Overview of the 2018-19 Budget Bill

Senate Bill 839
As Introduced January 10, 2018

Senate Committee on Budget and Fiscal Review
Senator Holly J. Mitchell, Chair

February 2018

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OVERVIEW OF THE 2018-19 BUDGET BILL

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As Introduced on January 10, 2018

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Senator Holly J. Mitchell, Chair

CALIFORNIA STATE SENATE

Committee on Budget and Fiscal Review

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Holly J. Mitchell, Chair

Dear Colleagues:

I am pleased to provide you with a copy of the *Overview of the 2018-19 Budget Bill*, which has been prepared by the staff of the Senate Committee on Budget and Fiscal Review. The document is intended to highlight the Governor's major proposals and provide additional information and framework to support the review of these proposals. This document, together with other materials, will provide the basis for budget hearings throughout the spring.

The first section presents an overview of the state's fiscal condition and the Governor's fiscal proposals. The next section, entitled "Major Issues," is organized by budget subcommittee. For each major issue, this report provides relevant background material, an explanation of the budget proposal, and a discussion of important matters to consider.

In the Appendix, we include supplementary fiscal documents prepared by the Department of Finance. The Appendix also includes a working timeline for completing the 2018-19 budget, a historical listing of adopted state budgets, and a schedule of budget committee consultants and their respective areas of responsibility.

If you have questions, please do not hesitate to contact me or the committee staff.

Sincerely,

HOLLY J. MITCHELL
Chair

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Budget Overview

INTRODUCTION

The Governor has proposed a budget for the 2018-19 fiscal year that includes General Fund resources of $135.1 billion and expenditures of $131.7 billion. Based on the budget proposal, the General Fund would end the 2018-19 fiscal year with an unencumbered reserve of $2.3 billion. The budget also includes a deposit of $5.0 billion to the Budget Stabilization Account (BSA), resulting in an expected balance in this account of $13.5 billion at the end of the budget year, which would fully meet the constitutional goal of 10 percent of tax revenue.

As a result of the combined efforts of the Administration and the Legislature over the last few years, the General Fund continues to be in a strong position. In total, from the 2017-18 adopted budget, revenues are up by approximately $4.7 billion. The proposed 2018-19 budget uses this adjusted base, incorporating a general reserve and BSA of approximately $15.8 billion (with another $1.1 billion reserved for encumbrances). Overall, General Fund spending in 2018-19 is expected to increase by $5.2 billion (or 4.1 percent) from the revised 2017-18 fiscal year. The majority of the spending increases are in the areas of K-12 education and health and human services. When accounting for all funds, including special funds and bond funds, the Governor's budget proposes $190.3 billion in total expenditures.

The Governor and the Legislature have made tremendous strides in building the fiscal strength of the state and ensuring that California is well positioned to protect the critical services and programs that citizens depend upon should another downturn occur. California's fiscal strength is also important given the uncertain impacts of actions at the federal level, such as the recently enacted tax plan. Due to these risks, the Governor's 2018-19 budget proposal prioritizes the maintenance of a balanced budget and the building up of budgetary reserves.

OVERVIEW OF GOVERNOR'S BUDGET PROPOSAL

Overall Structure

The Governor's budget includes $135.1 billion in General Fund revenues and other resources and $131.7 billion in total General Fund expenditures ($77.1 billion in non-Proposition 98 and $54.6 billion in Proposition 98 funds), providing for a $2.3 billion unencumbered reserve as well as setting aside an additional $13.5 billion for the BSA. Expenditures in 2018-19 are proposed to be about $5.2 billion higher than revised 2017-18 expenditures. Additional funding is proposed for K-14 education, health and human services, general government, and corrections and rehabilitation, with generally level funding in most other areas of the budget.

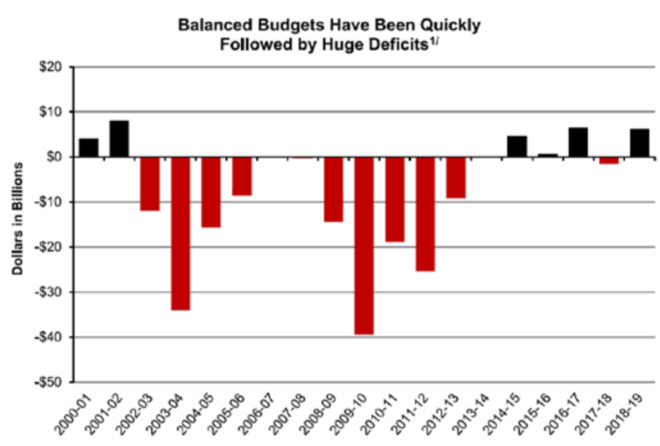
The General Fund budget details are summarized below.

2017-18 and 2018-19
General Fund Summary
(Dollars in Millions)

	Revised 2017-18	Proposed 2018-19
PRIOR YEAR BALANCE	$4,611	$5,351
Revenues and transfers	$127,252	$129,792
TOTAL RESOURCES AVAILABLE	**$131,863**	**$135,143**
Non-Proposition 98 Expenditures	$73,771	$77,126
Proposition 98 Expenditures	$52,741	$54,564
TOTAL EXPENDITURES	**$126,512**	**$131,690**
FUND BALANCE		
Encumbrances	$1,165	$1,165
Special Fund for Economic Uncertainties	$4,186	$2,288
BUDGET STABILIZATION ACCOUNT	**$8,411**	**$13,461**

Fiscal Stability

The Governor's budget proposal points out that previous short periods of balanced budgets in the 2000s were followed by massive budget shortfalls, as displayed in the following chart from the Governor's proposal. While each of these prior crises was preceded by a stock market crash, actions by the federal government could also easily overwhelm the fiscal capacity of the state.

