitor is under the influence of drugs or alcohol. Ultimately, sheriffs—who have broad and direct authority over facility operations—and county boards of supervisors—who allocate funding to sheriffs—are responsible for conditions inside county-operated detention facilities. Chiefs of police, as well as the city officials who appoint and oversee them, are responsible for conditions inside city-operated detention facilities.

Overview of BSCC: History, Responsibilities, and Governance. The BSCC was established in 2012, though similar agencies have existed in various forms since the 1940s. Under existing state law, BSCC is responsible for providing statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California's adult and juvenile justice systems.

BSCC has four main responsibilities: (1) setting standards for and inspecting local detention facilities, (2) setting standards for selection and training of local correctional staff, (3) administering various state and federal grant programs related to recidivism reduction and prevention strategies, and (4) administering the state's construction financing program for local detention facilities. The 2020-21 budget provides BSCC with $348 million ($136 million General Fund) to carry out these responsibilities. Of this amount, $315 million is expected to be passed through to local governments and other entities. Of the $33 million retained by BSCC, $2.7 million—as well as 8.4 staff positions—supports the standards and inspections program.

The agency is overseen by a 13-member board. In addition to a chair, statute requires the board to include two administrators from the California Department of Corrections and Rehabilitation (CDCR), five local law enforcement officials, one county supervisor or administrative officer, a judge, two providers of rehabilitative services, and a member of the public. Ten members—including the chair—are appointed by the Governor and subject to Senate confirmation. The Judicial Council, Speaker of the Assembly, and the Senate Committee on Rules each appoint one member. Statute requires the board to select either a sheriff or a chief probation officer from among its members to serve as vice chair. The chair of the board is a full-time paid position while the remaining members receive reimbursement for any expenses incurred as a board member, such as travel costs. The agency is managed by an executive director who is appointed by the Governor and subject to Senate confirmation.

Local Detention Facility Standards and Inspections Program

BSCC Required to Perform Certain Activities Related to Facility Standards. The state first created minimum standards for local jails in the 1940s after a statewide survey of jails found them in need of improvement. The standards were first administered by the State Board of Corrections, which later evolved through various government reorganizations into BSCC. The standards have been revised over time—including with the addition of standards for juvenile detention facilities—and are currently codified in Titles 15 and 24 of the California Code of Regulations. Current state law requires BSCC to perform the following specific activities, which make up the core of the standards and inspections program:

- *Maintain Minimum Standards for Facility Construction and Operation.* BSCC is required to create minimum standards for construction and operation of local detention facilities, as well as review and consider revisions to the standards once every two years. This work is done primarily by ESCs and working groups generally consisting of detention facility managers and advocates for inmates and detained youth, as well as formerly incarcerated people. In selecting members for these groups, statute requires that BSCC staff seek to include individuals with expertise and diverse perspectives.
- *Inspect Each Facility Every Two Years.* BSCC is required to inspect each local detention facility once every two years to assess compliance with the above standards. Inspectors review policy manuals and other written documentation of facility processes and procedures to assess their compliance with the standards. In addition, inspectors assess whether operations match policy by touring the facility; interviewing staff, inmates, and detained youth; and reviewing documentation of operations (such as log books and grievance forms). Following the inspection, BSCC staff continue to work with facility staff to develop and implement a corrective action plan if areas of noncompliance are identified.
- *Report on Facilities' Compliance With Standards.* Statute requires BSCC to provide inspection reports to facility administrators and certain other local officials, such as the presiding judge in the county. BSCC is required to post all inspection reports on its website and submit a summary report to the Legislature every other year. This summary report must include a list of noncompliant facilities, the specific standards these facilities did not meet, and the estimated cost to each facility of achieving compliance. We note, however, that BSCC does not report estimated costs for compliance. According to BSCC, such information is not collected and would be speculative.

BSCC Not Authorized to Enforce Standards. While statute requires BSCC to report which adult detention facilities are not in compliance with the standards, it does not give BSCC a mechanism to enforce the standards (such as by fining facilities). If BSCC finds juvenile detention facilities out of compliance, it is required by state law to promptly notify the facility operator and those who have authority to place minors in the facility. If the reason for noncompliance is not addressed within 60 days of the notification, state law prohibits minors from being housed in the facility until the issue is remedied. However, as with the standards for adult facilities, state law does not authorize BSCC to enforce this prohibition.

BSCC Modifying Program. In recent years, high profile cases of inmate mistreatment covered in the media have raised concerns about conditions inside California jails. Many of these cases point toward systemic problems, not just isolated incidents. Following these concerns, and citing an overall insufficient level of accountability and oversight of jails across the state, the Governor directed BSCC in January 2020 to make the following changes to the standards and inspections program:

- *Ensure Standards Are Consistent With National Best Practice.* As part of its existing biennial standards revision process, BSCC staff have started providing the working group members with reading materials on possible best practices for operating detention facilities. Staff also ask members to confirm they are considering best practices in their revision process.
- *Prioritize Inspections and Technical Assistance for Facilities With History of Noncompliance.* BSCC has begun conducting additional inspections and providing technical assistance at facilities that were found in the previous inspection cycle to have more than two significant items of noncompliance. These additional inspections are focused on the facilities' specific areas of noncompliance and do not replace their standard biennial comprehensive inspection.
- *Highlight Noncompliance through Public Board Meetings.* BSCC plans to implement a new process to highlight cases of detention facilities failing to comply with standards. Specifically, BSCC will ask agencies that do not address areas of noncompliance within specified time periods to appear before the board at a public meeting to discuss why they are not compliant. However, attendance is optional and if an agency declines to attend, there are no further consequences associated with noncompliance.

LAO Assessment

Board in Need of Reform. In their recent report, *A Review of State Standards and Inspections for Local Detention Facilities*, the LAO found that it is difficult to assess the effectiveness of the BSCC's standards and inspection program primarily because state law does not specify the mission or goals BSCC should pursue as it implements the program. This leaves significant discretion to BSCC and the administration in determining how to operate the program and undermines the Legislature's ability to assess whether the program is operating effectively and is consistent with legislative priorities. Based on conversations with BSCC staff and other stakeholders, there appears to be some consensus that the current informal mission of the program is generally to promote legal, humane, and safe conditions for inmates, detained youth, and staff. In addition, the LAO finds that the board pursues this mission primarily by focusing on the goal of providing service to local agencies by helping them determine and meet legal requirements. However, nothing prevents the current or future administrations from operating the program based on a different mission or goals.

To address these concerns, the LAO recommended that the Legislature take the following steps:

- ***Establish Clear Program Mission and Goals.*** The LAO recommended that the Legislature establish in statute that the mission of the program is to promote legal, humane, and safe conditions for detained youth, inmates, and staff in local detention facilities. To further this mission, the LAO recommended establishing four explicit goals for the program: (1) maintain standards that help local leaders determine and meet legal requirements; (2) facilitate transparency and accountability through standards and inspections; (3) promote equitable provision of legal, humane, and safe conditions; and (4) provide technical assistance and statewide leadership to facilitate systemic improvement in detention conditions.

- ***Balance Board Membership to Facilitate Oversight.*** The LAO found that the current BSCC membership does not have sufficient expertise and balance of perspectives to oversee local detention facilities based on the above mission and goals. This is because 6 of the 13 BSCC board members are currently administrators of correctional agencies, with at least 4 of them overseeing detention facilities that are subject to the BSCC standards and inspection program. As a result, they have an incentive to avoid approving standards that they believe would be difficult or costly to meet. Accordingly, the LAO recommended that the Legislature add board members with professional expertise in advocacy for and oversight of detention conditions. In addition, in order to create a better balance and enhance legislative oversight, the LAO recommended that more board members be subject to appointment by the Legislature.

- ***Require Plan to Align Program With Mission and Goals.*** The LAO found that various elements of the program are not aligned with the above mission and goals. For example, the LAO found that insufficient specificity in the current standards allows for subminimal policies and practices at local detention facilities—which does not support the goal of facilitating transparency and accountability around facility conditions. Accordingly, the LAO recommended directing BSCC to develop a detailed plan for how to align the program with the LAO's recommended mission and goals. This will (1) enable the Legislature to determine whether any statutory changes are needed and/or whether to provide BSCC with additional resources to implement the plan and (2) facilitate future evaluation of program effectiveness.

Program Expansion Not Needed at This Time. To the extent that the Legislature reforms the board as the LAO recommended above, the LAO thinks that expanding the program before implementing the reforms is premature. This is because, upon receiving BSCC's plan to align the program with the statutory mission and goals, the Legislature would be in a better position to assess BSCC's resource needs and to ensure that any additional resources it provides would be used to support a programmatic mission and goals that are consistent with the Legislature's priorities.

To the extent the Legislature chooses not to implement the reforms the LAO recommended, the LAO find that expanding the program is unnecessary. This is because the proposed expansion would support BSCCs current informal goal of providing service to local agencies by helping local leaders determine and meet legal requirements. In other words, the expansion would be primarily to increase the level of service BSCC provides to local agencies, such as by increasing the technical assistance it provides. However, BSCC has not provided evidence showing that local agencies are dissatisfied with the current level of service.

Unannounced Inspections and Electronic Data Entry Appear Worthwhile. Funding electronic data entry and providing BSCC with the option of conducting unannounced inspections appear to be worthwhile. Electronic data entry would result in data on facility standards compliance being housed in one data base as opposed to separate paper reports, making it easier to use for the Legislature, the board, local agencies, and stakeholders. Unannounced inspections would likely be a useful tool for BSCC inspectors in assessing facility compliance with standards. These changes would support both the LAO's proposed mission and goals for the program as well as the current, informal mission and goal of the program.

LAO Recommendations

Reform Board and Program. As discussed above and in their recent report, the LAO continue to recommend various changes to the board and the standards and inspections program.

Reject Program Expansion. In view of the above, the LAO recommends rejecting the 14 positions and $2.9 million in associated funding to expand the standards and inspections program as it would be premature to provide the funds before reforming BSCC as the LAO recommends and appears unnecessary if the Legislature chooses not to reform the board. To the extent the Legislature reforms the board, it could consider expanding the program at that time.

Approve Funds for Electronic Data Entry and Authorize Unannounced Inspections. The LAO recommends that the Legislature approve the remaining $150,000 in ongoing funding to support electronic data entry as well as the budget trailer legislation authorizing unannounced inspections as these changes would be worthwhile.

Staff Recommendation. Hold Open

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Dave Cortese
Senator Shannon Grove
Senator Josh Newman

PART A

Thursday, May 13, 2021
10:00 a.m. or upon adjournment of session
State Capitol - Room 3191

Consultant: James Hacker, Anita Lee, and Yong Salas

ITEMS PROPOSED FOR VOTE-ONLY

ITEMS PROPOSED FOR DISCUSSION AND VOTE

Public Comment

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

ITEMS PROPOSED FOR VOTE-ONLY

0690 OFFICE OF EMERGENCY SERVICES

Issue 1: Checkpoint Enhancements

Request. The Governor's Office of Emergency Services requests $300,000 General Fund for the preliminary plan ($100,000) and working drawing ($200,000) phases of the Security Checkpoint Enhancements project.

Background. This project will install two permanent security checkpoints and upgrade the existing entryway gates at the North and West entrances of the Governor's Office of Emergency Services Headquarters main parking lot. Cal OES is visited by a number of legislators, dignitaries, the Governor, and the Vice President. During activations, visitation can increase by upwards of 400 visitors daily.

Currently, there is no effective or sustainable means in which to control the vehicular flow of traffic to the main parking area. The project involves installing two purpose built, all weather, interior climate controlled, and fortified (bollards and ballistic glass) security kiosks at both entrances and the replacement of the four wooden gate arms with electronic controlled anti-ram barrier metal control arms that will raise and lower into locking cement bases. The proposed metal control arms have the capability to stop a 15,000 pound truck at 30 miles per hour.

Project includes trenching for electrical, demolition of existing gate system, construction of two permanent checkpoint structures with ballistic glass to house up to two guards, anti-ram bollards, and upgrading the existing gate system to an anti-ram gate with emergency closure mechanism via the lobby guard post. A badge installation, speaker and video camera system will also be installed to ensure proper identification of staff and visitors prior to entrance into the facility parking area.

The estimated total project costs are $1,750,000 including preliminary plans ($100,000), working drawings ($200,000), construction ($1,200,000) and equipment ($250,000). The construction amount includes $660,000 for the construction contract, $120,000 for contingency, $175,000 for architectural and engineering services, $125,000 for agency retained items, and $120,000 for other project costs.

Staff Recommendation. Approve as requested.

Issue 2: Regional Hazardous Materials Response

Request. The Governor's Office of Emergency Services requests $3,595,000 General Fund ongoing, beginning in 2021-22, to continue implementation of the Regional Hazardous Materials Response program.

Background. Existing law required Cal OES to provide regional and onsite response capabilities in the event of a release of hazardous materials from a railcar or railroad accident involving a railcar designated to transport hazardous material commodities. The program was initially funded by two $10 million loans from the California High-Cost Fund-B Administrative Committee Fund to the Regional Railroad Accident Preparedness and Immediate Response Fund. Cal OES utilized a portion of this funding to purchase and equip 12 hazardous materials response vehicles.

However, with litigation ongoing regarding the constitutionality of the fee source into the Regional Railroad Accident Preparedness and Immediate Response Fund, Cal OES received five permanent positions, $3.3 million General Fund in 2018, and $3.1 million General Fund in 2019 and 2020, respectively. This funding allowed for continued implementation and build out of the program while the constitutionality of the revenue source was determined. In 2018, Cal OES completed the distribution of the 12 fully equipped Type II hazardous materials response vehicles to local government fire agencies. The agencies entered into a contractual agreement with Cal OES to staff the hazardous materials response vehicles and respond to hazardous materials emergencies within the state upon request. Cal OES provided funds to train 17 personnel from each agency in hazardous materials response and create a sustainment plan to ensure that the agencies would maintain the staffing for response to hazardous materials emergencies.

Because the United States Court of Appeals for the Ninth Circuit granted a preliminary injunction on the revenue source into the Railroad Accident Preparedness and Immediate Response Fund, the two $10 million loans from the California High-Cost Fund-B Administrative Committee Fund are proposed to be paid back in fiscal year 2021-22 using the remaining fund balance in the Railroad Accident Preparedness and Immediate Response Fund and General Fund while continued implementation of the program is proposed to be funded with ongoing General Fund.

Staff Recommendation. Approve as requested.

Issue 3: California Early Earthquake Warning System

Request. CalOES requests $17.3 million one-time General Fund for continued support of system operations, an education and outreach campaign, research and development to expand mitigation uses, and program management of the California Earthquake Early Warning Program (CEEW).

Background. Chapter 803, Statutes of 2016 (SB 438, Hill), established the CEEW program and the CEEW Advisory Board. This required Cal OES, in collaboration with a variety of stakeholders, to develop a comprehensive statewide earthquake early warning system in California through a public private partnership.

The 2016 Budget Act included a one-time appropriation of $10 million General Fund and four positions for Cal OES to install and upgrade stations to the CEEW system. With this funding, Cal OES purchased and installed 183 seismic stations, created a connection for the CEEW System to the state microwave network, and ran an initial public service announcement campaign. In 2017-18, these positions were funded through savings in the 2016 Emergency Management Performance Grant. This grant provides federal funding to assist state, local, tribal, and territorial governments in developing emergency preparedness systems. The 2018 Budget Act provided one-time $15.8

million General Fund with $750,000 General Fund ongoing to support the buildout of the remaining sensor stations and continuing the position authority.

The 2019 Budget provided $16.3 million General Fund to finish the build-out of the CEEW System, and the 2020 Budget provided $17.3 million California Earthquake Safety Fund one-time, funded by a loan from the Schools Land Bank Fund to support the ongoing maintenance, operation, and education required for the CEEW System to function as intended.

A report commissioned by Cal OES identified potential sources of funding for a dedicated stream of revenue, including electric utility users charge, income tax surcharge, and General Fund. CalOES indicated that it is still working to develop cost-benefit analyses for potential industries that could provide funding, and in the meantime proposes a one-time General Fund expenditure to fund the ongoing costs.

Spring Finance Request. Cal OES requests to extend the liquidation date of 2018 Budget Act funding associated with the Earthquake Early Warning System from June 30, 2021 to June 30, 2022 to continue the installation of seismic sensors and to perform maintenance activities. The contract between Cal OES, University of California, Berkeley (UC Berkeley) and the California Department of Water Resources (DWR) fully encumbered the Budget Act of 2018 funds; however, additional time is needed to liquidate the funds as UC Berkeley and DWR continue to perform under the contract. The installation of stations in remote areas were more complex logistically to complete than previously estimated. These stations also come with more extensive land use and environmental permits than were previously expected, further delaying the process. Additionally, installations have been delayed due to issues with the supply chain, travel and installation all due to COVID-19. The extended liquidation period, once approved, would allow for $2.0 million of the interagency agreement with UC Berkeley and $200,000 of the interagency agreement with DWR to continue to be spent from the 2018 contracted amounts preventing the state from falling short on these contracts and the buildout of the system.

Staff Recommendation. Approve the Governor's January budget proposal and Spring Finance Proposal as requested.

Issue 4: Reimbursement Authority Increase for CAL FIRE Lease

Request. Cal OES requests an increase of $90,000 in Reimbursement authority beginning in fiscal year 2021-22, and increasing annually thereafter, related to an Interagency Agreement with the California Department of Forestry and Fire Protection for the lease of office space.

Background. Cal OES has historically provided office space to CAL FIRE at the Cal OES Headquarters facility, which is a state-owned facility. CAL FIRE has requested additional space which will be located in a leased building near the Headquarters facility. Cal OES is entering into an IA with CAL FIRE for reimbursement of the lease costs related to the specific space they will occupy.

Staff Recommendation. Approve as requested.

Issue 5: Various Re-appropriations

Request. Cal OES requests the re-appropriation of the following:

- Up to $1.5 million from the 2020 Community Power Resiliency appropriation (originally $50 million General Fund) until June 30, 2023 to support the continued administration of the local assistance grants and the development of the required report.

- $215,000 General Fund, until June 30, 2022, to continue expending unencumbered one-time funding for operating costs associated with the transfer of the Alfred E. Alquist Seismic Safety Commission to the Cal OES.

- $100,000 General Fund for the relocation of the Resources Building communications site until June 30, 2022, due to delayed site readiness of the relocation facility as a result of the COVID-19 pandemic and other delays.

- General Fund reappropriation of $1.3 million for the equipment phase and $15.4 million for the construction phase for the Relocation of Red Mountain Communications Site project in Del Norte County. The reappropriation is necessary due to project delays associated with extended lease negotiations, design changes, weather related access to the project site, and effects of the COVID-19 pandemic.

Staff Recommendation. Approve as requested.

2600 California Transportation Commission

Issue 6: Local Streets and Roads Program

Request. The Budget includes trailer bill language making changes to the Maintenance of Effort (MOE) requirement for local governments that receive funding from the state for their local streets and roads. Given the decline in local revenues, it is reasonable to relax MOE requirements to ensure that local governments are not punished for suffering a decline in local revenue due to the pandemic. The language also provides some flexibility for local governments whose primary revenue source is the Transient Occupancy Tax (TOT) to use TOT revenue to calculate their MOE instead of general sales tax revenue.

Staff Recommendation: Approve placeholder trailer bill language.

2660 CALIFORNIA DEPARTMENT OF TRANSPORTATION

Issue 7: Office Space Related Costs

Request. The budget includes an increase of $8,295,000 in State Highway Account (SHA) authority for office space related issues. This includes a one-time operating expense increase of $7,340,000 in 2021-22 and a permanent operating expense of $955,000 beginning in fiscal year (FY) 2021-22. These additional funds will be used for office space modifications, internal staffing relocations, modular systems furniture (MSF) reconfigurations and mobile workforce technology.

Staff Recommendation: Approve as budgeted.

2720 CALIFORNIA HIGHWAY PATROL

Issue 8: Reimbursement Authority

Request. The budget includes a permanent budget augmentation of $4 million in reimbursement authority to provide traffic control and management services to the California Department of Transportation (Caltrans) Maintenance Zone Enhanced Enforcement Program (MAZEEP). This request provides CHP with the reimbursement authority necessary to receive funding from Caltrans that was approved on February 11th.

Staff Recommendation: Approve as budgeted.

Issue 9: California Highway Patrol Enhanced Radio System

Request. The budget includes a reappropriation of $339,000 Motor Vehicle Account (MVA) funding for the working drawings phase of the Sawtooth Ridge site of the CHP Enhanced Radio System (CHPERS) Phase 1 Replace Towers and Vaults project. The working drawing phase has been delayed due to challenges in acquiring the site. This reappropriation will allow work to continue once site acquisition has been completed.

Staff Recommendation: Approve as budgeted.

7350 DEPARTMENT OF INDUSTRIAL RELATIONS

Issue 10: Enhancement of Occupational Safety and Health (CalOSHA) Program

Summary. The Governor proposes budget bill language to authorize the Department of Finance to provide up to an additional 70.0 positions in the 2021-22 fiscal year and up to $14.4 million ($13.3 million ongoing) from the Occupational Safety and Health (OSH) Fund to Cal/OSHA to meet workload demands. The Department of Finance shall notify the Joint Legislative Budget

Committee within 10 days of an augmentation pursuant to this provision. The chart on the below provides a breakdown for the proposed 70 positions. The subcommittee heard this issue on February 25, 2021.

Classification	Positions
REGIONAL MGR	1.0
DIST MGR	3.0
SR SAFETY ENGR-INDUSTRIAL	2.0
ASSOC SAFETY ENGR	9.0
SR INDUSTRIAL HYGIENIST	10.0
ASSOC INDUSTRIAL HYGIENIST	12.0
STAFF SERVICES ANALYST-GEN	8.0
OFFICE TECH-TYPING	9.0
ATTORNEY IV	8.0
ATTORNEY III	2.0
LEGAL SUPPORT SUPVR I	1.0
LEGAL SECRETARY	4.0
OFFICE ASST-TYPING	1.0
Total Positions	70.0

After the hearing, DOF provided staff additional information regarding this proposal. The Administration notes that DOF would authorize these positions when DIR and CalOSHA reduces the vacancy rates for safety engineer and industrial hygienist classifications to their historical levels, which have ranged between 10 and 15 percent. As of March 10, 2021, the vacancy rates of these classifications were 23.8 percent. DOF will be looking for a vacancy rate of approximately 12.5 percent, however DOF notes that they will consider approving some positions sooner if vacancies at regional offices were reduced and if further staffing up is delayed without this additional authority.

Staff Recommendation. Approve as budgeted.

7501 Department of Human Resources (CalHR)

Issue 11: Payroll System Project

Summary. The Governor proposes $230,000 General Fund and one position at CalHR to serve as the Enterprise Human Resource Project Director and work in collaboration with the Department of Technology and the State Controller's Office on the California State Payroll System Project.

Background. CalHR is working with the Department of Technology (DOT) and the State Controller's Office (SCO) to re-engineer the California State Payroll System (CSPS), which will be the state's new HR management and payroll system. The Enterprise HR solution will provide tracking and reporting on all state employees with an employee ID throughout their state career, and it will be the central location that tracks all employee information for all statewide HR solutions that come on board.

As the next initiative in the Enterprise HR solution, the CSPS Project seeks to modernize and improve the efficiency of the current Uniform State Payroll System (USPS) or replace it entirely. While SCO is lead on this initiative, CalHR is responsible for all statewide civil service HR programs, labor relations and workforce data reporting requirements necessitates its involvement in SCO's efforts to develop and implement the CSPS project. This project will require the project director to oversee and ensure that the new system appropriately applies requirements set by laws, regulations, bargaining agreements and statewide HR and labor relations programs, business, practices and processes. The requested Enterprise HR project director will also be driving timelines, developing and monitoring work breakdown structures, acquiring resources, managing scope, risks, and issues, and all other project director duties necessary.

Staff Recommendation. Approve as budgeted.

Issue 12: Dependent Verification

Summary. The Governor submitted an April Letter proposing trailer bill language to transfer the responsibility of dependent verification from the CalPERS statute to CalHR's statute.

Background. The Public Employees' Medical and Hospital Care Act, administered by the CalPERS board, governs the funding and provision of postemployment health care benefits for eligible retired public employees and their families. PEMHCA requires the employing office of a state employee or state annuitant, pursuant to standards established by CalHR, to possess documentation verifying eligibility of an employee's family member prior to the enrollment of a family member in a health benefit plan and to verify continued eligibility pursuant to a specified schedule. PEMHCA requires the employing office to obtain verifying information for certain family members, including children and stepchildren, at least once every three years. DOF notes that the dependent verification is currently the responsibility of each departments human resources offices, with CalHR providing oversight and setting the general policy. CalPERS was originally responsible for the initial overall verification.

Governor's Budget Proposal. The Administration proposes trailer bill language to shift the responsibility of dependent verification to CalHR's statute. The trailer bill continues to specify that spouses, domestic partners, stepchildren and domestic partner children be verified at least once every three years; and for other children for whom the state employee or annuitant has assumed a parent child relationship be verified at least once annually. The new language specifies that an employee's or annuitants birth children or adopted children be verified at least once within a three-year period from the initial enrollment. Lastly, the new language specifies that CalHR consult with CalPERS prior to the adoption of any regulations regarding the implementation of this proposal.

Staff Recommendation. Approve as proposed.

7870 CALIFORNIA VICTIM COMPENSATION BOARD

Issue 13: Ongoing Backfill

Request. CalVCB requests $33 million General Fund in 2021-22 and $39.5 million General Fund thereafter to backfill a decline in revenues in the Restitution Fund.

Background. This item was discussed at this subcommittee's March 4 hearing.

California funds services to victims of crimes through various programs administered by different entities, including: the Victim Compensation Board (VCB), the Governor's Office of Emergency Services (OES), the Department of Justice (DOJ), and the California Department of Corrections and Rehabilitation (CDCR). The 2018-19 Budget Act required the VCB and OES to work together to develop options and a recommendation for combining the state's victims programs under one organization. A Consolidation Working Group was convened to complete the report and provide recommendations for consolidating the victims' programs. The report was released in October 2018.

OES combines federal and state funding to support more than 1,200 projects providing victim services throughout the state. Likewise, VCB also combines federal and state funding—from fines and restitution orders paid by offenders convicted of traffic infractions, misdemeanors, or felonies—to offer compensation directly to, or on behalf of, victims and survivors who are injured or threatened with injury. However, due to declining revenue from fines and fees, the Restitution Fund faces an ongoing structural deficit, and the proposed backfill will stabilize the revenues from which the compensation is made.

Staff Recommendation. Approve as requested.

ISSUES PROPOSED FOR DISCUSSION

2660 California Department of Transportation

Issue 14: Highway Safety Program

Governor's Budget. The budget includes a 2-year limited term increase of $22,499,000 and five 2-year limited-term positions to fund safety projects throughout the state as part of its Highway Maintenance 4 Safety (HM-4) Program.

Background. Every year, about 3,600 individuals die on California's transportation system. That averages about 10 deaths per day of which about three are our most vulnerable users: people who bike and walk. Caltrans adopted a goal of "Toward Zero Deaths" in 2016 and set goal year of 2050. The Highway Safety Improvement Program (HSIP) and annual safety performance targets provide the framework for achieving this goal. The 2020-2024 Strategic Highway Safety Plan (SHSP) lays the groundwork to deploy new and novel strategies to address recent trends surrounding fatalities and serious injuries on our roadways. Every year, about 3,600 individuals die on California's transportation system. That averages about 10 deaths per day of which, about three are our most vulnerable users: people who bike and walk.

The Division of Safety Programs was established in May 2020 under the Deputy of Maintenance and Operations to elevate focus on traffic safety, evolve the state's safety culture to tackle reduction in fatalities and serious injuries. Following this, Caltrans adopted two safety-focused programs:

1. The Wrong-Way Driver Preventative Countermeasures Program was established on August 12, 2020 and required investigation of 335 exit ramps for the addition of specific and targeted wrong way driver prevention safety convenience countermeasures to reduce the likelihood of wrong way driver occurrences at these ramps that may result in a serious injury or fatal crash if the driver enters a freeway the wrong way at one of these ramps.

2. The Pedestrian Systemic Safety Improvement Program was established on September 11, 2020 and required investigation and application of blanket safety convenience countermeasures at 500 locations to address specific roadway features that are associated with specific crash types and to reduce pedestrian exposure to these crash types

Caltrans has already established the Electrical and Traffic Guidance Program within the Division of Maintenance. Its small $2.5M budget funds highway maintenance contracts for electrical and traffic guidance work that includes replacement of pavement markers, reconstruction of guardrails, and re-lamping highway and sign lighting fixtures.

Staff Comments. Caltrans has indicated that they intend on creating a new Highway Maintenance-4 (HM4) Safety Program to build on these efforts. Specifically, it is intended to fund the construction of projects identified in the Wrong-Way Driver Preventative Countermeasures Program and the Pedestrian System Safety Improvement Program. The Wrong-Way and

Pedestrian Programs will establish the location selection criteria and the types of proven safety countermeasures that should be applied to each location via projects managed and funded and delivered through HM-4. With this funding Caltrans anticipated completing 878 exit ramp safety improvements and 1,000 pedestrian crossing improvements.

Staff Recommendation. Hold Open.

Issue 15: CARES Act GTFS and Support

Governor's Budget. The budget includes $7,172,000 of the $94,000,000 in federal received from the Coronavirus Aid, Relief, and Economic Security (CARES) Act to contract for and hire technical staff to analyze, design, and implement business processes to support medium, small, and rural agencies in consistent compliance with the General Transit Feed Specification (GTFS) and contactless payment standards.

Background. The General Transit Feed Specification (GTFS) defines a common format for public transportation schedules and associated geographic information. It allows real-time transit data to be incorporated into third-party apps and systems, such as Google Maps. While large transit agencies have widely adopted GTFS, smaller agencies, including rural agencies, are often not compliant. Additionally, many of these operators have not adopted contactless payment systems that are often considered best practices.