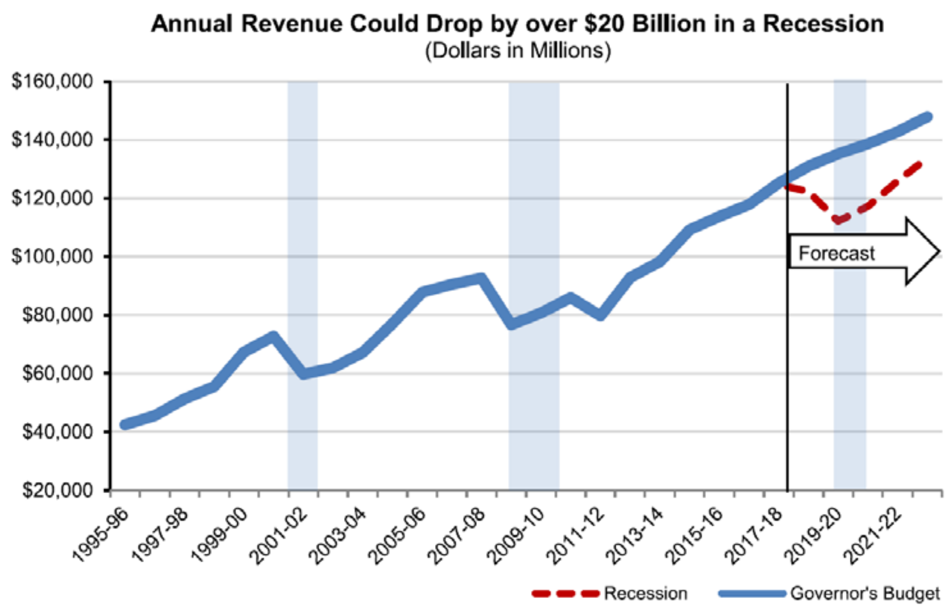


According to the Administration, the budget, now more than ever, demands caution and prudence. Among the uncertainties highlighted by the Administration are:

Federal Tax Changes. The budget's economic and revenue forecasts were finalized prior to the enactment of the federal tax package at the end of December. The Governor's budget forecasts assume no federal tax changes. The Administration indicates that the May Revision will include a preliminary analysis of the projected impact of the changes on the state economy and revenues, although the effect from changed behavior of businesses and wealthy individuals will only be apparent after 2018 taxes are filed.

Federal Cost Shifting. In 2017, Congress attempted several times to repeal the Affordable Care Act and consequently drop health care coverage for millions of Californians. Such actions, if successful, would have cost the General Fund tens of billions of dollars annually—more than doubling the cost of Medi-Cal when fully implemented. While these recent efforts were defeated, Congress continues to indicate a willingness to shift health care and other entitlement program costs from the federal budget to states to address recent increases in the federal deficit.

Possible Recession. The Governor's budget assumes the continued expansion of the economy. Yet, also notes that economic expansions do not last forever. In the post-war period, the average expansion has lasted about five years. By the end of the 2018-19 fiscal year, the expansion will have matched the longest in modern history. As shown in the figure below from the Governor's budget proposal, a moderate recession will drop state revenues by over $20 billion annually for several years.



CURRENT-YEAR BUDGET HIGHLIGHTS

Health Care. The current year budget provides a substantial reinvestment in Medi-Cal of $546 million from Proposition 56 tobacco tax revenue. This includes $465 million for physician and dental rate increases, $50 million for women's health services, $27 million for rate increases for intermediate care facilities for individuals with developmental disabilities, and $4 million to help HIV/AIDS patients remain at home or in the community. The current year budget also includes restoration of full dental services for Medi-Cal beneficiaries beginning January, 2018, and optical services beginning January, 2020. In addition, the current year budget restores the one-time reductions that the Administration proposed in the current year: $33 million for Song-Brown medical residencies, $68 million for mental health treatment facilities, and $17 million for children's mental health crisis beds.

Education. The current year budget includes a significant increase in funding for K-12 education, with $1.4 billion in additional funding for the Local Control Funding Formula, $877 million in discretionary money for school districts, and a $50 million increase for after-school programs. In higher education there is a substantial increase in community college funding, including $25 million for completion grants. For California State University, the current year budget includes $20 million to increase enrollment, plus $12.5 million to improve graduation rates. The University of California will receive additional funding for graduate students, as well as for other programs.

Child Care. The current year budget increases child care and preschool programs by $310 million from the revised 2016‑17 level. This increase is largely due to implementing the second year of a four‑year budget agreement. As part of this agreement, the 2017‑18 budget contains substantial increases in reimbursement rates and funds an additional 2,959 full‑day State Preschool slots at local education agencies. In addition to implementing the budget agreement, the 2017‑18 budget includes funding to update the income eligibility threshold to use the most recent State Median Income (SMI) instead of the SMI used in 2007‑08.

Human Services. The current year budget includes $400 million to counties for In-Home Supportive Services to deal with the elimination of the Coordinated Care Initiative. It also includes $25 million for child care eligibility to prevent loss of program services resulting from the minimum wage increase, $31 million for foster care children, and one-time funds for employment and education services under CalWORKs. The budget also funds food banks, removes the cap on respite services for persons with developmental disabilities, and expands the Earned Income Tax Credit to include self-employment income and also increases the wage ceiling to include more households.

Transportation. The current year budget allocates $2.8 billion pursuant to SB 1 (Beall), Chapter 5, Statutes of 2017, which increased existing fuel taxes and creates two new vehicle charges to support existing and new transportation programs. It also repays monies loaned in the past to the General Fund from various transportation accounts. Consistent with the provisions of SB 1, the budget allocates the bulk of the new revenues to highway maintenance and rehabilitation ($846 million), local streets and roads ($646 million), transit ($635 million), congested and trade corridors ($450 million), and bicycle and pedestrian projects ($100 million).

Cap-and-Trade. The current year budget allocates an estimated $2.6 billion in cap‑and‑trade revenues. Consistent with current law, about $1 billion is estimated to be continuously appropriated to certain transportation and housing programs (this amount will be higher due to increased auction revenues during the fiscal year). The budget plan allocates an additional $1.6 billion to various programs, including programs intended to reduce emissions from vehicles and heavy duty equipment, forestry and fire prevention activities, and projects to reduce emissions from agricultural activities.

CalPERS. The current year budget makes a onetime $6 billion supplemental payment to CalPERS to reduce the state's unfunded liabilities associated with pension benefits earned by current and past state employees. This should reduce annual state pension costs. To make this payment, the budget uses a loan from the state's cash balances in the Pooled Money Investment Account, which is essentially the state's checking account. The budget also makes an initial repayment of $146 million toward the loan, which is counted toward annual required debt payments under Proposition 2 (2014).