During COVID-19, many transit providers stopped collecting fares because cash payment and processing increased exposure between operators and customers, and between operators and back office personnel processing cash. During COVID-19, many transit providers also made schedule changes that were not relayed to customers, leaving customers waiting for a bus that never came. Contactless solutions and the real time publication of transit schedules are important to resuming transit services and increasing customer trust of the safety of transit.

The CARES Act and the Coronavirus Response and Relief Supplemental Appropriation Act (CRRSAA) both provide funds to prevent, prepare for, and respond to COVID-19. To date, roughly $86 million in CARES funding has been awarded to rural transit operators, with a call for projects recently issued for an additional $74.4 million in CRRSAA funding.

Staff Comments. Caltrans has indicated that this request will allow the department to establish an in-house Business Unit whose responsibility is overseeing the implementation and expansion of GTFS, equitable contactless payments and benefits eligibility verification for small, rural and mid-sized transportation services.

To date, the Federal Transit Administration generally will consider all expenses normally eligible under several existing transit programs incurred on or after January 20, 2020 to be in response to economic or other conditions caused by COVID-19 and thus eligible under the CARES Act and CRRSAA, as applicable. An example of additional flexibility in formula funding programs provided by CARES is costs associated with shutting down or restarting service. Many agencies are interested in advancing to mobile trip planning and open loop contactless payments as part of restarting their services.

Staff Recommendation. Hold Open.

Issue 16: Project Delivery Workload – Capital Outlay Support

Governor's Budget. The budget requests a net increase of $107.4 million and 548 Full Time Equivalents from the Fiscal Year 2021-22 Governor's Proposed Budget for the Capital Outlay Support (COS) Program project delivery workload.

Background. Capital Outlay is the funding mechanism for construction contracts and right of way acquisition on projects that preserve and improve the state highway system. The COS Program provides the funding and resources necessary to develop (design) and oversee the construction of projects. The COS Program also provides oversight and/or independent quality assurance of projects developed by local entities on the state highway system.

Individual project requirements and schedules are created and maintained in the Project Resource and Schedule Management (PRSM) system. The COS Program uses PRSM work plans to calculate estimated COS workload for the budget year. It is important to note that Caltrans does not manage projects based upon the workload estimated for each project in each fiscal year, buy by component (Environmental, Design, Right of Way, and Construction) based upon the programmed budget. Components commonly span over two or more fiscal years. As such, the COS budget can be considered a "snapshot" of the estimated overall need for Caltrans capital outlay projects during the fiscal year.

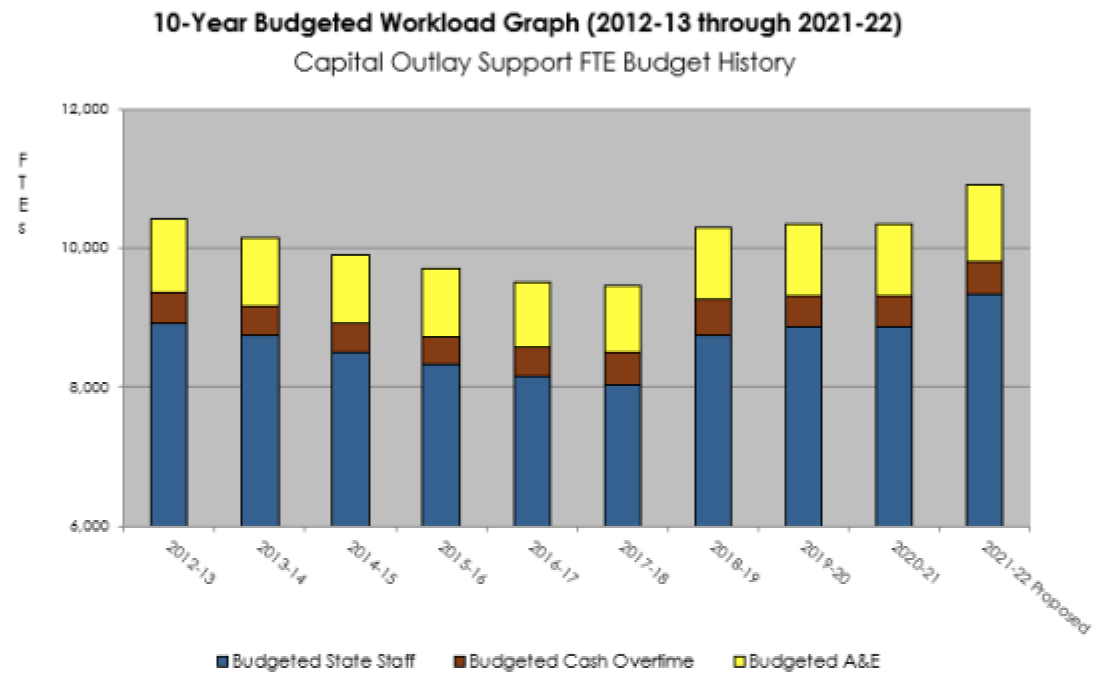
Staff Comments. The below chart highlights that changes in the COS budget between the Governor's January budget and this revised request.

Table 1C: FY 2021-22 Governor's Budget vs. FY 2021-22 May Revision (excluding Distributed Administration and Equipment)

Dollars in Thousands

COS 1835010	Total Funding	Funding for Personal Services Regular Staff	Funding for Personal Services Cash Overtime	Funding for Architectural & Engineering Contracts	Funding for Operating Expenses
2021-22 Governor's Budget	$1,992,946	$1,542,043	$52,968	$266,214	$131,721
2021-22 May Revision	$2,100,395	$1,603,815	$55,848	$302,742	$137,990
Net Request	$107,449	$61,772	$2,880	$36,528	$6,269

The below chart highlights the growth in the COS program over the last several years. With the passage of the Road Repair and Accountability Act of 2017 (SB 1, Beall), additional funding for transportation projects led to an increased need for COS positions.



Staff Recommendation. Hold Open.

Issue 17: Indirect Cost Rate Proposal

Governor's Budget. SB 848 (Committee on Budget and Fiscal Review), Chapter 46, Statutes of 2018 placed a temporary cap on the indirect overhead rate Caltrans could charge self-help counties for engineering work, which expires on July 1, 2021. It also required a report on the impact of that cap on Caltrans work performed for self-help counties by July 1, 2021.

Background. Caltrans does work on behalf of Self-Help Counties who develop projects on the state highway system, in addition to cities, regional transit and transportation agencies, certain state agencies, and private entities. Caltrans recovers the cost of these services and charges these entities a rate that covers the cost of both administrative and program functional rates.

The Self-Help Counties are 24 local county transportation agencies that have passed a countywide sales tax measure to fund transportation projects. In 2018 these counties received an exemption from full cost recovery for Caltrans' services. Since 2018 they have paid only for direct costs.

Staff Comments. The current exemption for Self-Help counties sunsets in July of 2021. A report on work Caltrans has performed for Self-Help counties in the last three years is due at the same time. While capping overhead rates leads to a reduction in funding for the State Highway Account that funds the State Highway Operation and Protection Program, which provides funding for major rehabilitation of the State Highway System, it also saves money for Self Help counties that they can then spend on their own local transportation projects. Absent the required report, it is difficult to assess whether the cap made a measurable impact either on Caltrans' finances or on the level of work they performed for Self Help counties.

Staff Recommendation. Hold Open.

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

Issue 18: EDD – Unemployment Insurance Update

On February 8, 2021, the subcommittee held a joint informational hearing with the Senate Labor and Public Employment Committee regarding the State Auditor's January reports on EDD's performance and management related to Californians unemployed due to the COVID-19 pandemic. The committees heard testimony from the California State Auditor, Director of EDD, and representatives from Bank of America.

Background

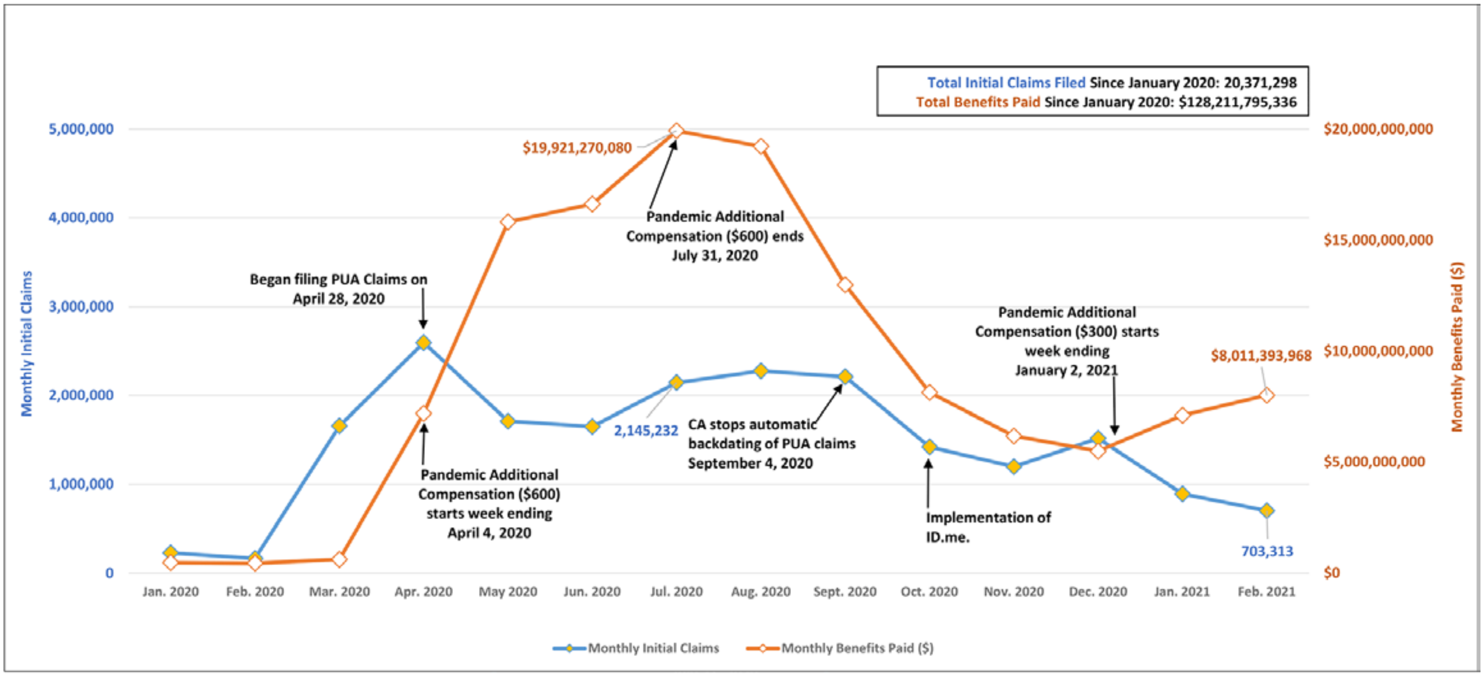
Due to the COVID-19 pandemic lockdown, California's unemployment rate jumped from 4.3 percent in February 2020 to 16.2 percent in April of 2020. By March of 2021, EDD processed more than 22 million claims, including PUA claims. This equates to more than $140 billion in unemployment insurance benefits. The scale, scope, and speed of the COVID-19 pandemic is simply unprecedented, and it caught EDD unprepared, as it did nearly all governmental entities.

EDD faced unique challenges in implementing the federal government's response to the COVID-19 pandemic. On March 27, 2020, the former administration signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which extended unemployment insurance benefits to independent contractors through the Pandemic Unemployment Assistance (PUA) program. This extension of wage replacement benefits to independent contractors and business owners, which is 100% federally funded, was an unprecedented and untried program, and it represented an attempt to provide wage replacement benefits to the broadest range of workers impacted by COVID-19.

Unfortunately, as structured by the federal government, the PUA program did not have sufficient anti-fraud protections in place. Unlike with traditional unemployment insurance benefits, where employer payroll reports to EDD serve as a verification tool of continued unemployment, the PUA program operated entirely on self-attestations. During the Great Recession, the federal government extended no comparable benefit program, and therefore fraud remained negligible.

As noted in the February hearing, the State Auditor issued 14 recommendations to EDD regarding its operations, all of which EDD agreed to implement. As of May 5th, one of the recommendations was submitted to the state auditor, one recommendation was completed and the remainder are in progress. The State Auditor also issued seven recommendations for EDD to implement regarding anti-fraud, of which five were submitted to the State Auditor, and two are in progress. See attachment #1 for a chart of the State Auditor's recommendations to EDD, and EDD's stated status. In addition, the State Auditor also issued five recommendations to the Legislature to take action on, including the implementation of a recession plan and an assessment of fraud prevention and detection tools. Currently, there are several legislative bills in the policy process that seek to implement the Auditor's recommendations. As of writing this agenda, the State Auditor is reviewing EDD's implementation and progress towards fulfilling the recommendations, and the assessments will be posted on the State Auditor's website in the near future.

As of March 2021, the state unemployment rate was 8.31 percent, and the number of initial unemployment claims filed has declined, as shown in the EDD graphic below. Additionally, EDD reports that the state has regained 44 percent of the jobs lost in March and April of 2020.



EDD UI Backlog. At the end of January, 2021, EDD announced it had resolved the 1.6 million backlogged claims identified by the Strike Team in mid-September 2020. Per the Strike Team definition, a backlogged claim at the time was one that takes more than 21 days to issue first or further payment or disqualification, regardless if the claimant or EDD need to take some type of action. In alignment with a recommendation from the State Auditor, the EDD launched in March 2021 an expanded online dashboard containing data about unemployment claims, payments, and related data – including a revised view of the backlog more clearly identifying claims pending EDD action that are taking more than three weeks to resolve.

Since the launch of the new data dashboard, the backlog of claims past 21 days pending EDD action has decreased from 265,117 in February 13, 2021 to 135,360 claims as of April 24. Of the 135,360 claims, half of are initial claims awaiting processing for first payment and the other half are continued claims awaiting processing of a further payment. The vast majority of both types of claims are pending a “Resolution of Eligibility Issues”. For example, claimants state they were fired, quit, or were not able and available for work if offered which requires EDD to manually review the claim before determining eligibility for benefits. EDD also reports paying 87 percent of claims within one week of first certification received.

Staffing and Claimant Services. EDD notes that their strategy for managing call center demand includes directing people to online resources and increasing permanent state staff with training necessary to help customers. EDD notes that they are actively recruiting, hiring and training hundreds of new employees to assist claimants and answer their questions. For the week of April 19, 2021, the EDD call center was staffed with 1,681 employment program representatives (EPRs) or 825 full-time equivalent (FTE) and 1,082 office technicians (OT) or 734 FTEs.

EDD also launched new tools to enhance customer service, including:

- Improving the mobile phone-ready version of the EDD website so claimants can file claims and easily access information on their phones and devices.
- Deploying document upload, including a mobile-friendly version, to help claimants save time over mail.
- Calling customers directly from the remote virtual call center to seek clarifying information and resolve claims.
- Launching a new feature that allows a caller to hold their place "in line" when contacting the call center, eliminating the need to wait on hold until the EDD calls the claimant back. This feature was launched in late April, and will continue through early June. In an Assembly subcommittee hearing last week, the department announced that 477 people have utilized this feature.
- Continuing to monitor customer areas of confusion and trending issues and addressing them with improved public information.
- Posting information through UI Online to let claimants know they could be eligible for a tax credit to lower health insurance costs or housing assistance for renters and landlords.
- Launching a more extensive and user-friendly unemployment data dashboard to provide greater transparency on claim filing activity.

Language Access. According to the EDD's 2018-2021 Language Access Plan, EDD provided services in 2016 to Californians in 56 languages, and about 2.5 million EDD customers were serviced in languages other than English. The report noted that EDD maintains a bilingual services directory containing more than 2,000 employees speaking more than 60 languages. Additionally, the 2018 plan noted telephone-based interpretive services were also available in more than 100 languages to assist Limited English Proficient customers. Despite this, the EDD Strike Team report found that individuals who are not fluent in English face unsurmountable barriers to receiving assistance. EDD recently announced a multi-million-dollar investment in language interpreter services their call centers. EDD notes that they have dedicated phone lines in English, Spanish, Cantonese, Mandarin and Vietnamese. EDD notes that it is their goal to create a multi-lingual translation program and interpreter services to help claimants with limited English proficiency.

Curbing Fraud. In January, the EDD began an analysis of 1.48 million suspicious claims that were suspended until identity or eligibility could be verified. Of those who needed to verify their identity, approximately 37 percent did so and were then cleared to resume obtaining benefits if otherwise eligible, while the others were disqualified and were provided appeal rights. EDD notes that further details will be provided when the full analysis is complete.

The EDD's investigations unit also works with local, state and federal investigators and prosecutors. At the end of April 2021, the Governor's Office of Emergency Services announced the state Task Force on Pandemic Unemployment Assistance Fraud has led to the arrest of 68 suspects and the opening of 1,641 additional investigations. In addition, EDD notes that they have taken the following steps to help curb and address fraud:

- Established partnerships with law enforcement and other states to share data with other jurisdictions to help catch multi-state fraudsters,
- Cross referencing data against law enforcement records,
- Suspending payment to investigate suspicious multiple claims from single addresses,
- Implementing State Auditor recommendations to convene a fraud unit that coordinates fraud prevention and detection, and
- No longer automatically backdating federal PUA claims, a program that was vulnerable to fraud.
- Contracted with Accenture to conduct an evaluation of fraud detection and prevention operations.

Benefits System Modernization Project. Pursuant to the September 2020 Strike Team report recommendations, EDD placed the BSM project temporarily on hold. On May 4, 2021, EDD announced a redesigning of the Benefit System Modernization (BSM) Project, which take into account lessons learned from the pandemic as well as new software technology that has since become available. For example, EDD notes that the BSM project was first designed based on demand levels from the Great Recession, which peaked at 3.8 million claims in a year, compared to 20 million claims during the pandemic. EDD notes that they will leverage work already done on the BSM, including an inventory of business rules and processes in the state unemployment insurance, disability insurance and paid family leave programs, and incorporate the information in a new project moving forward. EDD notes that they are working with the Department of Technology and the Office of Digital Innovation to help modernize the claimant process.

The subcommittee may wish to ask:

1. What is the new timeline for the Benefit System Modernization Project? How will the scope of the project change?
2. Please elaborate on your efforts to address the language access issues raised by the Strike Team report, and what your plans are in the future to address this long term?

<u>Staff Recommendation. None, this item is informational.</u>

7920 CALIFORNIA STATE TEACHERS RETIREMENT SYSTEM

Issue 19: Multi-Year Investment Strategy

Summary. The Governor's budget proposes $38.2 million in permanent funding to establish 104 authorized positions distributed across fiscal years 2021–22 through 2025–26, as part of a Multi-Year Internal Investment Management Plan. The Plan is a five-year resource strategy to continue the implementation efforts of the Collaborative Model (Model) and manage growth in assets under management (AUM).

In addition, this proposal requests administrative authority for CalSTRS to implement resources earlier, on an as-needed basis, pursuant to the Teachers' Retirement Board (board) approval and notification to the Department of Finance (DOF).

Background. As a global institutional investor with approximately $248.3 billion in net assets as of June 30, 2020, CalSTRS is the largest educator-only pension fund in the world and the second largest pension fund in the United States. CalSTRS portfolio is projected to grow to $302.5 billion by 2025-26. Headquartered in West Sacramento, California, CalSTRS serves more than 975,000 California public school educators and their beneficiaries, employed by 1,788 contributing employers including school districts, community college districts, county offices of education and other public education employers.

The CalSTRS Collaborative Model is a long-term investment strategy to manage more assets internally—to help reduce costs, control risks and increase expected returns—and leverage external partnerships to achieve similar benefits. In 2019, external management costs were approximately $1 billion as compared to $327 million in hybrid-private management and $39 million in internal management costs. Hybrid-private management represents mostly private investments where CalSTRS have collaborated with external industry partners. Internal management costs primarily represent CalSTRS staff managing assets in public markets.

Governor's Budget Proposal. The Governor proposes $38.2 million over five years for 104 positions in the investments branch and administrative support to bring investment management in house as a part of a multi-year plan. The Plan is a five-year resource strategy to (1) transition assets to internal management, and (2) manage and grow assets under management.

The proposal includes additional resources to manage the increase in AUM. CalSTRS AUM growth is correlated with projected net investment returns and changes in member, employer and state contribution rates. CalSTRS portfolio is valued at $248.3 billion as of June 30, 2020, and is projected to grow to $302.5 billion by 2025-26. Increases in the AUM has a direct impact on the number of investment staff required to management and make investment decisions and support investment activities. Overall growth in AUM has required additional investment resources to successfully manage the size and complexity of the CalSTRS portfolio. As assets increase, the need for additional investment staff are projected to rise.

The proposal also includes resources to increase internal management of assets. CalSTRS notes that under the use of external managers, CalSTRS has less control on how its investments are managed, such as when to buy, sell and how to manage assets while owned. By adding new strategies internally, CalSTRS will have greater control over risk associated with investment strategies. According to CalSTRS, this proposal will produce cost savings associated with reduction of external management fees, and carried interests (this is a performance-based fee paid to external fund managers).

CalSTRS notes that the adoption of the CalSTRS Collaborative Model has already led to significant cost savings as evidenced by a third-party peer comparison study, which showed that in 2017, the CalSTRS Investment branch saved $132 million compared to peers, given the same asset mix. According to the 2017 Cost Report, CalSTRS managed roughly 44 percent of its assets internally and 56 percent externally. In 2017, CalSTRS costs to manage the internal assets amounted to only $30 million whereas it cost $1.8 billion (including incentive fees) to manage external assets.

CalSTRS notes that by managing assets internally and collaborating with external industry leaders, as prescribed in the Collaborative Model, then CalSTRS may save $200-$300 million in cost savings and increased returns annually over the next 10 to 15 years. The Administration notes that it is difficult separate the anticipated impact of this particularly budget change proposal from the long-term savings associated with the overall investment strategy.

The following charts below display the proposed timelines and positions.

Five-Year Budget and Resource Forecast
(Dollars in Millions)

	2021–22	2022–23	2023–24	2024–25	2025–26	Total
Budget	$11.5	$7.3	$8.6	$6.5	$4.3	$38.2
Authorized Positions	29	22	19	19	15	104

Multi-Year Position Forecast by Scope and Strategy

Scope and Strategy	2021–22	2022–23	2023–24	2024–25	2025–26	Total
Investments Branch						
Global Equity	3	3	2	1	-	9
Fixed Income	3	3	1	2	2	11
Risk Mitigating Strategies	2	-	3	2	1	8
Investment Strategy and Risk	1	1	1	-	-	3
Real Estate	3	2	2	2	3	12
Private Equity	3	2	2	4	1	12
Inflation Sensitive	3	2	2	2	1	10
Investment Performance, Compliance & Operations	2	4	5	3	7	21
Total Investments Branch	**20**	**17**	**18**	**16**	**15**	**86**
Investment Administrative Support	**9**	**5**	**1**	**3**	**-**	**18**
Total	**29**	**22**	**19**	**19**	**15**	**104**

Investment Administrative Support Resource Forecast

Business Area	2021–22	2022–23	2023–24	2024–25	2025–26	Total
Investment Administrative Support						
Human Resources	2	2	-	1	-	5
Procurement	1	1	-	1	-	3
Financial Services	1	1	-	1	-	3
Office of General Counsel	2	1	-	-	-	3
Technology Services	1	-	1	-	-	2
Facilities	1	-	-	-	-	1
Communications	1	-	-	-	-	1
Total Investment Administrative Support	**9**	**5**	**1**	**3**	**-**	**18**

In addition to the positions, CalSTRS is requesting budget bill language to provide administrative authority and flexibility to bring on resources more quickly, on an as-needed basis, pursuant to board approval and written notification to DOF. In current practice, when a new investment strategy is identified and requires additional staff, it takes up to 18 months to obtain approval for new positions and final establishment as a part of the budget process. However, CalSTRS believes that this administrative authority and flexibility will reduce the time for onboarding investment resources and would lead to faster deployment of collaborative strategies.

CalSTRS notes that they were provided similar authority in the 2018-19 budget. During that time, the budget bill language was used twice, as follows: (1) Off budget cycle to drawdown 15 investment positions and associated funding with a JLBC notification letter, and (2) early drawdown built into the normal budget cycle for 5 investment positions and associated funding.

Staff Recommendation. Approve as budgeted.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman

Public Safety, the Judiciary, Labor and Transportation

Thursday, May 13, 2021
State Capitol - Room 3191
5 minutes after discussion items for Part A concludes

PART B

Consultant: Christopher Francis, Ph.D.

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Items for Discussion

ITEMS FOR DISCUSSION

0250 Judicial Branch

Issue 1: Fines and Fees

Background. The following special panel will discuss California's Criminal Fine and Fee System.

Overview of CA's fine and fees structure. At every point in the criminal legal process, California state law authorizes counties to charge administrative fees. These fees are levied on top of monetary sanctions that California imposes on people who have committed an infraction or offense: For example, fines, penalty assessments, and restitution. From booking and arrest to representation by a public defender and probation supervision, an individual can face a host of fees and a subsequent collection process. Although state law authorizes such fees, local jurisdictions have the discretion over the specific fees to impose and for what amounts to charge for each fee imposed.

Criminal Fines and Fees. During court proceedings, trial courts typically levy fines and fees upon individuals convicted of criminal offenses (including traffic violations).

Probation Fees. State law authorizes counties to levy fees on probationers to cover probation-related costs. For example, a probationer who is subject to electronic monitoring—such as being required to wear a Global Positioning System (GPS) unit on his or her ankle—can be charged for its costs.

The total amount owed by an individual begins with a base fine set in state law for each criminal offense. State law then requires courts to add certain charges to this fine. On a limited basis, counties and courts can levy additional charges depending on the specific violations and other factors. Statute gives judges some discretion to reduce the total amount owed by waiving or reducing certain charges.

Fine and Fee Levels Set to Serve Multiple Purposes. The state has enacted various fines and fees for various purposes. Some (such as the base fine) are generally tied to the seriousness of the crime. Others (such as the DNA assessments) were enacted to generate revenue to fund specific activities. Finally, some fines and fees were enacted to help offset state or local costs for providing particular services to individuals paying the specific charge.

Numerous Funds Eligible to Receive Fine and Fee Revenue. Over 50 state funds—in addition to many local funds throughout the state—are eligible to receive fine and fee revenue. However, some of these funds receive very little revenue, such as those that only receive revenue from fines and fees for specific offenses that occur infrequently.

Complex Process for Distributing Fine and Fee Revenue. State law (and county resolutions for certain local charges) dictate a very complex process for the distribution of fine and fee revenue. State law currently contains at least 215 distinct code sections specifying how individual fines and fees are to be distributed to state and local funds, including additional requirements for when payments are not made in full. In order to comply with these requirements, collection programs must carefully track, distribute, and record the revenue they collect.

Total Fine and Fee Levels Have Increased Significantly. Since 2005, the number and size of charges added to the base fine have increased significantly—resulting in increases in the total amount owed by individuals convicted of criminal offenses. For example, the total penalty for a stop sign violation has increased by at least 54 percent since 2005.

2. **Impacts of Fines and Fees: Who levies fees in California and what are the impacts on communities?** Currently, 54 of 58 California counties charge one or more such administrative fees. But research on criminal administrative fee collection across California shows that some counties spend equal to or more than fees than they actually collect. Additional research shows that these fees are most commonly levied on low-income people who encounter the criminal justice system- the majority of whom are people of color and originate from traffic stops. Overall, the fees lead to inefficient use of resources, are unstable sources of revenue for governments, and drive low-income people into greater debt.

3. Recent legislation: Family over Fees Act. The 2020 Budget Act, through AB 1869, will, effective July 1, 2021, make the following changes to 23 criminal administrative fees:

- Repeals statutes associated with Public Defense Fees, Cost of Counsel, Public Defense Registration Fee, and Public Defense Fees for Minors.
- Repeals statutes associated with various Criminal Justice Administration Fees. Specifically, repeals provisions allowing for the recovery of costs associated with arrest.
- Repeals statutes associated with the $25 Administrative Processing Fee and $10 Citation Processing Fee.
- Repeals the Interstate Compact Supervision Fee. Specially repeals statutes that provide that a probationer cannot be released to another state until the probationer has paid the reasonable costs of processing their request to move states.
- Repeals statutes associated with alternative custody. For example, it eliminates the ability to charge an administrative or application fee for work furlough or home detention and eliminates other fees relating to home detention. Moreover, it repeals provisions that allow fees for pretrial electronic monitoring, provides the ability of probation to charge a person for electronic monitoring, and gives a county the ability to seek reimbursement for the reasonable costs of county parole supervision. Finally, it repeals the Probation Department Investigation/Progress Report Fee.

This trailer bill will make the unpaid balances related to the aforementioned eliminated fees uncollectible. The 2020 Budget Act appropriated $50,000 from the General Fund in the 2020-21 fiscal year to the Department of Finance to begin implementation of the provisions of this act and appropriates $65 million annually from the General Fund to the Controller beginning in the 2021-22 fiscal year to the 2025-26 fiscal year, inclusive, to backfill revenues lost from the repeal of those fees specified in this act, unless future legislation extends the provisions of this act. The funds are appropriated to the Controller for allocation to counties according to a schedule provided by the Department of Finance. Finally, the bill expressed the intent of the Legislature to pursue legislation with the Budget Act of 2021 to finalize the funding allocation methodology for distribution to counties.

4. Recent Governor's Proposal: Ability to Pay Pilot (2018) and Statewide Expansion (2021). The 2018 Budget Act included $3.4 million General Fund and 7.0 positions for 2018-19 ($1.36 million ongoing) and trailer bill language in SB 847 (Committee on Budget), Chapter 45, Statutes of 2018 to design, deploy and maintain software to adjudicate traffic violations online, including ability to pay determinations, in eight pilot courts. The language requires that the tool recommend a reduction of at least 50 percent of the total amount owed for individuals who receive specified public benefits or live at a monthly income of 125 percent or less of the current poverty guidelines, as updated periodically in the Federal Register by the United States Department of Health and Human Services pursuant to Section 9902 of Title 42 of the United States Code. Additionally, individuals are provided information in multiple languages and typically receive the decision of the court within 30 days.

It also included requirements to develop an array of online services for the public including hearing date requests, continuance, online trials and chat bot guidance. By the end of 2019-20, eight courts were to have implemented online ability to pay determinations with a two-way court case management system data exchange. By the first quarter of 2021, the additional online functions noted above will be developed and implemented in the pilot courts.

As of November 2020, Shasta, Tulare, Ventura, San Francisco, Santa Clara and Fresno pilot courts are all live with online ability to pay determination processing. Monterey will be live with online ability to pay determinations by January 2021. In these counties, users access a website, enter their citation number and are guided through a process to provide relevant financial information for a judge to review and consider an adjusted fine or fee. The judicial determination is made and a final court order is emailed back to the user with instructions about a payment or community service plan as appropriate.

Purpose of 2021-22 ATP proposal: Expand Online Adjudication Tool Statewide. The Governor's budget requires the Judicial Council to (1) develop an online adjudication tool for all infraction violations (not just traffic infractions) that would include an ability-to-pay component and (2) make the tool available statewide by July 1, 2024. While trial courts could choose whether to make use of the full online tool, all courts would be required to offer the ability-to-pay component of the tool by July 1, 2024. Specifically, the Judicial Council estimates implementation costs of $4.4 million in 2021-22, $6.2 million in 2022-23, $6.4 million in 2023-24, and $2.7 million annually thereafter to work with courts by cohort to adopt new technology. Each cohort is organized by case management system, cloud hosted verses locally hosted, and court size. The Judicial Council will establish eleven cohorts to be deployed over three fiscal years.

Backfill Expected Reduction in Fine and Fee Revenue. Given that the online adjudication tool allows individuals to more easily seek reductions in the total amount of criminal fines and fees that they are assessed, the amount of criminal fine and fee revenue collected is expected to decline on an ongoing basis. To address this decline, the Governor's budget proposes an ongoing backfill for reductions in revenues. Specifically, the Governor's budget estimates that this backfill will be $7.9 million in 2021-22, $18.9 million in 2022-23, $40.7 million in 2023-24, and $55.8 million annually thereafter to backfill the estimated loss in revenue to Judicial Branch funds, as a result of the penalty reductions. In 2021-22, $7.9 million will be available for the existing seven pilot courts plus ten new courts (in two cohorts), to backfill the estimated loss in revenue to support the Judicial Branch, as a result of the penalty reductions.

Budget bill language is proposed with respect to the backfill process detailing that funds appropriated in this item may be transferred to the State Trial Court Improvement and Modernization Fund (0159), Trial Court Trust Fund (0932), State Court Facilities Construction Fund (3037), and the Court Facilities Trust Fund (3066) to backfill revenue reductions resulting from the expansion of ability-to-pay determinations. The amount to be transferred to each fund will be determined by the Department of Finance using information provided by the trial courts and the Judicial Council.

Trailer Bill Language in ATP Proposal. The Governor's proposal also includes trailer bill language eliminating the pilot program established in the 2018-19 budget and making certain components of the pilot program permanent, such as requirements related to the ability-to-pay determinations and to online trials for those trial courts that choose to offer them. Under the language, an evaluation of the pilot program activities would no longer be required.

Staff Comment. The Judicial Branch's ATP Expansion proposal was also heard in the Feb 18, 2021 Subcommittee No. 5 item and it was held open.

Staff Recommendation. This is an informational item. No action is needed at this time.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION

Issue 2: Spring Capital Outlay BCPs

Governor's Budget. The budget includes the following capital outlay Spring BCPs for the CDCR:

Proposal	Fund Source and Positions	Notes
Health Care Facility Improvement Program	$43,235,000 Lease Revenue Bond	To increase the lease revenue appropriation authorized by Government Code Section 15819.403 by $43.235 million to complete construction of the remaining Health Care Facility Improvement Program (HCFIP) projects. As of December 2020, nine of the 25

(HCFIP)—Increase Lease Revenue Appropriation		projects funded by this appropriation have been completed. Four additional projects are scheduled for completion in 2021; the remaining projects are scheduled for completion on a rolling basis through 2023. Originally, $900.42 million lease revenue bond financing authority was provided to CDCR to design and construct medical, dental, and mental health treatment or housing space at existing prison facilities. The amount authorized has been increased in the following manner: $43 million in the 2018 Budget Act, $49.85 million in the 2019 Budget Act, and $32.53 million in the 2020 Budget Act. In total, the appropriation has been augmented by $187.35 million for HCFIP projects (18.3 percent). Government Code Section 13332.11 authorizes the State Public Works Board to augment this appropriation up to 20 percent to address cost increases to established projects. However, based on estimated project costs, CDCR is anticipating that funding is needed beyond the 20 percent augmentation authority. The cost increases for HCFIP projects have been approved as a result of several issues, including but not limited to delays in construction, project management issues, non-compliance with fire/light/safety requirements, and poor architectural and engineering design performance.
Chuckawalla Valley State Prison, Blythe: New Potable Water Wells	This proposal requests funding for the construction plans phase of this project. The total estimated project cost is $821,000 General Fund.	To design two new groundwater wells to supply adequate amounts of potable water for incarcerated people and staff at Chuckawalla Valley State Prison and Ironwood State Prison. Approximately $4 million has been spent on repairs for all 6 wells in the past 10 years because of well failure. This is a problem caused by the basin composition of sand and gravel mixing with the water supply, which causes damage to the well casings, pumps, or motors. Problem: CVSP and ISP currently have two operational wells (Well 3 and 6), which are able to meet the water needs of two institutions during non-peak times. However, even operating continuously, the remaining wells are unable to meet the peak water demand times, which typically occur from July through October each year. The wells are approximately 30-35 years old and must operate 24/7 to meet the minimum potable water needs. CDCR is soliciting a contractor to repair Wells 2 and 4 – using support funds – due to the institutions having only two operational wells. However, even if these were repaired in a short period of time, based on historical interruptions to potable water availability the repair will not satisfy the long term sustainable solution to ensure potable water is available for incarcerated people and staff at both institutions. Two additional wells are

		needed to allow regular maintenance to be performed and to provide more operational reliability in case of future well failure.
Ironwood State Prison (ISP), Blythe: Heating, Ventilation, and Air Conditioning System Supplemental Appropriation	A supplemental appropriation for the construction phase in the amount of $11,491,000 Lease Revenue Bond. The total estimated project cost is $187,424,000.	To provide supplemental funding to complete the construction of a new central chiller water plant as well as replacement of existing air handling units (AHUs) and improvements to existing roofs, fire dampers, and smoke evacuation systems to correct damage caused by the existing evaporative cooling system at ISP. During construction, it was determined that the existing appropriation is not adequate to complete the project. According to the CDCR, construction is approximately 62 percent complete. However, the need for additional funding to complete construction has been identified. The construction cost increase is associated with the following items: • Design errors and omissions due to cooling system inefficiency of the housing units, Central Water Plant routing between A and B Yards, missing condensate piping required for the new AHUs, and coordination of the existing exhaust vents with the AHUs; A rotating amount of empty housing units are required for construction of this project. Isolation, quarantine, and social distancing requirements due to the COVID-19 pandemic have precluded the ability to have empty housing units on a regular basis since Spring 2020; • Unforeseen field conditions related to housing unit cell duct cleaning and required balancing and commissioning; and • Additional soft costs due to the extended construction duration.

LAO Assessment for HCFIP Proposal

Not Cost-Effective to Continue Projects at Prisons That Could Be Closed. While the LAO finds that it is appropriate to increase the lease revenue authority available for HCFIP projects, it would not be cost effective to provide additional authority for projects at prisons that will be closed in the near future. Due to declining populations, CDCR has announced plans to close the Deuel Vocational Institution (DVI) in Tracy by September 30, 2021 and the California Correctional Center (CCC) in Susanville by June 30, 2022. (The department also announced that it will close two minimum security yards—one at California Correctional Institution in Tehachapi and one at Correctional Training Facility in Soledad.) CDCR's projections of the population suggest that state would likely be able to close three additional prisons by 2024-

25. Based on the LAO's initial review, the California Men's Colony (CMC) in San Luis Obispo, the California Rehabilitation Center in Norco, San Quentin State Prison, and the Correctional Training Facility in Soledad appear to be strong candidates for closure. This is primarily because these prisons all have high estimated repair and/or operational costs relative to their capacity.

Despite CMC being a strong candidate for closure, CDCR has indicated that $8.2 million of the proposed lease revenue authority would support the HCFIP project at CMC. The administration has stated that the project is over 80 percent complete and that the remainder of the project is expected to be completed by August 2023. Accordingly, allocating additional lease revenue authority to this project could mean the prison is closed before or shortly after the project is complete. The LAO notes that the Administration does not currently plan to use the proposed lease revenue authority for HCFIP projects at the other prisons that they have identified as strong candidates for closure or are scheduled to be closed. However, the proposed budget trailer legislation would not prohibit the Administration from doing so.

LAO Recommendation for HCFIP Proposal

Modify Proposal to Ensure Authority Not Used for Projects at Prisons Likely to Close. The LAO recommends modifying the Administration's proposal to ensure that funding is not spent unnecessarily on prisons that are closed shortly thereafter. Specifically, the LAO recommends that the Legislature direct the administration to provide a list by the May Revision of prisons that are strong candidates for closure. The Legislature could use this information to determine if it agrees with this assessment or if it finds that other prisons would be strong candidates for closure. The LAO recommends that the Legislature then modify the proposed budget trailer legislation to prohibit the Administration from using additional lease revenue authority for HCFIP projects at prisons that the Legislature views as are strong candidates for closure and adjusting the proposed increase in lease revenue authority accordingly. The LAO further recommends directing the Administration to not use its ability to augment the legislatively approved lease revenue authority to provide funding for those projects at prisons the Legislature determines as strong candidates for closure.

Staff Recommendation. Hold open all three proposals.

Issue 3: State of Remote Communications at CDCR Adult Prisons

Background. People who are incarcerated maintain contact with loved ones via phone, video, and text communications—all of which are remote communications. Prisons and jails contract with private companies to provide and manage telephone service for their institutions. GTL and ConnectNetwork are the two entities that provide telephone services to individuals incarcerated at CDCR facilities. These phone systems provide features such as enabling certain numbers from being blocked and allowing correctional staff to monitor calls.

Remote Communications during COVID-19 at CDCR. The COVID-19 pandemic led to the suspension of in-person visitation on March 11, 2020 to mitigate the spread of the novel coronavirus within prisons. In its place, the CDCR adopted or revised strategies to provide remote communication methods to incarcerated people.

Phones guidelines during COVID-19. Communication via phone, mail, and electronic mail at some institutions, remained available with numerous free phone call days offered to each incarcerated person per month.

The Division of Adult Institutions then expanded phone access for certain privilege groups via current phone equipment, with extra precautions taken to clean phones and allow physical distancing to limit possible exposure and transmittal of illness. The following populations were allowed to make calls above their privilege group until further notice:

- People in Administrative Segregation for non-disciplinary reasons, designated Privilege Group B, are allowed one phone call per week (previously one per month; Privilege Group A are normally allowed one call per week)
- People on "C"Status are allowed one call every two weeks
- All others in restricted housing are allowed to make one phone call once every two weeks (previously no phone calls permitted)
- Reception Center inmates will be provided one phone call per week (previously one call within first seven days and one per month after)
- Inmates in Psychiatric Inpatient Program settings will be allowed one call per week unless they are prohibited by the Interdisciplinary Treatment Team (with documented clinical justification).

Implementation of video visitation during COVID-19. CDCR in December 2020 began offering real-time video visiting at 33 institutions and most conservation camps as a safe way for incarcerated people to see and speak with their loved ones. Under the new system, each inmate have a free 60-minute video visit every 30 days.

CDCR's electronic messaging provider for the incarcerated population, JPay, provided reduced-priced emails to those incarcerated at the pilot institutions and free emails for those who cannot afford it. The five pilot sites that currently have the technology include: High Desert State Prison, Kern Valley State Prison, California Institution for Women, Central California Women's Facility, and Substance Abuse Treatment Facility. At some of these institutions, only certain yards currently have this technology.

Text communication services during COVID-19. JPay has also extended inbound email print services to all institutions at a reduced rate. This service enables incarcerated people's family and friends to use the JPay app to send e-correspondence, which mailroom staff then print and deliver with regular mail. Family and friends purchase stamps for this service. This service is available at adult prisons and juvenile facilities, and will continue into 2022.

Effective May 4, 2020, the Enterprise Inmate Communication (EIC) program currently piloted at Central California Women's Facility, California Institution for Women, High Desert State Prison (Facility C), Kern Valley State Prison (Facility C) and Substance Abuse Treatment Facility was temporarily expanded for those inmates who possess a JPay EIC tablet. Inmates with tablets are eligible to access, free of charge, the following offers via the kiosk system, (all content will be reviewed prior to being made available):

- Life Skills & Betterment: Up to 30 free videos focusing on teaching and improving life skills to help cope with challenges during and after incarceration.
- Motivational Speeches: Six free audio recordings by Andre Norman, creator of the "Academy of Hope" series
- Entertainment: One free video game per week for four weeks.
- Effective May 12, inmates with tablets may also have unlimited free access to the News Stand application, which delivers daily updated news, for one month.

Upcoming Changes. In March 2021, the CDCR announced that call rates would be reduced, and kiosks and tablets will be added throughout the state to expand on-demand communication services including video calling and secure messaging. The technology will also provide individuals incarcerated at CDCR access to a range of media and rehabilitative resources. Before March 2021, the cost of phone calls from CDCR adult institutions were $0.076 per minute for local calls and $0.21 per minute for interstate calls. However, effective March 2021, the phone rates on per-minute and 15 minute bases changed. The overall changes are documented below:

Per minute phone rates in the new GTL contract

- Domestic calls: 2.5 cents per minute
- International calls: 7 cents per minute
- Electronic correspondence: 5 cents per item or 2,000 characters.

Comparison of 15-minute telephone calls for new and old rates:

	ADULT			**YOUTH**			
	Local (Same Area Code)	InterLATA (Within CA)	Interstate (Within US)	Local	InterLATA	Interstate	International
2013-2019	$1.44	$2.025	$3.75 Collect	$0.42	$0.45	$1.98	$11.252

			$3.15 Prepaid				
7/1/19 to 12/30/20	$1.23	$1.23	$3.15	$0	$0	$0	$11.25
2020-2021	$1.14	$1.14	$3.15	$0	$0	$0	$11.25
2021- Future	**$0.375**	**$0.375**	**$0.375**	**$0**	**$0**	**$0**	**$1.05**

Tablet services:

Communications Services	Current Rates at 5 Pilot Sites	New Rates Statewide
Email/Secure Messaging (Inbound and Outbound)	$0.35 (1 Stamp)	**$0.05 per 2,000 characters**
Inbound Electronic Correspondence Services	$0.35 (1 Stamp)	**$0.05 per 2,000 characters**
Video Clips	$1.05 (3 Stamps)	**$0.05**
E-Cards	$0.35 (1 Stamp)	**$0.05**
Photos	$0.35 (1 Stamp)	**$0.05**
E-Books	$0	**$0**
Games	$0.99 - $8.95	**$0**
MP3 Songs	$0.99 - $1.99 per song	**Premium Music - $7.99/month** **Streaming Internet Radio (no playlists or caching or download) 5.49/month**
Movie Rentals	Not offered	**$1.99/month**
Print Services	$0.35 (Per Page)	**$0.05 (Black & White)** **$0.25 (Color)**
Podcasts	Not offered	**$2.49/month**
Premium Audio Books	Not offered	**$5.49/month**

Past and ongoing reform efforts and legislation to address CDCR phone rates. The price of remote communications overall has come under scrutiny in the past several years and still exists despite the recent changes during the COVID-19 pandemic. Advocates previously argued that inmates' phone call rates are excessively high due in part to the concession fees, also known as commissions that phone service providers pay to state and local prison systems in exchange for exclusive contracts. As a result, in 2007, the Legislature approved SB 81 (Committee on Budget and Fiscal Review, Chapter 175, Statutes of 2007) as a budget trailer bill. SB 81 directed a four-year phase out of concession fees in phone service contracts for state correctional facilities.

Additionally, due to the compounding costs of remote communications that still exist, families are unable to afford to talk with their loved ones. This is especially true for Black, Brown and low-income communities who are disproportionately impacted by criminal justice system contact, whose circumstances have been especially compounded amidst the ongoing COVID-19 pandemic. Therefore, this special panel will discuss remote communication rates as well as its impact on incarcerated people and their loved ones.

Staff Recommendation. This is an informational item. No action is needed at this time.

Issue 4: Preparing Incarcerated People for Parole Hearings

Background. The Board of Parole Hearings (BPH/Board) within CDCR is currently composed of 17 commissioners. Along with deputy commissioners, they consider whether to grant parole to all persons sentenced to state prison under the state's indeterminate sentencing laws, as well as certain determinately sentenced incarcerated people, such as youth offenders and the elderly, who qualify for parole consideration. As well, BPH also conducts administrative reviews to consider parole for persons serving determinate sentences for nonviolent offenses under Proposition 57. Under indeterminate sentencing, individuals receive a sentence range, such as 25-years-to-life. Under determinate sentencing, individuals receive fixed prison terms with specified release dates. BPH also determines (1) whether to impose any special conditions on individuals who are granted parole—such as requiring participation in certain rehabilitative programs—once they are in the community and (2) how long those who are denied parole must wait until their next parole hearing, which can range from 3 to 15 years. In addition, BPH advises the Governor on applications for clemency and approves transfers of foreign-born incarcerated people to their native countries.

Parole hearings are supposed to determine whether a person is suitable for release or if he or she currently poses an unreasonable risk of danger to society. The hearing panel, which typically consists of one BPH commissioner and one deputy commissioner, considers many sources of information, including a risk assessment from a forensic psychologist, statements from the incarcerated person and victims, and records of the incarcerated person's behavior and rehabilitative programming while incarcerated. Research indicates that some of the sources of information considered are better predictors of dangerousness than others. For example, risk assessments completed by psychologists are among the more reliable predictors of dangerousness.

Outcomes of Parole Hearings. The following are the typical outcomes from parole suitability hearings:

1. **Grant** – The inmate was found suitable for parole and, therefore, was granted parole.
2. **Deny** – The inmate was not found suitable and, therefore, was denied parole.
3. **Continue**– The hearing was started, but could not be completed for some reason. It will be scheduled for completion at a future date.
4. **Cancelled** – The parole hearing was cancelled. A parole-hearing is cancelled when there is no need for the hearing to go forward and it does not need to be rescheduled. For example, a hearing will be cancelled if the inmate was released pursuant to a court order or if the inmate dies. In these situations, the hearing is not "continued" or "postponed" because the hearing will not be rescheduled.
5. **Split** – The parole hearing resulted in a split decision. A split decision occurs when the members of a two-person parole hearing panel do not agree on (1) whether an inmate is suitable for parole, or (2) the length of a denial period (15, 10, 10, 7, 5, or 3 years) for an inmate who is unsuitable for parole.
6. **Postpone** – The hearing was postponed. The board may postpone a hearing on its own motion, at the request of an inmate, or for exigent circumstances. Sometimes postponements are requested days or weeks before the scheduled hearing date, but postponements may also occur on the day of a hearing.
7. **Waive** – The inmate waived his or her right to a hearing. An inmate may waive his or her right to a parole hearing for any reason for a period of one to five years as long as the request is submitted at least 45 calendar days prior to the hearing. A request to waive a hearing submitted less than 45 days before a hearing will be denied unless good cause is shown and the reasons for the waiver were not and could not reasonably have been known to the inmate 45 days prior to the hearing. Note: This rule has been suspended while hearings are conducted by videoconference during COVID. Persons may waive their hearings for any reason up to and included the day of their hearing. See Executive Order N-36-20, paragraph 4(c).
8. **Stip** – The inmate stipulated to being unsuitable and was denied parole without a parole hearing being held. A stipulation occurs when the board accepts an inmate's offer to stipulate to his or her unsuitability for parole for a specified period (15, 10, 7, 5, or 3 years). If the board accepts an inmate's offer to stipulate, it is considered a denial of parole for the stipulated period.

Recent Legislation to expand parole eligibility. SB 260 (Hancock), SB 261 (Hancock), and AB 1308 (Stone) created and expanded a program known as the Youth Offender Parole, providing parole opportunities for people who committed their crimes before the age of 26. California adopted an Elderly Parole program providing review for people who are 60 years of age, and have served at least 25 years on their current sentence to have a parole board hearing. Through SB 118 (Committee on Budget-2020), the budget changed the state's compassionate release process by expanding the life expectancy for inmates who are eligible for recall of sentence for compassionate release from six months to 12 months and removing the Board of Parole Hearing from the process. Additionally the budget, through AB 3234 (Ting - 2020), changed the age for elderly parole eligibility from 60 to 50 and time served from 25 to 20 years. The 2018-19 Budget Act included a provision to increase the amount paid to attorneys who represent incarcerated people through the parole hearing process from $450 per case to $750 per case. Attorneys who are appointed to represents persons at parole hearings are assigned maximum of 13 hearings a week, once per a month.

Attorney-client interactions issues. . Each incarcerated person is provided counsel for the parole hearing process. In 2019, BPH initiated a new panel attorney program to recruit, train, and appoint attorneys. The BPH contracts with a nonprofit entity, Parole Justice Works, to train and monitor the quality of representation provided by panel attorneys. Since January 2020, all panel attorneys appointed by the BPH are expected to meet with their clients for an average of one hour within 30 days of appointment – before the incarcerated person is interviewed by a BPH forensic psychologist for their Comprehensive Risk Assessment. They are also expected to meet with their client again for at least an hour once the Comprehensive Risk Assessment is produced. Prosecutors are required to submit any documents for BPH consideration at least 10 days prior to a parole hearing. Currently, there is no requirement that a panel attorney meet with their client a third time prior to the hearing to review documents submitted by the prosecutor. In addition, panel attorneys do not receive additional pay to represent their client, should their case be referred for review by the full Board at one of the Board's monthly executive board meetings.

Staff Recommendation. This is an informational item. No action is needed at this time.

VARIOUS DEPARTMENTS

Issue 5: Oversight of State Funding To the California District Attorneys Association (CDAA)

Background. The California District Attorneys Association (CDAA) is a not-for-profit membership organization that consists of individuals who work in the criminal prosecution field, such as district and city attorneys and victim-witness supervisors. CDAA is governed by a 17-person Board of Directors and engages in various activities—most notably legislative advocacy and statewide training in a range of topic areas, such as the prosecution of environmental violations and asset forfeiture cases. CDAA receives funding from various sources—such as membership dues, state and federal government funds, and litigation proceeds— to support its activities. Some of these funds are "restricted," or required to be used for specific purposes. The LAO handout linked provides information on state funding provided to CDAA and a summary of a December 2020 audit of certain CDAA programs and the restricted funds that support them.

CDAA Initiated Audit. In light of concerns raised internally about whether certain monies received by CDAA were being used consistent with their restricted uses, CDAA retained an external auditor in August 2020 to conduct a line-item audit of settlement, judgment, and grant monies provided for roughly six environmental- and worker safety-related CDAA programs since 2002.

Audit Findings: Practice of Borrowing Restricted Funds. CDAA routinely borrowed restricted funds from the programs and treated these funds as unrestricted. This practice has been instrumental to CDAA's financial viability since 2004. (The LAO notes the audit found that state funds provided from the Environmental Enforcement Training Account were spent consistent with the restrictions on their use.) ***Nearly***

$3 Million Owed. As of June 2020, $2.9 million was still owed to CDAA's environmental and worker safety programs from its unrestricted general purpose account. CDAA does not currently have sufficient resources to repay this amount.

Concerns with Internal Accounting Practices. The following are concerns shared about CDAA's internal accounting practices:

- Around $725,000 in received monies were misallocated between the audited programs.
- CDAA's audited financial statements for each fiscal year since 2005 have inaccurately reported the majority of revenues and net assets as unrestricted.
- Internal financial reports lacked information on whether program funds were restricted. Such reports also lacked other information needed to assess each program's overall fiscal condition.
- Internal accounting practices—specifically how revenues and transfers were documented—changed around fiscal year 2016. This resulted in certain financial reports being internally inconsistent.

Actions Adopted By CDAA Board in June 2020 Before Audit Began. CDAA's Board of Directors took action to improve its financial practices in June 2020—prior to the start of the audit. The auditor agreed that these actions were appropriate. Specifically, CDAA took action to:

- Deposit Future Funds in Restricted Accounts. All future monies received by CDAA environmental and worker safety programs will be deposited into separate restricted financial accounts independent of its unrestricted general purpose account.
- Increase Internal Oversight. Copies of bank statements associated with these new accounts will be provided to the Co-Chairs of CDAA's Environmental Committee.
- Provide General Fund Support for Environmental Programs. Fiscal support for CDAA environmental programs will be provided from its unrestricted general purpose account when alternative funding sources are not available.
- Repay Borrowed Monies. At least 10 percent of unencumbered, unrestricted general purpose account monies will be set aside at the end of each fiscal year in order to restore the fund balances of CDAA's environmental and worker safety programs.

Audit Recommendations for CDAA. The following recommendations were provided in the CDAA audit:

- Take proactive steps to review funding restrictions—such as seeking clarification on the intended use of received monies, presuming judgment monies are restricted, and appropriately documenting any restrictions—in order to eliminate any ambiguities on whether received funds are restricted.
- Improve external reporting by informing those entities who provided monies related to judgments on how those monies were used for all CDAA programs.
- Increase internal reporting to leadership and oversight bodies (such as the Board of Directors), including additional information related to restrictions on the use of received monies.
- Improve accounting practices in specific ways in order to ensure financial reports are internally consistent.
- Improve internal communication by providing copies of any judgments tied to monies for CDAA to its accounting department and document such monies in certain ways to track whether they have actually been received.

Staff Comment. Subsequent to the release of the audit, the Subcommittee has received a letter from organizations addressed to the Legislature to "investigate, hold accountable, and provide oversight of the California District Attorneys Association for their egregious misuse of state funds earmarked for the enforcement of California's environmental laws." As well, the Attorney General's office has notified CDAA that they will be conducting an investigation related to the audit. The California District Attorneys Association was invited to participate in today's hearing but formally declined due to the Department of Justice investigation.

Staff Recommendation. This is an oversight item. No action is needed at this time.

8140 Office of State Public Defender

Issue 6: Funding for Public Defender (PD) Workload

Background. In California, the counties provide the constitutionally mandated legal services in a variety of ways. Most large counties provide the services through a county-wide public defender. Some counties contract-out public defender services to small firms or individuals in private practice. Although there are different models for providing these services, one common theme across the state is that counties struggle to keep up with the increasing workload necessary to reduce the state's adult and juvenile prison population.

Recent Legislation impacting PD workload for adults. The Legislature passed various bills in recent years to achieve population reductions in state prison. Of note are the following:

- SB 1437 (Skinner), Chapter 1015, Statutes of 2018 was signed into law on September 30, 2018 and became effective January 1, 2019. The bills narrows the situations in which a person may be convicted of murder. For unsentenced, pending cases, the change in the law will be applied forthwith and no new implementation resources are necessary. However, SB 1437 is retroactive and incarcerated persons convicted of first- or second-degree murder under the old law may petition the court for resentencing if SB 1437 applies.

- AB 2942 (Ting) amended Penal Code section 1170(d) was signed into law on September 30, 2018 and became effective January 1, 2019. Previously, a court could recall the sentence of a state prisoner only with 120 days of imposition or upon the recommendation of the California Department of Corrections and Rehabilitation (CDCR). In practice, CDCR typically limited its recall recommendations to those cases in which a sentencing error had occurred, an applicable sentencing law had changed, or an inmate demonstrated "exceptional conduct" after a number of limiting criteria are applied. After AB 2942, the court may also recall a sentence based upon the recommendation of a district attorney which will then require public defenders to intervene on behalf of their clients.

Recent Legislation impacting PD workload for youth. Additionally, multiple bills led to expansion in youth parole eligibility. Notably, SB 260 (Hancock), Chapter 312, Statutes of 2013, SB 261 (Hancock), Chapter 471, Statutes of 2015, AB 1308 (Stone), Chapter 675, Statutes of 2017, and SB 394 (Lara) between 2014 and 2018 created the youthful offender parole (YOP) suitability hearing. SB 261, requires BPH to conduct youth parole hearings for those sentenced to state prison who committed specified crimes when they were under 23 years of age. BPH is required to complete by July 1, 2017 all youth parole hearings for individuals who were sentenced to indeterminate life terms and by July 1, 2021, youth sentenced to determinate terms, who become entitled to have their parole suitability considered at a youth parole hearing on the effective date of the bill. AB 1308, requires BPH to conduct youth parole hearings for those who committed specified crimes when they were 25 years of age or younger. BPH is required to complete, by January 1, 2020, all youth parole hearings for individuals who were sentenced to indeterminate life terms and by January 1, 2022, youth sentenced to determinate terms, who become entitled to have their parole suitability considered at a youth parole hearing on the effective date of the bill. SB 394 makes a person who was convicted of a controlling offense that was committed before the person had attained 18 years of age and for which a life sentence without the possibility of parole has been imposed eligible for release on parole by the board during his or her 25th year of incarceration at a youth offender parole hearing. Overall the bills offer incarcerated persons whose eligible committing offense occurred when they were under the age of 26 a meaningful chance to parole back into the community. The underpinning of youth offender parole is based on scientific evidence showing that parts of the brain responsible for impulse control, understanding consequences, and other executive functions are not fully developed until mid-to-late 20s.[1]

Backlog and Funding Issues. Limited to no funding to public defender offices accompanied these new laws throughout the state as they committed to trying to help their clients benefit from these reforms, have struggled to handle the new workload. Consequently, a backlog of these cases exists, requiring that incarcerated persons who are eligible for release remain in state prison while they wait for an attorney to be assigned to their case. As a result, thousands of persons incarcerated in state prison who are statutorily and legally entitled to be released have not received the benefit of SB 1437. Likewise, YOP and Penal Code section 1170(d) candidates continue to serve prison sentences that no longer serve the interest of justice.