Other Issues. The 2017-18 budget also includes the following additional funding or provisions:

- $45 million for immigrant services annually through 2019-20, as well as oversight services by the Attorney General regarding immigration and customs enforcement activities.
- $22 million for dependency counsel and $20 million over two years for equal access legal services.
- $111 million for flood protection and $2.8 billion in transportation funding pursuant to the transportation measure, SB 1 (Beall), Chapter 5, Statutes of 2017.
- $7.6 million for the California Arts Council to expand programs related to formerly incarcerated individuals and those in juvenile justice facilities.
- Restructuring of the state's tax agencies, by shifting tax administration responsibilities to a new department and establishing an appeals body.
- Implementation of a state regulatory framework for cannabis, pursuant to the Medical Cannabis Regulation and Safety Act and the Adult Use of Marijuana Act.

General Fund Expenditures
Current Year Adopted and Revised
(Dollars in Millions)

Program Area	Adopted 2017-18	Revised 2017-18	Change	Percent Change
K-12 Education	$53,455	$53,489	$34	0.06%
Higher Education	14,892	14,968	76	0.51%
Health and Human Services	34,824	35,394	570	1.64%
Corrections and Rehabilitation	11,228	11,678	450	4.01%
Business, Consumer Services, Housing	410	404	-6	-1.46%
Transportation	241	239	-2	-0.83%
Natural Resources	2,857	3,564	707	24.75%
Environmental Protection	95	115	20	21.05%
Labor and Workforce Development	129	147	18	13.95%
Government Operations	747	1,128	381	51.00%
General Government				
Non-Agency Departments	730	775	45	6.16%
Tax Relief / Local Government	435	428	-7	-1.61%
Statewide Expenditures	1,566	962	-604	-38.57%
Legislative, Judicial and Executive	3,487	3,221	-266	-7.63%
Total	**$125,096**	**$126,512**	**$1,416**	**1.13%**

BUDGET YEAR PROPOSED EXPENDITURES

The proposed budget includes additional required programmatic increases and new spending. The table below summarizes the Governor's proposed expenditures by program area. The largest dollar changes in expenditures by program are in health and human services and K-12 education.

General Fund Expenditures
Current and Budget Year
(Dollars in Millions)

Program Area	Revised 2017-18	Proposed 2018-19	Change	Percent Change
K-12 Education	$53,489	$55,167	$1,678	3.1%
Higher Education	14,968	15,450	482	3.2%
Health and Human Services	35,394	37,383	1,989	5.6%
Corrections and Rehabilitation	11,678	11,815	137	1.2%
Business, Consumer Services, Housing	404	432	28	6.9%
Transportation	239	213	-26	-10.9%
Natural Resources	3,564	3,029	-535	-15.0%
Environmental Protection	115	82	-33	-28.7%
Labor and Workforce Development	147	122	-25	-17%
Government Operations	1,128	1,181	53	4.7%
General Government:				
Non-Agency Departments	775	766	-9	-1.2%
Tax Relief / Local Government	428	457	29	6.8%
Statewide Expenditures	962	1,942	980	101.9%
Legislative, Judicial and Executive	3,221	3,651	430	13.3%
Total	**$126,512**	**$131,690**	**$5,178**	**4.1%**

The Governor's budget proposes some specific policy and budgetary changes. Some of the more important aspects of the budget proposal are outlined below:

Education

- **K-12 Education.** In K-12 education, the Governor proposes to provide an additional $3 billion in ongoing Proposition 98 General Fund to reach full funding of the Local Control Funding Formula and provides $1.8 billion in additional one-time discretionary resources allocated on a per-pupil basis. In addition, the Governor proposes to provide one-time funding to address Special Education needs including teacher recruitment and preschool and child care facilities.

- **Early Childhood Education.** In child care and pre-school, the Governor proposes $61 million to fund the full-year costs of the rate and slot investments made in the 2017 Budget Act. In addition, the Governor proposes to increase the Standard Reimbursement Rate by 2.8 percent ($48 million) and extend the hold harmless provision for the Regional Market Reimbursement rate.

- **California Community Colleges (CCC) Apportionment Formula.** The Administration proposes to create a new allocation funding formula for community colleges. Currently, colleges are funded primarily based on enrollment; however, under the Governor's proposal, the new funding formula includes: (1) a base grant based on enrollment, (2) a supplemental grant based on the number of low-income students a district enrolls, (3) student success incentive grants based on the number of students who meet certain outcome and performance metrics, and (4) a hold harmless provision to ensure that during the first year of implementation, districts would be held harmless to the amount of funding they received in 2017-18. The budget proposes an increase of $175 million Proposition 98 to support this transition.

- **CCC Online Education.** Additionally, the Administration proposes $120 million Proposition 98 to create a new fully online community college targeted to working adults with a high school diploma, but lacking a college degree. Apportionment funding for this program will be similar to the Administration's proposed apportionment formula.

- **Career Technical Education (CTE).** The Administration proposes an increase of $200 million Proposition 98 to the CCC Strong Workforce program to create a new high school CTE program to be administered by the CCC in collaboration with CDE.

- **Base Increases.** The budget proposes a $92.1 million General Fund unrestricted base increase for each the University of California (UC) and the California State University (CSU). This is a three percent increase for the UC and a 2.7 percent increase for CSU.

Health and Human Services

- **Children's Health Insurance Program (CHIP) Reauthorization.** Due to the failure of Congress to approve long-term funding for CHIP prior to the completion of the Governor's budget, the budget assumed an 88 percent federal match only until December 31, 2017, and a 65 percent federal match beginning in 2018, consistent with assumptions in the 2017 Budget Act. However, due to the recent federal action to approve CHIP funding, California will realize savings of $900 million through the 2018-19 fiscal year, as compared to the Governor's budget.

- **Increased Proposition 56 Supplemental Provider Payments.** The budget includes an additional $232.8 million of Proposition 56 tobacco tax revenue to increase supplemental payments to Medi-Cal providers to improve access to care for beneficiaries. Approximately $163 million would fund supplemental payments for physician services and $70 million would fund supplemental payments for dental services.

In addition, the budget includes $64.5 million ($31.6 million Proposition 56 tobacco tax revenue) to fund a 50 percent rate increase for home health services provided through the fee-for-service system and home and community-based waivers. According to DHCS, this rate increase was the result of monitoring efforts to detect deficiencies in access to necessary medical care for Medi-Cal fee-for-service beneficiaries.