Staff Recommendation. This is an informational item. No action is needed at this time.

[1] https://www.cdcr.ca.gov/bph/youth-offender-hearings-overview/

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman

Public Safety, the Judiciary, Labor and Transportation

Thursday, May 20, 2021
State Capitol - Room 3191
10:00 a.m. or upon adjournment of session
PART A

Consultants: Christopher Francis, Ph.D. & Yong Salas

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Items for Discussion

ITEMS FOR DISCUSSION

0690 OFFICE OF EMERGENCY SERVICES

Issue 1: Staffing Augmentations

Request. The May Revision includes the following:

- **Reducing Reliance on Redirected and Temporary Staff for Emergency Response and Recovery—**$16.5 million General Fund and 73 positions ongoing to establish a permanent Incident Support Team, a deployable Incident Management Assistance Team, and needed support to operate California's State Operations Center or Regional Emergency Operations Centers to respond to the all-hazard events.

- **Long-Term Recovery Support—**$37.8 million ($15.7 million General Fund) ongoing to provide permanent funding for 104 permanent recovery positions provided in 2018 with three year limited-term funding, and 110 new positions to better support California's recovery efforts and recoupment of eligible federal disaster cost reimbursements for state and local governments, and to maximize the hazard mitigation program to mitigate the impacts of future disasters on the state and local jurisdictions.

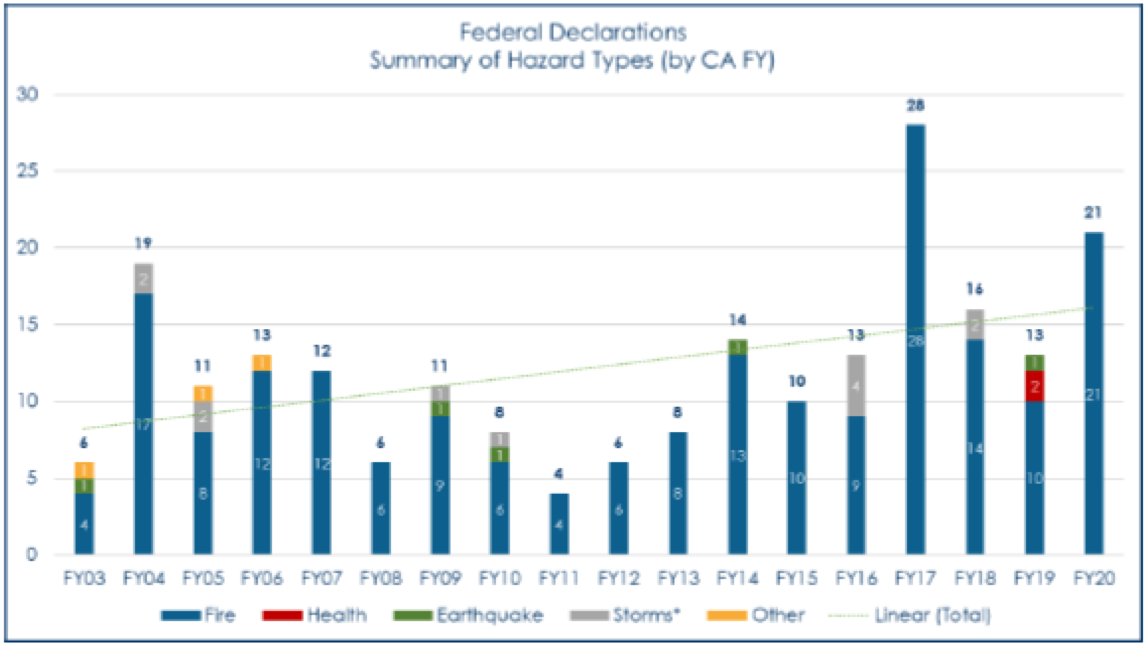
- **Office of Equity and Listos—**$29.9 million General Fund ongoing and 13 positions to establish a new Office of Equity and make permanent the Listos grant program. The Listos program would include an on-going $25 million General Fund grant program and expand its focus from emergency preparedness to also include emergency response and recovery.

- **Modernizing Technology and Data Analytics—**$10.2 million General Fund and 14 positions to modernize the Department's technology and data capabilities through new technology and updating outdated systems.

- **Strengthening Tracking and Reporting of Disaster Costs and Funding—**$4 million General Fund and 14 positions to establish a new unit within Cal OES to better coordinate and lead the state's disaster cost tracking and public facing reporting efforts in coordination with all state agencies. In addition, this new unit would serve as a liaison with the Department of Finance to better align cost tracking and federal cost recovery efforts, as this work is currently being done across agencies.

Background. Emergencies and disasters are more frequent, more complicated, often involving multiple counties and regions of the state, and the resulting recovery for communities is much longer. Over the past five years, the state has experienced an unprecedented number of emergencies and disasters—including severe drought, catastrophic wildfires, power grid/outage challenges, earthquakes, intensive storms with severe flooding, civil unrest, and COVID-19. In fact, 15 of the most destructive fires in the state's history have occurred since 2015 and five of the top six most destructive fires in state history occurred in August and September of 2020. California will be recovering from these complex disasters for at least the next decade, while continuing to respond to future disasters. Below is a chart provided by Cal OES that displays the increase of federally declared disasters over the past 18 years.

Chart 1: Federal Disaster Declarations



Legislative Analyst's Office. The LAO's comments on these proposals are below.

Permeant State Operations Center Team ($16.5 Million). OES coordinates and leads the state's emergency response through the SOC. When activated to responds to an emergency, the SOC is staffed by an 18 member Incident Support Team that is supported by Operational Readiness Teams that can consist of as many as 180 staff. OES does not currently have positions dedicated to staffing the SOC and instead redirects employees away from their the normal duties when the SOC is activated. OES reports that the recent increase in disasters and days of SOC activation have resulted in its employees being unable to attend to their normal workload. To address this problem, the May Revision proposes $16.5 million and 73 positions to establish a permanent SOC Team. In principal, we find the proposal to be reasonable. However, OES has not provided data on the extent to which staff are unable to complete their normal workloads due to SOC activations. As such, it is difficult to assess whether the amount of resources proposed are appropriate.

Office of Equity and Listos California Grant Program ($29.9 Million). The May Revision proposes (1) $4.9 million and 13 positions to establish a new Office of Equity and (2) $25 million in ongoing funding for the Listos California grant program. Staff in the Office of Equity would be responsible for expanding OESs current access and equity programs as well as ensuring the department's emergency-related activities incorporate principles of equity. The grant funding would provide permanent support for the Listos California grant, which has been supported by limited-term funding since its inception in August 2019. Under the proposal OES would allocate grant funds to community based organizations to provide support for marginalized and underserved communities across the state.

We find the proposal to create an Office of Equity to be reasonable and recommend the Legislature approve it. While we find the proposal to provide ongoing funding for the Listos California grant program promising, there are key questions about the program that remain unanswered including

What services would be supported

How funding would be prioritized between supported services

How OES would identify communities that could benefit from the services

How OES would prioritize funding between communities

Whether outcome data would be collected and used to inform future grant awards

Disaster Cost Tracking and Recovery Unit and Modernizing Technology and Data Analytics ($14.2 Million). The May Revision proposes (1) $4 million and 14 positions to establish a Disaster Cost Tracking and Recovery Unit to improve the tracking of emergency-related costs and the recovery of federal disaster assistance funds and (2) $10.2 million and 14 positions (declining to $9.6 million in 2022-23 and ongoing) to update the department's technology and data analytic capabilities. We find this proposal reasonable and note that its approval would allow the administration to provide monthly reports on state emergency expenditures—something our office has recommended to improve legislative oversight of state emergency response activities.

Staff Comment. This Administration has proposed various equity positions in different agencies and departments, without a standard framework of what defines equity or what metrics equity positions or offices should reach.

For example, Government Operations Agency proposed three positions, including a Chief Equity Officer, dedicated to addressing social, economic, and racial disparities in government operations. The new Department of Cannabis Control is also proposing a Deputy Director of Equity and Inclusion to focus on issues of equity and those that the War on Drugs impacted in the cannabis space.

Additionally, at least 27 state agencies or departments have engaged in equity work through the Strategic Growth Council's Capitol Collaborative on Race & Equity (CCORE) program. These departments have already, or in the process of, developed, posted and implemented equity plans or established formal offices of equity.

On a related note, SB 17 (Pan, 2021), which establishes an Office of Racial Equity, would centralize and standardize an equity framework from which all these efforts could be measured by and also require state agencies to develop and adopt equity plans.

The subcommittee may wish to require the new Office of Equity to develop an equity plan to post on its website, to be consistent with other departments and agencies doing similar equity work.

The 2018 Budget provided $50 million for Listos, which currently has four existing positions, to grant to community-based organizations to provide information on disaster preparedness and what to do when a disaster occurs. It is unclear what type of outcomes this investment has provided, and by what measure the funding was disbursed. An advisory group comprised of diverse perspectives with legislative appointees that publicly develop the guidelines for which these investments are disbursed, along with requiring reporting on outcomes, could be helpful for the Legislature to understand these investments and the outcomes it helps produce.

Staff Recommendation. Hold open.

Issue 2: Victims of Crime Act Supplemental Funding

Request. The California Governor's Office of Emergency Services requests $100 million one-time General Fund to provide one-time supplemental funding for various programs that provide services to victims of crime, including rape crisis centers, domestic violence shelters, housing first, victim witness, and child advocacy centers programs.

Background. California's share of the federal Victims of Crime Act (VOCA) funding has experienced a significant decrease in the last two years, as displayed in the chart below:

VOCA Funding per Fiscal Year					
2015	2016	2017	2018	2019	2020
232,722,931	264,297,285	218,943,281	396,642,276	266,680,824	195,905,619

The federal Crime Victims Fund (CVF) is funded from criminal fines arising from federal convictions, and Congress releases VOCA funding from the CVF annually through the Appropriations process. However, VOCA funds have begun to decline because of shrinking deposits and subsequent declines in the CVF balance. The declines are due to prosecutorial decisions to use deferred and non-prosecution agreements, which are not technically criminal convictions. As a result, the large monetary penalties from the agreements are not deposited into the CVF. There currently is federal legislation that would direct these penalties into the CVF, and would thus increase VOCA funds for states.

However, the timing of any potential shortfall for California's share of the VOCA funds is unknown due to the uncertainty of the federal legislation and appropriations bills currently moving in Congress. Cal OES' request would allow the state to continue providing resources for service providers for an additional year.

Legislative Analyst's Office. The May Revision proposes $100 million in one-time General Fund support to offset recent and expected declines in the level of federal Victim of Crime Act (VOCA) funds available for various programs, such as rape crisis centers and domestic violence shelters. However, there are currently efforts to secure additional funding at the federal level through the VOCA Fix Act that could result in increased federal funding in the future. Accordingly, the Legislature could consider adopting budget bill language requiring any funds not necessary to maintain existing service level to revert at the end of the year.

Staff Comment. Advocates are requesting $315 million to provide funding for three years due to the uncertainty of what will happen on the federal level as well as uncertainty to the availability of state funds in the future.

Staff Recommendation. Hold open.

Issue 3: Community Hardening to Build Disaster Resilient Communities

Request. The Governor's Office of Emergency Services requests $250 million one-time General Fund for an initiative to strengthen California's resiliency to all hazard disasters through community hardening programs building resilient communities.

Background. The initiative will be structured to target disadvantaged communities, which are impacted disproportionately by these disasters and experience longer and more challenging economic and structural recoveries. This initiative establishes the following:

- A new program—"Prepare California" Building a Disaster Resilient California—modeled after a federal community hardening and resiliency program; and
- Pays all or part of the local government's cost share for participation in the federal Hazard Mitigation program.

California's participation in the federal hazard mitigation program.

Over the past decade, California has received $757 million from the federal government for the Hazard Mitigation program. These funds are used for sustainable projects across California communities that reduce or eliminate long-term risk to people and property from future natural hazard events or disasters. Under this program, local governments apply through Cal OES as the state's liaison with FEMA. The local government is required to provide a 25 percent match, which often proves to be a barrier to community participation.

Hazard mitigation is any sustainable action that reduces or eliminates long-term risk to people and property from future disasters. Mitigation planning breaks the cycle of disaster damage, reconstruction and repeated damage. Hazard mitigation includes long-term solutions that reduce the impact of disasters in the future. It is well documented that an investment in mitigation saves up to six times that amount in post-disaster losses. FEMA's hazard mitigation assistance provides funding for eligible mitigation measures that reduce disaster losses.

Prepare California

This proposal is modeled after a FEMA program called "Project Impact", designed to build disaster resistant communities through state, local, federal, and private sector partnerships. Implemented by Cal OES, grants would be awarded to communities which demonstrate a whole-of-community approach to building resiliency. Community buy-in would be a key factor in determining eligibility and leveraging private and CBO partnerships. Awards would be made on a community basis, rather than an individual structure. The program would be designed in a manner that targets underserved communities.

These hazard mitigations included long-term actions, such as earthquake retrofits and home hardening in communities at risk of fires that can lower incidents of death and destruction. The program builds partnerships among first responders, businesses and nonprofits, to identify opportunities to build safer, stronger communities.

Legislative Analyst's Office. The May Revision proposes $250 million one-time from the General Fund to support community-hardening related activities in disadvantaged communities. Specifically, the funds would be used to assist disadvantaged communities in accessing federal hazard mitigation funding by offsetting some or all of the 25 percent local match required by the federal program and providing technical assistance in developing community hardening plans. OES indicates that the state would prioritize grant funds for projects that are able to demonstrate widespread community participation. While community hardening activities can achieve notable benefits, there are key questions about the program that remain unanswered, including:

- How funds would be prioritized between different types of hazards, such as wildfires, earthquakes and floods.
- How funds would be divided between offsetting federal matching requirements and technical assistance.
- The extent to which federal matching requirements would be offset.
- How disadvantaged communities would be identified.
- How funds would be prioritized between disadvantaged communities

If the Legislature chooses to approve this funding, it could structure the program to be consistent with its priorities. For example, to the extent the Legislature would like to direct these funds to address a specific type of hazard, such as wildfires, it could do so by adopting provisional or trailer bill language.

Staff Recommendation. Hold open.

0250 Judicial Branch

Issue 4: May Revision Proposals and Adjustments

The May Revision includes total funding of $4.6 billion ($2.7 billion General Fund and $1.9 billion other funds) in 2021-22 for the Judicial Branch, of which $1.2 billion General Fund is provided to support trial court operations.

Judicial Branch proposals within May Revision. The May Revision includes the following proposals and adjustments for the Judicial Branch:

1. **Trial Court Operations.** The May Revision provides two additional proposals to further address the case backlog. First, it includes $30 million one-time General Fund to support the Early Disposition Readiness Conference Program. This proposal builds on a program, initiated by the Chief Justice, in response to the significant COVID-19 related processing delays in criminal cases, by making temporary assigned judges available to complete readiness conferences to resolve low-level misdemeanors or felony cases before going to trial. Second, it proposes language in the budget that would allow the Judicial Council to request additional funding, up to $60 million, in the event that the augmentations included in the budget earlier this year are insufficient to address the courts' case backlogs. This funding, which would be subject to approval by the Department of Finance upon review of data demonstrating a persistent case backlog, could be used to procure resources such as additional staff or space to process cases.

   Earlier this year, the Governor and the Legislature agreed to restore $176.9 million for the trial courts and $23.1 million for the state-level judiciary. In addition, the Governor's January Budget included $72.2 million General Fund in 2021-22 and ongoing for trial courts to address inflationary cost increases and $53.5 million General Fund in 2021-22 and ongoing for maintenance, utility, and lease costs for trial court and Courts of Appeal facilities.

2. **Fine and Fees Amnesty for Traffic and Non-Traffic Infractions.** The May Revision includes $300 million one-time federal American Rescue Plan Act of 2021 (ARPA) funds to support a debt forgiveness program to eliminate debt owed on existing fines and fees for traffic and non-traffic infraction tickets issued between January 1, 2015 and June 30, 2021. Under this program an individual could apply to have 100 percent of their debt forgiven upon submission of an application verifying their low-income status.

3. **Statewide Initiative to Reduce Pretrial Detention.** The 2019 Budget Act included budget bill language outlining a pre-trial decision-making pilot and a $75 million allocation to the Judicial Council to fund the implementation, operation, or evaluation of programs or efforts in at least ten courts related to pretrial decision-making. The May Revision includes $140 million General Fund in 2021-22 and $70 million ongoing to expand a pretrial pilot program funded with one-time resources in the 2019 Budget Act.

   The Judicial Council states that they will distribute the funds and provide judicial education and technical assistance to the courts on practices and programs related to pretrial decision-making. The Judicial Council plans to evaluate the pretrial programs and practices and provide regular reports to the Legislature.

4. **One-time Deferred Maintenance adjustment.** The January Governor's budget included $30.1 million General Fund one-time to support deferred maintenance projects for trial court and Courts of Appeal facilities. The May Revision includes an additional $158

million one-time General Fund in 2021-22 to support deferred maintenance projects in trial courts and Courts of Appeal. Overall, the total one-time funding for deferred maintenance to $188 million in 2021-22.

5. **Legal Aid for Renters in Landlord-Tenant Disputes and Homeowners to Avoid Foreclosure**. The May Revision includes $20 million federal ARPA funds annually for three years ($60 million total) to provide legal aid services for renters and homeowners to avoid eviction and foreclosure. Specifically, these additional funds will provide free legal services for landlord-tenant issues, including legal assistance for counseling, renter education programs, and preventing evictions and foreclosures as discussed in the Housing and Homelessness Chapter.

6. **Shasta County Superior Court Security**. The budget includes $330,000 General Fund in 2021-22 and $660,000 ongoing thereafter to support trial court security costs for a new courthouse scheduled to open in January 2022. Court security is provided by the Shasta County Marshal's Office.

7. **Trial Court Benefit Adjustment.** The budget includes budget bill line item adjustments amounting to a $7,822,000 ongoing decrease to reflect the updated health benefit and retirement rate changes for trial court employees.

8. **AB 1058 (Speier), Chapter 957, Statutes of 1996 Reimbursement Authority.** Assembly Bill 1058 created the Child Support Commissioner and Family Law Facilitator Program in 1996 to address the problem of overburdened courts and the lack of accessible help for people with child support issues who did not have attorneys. The program is funded by a combination of federal title IV-D funds and state funds, with the federal government paying two-thirds and one-third provided by state non–trial court funds. "Title IV-D " refers to title IV-D of the Social Security Act (42 U.S.C. section 601 et seq.), which requires each state to establish and enforce support orders when public assistance has been spent on behalf of a child. Title IV-D also requires the states to establish and enforce support orders when requested to do so by a parent who is not receiving public assistance. The budget includes increased reimbursement authority of $5 million ongoing to enable the Judicial Council to receive additional resources from the Department of Child Support Services' contract for the Child Support Commissioner and Family Law Facilitator Program.

9. **Capital Outlay Proposals.**

BCP/Project Name	**Proposed Amount and Phase**	**Comments**

Butte County: Juvenile Hall Addition and Renovation	$604,000 General Fund for Preliminary Plans and Working Drawings	The project will provide an addition of approximately 600 square feet (SF) and renovate approximately 1,300 square feet of court exclusive space in the existing Butte County Juvenile Hall in Oroville. The project will increase the court exclusive space to 1,900 square feet. The total estimated project cost is $3,385,000. The project will require revisions to the joint occupancy/transfer agreement with the County to construct the project. The project will utilize a construction manager at risk delivery method.
San Bernardino County: Juvenile Dependency Courthouse Addition & Renovation	$901,000 General Fund for Acquisition and Preliminary Plans	For the San Bernardino Juvenile Dependency Courthouse. The project provides for an approximately 5,000 square feet (SF) addition for two courtrooms, associated clerical space, and a lobby expansion at the current Juvenile Dependency Courthouse in San Bernardino. Due to an increase in caseload, the court has outgrown this facility. The building lacks appropriate space for attorney interview areas, clerk's office space, public service windows, CASA space, interpreter's space, and courtroom support staff space. The public waiting area is insufficient and cannot accommodate the caseload and calendars of this courthouse. In addition, there is no room for growth within the current footprint for additional courtroom(s) and support spaces (i.e., additional staff, filing system, clerk's office desk space, restrooms). There is also no lactation room for the staff or public to use. Lastly, the noise levels in the hallway travel to the courtrooms, disrupting court proceedings.

		Additional courtrooms are critically needed to provide adequate on-site service to the public. In addition, the public lobby needs to be expanded for appropriate seating.
Monterey County: New Fort Ord Courthouse	$38.7 Million General Fund for the Acquisition and Performance Criteria Phase	The proposed new courthouse project will provide construction of a new 7-courtroom courthouse of approximately 83,000 square feet (SF) at Fort Ord. The project includes secured parking for judicial officers and approximately 280 surface parking spaces with solar power generation capability. The estimated total project cost is $154,256,000. The project will require acquisition of a site of approximately 3.4 acres. The project will use a design-build delivery method. The project will consolidate operations and replace three existing facilities.
Design-Build Revised Trailer Bill Language	Trailer Bill Language	The May Revision includes new statutory changes to provide Judicial Council the authority to utilize the Design-Build methodology to complete any new capital outlay project. These statutory changes will replace the proposal in the Governor's Budget.

LAO Comments on Judicial Branch May Revision Proposals

Augmentation Authority to Address Trial Court Backlogs for Civil and Criminal Cases

The May Revision proposes budget bill language authorizing the Department of Finance (DOF) to augment the trial court budget by up to $60 million (General Fund) to address criminal and civil case backlogs and workload delays resulting from the COVID-19 pandemic. We recommend rejecting this proposed language as a process—outlined in Item 9840 of the annual budget—already exists for state programs to request additional funding for unanticipated, necessary expenses.

To the extent the Legislature is interested in creating a separate augmentation process for the trial courts, we recommend modifying the language to increase legislative oversight of the process. Specifically, we recommend that the language be modified to specify:

- Legislative expectations for how the funding may be used—such as limiting use for certain case types or a statewide targeted effort to expedite particular parts of proceeding, similar to the proposed Early Disposition Readiness Conference Program.
- What information must be provided to justify requests for the additional funding. For example, the Legislature could consider requiring information on statewide backlog metrics, the specific actions taken by individual trial courts to mitigate their backlogs, as well as how the provided funding would be allocated and used.

One-Time Deferred Maintenance Augmentation

The May Revision proposes an additional $158 million one-time General Fund for trial court and Courts of Appeal deferred maintenance—increasing the total amount proposed for 2021-22 to $188 million. While the judicial branch has identified $5.2 billion in deferred maintenance projects, it has not identified which of these projects would be funded with the proposed augmentation. (We note that the judicial branch has identified 31 projects that would be funded by the $30 million proposed in January.) As such, we recommend the Legislature direct Judicial Council provide a list of projects that will be funded by this augmentation before acting on this proposal in order to ensure the selected projects align with legislative priorities.

Statewide Initiative to Reduce Pre-trial Detention

The May Revision proposes $140 million in 2021-22 ($70 million ongoing) from the General Fund to support programs and practices statewide that reduce pre-trial detention. (These programs and practices are generally designed to allow individuals to be released from jail pretrial without requiring bail.) Funding would be allocated to trial courts based on each county's share of the state's population of 18-25 year olds. Trial courts could use the funding to support pre-trial decision making activities and/or to contract for the monitoring and provision of services to individuals released pretrial. Trial courts would generally only be able to contract with county probation. Beginning July 1, 2023, Judicial Council would be required to provide an annual report evaluating pretrial programs and practices.

We find this proposal merits consideration as it provides relief to lower-income individuals who may have a difficult time paying bail and given a recent California Supreme Court ruling that could increase the need for pretrial services. However, we recommend the Legislature consider modifying the proposed budget bill language to:

- Allocate funding in 2021-22 through 2023-24 using alternative or additional metrics (such as criminal filings) to ensure funding more closely matches potential workload by each county;

- Require detailed annual reports to the Legislature on expenditures and key outcome data (such as the number of individuals served and how they were served) in 2021-22 through 2023-24 to increase legislative oversight and ensure the funding is used accountably and effectively;
- Specify the intent of the Legislature to modify the allocation formula in the 2024-25 fiscal year based on additional data (such as the percent of people released pretrial relative to filings) and the first required annual Judicial Council evaluation of pretrial programs and practices.
- Provide courts flexibility to contract with the entity that is best-situated to provide services—rather than just probation—provided that the entity does not have arrest responsibilities; and
- Require the evaluation of the impact of race and other factors on release decisions to help inform whether future legislative action is needed.

Criminal Fine and Fee Debt Forgiveness Program

The May Revision proposes $300 million in 2021-22 (Coronavirus Fiscal Recovery Fund of 2021) for a one-time program to eliminate criminal fines and fee debt owed by low-income individuals for infractions issued between January 2015 and June 2021. The funding would be used to backfill the resulting revenue reductions to judicial branch and local government funds as well as program administration and outreach costs. We note that the administration has not yet provided trailer bill language for this program.

We find this proposal merits consideration as it provides relief to lower-income individuals. However, key questions remain including:

- What happens if the participation rate is higher than expected resulting in a larger reduction in fine and fee revenue than anticipated?
- How much funding would be provided for program administration and outreach costs?
- How would the backfill to local governments be distributed?
- How would the program operate in tandem with the Governor's January proposal to expand online adjudication of infractions and ability to pay determinations statewide?

Answers to the above questions are critical to allow the Legislature to weigh this program against its other priorities as well as to ensure it is structured and operated in manner consistent with legislative priorities. Finally, we note the Legislature may need to address the impact of revenue reductions to other state funds supported by this revenue as well (such as the DNA Identification Fund), but has various options to do so.

Staff Recommendation. Hold all proposals open.

5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)

Issue 5: May Revision Proposals and Adjustments

The May Revision proposes total funding of $13.6 billion ($13.3 billion General Fund and $347 million other funds) for CDCR in 2021-22.

Spring 2021 Projected ADP

Spring 2021	2020-21	2021-22	2022-23	2023-24
Total Population	**109,591**	**108,870**	**122,863**	**128,941**
Prop 57 - Non-Violent Parole Process	(562)	(857)	(1,209)	(1,309)
Prop 57 - Good Conduct Credits	(2,055)	(1,744)	(1,990)	(2,077)
Prop 57 - Milestone and Achievement Credits	(2,983)	(4,823)	(6,963)	(8,331)
Prop 57 - Juvenile Sentencing Changes	(265)	(262)	(262)	(262)
Prop 57 Total	***(5,866)***	***(7,685)***	***(10,423)***	***(11,980)***
Credit Change (April 2021, Violent to 33.3%, NVSS to 50%)	(48)	(2,466)	(7,653)	(9,983)
Reception Center Time Reduction	(46)	(557)	(1,320)	(1,400)
COVID-19 Expected Releases	(2,856)	(744)	-	-
Positive Programming Credit	(3,319)	(1,828)	(1,201)	(906)
Increased Intake	-	11,900	13,084	10,229
Prison Reform and COVID-19	***(6,268)***	***6,305***	***2,910***	***(2,060)***
Post-Projection Policy Changes	***(237)***	***(1,231)***	***(1,878)***	***(2,045)***
Total Population	**97,220**	**106,259**	**113,472**	**112,856**

CDCR proposals and adjustments within May Revision. The May Revision includes the following proposals and adjustments for CDCR:

1. **Adult Institution and Parolee Populations**. The Governor's Budget projected an overall incarcerated adult average daily population of 95,324 in 2021-22. Spring projections now estimate an incarcerated adult average daily population of 106,259, an increase of 10,935. This is primarily because CDCR has resumed intake of individuals sentenced to prison but who remain in county jails awaiting transfer to state prison. The Governor's Budget projected an overall parolee average daily population of 45,924 in 2021-22. The average daily parolee population is now projected to be 48,269, an increase of 2,345, or approximately five percent.

Due to these changes in population, the Administration requests corresponding budget bill changes that are both ongoing and one-time. Overall, this reflects a net increase of $106,159,000 and a net increase of 161.6 positions, which is comprised of an increase of $103,570,000 General Fund and an increase of $2,589,000 Inmate Welfare Fund.

2. **Division of Juvenile Justice Population.** The May Revision reflects an estimated average daily population of 732 wards in 2020-21 and 613 wards in 2021-22, which represents a decrease of 68 and 116 wards in 2020-21 and 2021-22, respectively, as compared to the Governor's Budget estimates. Taken with the Governor's Budget estimates, this will result in estimated savings of $10.1 million General Fund in 2021-22.

3. **COVID-19 Response.** The January Governor's budget included $281.3 million General Fund to continue the CDCR and the California Correctional Health Care Services' (CCHCS) efforts to treat COVID-19, and minimize exposure to incarcerated people and staff. The May Revision includes $407.9 million one-time General Fund in 2021-22 to continue COVID-19 activities and fund related contracts and purchases.

4. **Continuation of Intake from County Jails and Associated Funding.** The suspension of intake has resulted in greater numbers of incarcerated persons being held in county jails. In circumstances where CDCR cannot accept the intake of an individual from a county jail, the state is required to reimburse counties for holding those individuals. As of March 15, 2021, the state has provided approximately $121.1 million General Fund to county sheriffs for this purpose. This reflects payments for individuals held in county jails from March 2020 through December 2020, and reimbursements will continue until such time that all incarcerated individuals are transferred to state prison. Current projections suggest a total of $98.3 million in additional reimbursements will be issued by June 30, 2021, and $97.5 million will be issued in 2021-22 as the backlog is gradually reduced and then eliminated.