- **CalWORKs.** The budget includes $26.7 million in 2018-19 for a voluntary Home Visiting Pilot program for young, first-time parents in the CalWORKs program. Home visitors would help parents navigate and connect to resources in the CalWORKs program and other available services. A total of $158.5 million in one-time Temporary Assistance for Needy Families (TANF) funds is being reserved for the duration of the pilot through 2021.

Resources and the Environment

- **Fire Response.** As of the Governor's budget proposal, $469 million has been added to the Emergency Fund for wildfire response since the enactment of the 2017 Budget Act, which brings the total for the Emergency Fund to $896 million. The Administration expects some of the costs to be offset by federal funds.

- **Cap-and-Trade Revenues.** The Governor has proposed a $1.3 billion Greenhouse Gas Reduction Fund (GGRF) expenditure plan for 2018-19. The Administration's revised GGRF revenue estimate is $2.7 billion for the current year and $2.4 billion for 2018-19. The following table outlines the Governor's 2018-19 GGRF spending plan as it relates to the 2017-18 adopted plan.

COMPARISON OF CURRENT AND BUDGET FISCAL YEAR SPENDING PLAN FOR CAP AND TRADE REVENUE			
Investment Category	**Program**	**2017-18 Cap and Trade Expenditure Plan Amount (Dollars in millions)**	**2018-19 Cap and Trade Expenditure Plan Amount (Dollars in millions)**
Air Toxic and Criteria Air Pollutants	Carl Moyer Program, AQIP/ AB 617 – Community Air Protection	$250	$250
	AB 617 State and Local Implementation Costs	$12	*
	Technical Assistance to Community Groups	$5	$5
	Subtotal	*($267)*	*($255)*
Low Carbon Transportation	Clean Vehicle Rebate Project	$140	$175
	Clean Trucks, Buses & Off-Road Freight Equipment	$320	$160
	Enhanced Fleet Modernization Program, School Buses & Transportation Equity Projects	$100	$100
	Low Carbon Fuel Production		$25
	Subtotal	*($560)*	*($460)*
Climate Smart Agriculture	Agricultural Diesel Engine Replacement & Upgrades	$85	$102
	Energy Efficiency	$60	$34
	Healthy Soils		$5
	Renewable Energy	$6	$4
	Subtotal	*($151)*	*($145)*

Healthy Forests	Healthy & Resilient Forests	$200	$160
	Local Fire Response	$25	$25
	Urban Forestry	$20	
	Urban Greening	$26	
	Wetlands Restoration	$15	
	Subtotal	*($286)*	*($185)*
Short-Lived Climate Pollutants	Methane Reduction	$99	$99
	Waste Diversion/Recycling Infrastructure	$40	$20
	Subtotal	*($139)*	*($119)*
Integrated Climate Action: Mitigation & Resilience	Transformative Climate Communities	$10	$25
	California Integrated Climate Investment Program		$20
	Energy Corps		$6
	Low-Income Weatherization	$18	
	Natural Land Adaptation	$20	
	Coastal Adaptation	$6	
	Research/California Climate Change Technology and Solutions Initiative	$11	$35
	Subtotal	*($65)*	*($86)*
AB 398 Transfers	SRA backfill (40 percent share of costs)	$32	**
	TOTAL	**$1,500**	**$1,250**

** The budget includes $15 million for these activities. However, it does not appear in the "discretionary" plan because these administrative costs were provided on a multi-year basis last year. Therefore, the spending is already in the baseline for 2018-19.*

*** The SRA backfilll is intended to be ongoing. The2018-19 budget includes a $28 million allocation that is already in the baseline.*

Transportation

- **Highway Maintenance and Repairs.** The budget includes $2.8 billion in SB 1 funding for the Department of Transportation (Caltrans). This includes $1.2 billion for highway maintenance and repairs, $400 million for the repair of state-owned bridges and culverts, $330 million for local transit projects, $250 million for congestion relief on commuter corridors, $200 million in matching funds for the Local Partnership Program, $100 million for active transportation projects, $25 million for freeway service patrols, and $25 million for local planning grants, as well as associated support costs.

- **Local Streets and Roads**. The budget provides $1.2 billion from SB 1 in additional funding to be distributed by formula to cities and counties for local road maintenance.

Public Safety and General Government

- **Trial Courts.** The Governor's budget proposes a $150 million General Fund augmentation to the state's trial courts. $75 million of that funding is proposed as discretionary funding for the Judicial Council's priorities.

- **Firefighter Training and Certification Program**. The budget proposes $26.6 million General Fund to establish a Firefighter Training Center at the Ventura Conservation Camp for 80 people who were formerly incarcerated to receive the necessary training and job skills to work as career firefighters.

- **Funding for Affordable Housing.** The budget allocates $538 million and 81 positions to the Department of Housing and Community Development to implement the 2017 housing package. This includes $3 million in General Fund resources as well as an estimated $258 million in real estate transaction fee revenue for housing programs, plus proceeds from the SB 3 (Beall), Chapter 365, Statutes of 2017, housing bond that will be available upon voter approval in November 2018.

STATE ECONOMY AND REVENUES

Economic Outlook

Economic forecasts play an integral role in the state's revenue forecast and fiscal outlook. The state's revenue structure is very 'elastic', meaning it is highly sensitive to economic changes. This is particularly true for personal income tax receipts, which tend to grow (or decline) proportionally more than increases (or decreases) in the underlying income base. The sales and use tax, the second largest state revenue source, is sensitive to consumer confidence and consumption patterns. The property tax – which benefits the General Fund through additional resources for K-12 education – reacts to changes in the underlying property asset values and home sale prices.

The Governor and the LAO both forecast continued growth in the economy, and accompanying increases in state revenues. Neither forecast incorporates the impacts from the federal tax bill passed at the end of 2017. Individuals and businesses may change their behavior in response to new federal tax incentives, which may affect the economy in many ways. To the extent feasible, the impacts will be assessed in the May Revision.

Nationally, the Administration's forecast assumes continued moderate economic growth over the next few years. In 2016, real GDP grew by 1.5 percent, as increases in consumption were offset by weak business investment. Business investment is expected to recover and consumption growth is expected to continue.

The U.S. unemployment rate dipped to 4.1 percent in November 2017, the lowest since December 2000. Low unemployment is leading to higher wage growth. Meanwhile, jobs continued to be added at a slower pace. U.S. inflation was 1.3 percent in 2016 and is expected to exceed two percent in 2017 as housing and energy costs rise. After the interest rate hike in December, the Federal Reserve is expected to continue to increase interest rates until the benchmark rate reaches 3.2 percent in 2021.

California's unemployment rate fell to 4.7 percent in May and June of 2017, matching the all-time low unemployment in November 2000. The unemployment rate then rose to around five percent and is expected to remain near that level throughout the Administration's forecast. Job growth is slowing, with an average of 21,000 non-farm payroll jobs added each month in the first three quarters of 2017 after 2016 monthly gains of around 30,000 jobs. From 2011 through 2016, the service sector accounted for 88 percent of the 2.2 million jobs added. From 2017 to 2021, it is anticipated that construction jobs within the goods-producing sector will contribute almost 30 percent of the 1.2 million jobs added. Labor force growth was only 0.5 percent in 2017, but growth is expected to rise back to the population growth rate of 0.8 percent after 2018.

The Administration has identified a stock market correction, an eventual recession in the U.S., or geopolitical risks that affect U.S. growth as the main risks to the California economic outlook.

General Fund Revenues

California relies on a broad range of taxes and other revenues to support the activities of the General Fund; however, the personal income tax, sales and use tax, and corporation taxes account for approximately 97 percent of General Fund revenues. For the budget year, the personal income tax is expected to generate $93.6 billion (69.3 percent), the sales and use tax $26.2 billion (19.4 percent), and the corporation tax $11.2 billion (8.3 percent). The General Fund revenue forecast has improved, reflecting a large share of wages going to high-income taxpayers and stronger consumption and investment over the medium term. As a result, after accounting for all transfers, except for transfers to the Rainy Day Fund, General Fund revenue is higher than the 2017 Budget Act projections by $4.7 billion from 2016-17 through 2018-19.

The Governor’s budget forecasts that revenue, including transfers, is expected to be $127 billion in 2017-18 and $130 billion in 2018-19. The projected increase since the 2017 Budget Act is due to an improved outlook for personal income tax and sales tax. The corporation tax is slightly lower. Over the three fiscal years, personal income tax is up $2.9 billion, sales tax is up $1.5 billion, and corporation tax is down $358 million.

The improved revenue forecast for personal income tax is driven by strong wage withholding and capital gains. Because wage growth is not keeping up with the growth in withholding, it appears that much of the wage growth is accruing to higher-income taxpayers, who have higher-than-average marginal tax rates. The table below presents the state’s General Fund revenues for the current and budget year:

General Fund Revenues
Current Year Revised and Budget Year Forecast
(Dollars in Millions)

Revenue Source	2017-18	2018-19	Change	Percent Change
Personal Income Tax	$89,403	$93,593	$4,190	4.69%
Sales and Use Tax	25,165	26,151	986	3.92%
Corporation Tax	10,656	11,224	568	5.33%
Insurance Tax	2,438	2,508	70	2.87%
Alcohol Beverage Tax	376	382	6	1.60%
Cigarette Tax	65	63	-2	-3.08%
Pooled Money Interest	185	294	109	58.92%
Other Taxes and Fees	1,002	908	-94	-9.38%
Subtotal	$129,289	$135,123	$5,834	4.51%
Transfer to BSA	-2,038	-5,331	-3,293	161.58%
Total	**$127,252**	**$129,791**	**$2,539**	**2.00%**

SUBCOMMITTEE NO. 1

EDUCATION

K-14 Education

Higher Education

Proposed Expenditures of Proposition 98 Resources

BACKGROUND

California provides academic instruction and support services to over six million public school students in kindergarten through twelfth grades (K-12) and 2.1 million students in community colleges. There are 58 county offices of education, approximately 1,000 local K-12 school districts, more than 10,000 K-12 schools, and more than 1,200 charter schools throughout the state. Of the K-12 students, approximately 3.9 million are low-income, English learners, or foster youth students or some combination of those categories. Approximately 1.4 million of the K-12 students served in public schools are English learners. There are also 72 community college districts, 114 community college campuses, and 70 educational centers. Proposition 98, which was passed by voters as an amendment to the state Constitution in 1988, and revised in 1990 by Proposition 111, was designed to guarantee a minimum level of funding for public schools and community colleges.

The proposed 2018-19 budget includes funding at the Proposition 98 minimum guarantee level of $78.3 billion. The budget proposal also revises the 2017-18 Proposition 98 minimum guarantee to $75.2 billion, an increase of $687 million from the 2017 Budget Act. In 2016-17, the guarantee decreases slightly by just $63 million and the budget maintains appropriations at the 2017-18 estimate of $71.4 billion. The Governor also proposes to pay $100 million in Proposition 98 settle-up toward meeting the 2009-10 Proposition 98 minimum guarantee. Together, the revised guarantee levels, freed up ongoing funds previously dedicated to one-time purposes and settle-up payments provide a total of $6.3 billion available for new education expenditures. Additional Proposition 98 funds in 2018-19 are proposed to be used primarily toward full implementation of the Local Control Funding Formula (LCFF) and providing one-time discretionary resources. These proposals are more fully described later in this section and in separate sections of this report.

Proposition 98 Funding. State funding for K-14 education—primarily K-12 local educational agencies and community colleges—is governed largely by Proposition 98. The measure, as modified by Proposition 111, establishes minimum funding requirements (referred to as the "minimum guarantee") for K-14 education. General Fund resources, consisting largely of personal income taxes, sales and use taxes, and corporation taxes, are combined with the schools' share of local property tax revenues to fund the Proposition 98 minimum guarantee. These funds typically represent about 80 percent of statewide funds that K-12 schools receive. Non-Proposition 98 education funds largely consist of revenues from local parcel taxes, other local taxes and fees, federal funds and proceeds from the state lottery. In recent years, there have been two statewide initiatives that increased General Fund Revenues and therefore, the Proposition 98 minimum guarantee. Proposition 30, passed by the voters in 2012, raised sales and income taxes, but phases out over seven years. Recently, anticipating the expiration of the Proposition 30 taxes, Proposition 55 was passed by voters in 2016, extending the income tax portion of Proposition 30 for another 12 years.

The table below summarizes overall Proposition 98 funding for K-12 schools and community colleges since 2007-08, or just prior to the beginning of the recent recession. 2011-12 marks the low point for the guarantee with steady increases since then. The economic recession impacted both General Fund resources and property taxes. The amount of property taxes has also been impacted by a large policy change in the past few years—the elimination of redevelopment agencies (RDAs) and the shift of property taxes formerly captured by the RDAs back to school districts. The guarantee was adjusted to account for these additional property taxes, so although Local Educational Agencies (LEAs) received significantly increased property taxes starting in 2012-13, they received a roughly corresponding reduction in General Fund.