5. **Prison Closure Update from January.** Due to the steady declines in prison population pre-COVID-19, the Administration reduced its reliance on contract prison capacity. CDCR terminated six of seven in-state contracts by October 2020 and will close its final in-state contract facility by May 2021. The Administration anticipates the closure of the Deuel Vocational Institution by September 2021. The May Revise includes a reduction of $4.5 million and 32.7 positions General Fund in 2020-21, $5.4 million and 37.1 positions in 2021-22, and an increase of $350,000 and 0.9 positions in 2022-23 and ongoing, and statutory changes to reflect the closure of Deuel Vocational Institution. This request includes funding to support limited-term positions for workers' compensation workload and reverses a position erroneously reduced in the initial savings estimate. The closure of DVI overall is estimated to achieve savings of $113.5 million General Fund in 2021-22 and $150.6 million General Fund beginning in 2022-23.

   The CDCR announced, earlier this year, plans to close the California Correctional Center in Susanville, by June 30, 2022. The closure of this facility is estimated to save the state $122 million General Fund in 2022-23 and ongoing.

6. **The Norway Model and related proposals.** Norway is globally recognized for its model corrections system, demonstrated through its low rate of recidivism and successful post-release outcomes. The May Revision includes $13.7 million General Fund in 2021-22, and $3 million ongoing, to expand programming and undertake facility improvements at Valley State Prison (VSP), guided by the Norway model. The 2020 Budget Act previously included $1.3 million General Fund in 2020-21, and $2 million ongoing, to establish a Youth Offender Rehabilitative Community at Valley State Prison, also guided by this model.

   With this funding, the Administration states that it will install two new modular buildings to accommodate additional educational and rehabilitative activities for incarcerated individuals, create two new baccalaureate degree programs—one general education program and one focused on Science, Technology, Engineering, and Mathematics, add new vocational and career technical training opportunities, including multimedia (video, music, and podcasts) production and construction licensing and certification programs, and provide additional laptops, complementary to the Governor's Budget proposal, for the incarcerated population's use to support digital literacy development and access to educational offerings.

   As well, the May Revision includes $34.8 million one-time General Fund to replace existing metal dayroom furniture with more comfortable furniture for positive programming and non-designated program facilities and female institutions.

7. **Increased Visitation Opportunities.** The 2020-21 Governor's Budget proposed to expand visitation before the outbreak of COVID-19 led to the proposal's withdrawal. In April 2021, CDCR resumed in-person visiting, which will continue in conjunction with video visiting that was introduced in December 2020. To support increased in-person visiting, the May Revision includes $20.3 million ongoing General Fund to add a third day of in-person visitation on Fridays at all institutions (visiting is currently limited to Saturdays and Sundays). In addition, this funding will provide visitors with free transportation on select days throughout the year to all prisons via chartered busses.

8. **Statewide Implementation of Fixed Video Surveillance Systems.** The May Revision includes a total of $212.3 million General Fund over three years, and $11 million ongoing, to install modern fixed security cameras at 24 additional institutions. This proposal, along with existing efforts underway, will effectuate a roll-out of new audio visual surveillance systems at all institutions statewide.

9. **Staff Misconduct and Discrimination Complaint Processes.** The May Revision includes $3.7 million General Fund in 2020-21, $89.3 million in 2021-22, and $36.8 million ongoing overall for the CDCR's staff misconduct and discrimination complaint processes. These proposals are detailed below:

- The U.S. District Court of California ordered CDCR to develop a plan within 21 days after finding that systemic abuses against incarcerated people with disabilities existed and had been documented in more than one hundred declarations. The findings also showed that the CDCR was aware that these abuses violated the Americans with Disabilities Act and court orders previously issued in *Armstrong v. Newsom*. The January budget includes $13.5 million General Fund in 2020-21, $10.1 million General Fund in 2021-22, and $6.9 million General Fund in 2022-23 to implement court-ordered reforms at the Richard J. Donovan Correctional Facility. Notably, these reforms include the installation of security cameras throughout the prison within 90 days, use of body-worn cameras within 60 days, and modifications of the staff complaint and disciplinary processes and increases to supervisory staffing and training. This funding is also for the installation of security cameras on two yards at the California State Prison, Los Angeles County.

- In March 2021, the US District Court for the Northern District of California ordered CDCR to develop a plan to implement remedial measures at five institutions—including Kern Valley State Prison; California Institution for Women; California State Prison, Corcoran; Substance Abuse Treatment Facility and State Prison, Corcoran; and California State Prison, Los Angeles. The May Revision includes an additional $80.5 million General Fund and 152.1 positions in 2021-22 and $28 million General Fund in 2022-23 and ongoing to implement remedial measures at these 5 institutions pursuant to a March 2021 *Armstrong* court order, including deploying body-worn cameras, installing fixed security cameras, modifying the staff complaint inquiry processes, and increasing supervisory staffing and training. This amount includes $53.9 million in one-time resources and $28 million in ongoing resources.

- The 2019 Budget Act included $9.8 million ongoing General Fund and 47 positions to establish the Allegation Inquiry Management Section (AIMS) Program within the Office of Internal Affairs to conduct inquiries into certain specified allegations of staff misconduct that previously would have been reviewed at the institution level. The May Revision includes $8 million ongoing General Fund and 40 positions to expand the AIMS process to cover all use of force allegations against staff as well as allegations of staff misconduct that fall under the federal Prison Rape Elimination Act.

10. **Centralize Discrimination Complaints.** The May Revision proposes $815,000 General Fund in 2021-22 and $804,000 ongoing and six positions to expand CDCR's Civil Rights Operations/Equal Employment Opportunity program, which centrally handles discrimination complaints. The 2020 January Governor's budget included $1.8 million General Fund and 12 positions in 2020-21 and ongoing to create a centralized discrimination complaint process and restructure its Civil Rights Operations/Equal Employment Opportunity program. Due to the pandemic, the 2020 Budget Act reduced the proposal from $1.8 million ongoing to $943,000 to promote objectivity and fairness in the investigation of equal opportunity complaints.

11. **Mental Healthcare.** The May Revision includes $37.7 million General Fund in 2021-22, and $35.9 million ongoing, and 264.1 positions to standardize staffing models across the five CDCR-operated Psychiatric Inpatient Programs (PIPs) and support targeted

staffing increases to perform operationally critical functions. This includes resources to add clinicians, nurses, custody staff, and administrative staff to provide the comprehensive suite of services necessary to best serve PIP patients.

Additionally, the May Revision includes $3.7 million ongoing General Fund to add supervisory capacity within the Statewide Telepsychiatry Program.

12. **Board of Parole Hearings.** The May Revision includes $3.1 million in 2021-22 and ongoing General Fund to increase the number of Board of Parole Hearings commissioners from 17 to 21 to address a backlog in hearings. The proposal also includes statutory changes to permit the Board of Parole Hearings to conduct video conference hearings currently authorized through an Emergency Executive Order, which allows for more hearings by reducing travel time for commissioners, as well as associated costs.

    The May Revision also includes $1.3 million ongoing General Fund to deliver services for victims during the parole hearing process. The staff and resources will also enable CDCR to expand existing initiatives such as the Victim Offender Dialogue program.

13. **Deferred Maintenance.** The January Governor's budget included $50 million General Fund one-time to address the CDCR's highest priority deferred maintenance projects. The May Revision includes an additional investment of $50 million one-time General Fund in 2021-22 to address CDCR's significant backlog of deferred maintenance projects. Taken with the Governor's Budget proposal, this will provide $100 million in total funding for CDCR deferred maintenance projects.

14. **Pine Grove Youth Conservation Camp State and Local Partnerships.** The May Revision proposes statutory changes to create opportunities for state and local partnerships to maintain firefighting operations at the Pine Grove Youth Conservation Camp in Amador County. This will enable juvenile courts to assign local youth to Pine Grove without committing them to DJJ and authorize counties to contract with the state to place youth at Pine Grove. This action is consistent with the intent expressed in SB 823 to continue operations at Pine Grove given the camp provides critical reentry and job training to justice-involved youth.

15. **California Sex Offender Management Board Expansion and Juvenile Sex Offender Treatment Certification Statutory Changes.** The Administration proposes trailer bill language to increase the California Sex Offender Management Board's expertise related to the treatment of juvenile sex offenders by expanding its membership and creating a certification process for service providers treating youth who have committed a sex-related offense. This action will support the realignment of youth to counties starting July 1, 2021, as directed by SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020.

16. **Redirection of Funding From Eliminated Civil Service Positions to Psychiatry Registry Staff.** On September 30, 2009, CDCR filed a staffing plan based on a ratio-driven model in accordance with the *Coleman* Court's established deadline. The Ratio Staffing Model was designed to objectively quantify the staffing complement which would concurrently satisfy judicial, financial, and policy

objectives. CDCR submits baseline mental health staffing adjustments, based on the ratio-driven methodology and changes in inmate population. This adjustment occurs twice per year to ensure that CDCR has sufficient resources to provide incarcerated people with the appropriate level of mental health services. When CDCR has unfilled civil service psychiatry positions, it utilizes contractors known as psychiatry registry staff to provide the necessary services. These registry staff are partially supported using funding associated with vacant civil service mental health positions. However, due to a decline in the prison population, many of these vacant mental health civil service positions are now being eliminated. (CDCR adjusts the number of mental health service positions based on the size of the inmate population annually.) This has resulted in a shortfall in funding available for psychiatry registry staff. According to the CDCR, current registry usage for Psychiatry, Psychology, Rec Therapist, and Social Worker positions will require expenditure of approximately $75 million during this fiscal year. This amount is about $15.9 million more than the net funding available for registry usage taking into account normal salary savings for civil service positions and supplementary funding for registry services. In addition, the 2020 Personal Leave Policy salary reductions also reduced salaries tied to vacant positions, so the amount of salary savings available for registry funding decreased, while registry costs have remained consistent.

The CDCR proposes to retain projected cost savings order to correct a baseline funding deficiency and to offset registry utilization, as registry staffing contracts pay registry staff at higher hourly rates than CDCR pays for civil service positions. To address the funding shortfall, CDCR is requesting to retain most of the funding associated with civil service mental health positions proposed for elimination in the May Revision and to redirect this funding to psychiatry registry staff. Specifically, CDCR requests to redirect $49.3 million in 2020-21 and $40.9 million in 2021-22 and ongoing from eliminated civil service positions to augment existing funding for psychiatry registry staff. The administration indicates that $11 million of the funding would be used for psychiatry registry services. The remaining amount would be used to backfill funding associated with the eliminated positions.

17. May Revise Capital Outlay Projects.

BCP/Project Name	**Proposed Amount and Phase**	**Comments**
California Institution for Men, Chino: 50-Bed Mental Health Crisis Facility Reappropriation	Lease Revenue Bond (GF) Reappropriation $91.032 M for Construction Phase	This proposal requests reappropriation of funding to construct a licensed 50-Bed Mental Health Crisis Facility (MHCF) to provide housing, treatment, and office space to allow for inmate-patients in a crisis mental health state, or requiring other levels of licensed mental health care, to be treated at the California Institution for Men.

		Due to litigation under the California Environmental Quality Act, the Department will be unable to proceed to bid by June 30, 2021 and funding for this project will naturally revert. On June 7, 2019, four local government agencies filed suit challenging the project's Environmental Impact Report on ten separate grounds. On February 24, 2021, the San Bernardino County Superior Court ruled in favor of the petitioners on three of the ten challenges. In response to the Court's decision, the California Department of Corrections and Rehabilitation is currently preparing a revised Environmental Impact Report focusing on the three issues that the court found deficient. The Department is requesting a reappropriation of the construction funding authorized in the 2020 Budget Act to ensure that funding remains available for this project.
California Health Care Facility, Stockton: Facility B Individual Exercise Yards	$ 537,000 General Fund for Preliminary Plans and Working Drawings	To design 10 individual exercise yards (IEYs) in Facility B at the California Health Care Facility (CHCF). The IEYs will allow maximum custody patients receiving inpatient mental health treatment at CHCF to participate in out-of-cell recreation therapy that is consistent with their mental health treatment plan. This proposal requests funding for the preliminary plans and working drawings phase of the project. The total estimated cost of this project is $4,368,000.

Health Care Facility Improvement Program (HCFIP): Lease Revenue Bonds to General Fund	Reverts existing Lease Revenue Bond authority and withdraws April 1 Request to increase lease revenue authority, Instead switches fund source to General Fund and proposes $115.7 Million general fund for the construction phase to complete HCFIP projects.	The funding for HCFIP projects is currently derived from bond proceeds generated through asset transfers. As part of this proposal, it is requested that budget line items and statute are amended to revert existing lease revenue bond authority. In addition, the 2021-22 April Finance Letter requesting additional lease revenue bond financing authority of $43,235,000, is being officially withdrawn and replaced with this proposal.
Medication Distribution Improvements Phase II Reappropriation at 13 facilities	$30.1 Million General Fund Reappropriation	For the construction medication distribution improvement at 13 institutions. These projects are required to address population mission changes, along with projects inadvertently omitted from the original phase. These improvements will increase staff productivity and safety as well as ensure compliance with the *Plata Court* by providing timely inmate-patient access to medication. While this request is combined in one Capital Outlay Budget Change Proposal, this is not a joint appropriation; there are 13 separate projects with the same objective. The requested funding is for the construction phase of these 13 separate projects, each subject to project authority separately and individually. Funding for the construction phase of this project was received in the 2020 Budget Act. Design documents have been completed and submitted to the State Fire Marshal for approval. However, it is unclear whether State Fire Marshal approval of working drawings will be obtained by June 30, 2021. Therefore, the Department is requesting a reappropriation of construction in the 2021 Budget Act so funding for this project remains available. The total estimated project cost is $36,570,000.

LAO Comments on California Department of Corrections and Rehabilitation (CDCR) May Revision Proposals

Inmate Population Projection

The May Revision proposes $105.9 million (mostly from the General Fund) to accommodate a 10,935 increase (from 95,324 to 106,259) in the projected average daily inmate population in 2021-22 relative to what was assumed in the Governor's January budget. This increase is largely due to the administration's expectation that it will begin transferring to CDCR the backlog of around 10,000 inmates who have been sentenced to prison but are currently in county jails due to the halt on intake in response to the COVID-19 pandemic.

Based on our discussions with the administration, the inmate population projections do not take into account the time inmates have been serving on their prison sentences while in county jail awaiting transfer to state prison. As such, we find that the administration's projections and requested funding are likely significantly overestimated. However, the precise amount by which the projections are overestimated is unclear at this time. Accordingly, we recommend approving the proposed funding but adopting budget bill language specifying that the department shall revert to the General Fund any funding it received associated with inmates it did not serve in 2021-22. This will ensure the department does not use funds budgeted for the inmate population for other purposes.

Prison Infrastructure Projects

To accommodate a long-term decline in the inmate population, the administration intends to close the Deuel Vocational Institution by September 30, 2021 and the California Correctional Center by June 30, 2022. However, recent inmate population projections suggest that the state could be in a position to close around three additional prisons over the next several years. Based on our initial review, we find that the California Rehabilitation Center in Norco, California Men's Colony (CMC) in San Luis Obispo, San Quentin State Prison, and the Correctional Training Facility (CTF) in Soledad appear to be strong candidates for closure, primarily because they all have high estimated repair and/or operational costs relative to their inmate capacity.

The May Revision includes infrastructure-related proposals at various prisons including the prisons we have identified as strong candidates for closure. We recommend making modifications to the following proposals in order to ensure that funding is not spent unnecessarily on infrastructure at prisons that are closed shortly thereafter.

Health Care Facility Improvement Program (HCFIP): Lease Revenue to General Fund. Chapter 42 of 2012 (SB 1022, Committee on Budget and Fiscal Review) authorized $900.4 million in existing lease revenue authority for health care infrastructure projects at CDCR—including HCFIP projects intended to improve medical care in prison facilities. These projects have required numerous changes from their original design due to errors during the design process and other changes necessary to bring the projects into compliance with fire, life, and safety requirements. These changes have led to substantial delays and cost increases. To address the cost increases, the administration has requested $125.4 million in additional lease revenue authority from the Legislature and also utilized its ability to augment the legislatively approved lease revenue authority by $190.1 million. In April, the administration requested an additional $43.2 million in lease revenue authority through a finance letter.

The May Revision includes a proposal to withdraw the request from April, eliminate all remaining lease revenue authority for HCFIP projects, and provide $115.7 million General Fund in 2021-22 to replace the lease revenue authority. The administration estimates that this will be sufficient to complete the HCFIP projects. The proposal also removes the administration's current ability to augment legislatively approved HCFIP funding by 20 percent with prior notification to the Joint Legislative Budget Committee.

While we do not have concerns with the change to the structure of the HCFIP program, we note that the proposal includes increased funding for projects at CMC and CTF—which we have identified as strong candidates for closure. We recommend that the Legislature modify the proposed budget bill and budget trailer legislation to restrict the administration from making any expenditures with the proposed funding at prisons the Legislature identifies as strong candidates for closure—such as CMC and CTF—unless the department puts forward a prison closure plan showing that those facilities will not be closed.

Increase to Proposed One-Time Augmentation for Deferred Maintenance. The May Revision proposes an additional $50 million one-time General Fund for deferred maintenance projects at various prisons—increasing the total amount proposed for CDCR in 2021-22 to $126 million**.** We recommend approving the increase given the significant statewide prison infrastructure needs. However, we recommend that the Legislature approve budget bill language prohibiting CDCR from spending these funds on prisons that are strong candidates for closure unless department puts forward a prison closure plan showing that those facilities will not be closed.

Statewide Implementation of Fixed Video Surveillance. The May Revision proposes $37.6 million (General Fund) and 7 positions in 2021-22 increasing to $95.4 million and 34 positions by 2023-24, and $11.1 million and 34 positions in 2024-25 and ongoing to install and operate fixed video surveillance systems at 24 prisons. As noted below, a separate package of proposals would fund fixed video surveillance at six other prisons pursuant to a court order. Taken together, these proposals would enable CDCR to install fixed video surveillance at all state-owned prisons that do not already have it and are not scheduled for closure. In 2021-22, the department intends to install cameras at Salinas Valley State Prison in Soledad; California State Prison, Sacramento; California Correctional Institution in Tehachapi; and Mule Creek State Prison in Ione. The remaining 20 prisons funded by this proposal—including the four we identify as strong candidates for closure—would receive cameras in 2022-23 and 2023-24. Given that cameras could help provide objective evidence with which to resolve inmate allegations of staff misconduct and the four prisons proposed to receive cameras in 2021-22 do not appear to be strong candidates for closure, we recommend approving funding for video surveillance only at these the four prisons. We estimate that this would cost $37.6 million in 2021-22 to install cameras and $1.9 million in 2022-23 and ongoing for their operation and maintenance. The administration can request funding to install cameras at additional prisons at a later date—at which point the Legislature may have greater clarity about which additional prisons will be closed.

Medication Rooms. The May Revision proposes $30.1 million General Fund in 2021-22 for a reappropriation of construction funding for medication room projects at various prisons. These projects are intended to provide inmates with adequate access to medication. The projects are scheduled to begin construction in June 2021 but are waiting for fire marshal approval of their designs—which might not occur before the end of the budget year. We note that the proposal would result in providing funding to a project at CTF—one of the prisons we have identified as a strong candidate for closure. As such, we recommend adopting budget bill language to restrict the administration from making any expenditures on medication room projects at prisons the Legislature identifies as strong candidates for closure—such as CTF—unless the department puts forward a prison closure plan showing that those facilities will not be closed.

Proposals Addressing Staff Misconduct

The budget includes a package of proposals—one proposed in January and two in the May Revision—that are intended to address concerns related to staff misconduct. Specifically, the proposal would fund (1) video surveillance and body-worn cameras at six prison, (2) changes to the existing statewide process for handling inmate and parolee allegations of staff misconduct, and (3) additional supervisory staffing at six prisons. The package would provide a total of $99 million (General Fund) in 2021-22 (decreasing to $43 million in 2022-23 and ongoing) and 227 positions.

Video Surveillance and Body Worn-Cameras at Six Prisons ($62 million). The package would fund installation and ongoing operation of fixed video surveillance systems and body-worn cameras on officers at six prisons. These changes are being required by a court in ongoing litigation—referred to as *Armstrong v. Newsom*—related to treatment of inmates with disabilities. (As noted above, a separate proposal would fund video surveillance at 24 additional prisons not subject to the court order.) Given that these cameras are being required by a court and would help provide objective evidence with which to evaluate allegations of staff misconduct, we recommend approving these resources. However, given CDCR's limited experience implementing body-worn cameras and the limited research on their effectiveness in correctional settings, we recommend that the Legislature require an evaluation of the implementation and effectiveness of body-worn cameras by an independent researcher. This evaluation would help the Legislature determine whether to expand the use of body-worn cameras statewide. We recommend the Legislature require this evaluation be provided no later than October 1, 2023.

Process for Handling Inmate and Parolee Allegations of Staff Misconduct ($19 million). The package would support changes to the process for handling inmate and parolee allegations against staff. These changes are being required by the *Armstrong* court for six prisons, however the department requests funding to implement the changes system wide. Specifically, the proposed $19 million would augment CDCR's $9.8 million budget for a centralized unit established in 2019-20 to conduct investigations into inmate and parolee allegations of staff misconduct. The department indicates that the augmentation is needed because (1) staff time per investigation was significantly underestimated in the 2019-20 request and (2) the unit will handle an expanded number of case types pursuant to the *Armstrong* court order and to address concerns raised by the Legislature and Office of the Inspector General.

We find that the level of resources needed to support the staff misconduct investigation process is highly uncertain. This is because

- Details of the process are still subject to negotiation with the plaintiffs in *Armstrong v. Newsom*

- The proposals estimate workload based on the number of inmate and parolee allegations in years when the state correctional population was significantly higher than it is now and is projected to be
- CDCR has had significant difficulty accurately estimating how much staff time is required per investigation
- CDCR indicates it is looking for efficiencies to reduce staff time per investigation (such as conducting interviews via video conference)
- Expansion of video surveillance across additional prisons will likely reduce staff time required per investigation.

Accordingly, we recommend approving the $19 million augmentation and $9.8 million base funding on a two-year limited-term basis. This will require the administration to submit a new request for resources after it has data with which to more accurately assess its needs.

Additional Supervisory Staffing at Six Prisons ($18 million). The package would support additional sergeant positions to allow CDCR to increase supervisory staffing at six prisons as required by the *Armstrong* court. We recommend that the Legislature approve this request as it is required by the court.

Redirection of Funding From Eliminated Civil Service Positions to Psychiatry Registry Staff

When CDCR has unfilled civil service psychiatry positions, it utilizes contractors known as psychiatry registry staff to provide the necessary services. These registry staff are partially supported using funding associated with vacant civil service mental health positions. However, due to a decline in the prison population, many of these vacant mental health civil service positions are now being eliminated. (CDCR adjusts the number of mental health service positions based on the size of the inmate population annually.) This has resulted in a shortfall in funding available for psychiatry registry staff.

To address the funding shortfall, CDCR is requesting to retain most of the funding associated with civil service mental health positions proposed for elimination in the May Revision and to redirect this funding to psychiatry registry staff. Overall, CDCR requests a redirection of $49.3 million in 2020-21 and $40.9 million in 2021-22 and ongoing from eliminated civil service positions to augment existing funding for psychiatry registry staff. The administration indicates that only $11 million of the funding would be used for psychiatry registry services. The remaining amount would be used to backfill funding associated with the eliminated positions. The administration indicates that this funding has been redirected to other purposes within the mental health program but has not provided additional information regarding these purposes.

We find that redirecting this funding on an ongoing basis is not appropriate. This is because registry services are only intended to be a temporary solution while CDCR works to fill civil service psychiatry positions. As CDCR fills these positions, the need to provide funding for registry services should decline. As such, we recommend that the Legislature (1) approve $11 million on a limited term basis through 2021-22 to cover the funding shortfall for psychiatry registry services and (2) not approve the remaining funds until the administration can demonstrate that the redirected funding is being used for purposes consistent with the Legislature’s priorities.

Psychiatric Inpatient Program (PIP) Integration and Standardization

The May Revision proposes $37.7 million General Fund in 2021-22 ($35.9 million ongoing) and 261.4 positions to standardize staffing levels across all PIPs operated by CDCR and to increase certain service levels. We find that the proposal does not provide sufficient justification demonstrating that the number of requested positions or the increase in service levels are necessary. For example, CDCR has not demonstrated that current service levels are negatively impacting patient care. In addition, while CDCR has indicated that it already has sufficient capacity to meet the projected needs of the mental health population, the proposal includes resources to provide additional treatment capacity at the most intensive level of care. We recommend that the Legislature not approve the proposal unless CDCR can provide sufficient justification for the proposed staffing and service levels,

Valley State Prison Rehabilitation Enhancements

The May Revision proposes $13.7 million General Fund in 2021-22 (decreasing to $3 million General Fund by 2023-24 and ongoing) and 9.8 positions to make facility modifications and expand rehabilitation programs at Valley State Prison. The proposal would make improvements to visiting areas, add modular buildings to expand space for inmate programs, establish two bachelor's degree programs, expand career technical education, and provide 800 laptops for inmates at VSP. (We note the laptops would be in addition to a separate state-wide proposal in the Governor's January budget to provide laptops to inmates in academic programs throughout CDCR.) The proposal also includes $150,000 in 2021-22 and 2022-23 to evaluate the program. While the enhancements at VSP have merit, the overall effectiveness of the program remains unclear. Accordingly, we recommend making the funding limited term through 2023-24 and requiring the department to report on results of the evaluation no later than October 2023. This would allow the Legislature to use the evaluation to determine whether ongoing resources should be provided for the program beginning in 2024-25.

Replacement of Dayroom and Common Area Furniture

The May Revision proposes $34.8 million General Fund in 2021-22 to purchase modular furniture for dayrooms and common areas in certain facilities including non-designated programming facilities (facilities that house sensitive needs and general population inmates together), progressive programming facilities (facilities that provide additional programming opportunities and housing incentives to certain inmates who have demonstrated good conduct), and female facilities. The proposal is intended to make the physical environment within these facilities more conducive to rehabilitation. While this proposal could have merit, it is unclear that this would be the most effective method for CDCR to improve rehabilitation. For example, a more cost-effective approach to improving rehabilitation could be to ensure all inmates have access to evidence-based rehabilitation programs that meet their needs. Before approving this proposal, we recommend that the Legislature require CDCR to report on whether it has sufficient resources to provide all inmates with access to evidence-based rehabilitation programs. If CDCR can demonstrate that this is the case, then the proposal could be merited. Otherwise, there may be more cost-effective approaches to meeting the rehabilitation needs of inmates.

Staff Recommendation. Hold all proposals open.

0820 DEPARTMENT OF JUSTICE (DOJ)

Issue 6: May Revision Proposals and Adjustments

The May Revision includes total funding of approximately $1.1 billion, including $365.9 million General Fund, to support the DOJ.

DOJ proposals within May Revision. The May Revision includes the following proposals and adjustments for the DOJ:

1. **Police Use of Force Investigations.** The January budget included $13 million in 2021-22 and $13.5 in 2022-23 and ongoing to implement the provisions of AB 1506 (McCarty), Chapter 326, Statutes of 2020. AB 1506 requires a state prosecutor to investigate incidents of an officer-involved shooting resulting in the death of an unarmed civilian and makes the Attorney General the state prosecutor unless otherwise specified or named. The proposed funding would be used to establish three teams—one in each of northern, central, and southern regions of California to conduct investigations across the state. The May Revision includes an additional $2.3 million General Fund in 2021-22 and $2.1 million ongoing beginning in 2022-23 to provide supportive services to survivors of those killed in officer-involved shootings investigated by DOJ pursuant to AB 1506, and add one additional investigative team in the southern region, bringing the total to four.

   As well, the Administration proposes statutory changes that will allow the Director of Finance to augment the overall appropriation in 2021-22 if workload exceeds the level of resources provided to conduct investigations of officer-involved shootings.

2. **AB 2699 (Santiago), Chapter 289, Statutes of 2020**. The May Revision includes $982,000 General Fund in 2021-22, $912,000 in 2022-23, $2.9 million in 2023-24, $3 million in 2024-25, and $1.9 million in 2025-26 to gather information about unsafe firearms transactions involving peace officers, develop information technology infrastructure to maintain a database of such transactions, and conduct investigations to verify that transactions are being appropriately recorded.

LAO COMMENTS ON DEPARTMENT OF JUSTICE (DOJ) MAY REVISION PROPOSALS

Police Use of Force Chapter 326 of 2020 (AB 1506, McCarty)

The May Revision proposes an additional $2.3 million General Fund in 2021-22 ($2.1 million ongoing) for one additional investigative team, legal resources, and victim services resources generally related to the implementation of Chapter 326. Chapter 326 requires DOJ investigate peace officer-involved shootings resulting in the death of an unarmed citizen. This increases the total amount proposed for

Chapter 326 implementation to $15 million in 2021-22 ($15.6 million ongoing). We note that DOJ inform us that the requested funding for victim services—$522,000 in 2021-22 ($491,000 ongoing)—will be used to provide victim services broadly, not just for victims associated with Chapter 326 workload. The May Revision also proposes budget bill language allowing the Department of Finance to provide more funding if DOJ demonstrates a need for additional resources. We recommend rejecting this proposed language as a process—outlined in Item 9840 of the annual budget—already exists for state programs to request additional funding for unanticipated, necessary expenses. Such an approach allows the Legislature to monitor the implementation of this new program and to determine whether statutory changes are needed, such as to adjust the program's size or scope. We note that the administration has not yet provided a copy of this May Revision budget change proposal. As such, we may have additional recommendations after we have received it.