Proposition 98 Funding
Sources and Distributions
(Dollars in Millions)

	Pre-Recession **2007-08**	Low Point **2011-12**	Revised **2016-17**	Revised **2017-18**	Proposed **2018-19**
Sources					
General Fund	42,015	33,136	49,993	52,741	54,564
Property taxes	14,563	14,132	21,397	22,470	23,760
Total	**56,577**	**47,268**	**71,390**	**75,211**	**78,324**
Distribution					
K-12	50,344	41,901	63,022	66,462	69,034
CCC	6,112	5,285	8,283	8,654	9,207
Other	121	83	85	95	85

Source: Legislative Analysts' Office and Department of Finance

Calculating the Minimum Guarantee. The Proposition 98 minimum guarantee is determined by comparing the results of three "tests," or formulas, which are based on specific economic and fiscal data. The factors considered in these tests include growth in personal income of state residents, growth in General Fund revenues, changes in student average-daily-attendance (ADA), and a calculated share of the General Fund. When Proposition 98 was first enacted by the voters in 1988, there were two "tests", or formulas, to determine the required funding level. Test 1 calculates a percentage of General Fund revenues based on the pre-Proposition 98 level of General Fund that was provided to education, plus local property taxes. Test 2 calculates the prior year funding level adjusted for growth in student ADA and per capita personal income. K-14 education was guaranteed funding at the higher of these two tests. In 1990, Proposition 111 added a third test, Test 3, which takes the prior year funding level and adjusts it for growth in student ADA and per capita General Fund revenues. The Proposition 98 formula was adjusted to compare Test 2 and Test 3, the lower of which is applicable. This applicable test is then compared to Test 1; and the higher of the tests determines the Proposition 98 minimum guarantee.

Proposition 98 Tests
Calculating the Level of Education Funding

Test	Calculated Level	Operative Year	Times Used
Test 1	Based on a calculated percent of General Fund revenues (currently around 38.1 percent).	If it would provide more funding than Test 2 or 3 (whichever is applicable).	4
Test 2	Based on prior year funding, adjusted for changes in per capita personal income and attendance.	If growth in personal income is ≤ growth in General Fund revenues plus 0.5 percent.	14
Test 3	Based on prior year funding, adjusted for changes in General Fund revenues plus 0.5 percent and attendance.	If statewide personal income growth > growth in General Fund revenues plus 0.5 percent.	11

Generally, Test 2 is operative during years when the General Fund is growing quickly and Test 3 is operative when General Fund revenues fall or grow slowly. The Test 1 percentage is historically-based, but is adjusted, or "rebenched," to account for large policy changes that impact local property taxes for education or changes to the mix of programs funded within Proposition 98. In the past few years, rebenching was done to account for property tax changes, such as the dissolution of the RDAs, and program changes, such as removing childcare from the Proposition 98 minimum guarantee and adding mental health services. In the budget year, the Test 1 calculation is adjusted to reflect RDA changes. Proposition 98 tests are based on estimated factors during budget planning; however, the factors are updated over time and can change past guarantee amounts, and even which test is applicable, for a previous year. Statute specifies that at a certain point the Proposition 98 minimum guarantee for a given year shall be certified and no further changes shall be made. The guarantee was last certified in statute for 2008-09.

The Governor's proposal assumes that in 2016-17 and 2018-19 the Proposition 98 minimum guarantee is calculated under Test 3 and that in 2017-18, the minimum guarantee is calculated under Test 2. Generally, the Proposition 98 minimum guarantee calculation was designed in order to provide growth in education funding equivalent to growth in the overall economy, as reflected by changes in personal income (incorporated in Test 2). In a Test 3 year, the Proposition 98 minimum guarantee does not grow as fast as in a Test 2 year, in recognition that the state's General Fund is not reflecting the same strong growth as personal income and the state may not have the resources to fund at a Test 2 level; however, a maintenance factor is created, as discussed in more detail later.

Suspension of Minimum Guarantee. Proposition 98 includes a provision that allows the Legislature and Governor to suspend the minimum funding requirements and instead provide an alternative level of funding. Such a suspension requires a two-thirds vote of the Legislature and the concurrence of the Governor. To date, the Legislature and Governor have suspended the Proposition 98 minimum guarantee twice - in 2004-05 and 2010-11. While the suspension of Proposition 98 can create General Fund savings during the year in which it is invoked, it also creates obligations in the out-years, as explained below.

Maintenance Factor. When the state suspends the Proposition 98 minimum guarantee or when Test 3 is operative (that is, when the Proposition 98 minimum guarantee grows more slowly due to declining or low General Fund growth), the state creates an out-year obligation referred to as the "maintenance factor." When growth in per capita General Fund revenues is higher than growth in per capita personal income (as determined by a specific formula also set forth in the state Constitution), the state is required to make maintenance factor payments, which accelerate growth in K-14 funding, until the determined maintenance factor obligation is fully restored. Outstanding maintenance factor balances are adjusted each year by growth in student ADA and per capita personal income.

The maintenance factor payment is added on to the minimum guarantee calculation using either Test 1 or Test 2.

- In a Test 2 year, the rule of thumb is that roughly 55 percent of additional revenues would be devoted to Proposition 98 to pay off the maintenance factor.

- In a Test 1 year, the amount of additional revenues going to Proposition 98 could approach 100 percent or more. This can occur because the required payment would be a combination of the 55 percent (or more) of new revenues plus the established percentage of the General Fund—roughly 38.1 percent—that is used to determine the minimum guarantee.

Prior to 2012-13, the payment of maintenance factor was made only on top of Test 2; however, in 2012-13, the Proposition 98 guarantee was in an unusual situation as the state recovered from the recession. It was a Test 1 year and per capita General Fund revenues were growing significantly faster than per capita personal income. Based on a strict reading of the Constitution, the payment of maintenance factor is not linked to a specific test, but instead is required whenever growth in per capita General Fund revenues is higher than growth in per capita personal income. As a result, the state funded a maintenance factor payment on top of Test 1 and this interpretation can result in the potential for up to 100 percent or more of new revenues going to Proposition 98 in a Test 1 year with high per capita General Fund growth. This was the case in 2014-15, when the maintenance factor payment was more than $5.6 billion. However, in recent years, the state's maintenance factor balance from the last recession has largely been paid off and therefore the possibility of the Proposition 98 calculation absorbing an unusually large portion of state revenue gains is less likely within the next few years.