Unsafe Handguns Chapter 289 of 2020 (AB 2699, Santiago)

The May Revision proposes a total of $9.7 million General Fund over five years, including $982,000 in 2021-22 for an database to track unsafe firearms transactions and to ensure compliance with Chapter 289. Beginning in 2026-27 the proposal provides $912,000 on an ongoing basis for these activities. Chapter 289 specifically amended state law to allow for certain costs of its implementation to be covered by firearm fee revenue deposited into the Dealers' Record of Sale Special Account (DROS). As such, we recommend modifying the proposal to shift a portion of the costs to DROS.

Staff Recommendation. Hold all proposals open.

5227 Board of State and Community Corrections (BSCC)

Issue 7: May Revision Proposals and Adjustments

BSCC proposals and adjustments within May Revision. The May Revision includes the following proposals and adjustments for BSCC:

1. **California Violence Intervention and Prevention (CalVIP) Grant Program.** The Governor's Budget included baseline funding of $9 million ongoing General Fund for the CalVIP program, which provides competitive grants to cities and community-based organizations to support services such as community education, diversion programs, outreach to at-risk transitional age youth, and violence reduction models. The May Revision includes an additional $200 million one-time General Fund across the next three fiscal years for the Board of State and Community Corrections to expand this program.

2. **Proposition 47, the Reduced Penalties for Some Crimes Initiative (2014).** The Department of Finance currently estimates net General Fund savings of $116.2 million, an increase of $1.4 million over the estimated savings at the Governor's Budget. These funds

will be allocated according to the formula outlined in the initiative, which requires 65 percent be allocated for grants to public agencies to support various recidivism reduction programs (such as mental health and substance use services), 25 percent for grants to support truancy and dropout prevention programs, and 10 percent for grants for victims' services.

3. **Post Release Community Supervision**. The May Revision includes $23.6 million one-time General Fund for county probation departments to supervise the temporary increase in the average daily population of those on Post Release Community Supervision (PRCS) as a result of the implementation of Proposition 57. This is an increase of $4.1 million from the amount estimated in the Governor's Budget.

4. **May Revise Capital Outlay Requests**

BCP/Project Name	**Proposed Amount and Phase**	**Comments**
Reduction of County Jail Construction Authority TBL	Decrease in Lease Revenue Bond Authority of $229 Million	The Administration requests that statutory changes be adopted to decrease the lease revenue authority for county jail construction programs by $229 Million resulting from award relinquishments and unawarded funds for the construction of adult local criminal justice facilities. This proposed action will eliminate the remaining and relinquished bond authority for the county jail construction financing programs. These statutory reductions affect four separate county jail financing programs for the local jail and adult local criminal justice facility financing programs. There is a separate, but related action to allocate resources instead to award competitive grants to qualified county and tribal entities to acquire and rehabilitate real estate assets that expand behavioral health treatment resources for individuals with a serious mental illness who are deemed Incompetent to Stand Trial on a felony charge. This related issue is

		handled in Senate budget Subcommittee No 3 under the Department of Health Care Services.

Staff Recommendation. Hold all proposals open.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman

Part B:

Thursday, May 20, 2021
10 a.m. or upon adjournment of session
State Capitol - Room 3191

Consultant: Anita Lee and James Hacker

Items Proposed for Discussion

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

Public Comment

7100 EMPLOYMENT DEVELOPMENT DEPARTMENT

Issue 1: Deferred and Prospective Workloads, and Program Administration Resources

Summary. The May Revision proposes $276.3 million General Fund one-time to allow the EDD to address deferred workloads associated with the initial pandemic claim surge in addition to sustaining current workload demands.

Background. In addition to the regular UI program the Department has also been operating multiple federal pandemic programs including Pandemic Unemployment Assistance, Pandemic Emergency Unemployment Compensation, and Federal Pandemic Unemployment Compensation.

Financing of the UI program is a cycle which provides a significant influx of federal funds as workload increases, causing demands for services and staffing to expand rather rapidly when recessions hit, but funding then contracts fairly dramatically when the economy starts to improve. EDD notes that this financing model does not allow much cushion for states to manage that transition, prepare for future recessions, or to adequately invest in the appropriate technology to modernize the system itself.

During the fall of 2020, the UI administration workload figures were based on Department of Finance's April 2020 economic outlook which indicated a much more conservative approach to the unemployment levels throughout 2020 and beyond. Now that more data has been captured regarding this unprecedented pandemic and resulting economic collapse, most major economic forecasts are predicting a much quicker recovery resulting in lower unemployment levels than previously anticipated. For 2021-22, when comparing the two largest workload categories (Initial Claims and Weeks Claimed) from October 2020 to May 2021, Initial Claims, across all compensation programs, is estimated to decrease by 50.37 percent. Similarly, Weeks Claimed, across all compensation programs, is estimated to decrease by 47.61 percent.

Even as federal UI funding starts to decrease due to workload, EDD acknowledges that many issues which came to light this past year, whether identified via the EDD Strike Team or the California State Auditor (CSA), will continue to need to be addressed.

At the onset of the pandemic, EDD temporarily suspended a subset of procedures for conducting eligibility determinations in order to expeditiously pay claimants in need of UI benefits. These temporary policy suspensions resulted in significant levels of deferred workloads, some of which have yet to be addressed. Although EDD has resumed normal business operations for determinations workload as of the beginning of this calendar year, it does not have adequate staffing levels to complete all of the deferred workloads in addition to the continued incoming workload volumes.

Governor's May Revision Proposal. The May Revision proposes $276.3 million one-time General Fund to enter into a contract with a vendor to provide assistance to EDD staff in completing both the deferred and prospective workload to ensure that EDD is meeting customer needs. Vendor services would include contacting claimants for intake information related to the determination, reviewing employer protests, screening benefit crossmatch data, and pre- screening of identity documentation to ensure it meets the criteria for either determinations, redeterminations, or pre-appeal review.

For 2021-22, the May Revision also requests a decrease of 762.0 personnel equivalents (PEs) associated with the updated workload estimates. This proposal also includes a $73.8 million decrease in federal authority for Unemployment Administration Fund to align with estimated expenditure levels.

Staff Recommendation. Hold Open.

Issue 2: UI Loan Interest Payment

Summary. The May Revision proposes an updated estimate of the UI loan interest payment of $35.77 million. Additionally, the May Revision also proposes $1.1 billion in federal Coronavirus State Fiscal Recovery Fund to replenish the state's unemployment insurance trust fund.

Background. On February 25, the subcommittee heard the Governor's January budget proposal to provide $555 million General Fund one-time to make an estimated interest payment on the federal loan that was necessary to pay benefits when the Unemployment Insurance (UI) Trust Fund became insolvent. The UI Trust Fund is the fund in which weekly UI benefits are paid to eligible claimants and the first interest payment is due by September 30, 2021.

When federal loans are issued due to an insolvent UI Trust Fund, the federal government facilitates the repayment of this debt by reducing the 5.4 percent Federal Unemployment Tax Act (FUTA) tax credit that employers typically receive in qualifying states. The federal unemployment tax credit is reduced by 0.3 percent each year (resulting in incrementally higher federal taxes for employers) until the loan is repaid, or until the entire 5.4 percent credit has been reduced to zero and employers are paying the full 6.0 percent federal tax rate. When the federal loans are repaid, the temporary increases to employers' federal taxes will cease. To date, the increases in federal taxes following the insolvency period of the Great Recession has resulted in California employers paying an additional $9.6 billion in FUTA taxes. California experienced a 0.3 percent credit reduction each year from tax years 2011 through 2017. The outstanding loan balance was fully repaid after March of 2018, therefore, no 2018 or 2019 reduction was assessed.

The Administration's January proposed interest payment was based on underlying economic assumptions made by the Department of Finance in April, 2020. At that time, both the Administration estimated that the economic consequences of the pandemic would be severe and prolonged. Since then, the actual consequences have become clear and, though substantial, were not nearly as severe as was anticipated. Specifically, the estimate is based on the assumption that the average state unemployment rate in 2021 will be 18 percent. The Administration's January proposal also did not take into account the federal governments extended the interest accrual waiver from the end of 2020 through March 14, 2021, which was enacted in December 27, 2020. This added an additional nine months of interest to the January budget proposal.

As of May 13, 2021, the state's outstanding loan from the federal UI account is $20.3 billion, and is projected to grow to more than $24.3 billion at the end of 2021.

May Revision Proposal

The May Revision updates the loan interest payment due September 30, to $35.77 million to reflect the federal government extended inters-free borrowing through September 26. The May Revision also proposes $1.1 billion in Coronavirus State Fiscal Recovery Fund to replenish the state's Unemployment Insurance Trust Fund. Any unobligated funds as of June 30, 2024, will also be used to further reduce the total funds borrowed from the federal unemployment insurance trust fund.

Staff Recommendation. Hold Open.

Issue 3: Claimant Services and Access

Summary. The May Revision proposes the following to improve claimant services and access:

1. **Language Access Services:** $11.79 million and 39 positions in 2021-22 and $9.18 million in 2022-23 to improve language access services at EDD.

2. **UI Navigators:** $11.4 million General Fund and 92 positions in 2021-22, and $11.4 million General Fund and 92 positions in 2022-23, to expand the presence of Unemployment Insurance (UI) trained staff in the America's Job Center of California℠ locations to perform UI activities.

Background

Language Access Services: As discussed in previous subcommittee hearings, the COVID-19 pandemic and resulting impact on Californians has highlighted significant barriers that individuals who are "limited English proficient" (LEP) encounter when attempting to navigate the unemployment claim process. This was highlighted in the "EDD Strike Team Detailed Assessment and Recommendations" report issued on September 16, 2020, as well as by multiple members of the Legislature.

Although some of EDD's existing language access services include bilingual staff to assist customers in Spanish, Mandarin, Cantonese, Tagalog, Vietnamese, and Armenian, along with telephone interpretive services in more than 100 languages, and forms, notices, and applications translated in multiple languages, it is recognized that more needs to be done to ensure full access for all LEP individuals.

UI Navigators. the EDD offers a variety of comprehensive services and programs through the American Jobs Center of California (AJCC) system, including access to UI services. While EDD has made efforts to serve UI customers, many customers prefer accessing in-person services at the AJCCs. There are current 45 UI navigators across the state.

Since 2017, UI trained staff in the AJCCs has been funded with WIOA Governor's Discretionary funds. However, with a more recent shift to investing in the development of new workforce strategies and innovations that promote short-term skill attainment to address job quality and equity, the WIOA funding is not available to support UI services.

May Revision Proposals

1. Language Access: The May Revision proposes $11.8 million General Fund and 39 positions in 2021-22 and $9.2 million General Fund and 39 positions in 2022-23 to improve EDD's education and outreach in communities requiring multilingual access to EDD services and programs. This funding will support:

- Creation of a language access portal which will be the primary new LEP resource, synthesizing website content and making it easier for individuals to access translated forms and navigate the system. The cost for vendor support to translate multiple pages would be approximately $0.6 million in 2021-22.

- Expansion of existing telephone interpretive services for over 150 languages/dialects. The cost for the expansion of existing telephone interpretive services is approximately $2.0 million annually.

- With guidance from the Labor and Workforce Development Agency, EDD will also engage in launching a new LEP initiative providing direct grants to Community Based Organizations (CBOs) which would provide targeted outreach and education services in order to support LEP communities. This initiative will ensure strong engagement and partnerships with the directly-impacted LEP communities. It is envisioned that CBOs will actively participate in an LEP Advisory Committee, helping claimants access EDD's new LEP services and navigate the complexities of the various programs EDD administers. It is anticipated that there will be up to $0.2 million each for ten grants to CBOs in 2021-22.

- Creation of a new multilingual language access coordinator position and unit to effectively launch, implement, and manage the new LEP initiatives. The unit will consist of one executive position overseeing three language access specialists and an administrative analyst. It is anticipated the creation of these positions will cost $0.9 million annually.

- Additional staff in the UI program to efficiently process new multilingual paper, fax and phone applications in Cantonese, Mandarin, Simplified Chinese, Traditional Chinese, Vietnamese, Tagalog, Korean, and Armenian. Given that there is an absence of in-language online application portals for the above languages, it is anticipated that approximately 31 new multilingual Employment Program Representatives (EPRs) would be hired. It is anticipated that these positions will cost approximately $3.5 million annually.

- Further marketing and promotion of EDD multilingual services including specialized marketing materials, multilingual press releases, newsletters, promotional videos, etc. The vision is to target marketing to the general public, LEP communities, CBOs, and stakeholder groups. This work will be completed by an Information Officer, Graphic Artist, and Associate Governmental Program Analyst estimated at $0.4 million annually.

- Additionally, EDD will be redesigning the EDD main webpage and other UI webpages to expand access to available resources. The cost for leveraging vendor services to redesign multiple webpages is estimated at $2.4 million over two years.

<u>UI Navigator:</u> The funding will support a minimum of one UI trained staff person in each Local Area and in Local Areas with denser populations, up to two to three dedicated UI resources. In total this proposal would support 92 positions statewide. By continuing to provide this access to UI services it will ensure that some of the most vulnerable populations, like migrant and seasonal farmworkers, can be served.

UI trained staff will provide in-person guidance to customers, including individuals identified as having barriers, in filing a UI claim through the various application methods (paper, phone, or online) with priority given to filing their claim through UI Online^{SM} as well as directing individuals to the Public Service Program line, as appropriate. Staff will also provide in-person guidance to individuals regarding the menu of services available in the UI Online^{SM} application, EDD's website, and the EDD's Interactive Voice Response system including any resources specific to the federal pandemic programs.

Staff Comments

Language Access. The Administration's proposal provides $11.8 million one-time in 2021-22 and $9.2 million one-time in 2022-23 to implement these programs and services. However, staff notes that there are $6.8 million in ongoing needs for these programs and services including: (1) expansion of telephone interpretive services, (2) the creation of a multi-lingual access coordinator and unit, (3) staff needed to process multilingual paper, fax and phone applications in Cantonese, Mandarin, Simplified Chinese, Traditional Chinese, Vietnamese, Tagalog, Korean and Armenian, and (4) marketing and promotion of EDD services in multi-lingual materials, videos, newsletter etc.

UI Navigators. The Administration notes that WIOA funding is no longer available to support UI services at AJCC's due to shifts in investment priorities. Absent of the May Revision proposal, it is unclear if the current 45 positions would still be funded. Committee staff notes that funding in this BCP is only one time through 2022-23. It is unclear what will happen to these UI navigators and services when this funding ends in 2022-23.

The subcommittee may wish to ask:

1. Why is the Governor proposing one-time funding for some language access programs and services when there is are ongoing needs?
2. Why is WIOA funding to support UI Navigators and services at AJCC no longer available? The Governor's budget only provides one-time funding for these positions. What will happen to these positions after 2022-23 when the funding ends?

Staff Recommendation. Hold Open

Issue 4: Other EDD May Revision Proposals

Summary. The May Revision proposes the following proposals regarding payments and personal information.

1. **Personal Information:** Social Security Numbers: $6 million in 2021-22 and $2.7 million in 2022-23 to implement AB 499 (Mayes), Chapter 155, Statutes of 2020.
2. **Direct Deposit:** $5.5 million and 23.3 positions in 2021-22 and 2022-23 to develop and implement the option for direct deposit of EDD programs.
3. **BSM Project:** The May Revision proposes $11.8 million General Fund in 2021-22 to begin to re-focus the Benefit Systems Modernization (BSM) project
4. **Workforce Innovation and Opportunity Act.** The May Revision proposes to reappropriate $5.5 million one-time in unspent federal carry over funds.
5. **Deferred Maintenance.** The May Revision also proposed $2 million one-time General Fund in 2021-22 to address deferred maintenance needs on an EDD facility in Chico.

Background

Benefit Systems Modernization (BSM) Project: The EDD completed partial system modernization for Disability Insurance, implementing State Disability Insurance Online in 2012, and UI, which implemented UI Online in 2015. The Paid Family Leave system has not been modernized since being implemented in 2004. These partial system modernization projects have resulted in systems that are now overly complex and not sustainable from technology and staffing standpoints. Beginning in 2016, EDD started down the path of planning a complete overhaul of all its benefit systems with the goal of implementing a single, integrated benefit system which would be more responsive to claimants and EDD staff while also being more agile for future enhancements.

The Department spent over four years working through the state's project approval process including gathering requirements, conducting market research, initiating business process re-engineering, technical preparation, initial data conversion, and ultimately working with California Department of Technology (CDT) on expediting the Request for Proposal which was slated to be awarded the latter part of 2020. However, when the COVID-19 pandemic struck EDD program and technology resources were pivoted to implement and administer the various federal UI programs and address the unprecedented claim surge. During this time, it was recommended by the EDD Strike Team to pause the project and re-visit at a later date given the challenges that the Department was and continues to face.

Personal Information. Currently, the Social Security Number (SSN) is the primary way the EDD can uniquely identify a person and their associated wages and employment history to accurately pay benefits. The EDD has used the SSN as the unique identifier within its benefit systems and on accompanying program forms and correspondence. As such, the existing system's dependency on SSNs is imbedded throughout millions of lines of legacy mainframe code. It is extremely complex and costly to change the existing systems to remove this dependency on SSNs.

On March 28, 2019, the California State Auditor (CSA) released a report on EDD's privacy protection practices. The audit recognized that EDD has taken steps since 2015 to reduce the number of mailings that contain the printed full SSNs. However, the report recommended EDD discontinue using the full SSNs on all documents mailed to claimants.

With the 2019-20 Budget Act, EDD was authorized $1.8 million and 9.3 positions in 2019-20, $2.1 million and 10.5 positions in 2020-21, and $0.1 million and 0.6 positions in 2021-22, for the Claimants' Privacy Measure (CPM) project to mitigate SSNs on the top ten mailed documents with the highest volume that currently display the full SSNs. It is estimated that these ten high volume forms are mailed at least 13 million times in a single fiscal year.

Direct Deposit: Currently, EDD offers two methods of payments to these claimant populations which is either via check or debit card. Debit card holders can request to establish direct deposit, but only after they have received a debit card. During the recent COVID-19 pandemic it was highlighted that debit card options can be compromised by being stolen or mailed to the incorrect address. Furthermore, there exist only a handful of states, including California, that do not offer a direct deposit option for benefit programs.

May Revision Proposals

1. BSM Project – The May Revision proposes $11.8 million General Fund in 2021-22 to begin to re-focus the Benefit Systems Modernization (BSM) project, providing an opportunity to implement new customer-centric processes, leverage new technologies, and create a modular approach to focus on customer experience.

   The prior path for the BSM project was based on older technology and pre-pandemic processes, and the pause has enabled the Department to look at re-focusing the BSM project. The Department will leverage prior BSM artifacts and knowledge gained from the pandemic, and provide continued focus on delivering services with priority enhancements to the claimant experience.

   Resources in 2021-22 will be used for the following:

   - Business Re-Engineering and Requirements Consultant – will identify business processes to transform into a customer-centric model, develop requirements that support implementation of business process improvements, and provide actionable planning to implement and monitor customer-centric solutions
   - National Association of State Workforce Agencies Consultant – will assist with providing customer-centric best practices
   - Agile Project Coach – enables EDD staff for an agile/modular project delivery approach
   - Project Partners and Oversight – provides necessary support from CDT and Department of Digital Innovation

2. Social Security Numbers. The May Revision proposes $6.0 million in 2021-22, and $2.7 million in 2022-23, funded equally by the General Fund and the Unemployment Compensation Disability Insurance Fund to implement AB 499 (Mayes), Chapter 155, Statutes of 2020. AB 499 prohibits all state agencies from sending mail to an individual that includes the individual's full SSN, unless otherwise specified.

3. Direct Deposit: The May Revision proposes $5.5 million General Fund and 23 positions (14 permanent and 9.3 temporary help) in 2021-22, and $5.5 million General Fund, and 23 positions in 2022-23, to begin planning and implementation of a direct deposit solution.

   The EDD previously conducted an analysis to determine the viability of using the Automated Clearing House (ACH) (i.e., direct deposit) as another payment option. Findings from this analysis determined that the addition of an ACH payment option would require complex programing changes in multiple EDD systems including the mainframe, UI Online, SDI Online, PFL application, and the Interactive Voice Response.

   Cost estimates will cover the following (does not include ACH vendor's implementation and transaction costs):

   - Detailed analysis including determining testable items, scope of test effort, etc.
   - Requirements, design, development, unit testing, and implementation
   - Mainframe leads and developers
   - Oversight and project management activities
   - Additionally, vendors will be needed to assist with the following:
   - Developing code changes for the UI Online, SDI Online, and PFL applications
   - Mainframe assistance
   - Integration testing

   Providing these resources will ensure claimants can have their benefits deposited directly to their own bank account, while also still allowing the options for check or debit card.

4. Deferred Maintenance. The May Revision also proposed $2 million one-time General Fund in 2021-22 to address deferred maintenance needs on EDD owned and managed facilities. Funding will be used for building modernization in Chico to replace outdated heating ventilation and air conditioning system, fire alarm system, roof replacement and carpet.

5. Workforce Innovation and Opportunity Act. The May Revision proposes to reappropriate $5.5 million one-time in unspent federal carry over funds. At the time of writing this agenda, information on this proposal was not available.

The Subcommittee may wish to ask:

1. BSM: Under the May Revision, what is the new timeline for the BSM project? What stage will the BSM project be in the Department of Technology Project Approval Lifecycle (PAL) Process?

2. Direct Deposit: The May Revision proposal on direct deposit does not include vendor's implementation and transaction costs. What are the estimated costs for this? How will this be accounted for moving forward?

Staff Recommendation. Hold Open

7120 California Workforce Development Board
7100 Employment Development Department
6870 Chancellor's Office of the California Community Colleges

Issue 5: Various Workforce Development Programs

Background. On February 25th, the subcommittee heard the Governor's January budget proposal to provide $25 million one-time General Fund to create and expand high road training partnerships in: construction, forestry and agriculture (tree trimmers); health care and dental (respiratory technicians, and medical assistants); trade and logistics (pilot program with UPS and Teamsters in Ontario, Compton, Visalia, San Francisco and Oakland, and Inland Empire); and cyber. The Administration estimates this proposal would train 2,050 workers. The Administration notes that these sectors were chosen based on a combination of considerations, including geography, areas of current and projected job growth, areas important to economic and COVID recovery.

Employment Training Panel (ETP). ETP is funded by a special tax on California employers and differs from other workforce development organizations whose emphasis is on pre-employment training. ETP reimburses the cost of employer-driven training for incumbent workers and funding the type of training needed by unemployed workers to re-enter the workforce. ETP reimburses contractors based on flat rates. Companies must pay the difference between ETP reimbursement and their actual training costs. As training costs increase, companies pay a larger percentage of the costs. A business may earn ETP funds only after a trainee completes all training and is retained for a minimum time period (normally 90 days) at a required wage, in a job using the skills learned in training. Other performance requirements ensure that each stakeholder – the company, the worker, and ETP – shares responsibility for expanding the numbers of high-wage, high-skill jobs in California.

ETP is governed by eight Panel members: Three members are appointed by the Governor. Two are appointed by the Speaker of the Assembly. Two are appointed by the Senate Pro Tem. The Director of the Governor's Office of Business and Economic Development (GO-Biz), or his/her designee, shall serve as an ex officio, voting member.

May Revision Proposals

The May Revision proposes $250 million in various workforce development programs at CWDB:

- High Road Training Partnerships Expansion: $90 million one-time to expand the California Workforce Development Board's High Road Training Partnerships programs into new sectors and regions across the state and accelerate the labor market's recovery from the COVID-19 Pandemic. This proposal will train 11,500 workers in industry sectors that support the state's economic recovery, including: construction; healthcare; information technology; trade and logistics;forestry and agriculture; manufacturing; education; leisure and hospitality; janitorial and building maintenance; and clean energy and utilities. This proposal will help scale up existing programs, and create new ones. The program will set priorities for workers from disadvantaged communities,including justice-involved and disconnected and at-risk older youth.

- Employment Training Panel Expansion: $50 million one-time General Fund to expand the Employment Training Panel (ETP) training in high-demand sectors, including information technology and advanced manufacturing, as well as healthcare and public sector employers not eligible for current ETP funding yet offering high quality jobs with career advancement potential. This proposal projects training 25,000 workers and builds upon ETP's existing program and contracting structure, through which funding can be deployed quickly, and is consistent with the Administration's goals to expand earn-and-learn and apprenticeship programs. Of this funding, $6.7 million will support 58.5 temporary positions at ETP in 2021-22.

- Housing Apprenticeships: $20 million one-time to develop earn and learn apprenticeship training programs in residential construction. Over five years to develop and connect 2000 people to apprenticeships in the housing industry. The continued investment in the High Road Construction Careers (HRCC) initiative will develop and connect people to state-approved apprenticeships in the housing construction sector by partnering with local workforce development boards, higher education, community- based organizations, industry and labor. Administering these funds through the Board will build upon the HRCC Initiative and connect disadvantaged workers through multi-craft pre- apprenticeship programs to State-approved apprenticeship programs. This request aligns with the increased housing efforts included as part of the May revision.

The May Revision also proposes investments to build workforce development partnerships with the California Community Colleges. The May Revision requests $157 million one-time General Fund available over five years will foster new collaborative efforts between Labor Agency workforce programs and the California Community Colleges (CCCs), to create new pathways to good quality jobs. The CCCs serve nearly 2.1 million students annually and play a critical role in educating and training the skilled workforce needed for the state to meet its changing needs. Specific components include:

- Industry- based and worker focused programs: $50 million one-time General Fund investment for the Workforce Board to expand and establish HRTPs and HRCCs to align with community college pathways to train and bridge California students into good quality jobs. Target sectors may include: healthcare, construction, building maintenance, hospitality, public sector including education, agriculture including food safety, IT and cybersecurity, trade and logistics, manufacturing, natural resources including forestry, with flexibility to support new sector partnerships as they arise.

  Funding will support training 5000 workers and is focused on short-term skills training; earn and learn strategies such as apprenticeship; wage subsidies; technical assistance and evaluation through CWDB and UC High Road Lab; counseling and supportive services including income supports; and placement in good jobs. These flexible programs will give workers the skills they need to compete and thrive in the new economy. In addition, $10 million in Proposition 98 General Funds for CCCs will align their programs with these HRTPs.

- Regional equity and recovery partnerships: $50 million one-time General Fund to the Workforce Board requested to provide competitive grants to regionally-organized workforce development boards for regional partnerships with community college consortia. Working from existing regional and industry planning, successful partnerships will assess regional hiring demand for good quality jobs and then design short-term targeted education, training, and job placement. Projects will focus on integrating community college priorities such as industry-valued credentials, digital literacy, credit for prior leaning, and work-based learning, and train 5000 workers. An additional $10 million in Proposition 98 General Funds for the CCCs will support these efforts.

- ETP New and Incumbent Worker Training: $42 million General Fund to the ETP to leverage existing community college contract education units to provide small businesses with new and incumbent employee training for 3000 workers and accelerate business recovery. The LWDA will work with the Chancellor's Office to determine allocation of the funds between the two agencies by the end of July. Of this funding $5.7 million will support 49.2 temporary positions at ETP in 2021-22.

- Shared Data Infrastructure: $15 million one-time General Fund requested for building a shared data infrastructure between the Chancellor's Office and the Labor Agency as a foundational piece of this relationship. This infrastructure will simplify collaboration and track employment outcomes and other data gathering elements.

The LWDA will work with the Chancellor's Office to determine allocation of the funds between the two agencies by the end of July.

Lastly, the package provides CWDB $15 million one-timeGeneral Fund available over five years, for 20 positions at CWDB to implement the increased workload associated with expanded High Road Training Partnerships and other new program investments and collaborations.

Department	Program/Description	BY (Millions)	BY+1
CWDB	High Road Training Partnership Expansion [2]	$90	$-
CWDB	Housing WorkforceApprenticeships	$20	$-
ETP	Employment TrainingPanel Expansion	$50	$-
CWDB/CCCCO Collaboration	Industry Based and Worker Focused Programs	$50	$-
CWDB/CCCCO Collaboration	Regional Equity and Recovery Partnerships	$50	$-
CWDB/CCCCO Collaboration	Shared Data Infrastructure	$15	$-
CWDB	Implementation Resources	$15	$-
ETP/CCCCO Collaboration	New and Incumbent Worker Training	$42	$-
Total		$332.00	

Of the funding that is provided for CWDB/CCCO collaboration $5 million is targeted for individuals with autism.

The subcommittee may wish to ask:

1. Please describe how CCCs and workforce will collaborate on these proposals? What challenges currently exist, and how will this proposal address it?

2. The BCP notes the LWDA will work with the Chancellor's Office to determine allocation of the funds between the two agencies by the end of July. Please elaborate on this, and describe the factors, metrics, and allocation model that you are exploring.

3. The state recently initiated planning for an integrated "cradle-to-career" data system that included a multi-agency workgroup, which included representation from the community colleges, labor agency, and EDD, to link data from various state agencies including CDE, higher education segments, and EDD. The Governor's budget proposes to fund these recommendations, which was discussed in Subcommittee No. 1. CCCs also have a variety of data systems related to workforce development, including the CCC Salary Surfer and CCC Launch Board, and has a memorandum of understanding with EDD to match wage data.

   Please explain the purpose of the $15 million shared data infrastructure proposal. How is this different than the existing data infrastructures, and efforts that are currently underway?

4. Is there any specific focus on women and evaluating their needs in re-entering the workforce post COVID?

5. What outcome does CWDB, CCCCO, and ETP hope to accomplish? How will the departments monitor programs and track these outcomes? Will there a be an evaluation of the impact of these grants? Will there be a report to the Legislature regarding the outcomes of these programs?

Staff Recommendation. Hold Open.

0509 GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT
0559 LABOR AND WORKFORCE DEVELOPMENT AGENCY
0650 OFFICE OF PLANNING AND RESEARCH
7120 CALIFORNIA WORKFORCE DEVELOPMENT BOARD

Issue 6: Community Economic Resilience Fund

Summary. The May Revision proposes $750 million from the Coronavirus Fiscal Recovery Fund of 2021 to establish and operate a Community Resilience fund to support each of California's regions through a High Road transition to a carbon neutral economy.