The Governor's proposal assumes a Test 2 calculation of the guarantee in 2017-18 and under this scenario pays off about $1.2 billion of the maintenance factor obligation. This leaves a balance of only $228 million going into 2018-19. This amount is then adjusted for growth in student ADA and per capita personal income, and the estimated Test 3 calculation in 2018-19, adds $83 million in maintenance factor obligation, bringing the 2018-19 balance to an estimated $320 million.

Settle-Up. Every year, the Legislature and Governor estimate the Proposition 98 minimum guarantee before the final economic, fiscal, and attendance factors for the budget year are known. If the estimate included in the budget for a given year is ultimately lower than the final calculation of the minimum guarantee, Proposition 98 requires the state to make a "settle-up" payment, or series of payments, in order to meet the final guarantee for that year. The Governor's budget proposes General Fund settle-up payments of $100 million in 2018-19 counting toward the 2009-10 minimum guarantee. After this payment, the state would owe $340 million in settle-up for years prior to 2014-15. In the recent past, the state was not required to make settle-up payments on schedule; however, Proposition 2, passed in 2014, requires the state to spend a minimum amount each year to buy down eligible state debt. Proposition 98 settle-up debt meets Proposition 2 requirements. In compliance with this requirement, the state has made settle-up payments in the past few years.

Spike Protection. Proposition 98 also has a built-in formula to prevent large increases in the minimum guarantee, referred to as "spike protection". This constitutional formula specifies that in years when Test 1 is operative and is greater than the Test 2 amount by 1.5 percent of General Fund revenues, the excess amount over the 1.5 percent of these General Fund revenues is not included in the calculation in the subsequent year. This part of the formula has only been in play twice, when it reduced the impact of revenue gains on the 2013-14 and 2015-16 minimum guarantee calculations.

3B Supplemental Appropriation. The 3B supplement is a component of the Proposition 98 calculation that ensures that school funding grows at the same rate as the rest of the budget when the state is experiencing low General Fund growth. As part of the 2017 Budget agreement, statute was amended to notwithstand the 3B supplemental appropriation calculation for the 2016-17 through 2020-21 fiscal years. Waiving this statutory portion of the calculation reduces the Proposition 98 obligation in future years, but this reduction amount is added to the maintenance factor calculation to be paid back, when the state experiences higher General Fund growth. Under the Governor's budget proposals guarantee calculation, the 3B supplement would have added approximately $5 million to the minimum guarantee level in 2018-19.

Proposition 98 Rainy Day Fund and District Reserve Caps. Proposition 2 also requires a deposit in a Proposition 98 Rainy Day Fund under certain circumstances. These required conditions are that maintenance factor accumulated prior to 2014-15 is paid off, Test 1 is in effect, the Proposition 98 guarantee is not suspended, and no maintenance factor is created. Related statute required that in the year following a deposit into this fund, a cap on local school district reserves would be implemented. However, SB 751 (Hill), Chapter 674, Statutes of 2017 amended the requirements to trigger the cap to specify that the trigger is when the Proposition 98 Rainy Day Fund is funded at three percent of the K-12 share of the Proposition 98 guarantee. SB 751 also loosens the requirements on local school districts in implementing the reserve cap. Both the Governor and the Legislative Analyst's Office (LAO) continue to project that under this new methodology, they do not anticipate the reserve cap to trigger during their forecast period over the next few years. The conditions needed to trigger Test 1 (and now reach a specific level of funding in the Proposition 98 Rainy Day Fund) include significant year-over-year revenue gains that are unlikely given the current modest growth projections.

GOVERNOR'S PROPOSAL

The budget includes a proposed Proposition 98 funding level of $67.7 billion for K-12 programs (excluding preschool). This includes a year-to-year increase of $2.4 billion in Proposition 98 funding for K-12 education, as compared to the revised Proposition 98 K-12 funding level for 2017-18. Under the Governor's proposal, ongoing K-12 Proposition 98 per pupil expenditures increase from $11,149 provided in 2017-18 (revised) to $11,614 in 2018-19, an increase of almost 4.2 percent. The Governor's major K-12 spending proposals are identified below.

K-12 Local Control Funding Formula – The 2013 Budget Act changed how the state provides funding to school districts and county offices of education by creating the Local Control Funding Formula (LCFF). Since its inception, the state has dedicated a large portion of the new ongoing Proposition 98 revenues each year toward full implementation of the LCFF. The budget proposes approximately $2.9 billion in additional ongoing Proposition 98 funding to fully implement LCFF for school districts in 2018-19. County offices of education reached full implementation with their LCFF allocation in the 2014 Budget Act. When LCFF was enacted in 2013-14, the Governor estimated full implementation of LCFF in 2020-21. Implementation of LCFF is more fully discussed in *Local Control Funding Formula and Accountability* in this report.

Discretionary Funds / Mandate Backlog Reduction – The budget proposes an increase of $1.8 billion in discretionary one-time Proposition 98 funding provided to school districts, charter schools, and county offices of education. The Administration indicates that this funding allows for continued investments in implementing state adopted academic content standards, upgrading technology, providing professional development, supporting beginning teacher induction and addressing deferred maintenance projects. These funds would offset outstanding mandate reimbursement claims, although the amount may be adjusted to account for any outstanding balances school districts have related to Medi-Cal billing practices.

K-12 Special Education – Recognizing statewide difficulties in recruiting and retaining special education teachers, the budget includes two proposals to support a teacher pipeline in these areas. First, the budget includes $50 million in one-time Proposition 98 funding for a teacher residency grant program for special education teachers. Second, the budget includes $50 million in one-time Proposition 98 funding to provide competitive grants to local education agencies to support local efforts to recruit and retain special education teachers. In addition, the budget provides $125 million in one-time Proposition 98 and $42.2 million in federal Temporary Assistance to Needy Families (TANF) funding to provide competitive grants to expand inclusive settings for education and care of 0-5 year-olds with exceptional needs.

Career Technical Education (CTE) – The budget proposes the creation of a new K-12 CTE program that would be administered by the California Community Colleges in consultation with the California Department of Education. The program would provide ongoing Proposition 98 funding of $200 million in competitive grants to school districts through the existing Strong Workforce Program and $12 million for local industry experts to provide technical assistance to school districts with CTE programs.