May Revision Proposal

The May Revision proposes $750 million from the American Rescue Plan Act - Coronavirus Fiscal Recovery Fund of 2021 to establish the Community Economic Resilience Fund to support regional andlocal planning and implementation of strategies to adapt to and seize the opportunities that come with a changing economy. This fund will be governed by the Labor and Workforce Development Agency, Office of Planning and Research and the Governor's Office of Business and Economic Development.

Using the framework provided in the Administration's Just Transition Roadmap, due to be published in July 2021, the Fund will provide financial support to regional and local stakeholder collaboratives to plan and implement region- and industry-specific economic transition strategies, with a specific focus on supporting high road industries, quality job creation, and workforce strategies in those sectors or regions most affected by the state's transition to carbon neutrality.

Collaboratives - $29 million. The proposal will provide $29 million for planning at High Road Transition Collaboratives for each region. Collaboratives will bring stakeholders such as labor, business, and community to come together with local government, philanthropy, and education stakeholders to design a roadmap for economic growth in "advanced energy" industries such as renewable energy, zero-emission vehicles, or energy efficiency; industries such as carbon removal, advanced manufacturing, climate-smart agriculture, climate restoration and resilience; and a wide range of other industries that will be critical to the state's long-term economic growth.

Collaboratives will also develop a multisector regional strategy for high road economic diversification. Additionally, this funding will provide one contractor for one year in a local, public sector institution in order to help quarterback intersecting federal and state programs or investments.

The collaboratives will work directly with the Administration's community capacity building investments (created through SB 1072 and supported in the Governor's budget proposal on climate resilience).

Implementation Grants - $721 million

These will build on work proposed through the High Road Collaboratives and could include a wide range of activities including creating innovation hubs for key growth industries; expanding incubator or accelerator programs; providing technical assistance for small business owners to connect to larger industry "clusters" or to access state or federal funds; etc. Additionally, the fund will award ongoing grants of up to $10M each to additional proposals or individual projects from emerging High Road Collaboratives that meet the general goals of the Fund.

The Administration notes that the fund is structured to provide an initial set of competitive grants for those regions already advanced in their transition planning, and then to provide additional grants on a rolling basis in the following two years, consistent with the ARPA requirements to expend funds by December 2024. The Administration notes that it plans to award pilot grants of three to five awards of $3-5 million each to implement priority proposals from an existing regional collaborative that already has a High Road Transition strategy.

Governance

The Fund is established under the governance of the Labor Workforce Development Agency, the Governor's Office of Business and Economic Development (GO-Biz), and the Governor's Office of Planning and Research (OPR), who together shall govern the policies and implementation of the Fund. These agencies shall be responsible for defining regional boundaries and creating program guidelines and evaluation metrics, tracking progress, anddeveloping a competitive grant structure for implementation grants. They will establish common parameters to ensure — across the diverse plans and programs established by regional collaboratives — the equal participation of local constituents and their consistent attention to job quality, sustainability, and shared prosperity. The Fund's grant administration will run through the California Workforce Development Board.

Fund administrators from OPR, LWDA and GoBiz will ensure that these regional activities and strategies are tied directly to the infrastructure investments proposed across the Governor's budget in multiple categories – housing, transportation, advanced energy, broadband, and natural resources – all of which will prioritize the creation of high-quality jobs for regions across the state. They will also ensure direct connection, within each of those industries, to the High Road Training Partnerships included in this package.

Department	**Community Economic Resilience Fund**	**BY (in millions)**	**BY+1**
OPR/LWDA	Community Economic Resilience Fund	$750,000	$-
OPR/LWDA	High Road Transition Collaboratives	($27,500)	$-
OPR/LWDA	High Road Transition Technical Assistance	($1,500)	$-
OPR/LWDA	High Road Transition Implementation Pilots	($15,000)	$-

The Administration notes that there will be accompanying trailer bill language. As of writing this agenda, the trailer bill language has not been released.

The subcommittee may wish to ask:

1. Please provide additional details on the governance structure. Who decides which grant application gets funded? Will there be a voting structure? How will the Legislature be represented or included in this process?

2. The CWDB currently operates a multitude of workforce development programs, including HRTPs. What role will CWDB play in this proposal?

3. The budget proposal notes that the three departments will responsible for defining regional boundaries and creating program guidelines and evaluation metrics, tracking progress, and developing a competitive grant structure for implementation grants. Can the departments provide additional details on what is being considered for these? When will these be established?

4. The proposal provides $750 million to be spent by December 2024. What is the expenditure plan for these funds? What is the timeline for this program and set benchmarks for this proposal? Do the departments have the capacity to carry out this proposal in a timely manner?

5. The BCP notes that this proposal will have a direct connection with the HRTPs mentioned earlier. Please explain this. How is this proposal different than the other HRTP and workforce development proposals?

6. The BCP also notes that this proposal is tied directly to the infrastructure investments proposed across the Governor's budget in multiple categories – housing, transportation, advanced energy, broadband, and natural resources. As noted previously, the funds in this proposal is set to expire on December 2024. Will there be timing challenges between the infrastructure investments and this proposal?

7. Please explain what a collaborative is. The BCP notes that the proposal will provide three to five awards of $3-5 million each to implement priority proposals from an existing regional collaborative that already has a High Road Transition strategy. Who are these entities? How will the Administration ensure that these funds be equitably distributed across communities in the state?

Staff Recommendation: Hold Open.

2660 California Department of Transportation

Issue 7: Caltrans Budget Summary

May Revision. The May Revision includes several new proposals at Caltrans. These include:

- **Encampment Relocation Coordinators and Homeless Service Liaisons—**The May Revision includes $2,721,000 from the General Fund and 20 positions for two years to provide resources for Homeless Encampment Liaisons. These resources will help Caltrans coordinate with local service providers and other state agencies so that people experiencing homelessness and living near state highways are receiving proper treatment and have a safe place to go.

- **Information Technology (IT) Infrastructure Refresh—**The May Revision includes $10.6 million ongoing from the State Highway Account to provide resources for an IT Infrastructure Refresh. These resources will be used by Caltrans to replace end-of-life IT equipment which will stabilize the network and enhance cyber-security.

- **Transportation System Network Replacement—**The May Revision includes $5,540,000 from the State Highway Account and 10 positions one-time to provide resources for the Transportation System Network (TSN) Replacement IT project. The new TSN will include more detailed roadway, safety, and geospatial data to meet federal requirements and aid Caltrans in creating a safer and more sustainable roadway system in California.

- **California High Speed Rail Authority Reimbursement—**The May Revision includes $3,397,000 in reimbursement authority and 14 positions for two years. These resources will provide legal services to the High Speed Rail Authority for real property acquisition and other right-of-way activities.

Staff Recommendation. Hold Open.

Issue 8: Transportation Infrastructure Package

May Revision. The May Revision includes funding at both Caltrans and the California State Transportation Agency (CalSTA) for major investments in transportation infrastructure. Specifically, the May Revision includes roughly $11 billion in additional funding for transportation infrastructure and related zero-emission vehicle (ZEV) efforts. This includes:

- **Los Angeles Olympics—**$1 billion General Fund to deliver critical projects in time for the 2028 Olympic Games.

- **Priority Transit and Rail Projects—**$1 billion General Fund for transit and rail projects statewide that improve rail and transit connectivity between state and regional/ local services.

- **Active Transportation—**$500 million General Fund to advance projects that increase the proportion of trips accomplished by walking and biking, increase the safety and mobility of non-motorized users, advance efforts of regional agencies to achieve greenhouse gas reduction goals, enhance public health, and benefit many types of users, especially in disadvantaged communities.

- **High Priority Grade Separations and Grade Crossing Improvements—**$500 million General Fund to support critical safety improvements throughout the state.

- **High-Speed Rail—**$4.2 billion Proposition 1A to complete high-speed rail construction in the Central Valley, advance work to launch service between Merced and Bakersfield, advance planning and project design for the entire project, and leverage potential federal funds. This proposal will be discussed in more detail later in this agenda.

- **State Highway Rehabilitation and Local Roads and Bridges—**$2 billion ($1.1 billion special funds through 2028, and $968 million federal funds) to support the advancement of priority State Highway Operation and Protection Program (SHOPP) projects, Interregional Transportation Improvement Program (ITIP) projects, and local road and bridge investments.

- **Zero-Emission Rail and Transit Equipment Purchases and Infrastructure—**$407 million ($100 million General Fund, $280 million Public Transportation Account, and $27 million federal funds) to demonstrate and purchase or lease state-of-the-art, clean bus and rail equipment and infrastructure that eliminate fossil fuel emissions and increase intercity rail and intercity bus frequencies.

Staff Recommendation. Hold Open.

Issue 9: Clean California Package

May Revision. The May Revision includes $1.5 billion in one-time General Fund resources for a three-year effort to clean up garbage statewide, beautify the state's transportation network, educate the public about the harms of litter, and create long-lasting litter deterrents. Specifically, this includes:

- $418 million for litter abatement activities, strengthening trash collection efforts by Caltrans and partners to eliminate over one million cubic yards of trash from state routes, increasing access to waste facilities and providing free monthly disposal days.

- $430 million for state beautification projects, implementing sustainable, green beautification projects that enhance safety and transform dividing highways into public spaces that unify communities.

- $444 million for local beautification projects, supporting communities, students, and local artists by working together to create meaningful, livable spaces and establishing a local grant program to match efforts that enhance communities and reduce litter on local streets, tribal land, and near transit centers.

- $75 million for grants for hundreds of art installations on the state and local transportation system.

- $50 million for a public education campaign and outreach to schools and students.

- $83 million over three years for project design, construction, local support and engagement, and administration required to deliver this initiative.

Staff Recommendation. Hold Open.

2665 California High-Speed Rail Authority

Issue 10: Proposition 1A Authority

May Revision. The May Revision includes $4.2 billion in Proposition 1A authority for the High Speed Rail Authority to complete high-speed rail construction in the Central Valley, advance work to launch service between Merced and Bakersfield, advance planning and project design for the entire project, and leverage potential federal funds. This request includes Budget Bill language to extend authority through June 30, 2026, and to clarify the segment of the project on which these funds will be used.

Staff Comments. The High Speed Rail Authority is in the process of completing construction on the Central Valley Segment, between Madera and Shafter. The 2020 Revised Draft Business Plan continued to focus on the Governor's two main objectives: completion of the 119 miles Central Valley Segment from Madera to Shafter, in compliance with the existing Federal Railroad Administration grant agreement; and the path forward for the Central Valley Line for high-speed train service from Merced to Bakersfield.

The construction costs are estimated at approximately $13.8 billion in year of expenditure dollars (YOE$), with a detailed breakdown provided below.

Central Valley Segment Cost Item	Total Budget (YOE$ in millions)
Construction Package 1 and State Route 99	$5,254
Construction Package 2-3	$3,727
Construction Package 4	$1,175
Track and Systems	$2,253
Program-wide Support	$604
Program Wide Contingency	$420
Interim Use Reserve	$162
Project Reserve	$46
Trainset Certification Facility	$72
Central Valley Balance	$62
Total	**$13.776**

Notes: Budget excludes planning costs, as they are appropriated separately from construction costs under Proposition 1A. Line items above include contingencies.

Of the current approximately $13.8 billion in YOE$ estimated in the current funding plan, $5.9 billion has been spent through November 2020. The capital costs include an increase for known costs of $330 million. The contingencies set aside for COVID and other future risks add up to $1.04 billion.

Details of the proposed funding sources for the Central Valley segment are provided below.

Funding Sources	Total Funding ($ in millions)
ARRA Grant	$2,081
FY10 Grant	$929
Prop 1A – Already Appropriated	$2,609
Prop 1A – Requested Future Appropriations	$4,100
Cap-and-Trade – Historical and Future	$4,057
Total Funding	**$13,776**

Source: Business Plan and Funding Contribution Plan

The May Revision also includes the following resources for the High Speed Rail Authority:

- **Preconstruction Activities** - $10,710,000 in Proposition 1A bond authority and 56 positions in fiscal year 2021-22 and ongoing for pre-construction and pre-procurement activities on the Merced and Bakersfield extensions of the High-Speed Rail project. Implementing pre-construction activities such as utility relocation, addressing right-of-way issues, and early contract engagement for the Merced to Bakersfield extensions could help prevent many of the delays and complications the Project experienced on the initial 119 mile segment between Madera and Shafter.

- **Phase 1 System Planning**—The May Revision includes $100 million in one-time bond authority to provide Proposition 1A General Obligation Bonds (Prop 1A) for the performance criteria phase to support planning, project development, and environmental review for the Phase 1 system (San Francisco to Los Angeles / Anaheim) as noted in the California High-Speed Rail Authority's Draft 2020 Business Plan.

- **Reappropriate Federal Funds—**The May Revision includes a reappropriation of existing federal authority for the acquisition and design-build phases of the Initial Operating Segment, Section 1 (i.e. Central Valley Segment). Existing authority expires June 30, 2022, and it is anticipated that additional time is needed to encumber these funds, consistent with the timeline for the expenditure of Prop 1Afor the Central Valley Segment.

Staff Recommendation. Hold Open.

2740 DEPARTMENT OF MOTOR VEHICLES

Issue 11: DMV Budget Summary

May Revision. The May Revision includes a number of proposals at the Department of Motor Vehicles. Specifically, it includes:

- **Extension of REAL ID and Operational Improvements—**The May Revision includes $186,331,000 in General Fund resources and 257.7 positions in fiscal year 2021-22, $105,740,000 in 2022-23, $86,324,000 in 2023-24, and $30,822,000 in 2024-25 for a total of $409,217,000 to shift the costs of processing federally-compliant REAL IDs and associated operational improvements from the Motor Vehicle Account (MVA) to the General Fund. This request provides funding for DMV to process REAL IDs through the federal enforcement deadline. The ongoing costs of providing original applications for REAL IDs and improvements will be funded by the MVA. To provide DMV with the flexibility to meet changes in demand for REAL ID, the May Revision proposes provisional language that allows DMV to encumber and liquidate the full requested amount for four years. This request includes an offsetting reduction of $409,217,000 from the Motor Vehicle Account over four years.

- In addition, it is requested that statutory changes on the items below be added to further improve DMV operations:

    - Driver License Renewal Alternatives: Allows DMV to permit certain drivers and identification card applicants to renew via the virtual field office that otherwise would have to visit a field office.

    - Driver License and Identification Card Application Signature and Thumb/Fingerprint Requirements: Allows an applicant for a duplicate identification card to renew online, and allows customers to convert their driver licenses to identification cards online.

    - Electronic Reporting of Commercial and Fleet Insurance: Requires that commercial and fleet liability insurance policies be reported to the DMV electronically instead of by mail.

    - Publication of the California Vehicle Code: Repeals the requirement that the DMV publish, print, and distribute hard copies of the California Vehicle Code.

- **Digital Acceleration, Facility Improvements, and Talent Acquisition—**The May Revision includes $103,050,000 in one-time General Fund resources for the following:
    - Digital Acceleration: The May Revision includes $50.2 million for 30 projects that are intended to enhance the overall customer experience of DMV customers.

    - Facilities Improvements: The May Revision includes $39.9 million for 12 facility projects, including updating DMV's headquarters to begin steps to reduce the total field office footprint.

  - Mobile Driver Licenses: The May Revision includes $10 million for DMV to create electronic driver licenses and identification cards.

  - Talent Acquisition and Training: The May Revision includes $3 million for seven training and recruitment projects.

- **Deferred Maintenance—**The May Revision includes $10 million in one-time General Fund resources in 2021-22 to fund deferred maintenance projects at DMV headquarters and field offices.

- **Digital Experience Platform (DXP) Project—**The May Revision includes $54,360,000 from the MVA in 2021-22, $69,295,000 in 2022-23, and $69,850,000 in 2023-24 for the DXP project, a comprehensive, multi-year project for DMV to replace its aging legacy core system to provide a more modern customer experience, prevent outages, and adapt to future changes and demands. To fund a portion of the DXP project, it is requested that statutory changes be added to extend the current incremental $1 Business Partner Automation Fee, originally established to fund 20 percent of the Front-End Sustainability project, from the current December 31, 2023, sunset date to December 31, 2025.

- **Reappropriation of Front-End Sustainability Funding—**The May Revision includes $6,914,000 of previously approved funds for the Front-End Sustainability Project, which has been divided into two projects: the Legacy System Stabilization Project and the DXP Project referenced above. The two projects are being conducted concurrently because the legacy system must be stabilized so that DMV services can continue to be provided to the public while a replacement is built.

- **State-to-State Verification System Project—**The May Revision includes $3,586,000 from the MVA in 2021-22 for DMV to complete Stage 4 of the Project Approval Lifecycle (PAL) process to build an IT system that will communicate with a federally-mandated database required under the REAL ID Act for sharing driver data with other states. To comply with the federal requirements, DMV must send driver license and commercial driver license information to the federal database. Communication with the database is required by October 2022. It is also requested that provisional language be amended that provides an additional $5,977,000 in 2021-22 once DMV completes the PAL process to begin building the project. In 2022-23, $21,625,000 is requested to fund the project and 111 temporary positions to analyze driver data.

- **Heavy-Duty Vehicle Inspections and Maintenance Program (SB 210)—**The May Revision includes $1,170,000 from special funds in 2021-22 to complete the PAL process for an IT project that builds a system for DMV to receive truck smog emission data from the California Air Resources Board. This system will allow DMV to place holds on the registration renewals of non-compliant trucks. Provisional language is requested that provides an additional $523,000 once DMV completes Stage 4 of the PAL process.

- **Used Motor Vehicle Sales Tax Gap—**The May Revision includes $5,889,000 in reimbursement authority in 2021-22, one-time, to provide for reimbursement from the California Department of Tax and Fee Administration (CDTFA) to continue the process of collecting sales and use tax from used car dealers and continue the PAL process to build an IT system to automate the process. Chapters 8 and 14, Statutes of 2020 (AB 85 and 82) require DMV to collect sales tax upon sale of a used vehicle instead of requiring used car dealers to remit sales tax quarterly to CDTFA. Given that collecting sales tax from all used car dealers requires a manual process, it is requested that statutory changes be added to allow DMV to implement in phases while it builds the automated IT system. After January 1, 2023, all dealers must report and remit sales taxes to DMV.

Staff Recommendation: Hold Open.

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 5 Agenda

Senator Maria Elena Durazo, Chair
Senator Shannon Grove
Senator Dave Cortese
Senator Josh Newman

Public Safety, the Judiciary, Labor and Transportation

Tuesday, May 25, 2021
State Capitol – Senate Chambers
1:30 PM

Consultant: Christopher Francis, Ph.D.
Part A

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Vote-Only Calendar

Public Comment

Vote-Only Calendar

0552 Office of the Inspector General (OIG)
5225 Department of Corrections and Rehabilitation (CDCR)

Issue #	Proposal Name	Request	Comments	LAO Notes	Staff Recommendation
1.	Adult Institution and Parolee Population Adjustments	Due to the changes in population, the Administration requests corresponding budget bill changes that are both ongoing and one-time. Overall, this reflects a net increase of $106,159,000 and a net increase of 161.6 positions, which is comprised of an increase of $103,570,000 General Fund and an increase of $2,589,000 Inmate Welfare Fund.	Heard on 5/20	Based on our discussions with the administration, the inmate population projections do not take into account the time inmates have been serving on their prison sentences while in county jail awaiting transfer to state prison. As such, we find that the administration's projections and requested funding are likely significantly overestimated. However, the precise amount by which the projections are overestimated is unclear at this time. Accordingly, we recommend approving the proposed funding but adopting budget bill language specifying that the department shall revert to the General Fund any funding it received associated with inmates it did not serve in 2021-22. This will ensure the department does not use funds budgeted for the inmate population for other purposes.	Adopt LAO Recommendation
2.	Division of Juvenile Justice Population Adjustment	It is requested that Item 5225-001-0001 be increased by $261,000 and 2.9 positions ongoing, reimbursements be decreased by $232,000 ongoing, and Item 5225-011-0001 be	Heard on 5/20	No comments on this adjustment	Approve as budgeted

		decreased by $255,000 and 2 positions ongoing. The May Revision reflects an estimated average daily population of 613 wards in 2021-22, which is 116 fewer wards than projected in the Governor's Budget.			
3.	COVID-19 Workers' Compensation--SB 1159 (Hill), Chapter 85, Statutes of 2020	$51 million General Fund in 2021-22, $59.9 million General Fund in 2022-23, $68.7 million General Fund in 2023-24, and $77.6 million General Fund in 2024-25 27.0 limited-term positions	For workers' compensation costs related to COVID-19 per SB 1159 and this request also includes Budget Bill Language to provide augmentation authority related to costs associated with SB 1159. Heard on 2/4	No comments on this proposal	Approve as budgeted
4.	Closure of Deuel Vocational Institute (DVI) BCP and Trailer Bill Language	The May Revise includes a reduction of $4.5 million and 32.7 positions General Fund in 2020-21, $5.4 million and 37.1 positions in 2021-22, and an increase of $350,000 and 0.9 positions in 2022-23 and ongoing, and statutory changes to reflect the closure of Deuel Vocational Institution. This request includes funding to support limited-term positions for workers' compensation workload and reverses a	To close Deuel Vocational Institute Heard on 2/4 and Heard on 5/20	Withhold action on savings associated with DVI closure until may revision estimates, reject unnecessary portion of positions for warm shutdown, and require report on options for closed prison properties.	Provide five positions for warm shut down and reduce the requested resources by $640,000 and 5.4 positions in 2021-22 and $830,000 and 7 positions in 2022-23 and ongoing. Approve the other components of proposal as proposed. Also, adopt placeholder trailer bill language.

		position erroneously reduced in the initial savings estimate. The closure of DVI overall is estimated to achieve savings of $113.5 million General Fund in 2021-22 and $150.6 million General Fund beginning in 2022-23.			
5.	Correctional Staff Training and Job Shadowing	$19.9 million General Fund and 59 positions in 2021-22, $16.2 million General Fund in 2022-23, $23.2 million General Fund in 2023-24 $14.7 million General Fund in 2024-25 and ongoing	To improve departmental training of institution-based custody staff. The budget also includes trailer bill language containing statutory changes to implement the proposal. Heard on 2/4	Approve CPOST funding but require report on training, approve new facility for hands-on training, approve fewer resources than proposed for new officer job shadowing program, require CDCR to adjust officer training funding annually	Per LAO recommendation, reject 16 of the 33 proposed prison based sergeant positions and the associated funding (estimated at $2.7 million), reduce the funding for new officer pay by $1.4 million to accurately reflect the new number of correctional officers CDCR requires in 2021-22, and adopt placeholder trailer bill language to adjust the funding for new officer training annually. Approve the remaining resources and positions.
6.	Technology for Inmates Participating in Academic Programs	$23.2 million General Fund and 43.0 positions in 2021-22, and $18.4 million General Fund and 38.0 positions in 2022-23 and ongoing	To create a cloud network for rehabilitative programming support and deploy approximately	No comments on this proposal	Approve as budgeted

			37,000 Thin Client laptops to supplement face-to-face instruction and educational materials and provide access to programs beyond physical classrooms. The request also includes staff to provide foundational support, such as system development, and to cover network needs, such as device and infrastructure support. The Division of Rehabilitative Programs (DRP) is also requesting Headquarters staff to assist in content creation for DRP Heard on 2/4		
7.	Transgender, Nonbinary, and Intersex Inmate Housing and Search	$2.8 million General Fund and 5.5 positions in 2021-22, $1.8 million General Fund in 2022-23, and $1.2 million General Fund in 2023-24 and ongoing	Implements SB 132. The bill requires CDCR to ask each person entering into its	No comments on this proposal	Approve one-time $365,600 General Fund for automation purposes. Specifically, approve $200,000 for

	Preferences- SB 132 (Wiener), Chapter 182, Statutes of 2020		custody specified information, including the individual's gender identity; requires CDCR to conduct searches of and assign housing to transgender inmates based on the inmate's individual preferences, as specified; and requires CDCR to articulate the reasons for denying a search or housing preference if the department has management or security concerns. Requires the department, for a person who is transgender, nonbinary, or intersex to only conduct a search of that person according to the search policy for their gender identity or according to the		CCHCSs Electronic Records Management Systems and the $165,600 General Fund for Parole Violation Disposition Tracking System, Law Enforcement Automated Data System, Virtual Integrated Mobile Office, Disability and Effective Communications System. Reject other proposed resources.

			gender designation of the facility where they are housed, based on the individual's search preference. And additionally require the department to house the person in a correctional facility designated for men or women based on the individual's preference, except as specified. Heard on 2/4		
8.	Increased Healthy Menu Options		Increase statewide feeding rate by $0.22 per incarcerated person, per day. Funding through unallocated pop adjustment ($7.5 million) and redirect $11.6 million in vacancy savings from plant Heard on 2/4	Require CDCR to report on vacancy savings and withhold action until report is provided, withhold action on governor's proposal until report on vacancy savings provided, and require CDCR to provide detailed plan to address plant operations workload.	Approve as budgeted

9.	Receiver-Quality Management and Patient Safety	$4.0 million General Fund and 23.0 positions in fiscal year 2021-22, $7.5 million General Fund and 45.0 positions in fiscal year 2022-23, and $11.7 million General Fund and 75.0 positions in fiscal year 2023-24 and ongoing	Expands the Quality Management System (QMS) to better address patient safety risks. The QMS California Correctional Health Care Services comprises two major interrelated programs: Quality Management and Patient Safety. Heard on 2/4	The LAO notes an error regarding the number of positions requested beginning in 2022-23 and ongoing because the proposal does not take into account two planned prison closures. As such, there should be a reduction in two health program managers and two health program specialist positions in 2022-23 and ongoing, resulting in reduced costs of about $500,000 General Fund annually.	Adopt LAO Recommendation
10	MR: Replace existing metal dayroom furniture with more comfortable furniture	$34.8 million one-time General Fund	To replace existing metal dayroom furniture with more comfortable furniture for positive programming and non-designated program facilities and female institutions Heard on 5/20	While this proposal could have merit, it is unclear that this would be the most effective method for CDCR to improve rehabilitation. For example, a more cost-effective approach to improving rehabilitation could be to ensure all inmates have access to evidence-based rehabilitation programs that meet their needs. Before approving this proposal, we recommend that the Legislature require CDCR to report on whether it has sufficient resources to provide all inmates with access to evidence-based rehabilitation programs. If CDCR can demonstrate that this is the case, then the proposal could be merited. Otherwise, there may be more cost-	Reject this proposal

				effective approaches to meeting the rehabilitation needs of inmates.	
11	MR: Increased Visitation	$20.3 million ongoing General Fund	To add a third day of in-person visitation on Fridays at all institutions (visiting is currently limited to Saturdays and Sundays). In addition, this funding will provide visitors with free transportation on select days throughout the year to all prisons via chartered busses. Heard on 5/20	No comments on this proposal	Approve as budgeted
12	MR: Centralize Discrimination Complaints.	815,000 General Fund in 2021-22 and $804,000 ongoing and six positions	To expand CDCR's Civil Rights Operations/Equal Employment Opportunity program, which centrally handles discrimination complaints	No comments on this proposal	Approve as budgeted

			Heard on 5/20		
13	MR: Psychiatric Inpatient Programs (PIPs)	$37.7 million General Fund in 2021-22, and $35.9 million ongoing, and 264.1 positions	to standardize staffing models across the five CDCR-operated Psychiatric Inpatient Programs (PIPs) Heard on 5/20	We recommend that the Legislature not approve the proposal unless CDCR can provide sufficient justification for the proposed staffing and service levels.	Reject this proposal
14	MR: Statewide Telepsychiatry Program	$3.7 million ongoing General Fund	To add supervisory capacity Heard on 5/20	No comments on this proposal	Approve as budgeted
15	MR: Reentry Facility Criteria Statutory Changes	Trailer Bill Language	To expands eligibility for CDCR Community Reentry Programs for incarcerated people.	No comments on this proposal	Adopt placeholder trailer bill language
16	MR: Pine Grove Youth Conservation Camp State and Local Partnerships	Trailer Bill Language	To create opportunities for state and local partnerships to maintain firefighting operations at the Pine Grove Youth Conservation Camp in Amador County Heard on 5/20	No comments on this proposal	Adopt placeholder trailer bill language

17	MR: California Sex Offender Management Board Expansion and Juvenile Sex Offender Treatment Certification Statutory Changes	Trailer Bill Language	To increase the California Sex Offender Management Board's expertise related to the treatment of juvenile sex offenders by expanding its membership and creating a certification process for service providers treating youth who have committed a sex-related offense Heard on 5/20	No comments on this proposal	Adopt placeholder trailer bill language
18	MR: Redirection of Funding From Eliminated Civil Service Positions to Psychiatry Registry Staff	CDCR requests to redirect $49.3 million in 2020-21 and $40.9 million in 2021-22 and ongoing from eliminated civil service positions	To augment existing funding for psychiatry registry staff. Heard on 5/20	We find that redirecting this funding on an ongoing basis is not appropriate. This is because registry services are only intended to be a temporary solution while CDCR works to fill civil service psychiatry positions. As CDCR fills these positions, the need to provide funding for registry services should decline. As such, we recommend that the Legislature (1) approve $11 million on a limited term basis through 2021-22 to cover the funding shortfall for psychiatry registry services and (2) not approve the remaining funds until the administration can demonstrate that the redirected funding is being used for	Adopt LAO Recommendation. Approve $11 million on a limited term basis through 2021-22 to cover the funding shortfall for psychiatry registry services and reject the remaining funds

				purposes consistent with the Legislature's priorities.	

Issues 19-35. Various Capital Outlay Proposals

Issue	Proposal	Request	Comments	LAO Recommendation	Issue
19.	Long-Term Prison Infrastructure Planning				Adopt placeholder trailer bill language to require CDCR to create a long term facility infrastructure investment plan and prison closure plan.
20.	Health Care Facility Improvement Program (HCFIP): Lease Revenue Bonds to General Fund	Reverts existing Lease Revenue Bond authority and withdraws April 1 Request to increase lease revenue authority, Instead switches fund source to General Fund and proposes $115.7 Million general fund for the construction phase to complete HCFIP projects.	The funding for HCFIP projects is currently derived from bond proceeds generated through asset transfers. As part of this proposal, it is requested that budget line items and statute are amended to revert existing lease revenue bond	Based on our initial review, we find that the California Rehabilitation Center in Norco, California Men's Colony (CMC) in San Luis Obispo, San Quentin State Prison, and the Correctional Training Facility (CTF) in Soledad appear to be strong candidates for closure, primarily because they all have high estimated repair and/or operational costs relative to their inmate capacity. While we do not have concerns with the change to the structure of the HCFIP program, we note that the proposal	Approve the requested resources and adopt provisional budget bill language and placeholder trailer bill language to restrict any expenditures of these resources on prisons that are strong candidates for closure.

			authority. In addition, the 2021-22 April Finance Letter requesting additional lease revenue bond financing authority of $43,235,000, is being officially withdrawn and replaced with this proposal. Heard on 5/20	includes increased funding for projects at CMC and CTF—which we have identified as strong candidates for closure. We recommend that the Legislature modify the proposed budget bill and budget trailer legislation to restrict the administration from making any expenditures with the proposed funding at prisons the Legislature identifies as strong candidates for closure—such as CMC and CTF—unless the department puts forward a prison closure plan showing that those facilities will not be closed.	
21.	Medication Distribution Improvements Phase II Reappropriation at 13 facilities	$30.1 Million General Fund Reappropriation	For the construction medication distribution improvement at 13 institutions. Heard on 5/20	We note that the proposal would result in providing funding to a project at CTF—one of the prisons we have identified as a strong candidate for closure. As such, we recommend adopting budget bill language to restrict the administration from making any expenditures on medication room projects at prisons the Legislature identifies as strong candidates for closure—such as CTF—unless the department puts forward a prison closure plan showing that those facilities will not be closed.	Approve the requested resources and adopt provisional budget bill language and placeholder trailer bill language to restrict any expenditures of these resources on prisons that are strong candidates for closure.
22.	One-Time Deferred Maintenance Allocation	The January Governor's budget included $50 million General Fund one-time to address the CDCR's highest priority deferred maintenance projects. The May Revision includes an additional investment of $50 million one-time General Fund	To increase CDCR's $26 million base budget for special repairs and deferred maintenance.	We recommend approving the increase given the significant statewide prison infrastructure needs. However, we recommend that the Legislature approve budget bill language prohibiting CDCR from spending these funds on prisons that are strong candidates for closure unless department puts forward a prison	Approve the proposed funding for deferred maintenance contingent upon the adoption of trailer bill in the final budget

		in 2021-22 to address CDCR's significant backlog of deferred maintenance projects. Taken with the Governor's Budget proposal, this will provide $100 million in total funding for CDCR deferred maintenance projects.	Heard on 2/11 and Heard on 5/20	closure plan showing that those facilities will not be closed.	agreement requiring CDCR to create and adopt a long-term prison infrastructure investment plan and closure plan. Adopt placeholder trailer bill language.
23.	Health Care Facility Repairs at the California Rehabilitation Center (CRC)	$6.8 million General Fund in 2021-22	This project will replace damaged flooring, walls, casework and doors, and complete basic renovations to make medical spaces safe and functional. This project would also replace several existing medication distribution windows with prototypical medication distribution windows along with casework replacements and installation of sinks for hand washing.	Reject Proposed $6.8 Million for Health Care Facility Repairs at CRC unless the Administration provides a long-term plan for the facility demonstrating that the repairs will be completed sufficiently in advance of any potential future closure date.	Adopt LAO recommendation to reject this proposal

			Heard on 2/11		
24.	Roof Replacement Design and Construction	$1 million General Fund in 2021-22 for the design phase and $32.6 million General Fund in 2022-23 for the construction phase	For the construction phase of roof replacements at California State Prison, Los Angeles County (LAC). Roof replacement is necessary due to deteriorated conditions of the existing roof that severely impacts housing conditions and inmate access to services and rehabilitation programs.	Additional funding for special repair and deferred maintenance needed	Approve as budgeted
25.	Calipatria State Prison, Calipatria (CAL): Health Care Facility Improvement Program (HCFIP)- Phase II	$ 4.1 million General Fund	Capital Outlay proposal for renovations and additions to the Primary Care Clinics in Facilities A, B, C, and D and a new Administrative Segregation Unit Primary Care Clinic. This is a supplemental	No comments on this proposal	Approve as budgeted

			appropriation for the construction phase due to delays, design errors and omissions and Fire Marshal requirements. Heard on 2/11		
26.	California State Prison, Los Angeles County, Lancaster (LAC): Medication Preparation Room Unit D5	$328,000 GF for working drawings phase	Capital Outlay proposal to design and construct a Medication Preparation Room (MPR) at LAC in housing unit D5 and is part of the projects within the HCFIP. This physical plant modification will allow CDCR to provide the appropriately-sized space with the proper infrastructure for safe and secure medication preparation. Heard on 2/11	No comments on this proposal	Approve as budgeted

27.	AB 900 (2007) General Fund Reappropriation	Reappropriation of $6.0 million GF for Construction phase	A reappropriation of the unexpended funding is being requested. Five HCFIP projects, the Folsom State Prison's Cell Block Five Fire Life & Safety project, and multiple medication distribution improvement projects are authorized from this funding source. Preliminary plans and working drawings have been completed for these projects; however, construction has been delayed due to fire alarm system connectivity issues, delayed approvals of fire sprinkler submittals, and phasing to maintain safe	No comments on this proposal	Approve as budgeted

			prison and medical operations during construction. Heard on 2/11		
28.	California Institution for Men, Chino: Air Cooling Facility A	$ 13.9 million GF for the construction phase	Capital Outlay proposal to design and install air cooling systems in housing units at CIM's Facility A. Heard on 2/11	No comments on this proposal	Approve as budgeted
29.	Substance Abuse Treatment Facility (SATF): Air Cooling Facility F And G	$ 2.7 million GF for the preliminary plans and working drawings phases	Capital Outlay proposal for air cooling systems with required fire/life/safety improvements in rehabilitative treatment, education, and office space within Facility F and G housing units at SATF to provide indoor temperatures suitable for incarcerated people to receive treatment and education. Heard on 2/11	No comments on this proposal	Approve as budgeted

30.	Statewide: Minor Capital Outlay Program California Health Care Facility (CHCF), Facility E Dayroom Restroom Housing Units 301 B-F	$1.5 million GF for the preliminary plans, working drawings, and construction phases	A list of 5 projects for fiscal year 2021-22, totaling $1,515,000 General Fund for Design and construction of a toilet and sink inside a housing unit for inmate-patients with accessibility requirements and chronic medical needs. Each project costs $303,000 GF. Heard on 2/11	No comments on this proposal	Approve as budgeted
31.	California State Prison, Los Angeles County, Lancaster (LAC): Medication Preparation Room Unit D5	$328,000 GF for working drawings phase	Capital Outlay proposal to design and construct a Medication Preparation Room (MPR) at LAC in housing unit D5 and is part of the projects within the HCFIP. This physical plant modification will allow CDCR to provide the appropriately-sized space with the proper	No comments on this proposal	Approve as budgeted

			infrastructure for safe and secure medication preparation. Heard on 2/11		
32.	California Health Care Facility, Stockton: Facility B Individual Exercise Yards	$ 537,000 General Fund for Preliminary Plans and Working Drawings	To design 10 individual exercise yards (IEYs) in Facility B at the California Health Care Facility (CHCF). The IEYs will allow maximum custody patients receiving inpatient mental health treatment at CHCF to participate in out-of-cell recreation therapy that is consistent with their mental health treatment plan. Heard on 5/20	No comments on this proposal	Approve as budgeted
33.	California Institution for Men, Chino: 50-Bed Mental Health Crisis Facility Reappropriation	Lease Revenue Bond (GF) Reappropriation $91.032 M for Construction Phase	This proposal requests reappropriation of funding to construct a licensed 50-Bed Mental Health Crisis Facility	No comments on this proposal	Approve as budgeted

			(MHCF) to provide housing, treatment, and office space to allow for inmate-patients in a crisis mental health state, or requiring other levels of licensed mental health care, to be treated at the California Institution for Men. Heard on 5/20		
34.	Chuckawalla Valley State Prison, Blythe: New Potable Water Wells	This proposal requests funding for the construction plans phase of this project. The total estimated project cost is $821,000 General Fund.	To design two new groundwater wells to supply adequate amounts of potable water for incarcerated people and staff at Chuckawalla Valley State Prison and Ironwood State Prison. Heard on 5/13	No comments on this proposal	Approve as budgeted
35.	Ironwood State Prison (ISP), Blythe: Heating, Ventilation, and Air Conditioning	A supplemental appropriation for the construction phase in the amount of $11,491,000 Lease Revenue Bond. The total estimated project cost is $187,424,000.	To provide supplemental funding to complete the construction of a new central chiller water plant as well	No comments on this proposal	Approve as budgeted

	System Supplemental Appropriation		as replacement of existing air handling units (AHUs) and improvements to existing roofs, fire dampers, and smoke evacuation systems to correct damage caused by the existing evaporative cooling system at ISP. Heard on 5/13		

Issues 36-39 Various *Armstrong* Court Compliance, staff misconduct, and oversight proposals.

Issue	Proposal	Request	Comments	LAO Recommendation
36.	MR: Statewide Implementation of Fixed Video Surveillance Systems	37.6 million (General Fund) and 7 positions in 2021-22 increasing to $95.4 million and 34 positions by 2023-24, and $11.1 million and 34 positions in 2024-25 and ongoing	To install modern fixed security cameras at 24 additional institutions Heard on 5/20	Given that cameras could help provide objective evidence with which to resolve inmate allegations of staff misconduct and the four prisons proposed to receive cameras in 2021-22 do not appear to be strong candidates for closure, we recommend approving funding for video surveillance only at these the four prisons. We estimate that this would cost $37.6 million in 2021-22 to install cameras and $1.9 million in 2022-23 and ongoing for their operation and maintenance. The administration can request funding to install cameras at additional prisons at a later date—at which point the Legislature may

				have greater clarity about which additional prisons will be closed.

Staff Recommendation for Issue 36. Approve only $37.6 million and 7 positions in 2021-22, and $1.9 million ongoing to install cameras at Salinas Valley State Prison, Mule Creek State Prison, California State Prison Sacramento, and California Correction Institution in Tehachapi.

37. **January 10 Proposal: Armstrong Court Compliance Proposal**. CDCR requests $13.5 million General Fund and 22.8 positions in 2020-21, $10.1 million General Fund and 34.9 positions in 2021-22, and $7.0 million and 34.9 positions in 2022-23 and ongoing to deploy the Audio Video Surveillance System (AVSS) and body-worn cameras at RJ Donovan, AVSS at CA State Prison, Los Angeles, and other requirements to comply with *Armstrong v. Newsom.*

38. **May Revision Proposal. Armstrong Court Compliance Continuation.** $80.5 million General Fund and 152.1 positions in 2021-22 and $28 million ongoing to deploy AVSS and body worn cameras at CA State Prison Los Angeles, Corcoran, Substance Abuse Treatment Facility, CA Institution for Women, and Kern Valley State Prison and expand the Allegation Inquiry Management Section.

39. **Statewide Process of Use of Force and Prison Rape Elimination Act Allegations.** $7.9 million General Fund and 40 positions in 2021-22 and ongoing to expand the Office of Internal Affairs regional investigation process to include all allegations associated with potential employee violations of use of force and PREA.

Staff Recommendation for Issues 37-39. Reduce the requested funding by $9.8 million General Fund and 47 positions in 2021-22 and ongoing and approve the following:

2021-22	**2022-23 and ongoing**
$88.7 million	$43 million
180 positions	180 positions

As well, approve $15 million General Fund in 2021-22 and ongoing thereafter to the Office of Inspector General (OIG) to perform investigations and provide increased oversight of CDCR's staff complaint process and adopt placeholder trailer bill language to restore the investigative authority of the OIG and clarify the oversight duties related to CDCR's staff complaint process.

0250 Judicial Branch

Issue #	Proposal Name	Request	Comments	LAO Notes	Staff Recommendation
40.	Ongoing Support for the Judicial Branch	$200 million ongoing General Fund ($176.9 million for the trial courts and $23.1 million for the state-level judiciary)	To allow courts to re-open temporarily closed courtrooms and process case backlogs which have accumulated during the pandemic. Heard on 2/18 & 5/6		Approve as budgeted
41.	Continuation of Self-Help Centers in Trial Courts	$19.1 million ongoing General Fund	To allow California's trial courts to maintain vital self-help services to address the needs of and access for litigants who do not have an attorney to help them with critical housing, domestic violence, family law, child support, consumer debt and similar issues—all of which are exacerbated by the impact of the pandemic. Heard on 2/18	Direct Judicial Council to use external researcher to complete cost benefit analysis, provide funding for two years, and consider provisional language prioritizing use of funding	Approve three years of funding at $19.1 million General fund each year and adopt provisional budget bill language directing the Judicial Council to complete the cost benefit analysis required in the 2018 Budget Act on or before January 1, 2022.
42.	Design-Build Authority Trailer Bill Language		The budget includes trailer bill language that would authorize the Judicial Council to use a design-build procurement process in contracting and procuring public works projects and would authorize the Judicial Council to award contracts using either the best value or low bid selection method for all projects.	No comments on this proposal	Adopt May Revision as proposed

43.	Lake County – New Lakeport Courthouse	$1.6 million General Fund for the Performance Criteria and $66.5 million in lease revenue bond authority for the Design Build	The requested funding is for the Lake County — New Lakeport Courthouse. It ranks first in the "Immediate" need projects reassessed per SB 847. The estimated total project cost is $73.1 million. The project includes the design and construction of a new 4-courtroom courthouse of approximately 46,000 square feet (SF) in the city of Lakeport. Heard on 2/18	No comments on this proposal	Approve as budgeted
44.	Mendocino County – New Ukiah Courthouse	$3,334,000 General Fund	The requested funding is for the Performance Criteria phase of the Mendocino County — New Ukiah Courthouse. The project will provide construction of a new 7-courtroom courthouse of approximately 82,000 square feet (SF) in the city of Ukiah. Heard on 2/18	No comments on this proposal	Approve as budgeted
45.	Los Angeles County – Los Angeles Master Plan	$2,347,000 General Fund	This funding is to complete a study for the Superior Court – County of Los Angeles. The proposed long-range planning study will analyze and develop a plan for improving and modernizing Los Angeles County court facilities. The SB 847 reassessment identified 17 capital outlay projects for the Los Angeles Superior Court; 11 of the 17 are in the immediate or critical need groups.	No comments on this proposal	Approve as budgeted

46.	Nevada County – New Nevada City Courthouse	$972,000 General Fund	This funding is to initiate a Planning Study for the Nevada County – New Nevada City Courthouse. The proposed study will compare the merits and disadvantages of options for the Nevada Court in Nevada City. Heard on 2/18	No comments on this proposal	Approve as budgeted
47.	Remote Civil Proceedings Trailer Bill language	Trailer Bill Language	Authorizes Remote Proceedings in All Civil Cases Heard on 5/6	Remote Proceedings Could Create Benefits but Proposal Leaves Significant Implementation Details to Judicial Branch. Recommendation: Direct Judicial Branch Submit Implementation Plan. And to the extent that the Legislature is interested, the Judicial Branch Could Implement Pilot in Less Complex Cases or Proceedings if Priority to Authorize Remote Proceedings in 2021-22.	Reject this proposal
48.	MR: Early Disposition Readiness Conference Program	$30 million one-time General Fund	This proposal builds on a program, initiated by the Chief Justice, in response to the significant COVID-19 related processing delays in criminal cases, by making temporary assigned judges available to complete readiness conferences to resolve low-level misdemeanors or felony cases before going to trial. Heard on 5/20	No comments on this proposal	Approve as budgeted

49.	MR: Provisional Language for Augmentation Authority for Court Backlogs	Would allow the Judicial Council to request additional funding, up to $60 million	Proposes language in the budget that would allow the Judicial Council to request additional funding, up to $60 million, in the event that the augmentations included in the budget earlier this year are insufficient to address the courts' case backlogs. This funding, which would be subject to approval by the Department of Finance upon review of data demonstrating a persistent case backlog, could be used to procure resources such as additional staff or space to process cases. Heard on 5/20	We recommend rejecting this proposed language as a process—outlined in Item 9840 of the annual budget—already exists for state programs to request additional funding for unanticipated, necessary expenses.	Adopt LAO Recommendation to reject this proposal
50.	MR: Deferred Maintenance II	$158 million one-time General Fund in 2021-22	To support deferred maintenance projects in trial courts and Courts of Appeal Heard on 5/20	We recommend the Legislature direct Judicial Council provide a list of projects that will be funded by this augmentation before acting on this proposal in order to ensure the selected projects align with legislative priorities.	Approve as budgeted
51.	MR: Shasta County Superior Court Security	$330,000 General Fund in 2021-22 and $660,000 ongoing thereafter	To support trial court security costs for a new courthouse scheduled to open in January 2022. Heard on 5/20	No comments on this proposal	Approve as budgeted
52.	MR: Trial Court Benefit Adjustment	Budget bill line item adjustments amounting to a $7,822,000 ongoing decrease	To reflect the updated health benefit and retirement rate changes for trial court employees Heard on 5/20	No comments on this proposal	Approve as budgeted

53.	MR: AB 1058 (Speier), Chapter 957, Statutes of 1996 Reimbursement Authority	Increased reimbursement authority of $5 million ongoing	To enable the Judicial Council to receive additional resources from the Department of Child Support Services' contract for the Child Support Commissioner and Family Law Facilitator Program Heard on 5/20	No comments on this proposal	Approve as budgeted
54.	MR: Butte County: Juvenile Hall Addition and Renovation	$604,000 General Fund for Preliminary Plans and Working Drawings	Heard on 5/20	No comments on this proposal	Approve as budgeted
55.	MR: San Bernardino County: Juvenile Dependency Courthouse Addition & Renovation	$901,000 General Fund for Acquisition and Preliminary Plans	Heard on 5/20	No comments on this proposal	Approve as budgeted
56.	MR: Monterey County: New Fort Ord Courthouse	$38.7 Million General Fund for the Acquisition and Performance Criteria Phase	Heard on 5/20	No comments on this proposal	Approve as budgeted

0530 California Health and Human Services Agency (HHSA)

Issue #	Proposal Name	Request	Comments	LAO Notes	Staff Recommendation
57.	Office of Youth and Community Restoration January and May Revision	The January Governor's budget included 19.0 permanent positions and $3.4 in 2021-22 and $3.1 in ongoing General Fund to establish and operate the Office of Youth and Community Restoration (OYCR) that was created by the DJJ Realignment bill, SB 823 (Committee on Budget), Chapter 337, Statutes of 2020. The May Revision now includes $7.6 million General Fund in 2021-22 and $7.2 million ongoing General Fund for 33 positions.	To establish and operate the Office of Youth and Community Restoration (OYCR) per statute in DJJ Realignment - SB 823 (Committee on Budget and Fiscal Review), Chapter 337, Statutes of 2020 This is item was heard in Subcommittee No. 5 on 3/4 and Subcommitee No. 3 on 2/5 and 5/18	No comments on this proposal	Approve a total of $30 million ongoing General Fund to establish the OYCR, adopt provisional budget bill language, and adopt placeholder trailer bill language to clarify OYCRs functions.

5227 Board of State and Community Corrections (BSCC)

Issue #	Proposal Name	Request	Comments	LAO Notes	Staff Recommendation
58.	SB 678 (Leno), Chapter 608, Statutes of 2009 Grant Modification	In order to support this adjustment, CDCR's proposed budget includes a $10.3 million General Fund augmentation, bringing the total SB 678 grant awards to $123 million in 2021-22 and ongoing.	A proposed modification to the grant program created by The California Community Corrections Performance Incentives Act of 2009 which provides grants to counties through the CDCR. Specifically, the proposal freezes the SB 678 formula and includes an adjustment to the SB 678 grant program to provide each county with their maximum SB 678 grant award from the prior three fiscal years through trailer bill language. Heard on 3/4	Approve Proposed SB 678 Grant Modification for One Year and Direct Administration to Provide Long-Term Plan for SB 678.	Reject this proposal. Instead, approve the proposed funding for one year and adopt placeholder trailer bill language to make temporary modifications to SB 678 which will sunset after one year.
59.	MR: California Violence Intervention and Prevention Program (CalVIP))	$200 million one-time General Fund across the next three fiscal years	For the Board of State and Community Corrections to expand this program Heard on 5/20	No comments on this proposal	Approve as budgeted
60.	MR: Prop 57 Adjustments	$23.6 million one-time General Fund for county probation departments	To supervise the temporary increase in the average daily population of those on Post Release Community Supervision (PRCS) as a result of the implementation of Proposition 57. This is an increase of $4.1 million	No comments on this adjustment	Approve as budgeted

			from the amount estimated in the Governor's Budget. Heard on 5/20		
61.	MR: Prop 47 Adjustments	Net General Fund savings of $116.2 million, an increase of $1.4 million over the estimated savings at the Governor's Budget	These funds will be allocated according to the formula outlined in the initiative, which requires 65 percent be allocated for grants to public agencies to support various recidivism reduction programs (such as mental health and substance use services), 25 percent for grants to support truancy and dropout prevention programs, and 10 percent for grants for victims' services. Heard on 5/20	No comments on this adjustment	Approve as budgeted
62.	MR: Relinquishment of County Jail Funding	Decrease in Lease Revenue Bond Authority of $229 Million	To decrease the lease revenue authority for county jail construction programs by $229 Million resulting from award relinquishments and unawarded funds for the construction of adult local criminal justice facilities. This proposed action will eliminate the remaining and relinquished bond authority for the county jail construction financing programs. Heard on 5/20	No comments on this proposal	Adopt placeholder trailer bill to decrease the lease revenue authority for county jail programs by $229.06 million.
63.	Strengthening Jail Oversight	$3.1 million General Fund and 14 positions ongoing to the BSCC for the oversight of county jails. This proposal also	This proposal would allow for BSCC to move from biennial inspections to annual inspections	***Reform Board and Program.*** As discussed above and in their recent report, the LAO	Reject the 14 positions and $2.9 million in associated funding. Approve the

		includes proposed trailer bill language to allow properly identified and authorized BSCC staff to enter a local detention facility without advance notice to conduct inspections to determine compliance with the Board's regulations.	and would allow for additional technical assistance. Heard on 5/6	continue to recommend various changes to the board and the standards and inspections program. ***Reject Program Expansion.*** In view of the above, the LAO recommends rejecting the 14 positions and $2.9 million in associated funding to expand the standards and inspections program as it would be premature to provide the funds before reforming BSCC as the LAO recommends and appears unnecessary if the Legislature chooses not to reform the board. To the extent the Legislature reforms the board, it could consider expanding the program at that time. ***Approve Funds for Electronic Data Entry and Authorize Unannounced Inspections.*** The LAO recommends that the Legislature approve the	remaining $150,000 in ongoing funding to support electronic data entry and adopt placeholder trailer bill language authorizing unannounced inspections.

				remaining $150,000 in ongoing funding to support electronic data entry as well as the budget trailer legislation authorizing unannounced inspections as these changes would be worthwhile.	

0820 Department of Justice (DOJ)

Issue #	Proposal Name	Request	Comments	LAO Notes	Staff Recommendation
64.	Police Use of Force AB 1506 (McCarty), Chapter 326, Statutes of 2020	The January budget included $13 million in 2021-22 and $13.5 in 2022-23 and ongoing to implement the provisions of AB 1506 (McCarty), Chapter 326, Statutes of 2020. The May Revision includes an additional $2.3 million General Fund in 2021-22 and $2.1 million ongoing beginning in 2022-23 to provide supportive services to survivors of those killed in officer-involved shootings investigated by DOJ pursuant to AB 1506, and add one	AB 1506 requires DOJ to investigate all Officer-Involved Shootings (OISs) resulting in the fatality of a civilian who was not armed with a deadly weapon. This bill creates a division within the Department of Justice to, upon the request of a law enforcement agency, review the use-of-force policy of the agency and make recommendations, as specified. Heard on 3/4	We recommend rejecting this proposed language as a process—outlined in Item 9840 of the annual budget—already exists for state programs to request additional funding for unanticipated, necessary expenses. Such an approach allows the Legislature to monitor the implementation of this	Approve the budgeted resources but reject the proposed provisional language that allows the Department of Finance to provide additional funding to the DOJ.

		additional investigative team in the southern region, bringing the total to four.	and Heard on 5/20	new program and to determine whether statutory changes are needed, such as to adjust the program's size or scope.	
65.	AB 2699 (Santiago), Chapter 289, Statutes of 2020.	The May Revision includes $982,000 General Fund in 2021-22, $912,000 in 2022-23, $2.9 million in 2023-24, $3 million in 2024-25, and $1.9 million in 2025-26	To gather information about unsafe firearms transactions involving peace officers, develop information technology infrastructure to maintain a database of such transactions, and conduct investigations to verify that transactions are being appropriately recorded. Heard on 5/20	Chapter 289 specifically amended state law to allow for certain costs of its implementation to be covered by firearm fee revenue deposited into the Dealers' Record of Sale Special Account (DROS). As such, we recommend modifying the proposal to shift a portion of the costs to DROS.	Approve the proposal but shift 60 percent of the requested funding to come out of the Dealer's Record of Sale Special Account (DROS).
66.	Bureau of Forensic Services (BFS) Proposals	$16 million backfill. Specifically, the budget proposes (1) a $6 million ongoing General Fund augmentation in 2021-22 (increasing to $18.3 million annually beginning in 2022-23) and (2) an ongoing redirection of $10 million General Fund from the California Justice Information Services Division (CJIS).	To backfill a projected decline in criminal fine and fee revenue in the DNA Identification Fund in order to maintain existing service levels in the budget year. The Governor proposes to backfill the $10 million redirection from CJIS from another DOJ special fund—the Fingerprint Fees Account (FFA). (FFA cannot directly backfill BFS due to statutory limits on how the funds in FFA can be used.) Item heard on 3/4	Approve Governor's Proposed Backfills for Two Years, Require Local Governments to Partially Support BFS Beginning in 2023-24, Require DOJ Develop Plan for Calculating Local Government's Share of BFS Support	Approve one-year backfill plus supplemental reporting language directing DOJ to present alternative ways to fund BFS by March 10, 2022

67.	Bureau of Forensic Services- One-Time Funding for New Consolidated Forensic Laboratory Campus	$6.5 million one-time General Fund	For the performance criteria phase for a proposed consolidated forensic campus on land leased from the California State University, Sacramento. The campus would consolidate the state's DNA laboratory, the Sacramento regional laboratory, the state's criminalistics training institute, and BFS headquarters into one facility. The estimated total cost of the project is $435 million. Item heard on 3/4	Consider Facility Proposal After Implementing New Funding Structure that LAO recommends for DNA ID Backfill item	Reject this proposal
68.	Healthcare Rights and Access Workload	10 positions and $2.1 million Public Rights Law Enforcement Special Fund in 2021-22 and ongoing	To address the workload related to healthcare rights and access. Heard on 5/6	No comments on this proposal	Reject this proposal
69.	Bureau of Gambling Control	$3.4 million Gambling Control fund in 2021-22 and ongoing	To process California Cardroom and Third-Party Providers of Proposition Player Services license applications. Specifically, this funding would (1) make permanent 20 existing positions currently supported by temporary funding and (2) add 6 new clerical support positions. Heard on 5/6	No comments on this proposal	Approve funding and positions on a two-year limited basis.
70.	Bureau of Medi-Cal Fraud and Elder Abuse	$10.5 million Federal Trust Fund and $3.5 million False Claims Act Fund	To allow full expenditure of a reoccurring federal grant which supports its current operations of eight regional offices. Heard on 5/6	No comments on this proposal	Approve as budgeted

8120 Commission on Peace Officer Standards and Training

Issue #	Proposal Name	Request	Comments	LAO Notes	Staff Recommendation
71.	Distance Learning and Use of Force Training Equipment Reappropriations	Reappropriation of a portion of $25 million originally authorized in the Budget Act of 2018, including: (1) $10 million reappropriated in the Budget Act of 2020 for distance learning and modernization of POST's learning management system, and (2) $300,000 (of $5 million)	For equipment purchase specific to use of force and de-escalation training.	No comments on this proposal	Approve as budgeted

Various Departments

Issue #	Proposal Name	Comments	LAO Notes	Staff Recommendation
72.	Oversight of State Funding To the California District Attorneys Association (CDAA)	In light of concerns raised internally about whether certain monies received by CDAA were being used consistent with their restricted uses, CDAA retained an external auditor in August 2020 to conduct a line-item audit of settlement, judgment, and grant monies provided for roughly six environmental- and worker safety-related CDAA programs since 2002.	N/A, There was an oversight item on this topic on 5/13 that the LAO presented.	Adopt placeholder trailer bill language to increase accountability over various sources of state funding that currently flow to and through the California District Attorneys Association.

		Audit Findings: Practice of Borrowing Restricted Funds. CDAA routinely borrowed restricted funds from the programs and treated these funds as unrestricted. This practice has been instrumental to CDAA's financial viability since 2004. ***$3 Million Owed.*** As of June 2020, $2.9 million was still owed to CDAA's environmental and worker safety programs from its unrestricted general purpose account. CDAA does not currently have sufficient resources to repay this amount.		

Senate Budget and Fiscal Review—Nancy Skinner, Chair

SUBCOMMITTEE NO. 1 Agenda

Senator John Laird, Chair
Senator Dave Min
Senator Rosilicie Ochoa Bogh

Part B

Tuesday May 25, 2021
10:30 a.m.
State Capitol - Room 3191

Consultants: Anita Lee

Items Proposed Vote Only

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