K-12 Accountability and Support – When LCFF was enacted, the state also provided a framework for a new accountability system based on multiple measures. In 2016, the State Board of Education adopted accountability performance measures, now available through a tool called the California School Dashboard, which provides school and district-level performance data by student subgroups (.e.g. ethnicity, foster youth, English learners). Since 2013-14, the state has continued to build a system of support for school districts identified as needing improvement under the new system. The budget includes $55 million in Proposition 98 funding for county offices of education to support districts that are in need of improvement under the state's accountability system, $10 million for special education local plan areas (SELPAs) to support districts that need improvement in the area of special education, $11 million ($4.8 million of this is reappropriated prior-year funding) for the California Collaborative for Education Excellence to provide support to county offices of education and school districts, and $4 million for eight regional county office of education leads. The budget also proposes some additional transparency regarding district expenditures to support all students, including special education students.

Enrollment and Cost-of-Living Adjustments – The proposed budget reflects an estimated decrease in student enrollment in the K-12 system. Specifically, it reflects a decrease of $183.1 million in 2017-18, as a result of a decrease in the projected ADA, compared to the 2017 Budget Act. For 2018-19, the Governor's proposed budget reflects a decrease of $135.5 million to reflect a projected further decline in ADA for the budget year. The proposed budget also provides $133.5 million to support a 2.51 percent cost-of-living adjustment for categorical programs that are not included in LCFF. These programs include special education and child nutrition, among others. The proposed funding level for the LCFF includes cost-of-living adjustments for school districts and county offices of education.

K-12 School Facilities – In November, 2016, the voters passed the Kindergarten through Community College Facilities Bond Act of 2016 (Proposition 51), which authorizes the state to sell $9 billion in general obligation bonds for K-14 facilities ($7 billion for K-12 and $2 billion for community colleges). The budget proposes approximately $640 million in bond authority in 2018-19 for new construction, modernization, career technical education, and charter facility projects.

Charter School Facilities – The budget proposes an increase of approximately $23.8 million in Proposition 98 funds for the Charter School Facility Grant Program to fund projected increased participation.

Child Care and Early Education - The Governor's budget increases funding for child care and preschool programs by $399 million (including Transitional Kindergarten), for a total of $4.4 billion in state and federal funds. This reflects an increase of nine percent from 2017-18. This proposal includes $60.7 million ($32.3 million non-Proposition 98 General Fund and $28.4 million Proposition 98 General Fund) to fund the full-year costs of rate and slot increases implemented mid-way through 2017-18 (related to the 2016-17 agreement) and other policy changes made in 2017-18, such as enactment of the emergency child care bridge program. The budget also increases the Standard Reimbursement Rate by 2.8 percent and makes the Regional Market Reimbursement Rate hold harmless provision permanent. Finally, the budget proposes $8 million for an additional 2,959 full-day Preschool slots beginning April 1, 2019.

ISSUES TO CONSIDER

Calculation of the Guarantee Level. The minimum guarantee level is calculated based on the best available factors at the time. However, between the January budget proposal and the May Revision of the budget, the minimum guarantee calculation can change significantly, usually due to changes in state revenues. The Legislature will want to consider potential changes in preparing a Proposition 98 expenditure package. For the 2018-19 budget, the sensitivity of the minimum guarantee calculation to changes in underlying factors is described in the LAO's recent publication, *Overview of the Governor's Proposition 98 Budget Package*. In particular, the LAO notes that the Governor's proposed guarantee level is unlikely to increase notably even with additional General Fund revenues. The 2018-19 minimum guarantee is currently calculated under Test 3, meaning it will increase with growth in revenue; however, a small increase in General Fund revenue ($142 million by the Administration's estimates) would push the minimum guarantee calculation into Test 2, and it would no longer be sensitive to revenue changes. With significant General Fund revenue growth under a Test 2 (over $1 billion), the calculation would require the payment of maintenance factor. However as noted above, the balance of maintenance factor is only $320 million. Therefore, under the current circumstances, large swings in the guarantee are unlikely. This also means that new General Fund resources would likely be available for non-Proposition 98 uses in the state budget, unlike in past years when K-14 education took a large share of new revenues due to maintenance factor payment requirements.

The LAO also notes that another area to watch will be ADA estimates. The Administration estimates positive growth in ADA in 2017-18, which impacts the 2017-18 and 2018-19 minimum guarantee calculations. This positive growth resets a formula that provides a hold harmless to the minimum guarantee for reductions in ADA (negative growth is only reflected if the preceding two years also show declines). The LAO estimates that revising the ADA estimate to reflect negative growth could reduce the guarantee by $200-$400 million over the two-year period. The Legislature will want to keep in mind the range by which the minimum guarantee may change when considering K-14 budget proposals.

One-Time or Ongoing Funding. The LAO notes that the combination of growth in the Proposition 98 minimum guarantee ($3.8 billion), plus the expiration of one-time expenditure commitments ($2.5 billion) leaves the amount of funds available for new expenditures within the minimum guarantee at $6.3 billion ($5 billion for K-12). Of the $5 billion available for K-12 uses, the Governor proposes to expend just over $3 billion on ongoing activities and about $1.9 billion on one-time activities. The LAO notes that this split is generally reasonable given that it provides a cushion against having to make difficult cuts should the minimum guarantee decrease in future years. The Legislature may wish to consider out year projections for the minimum guarantee and how they prefer to balance ongoing needs with prudent budgeting. In addition, the Legislature may wish to consider how to best spend one-time funds, and whether the Governor’s proposed used of one-time funds for discretionary purposes aligns with the Legislatures education-related priorities.

Legislative Education Priorities. As noted above, the Governor proposes to spend the bulk of ongoing funds to fully fund the LCFF. Increases in the minimum guarantee level and other resources freed up within the minimum guarantee make this possible two full years before the estimated full-funding timeline. The Legislature has been supportive of this approach in past budgets and full funding will provide additional transparency about how much each school district is receiving for LCFF (broken down by base, supplemental, and concentration grants). Under current law, the LCFF targets will be provided cost-of-living adjustments (COLA) in future years. Since this is the final year of growth toward targets, the Legislature may wish to consider how school districts are funded under LCFF and look to multi-year estimates to inform how LCFF will likely grow in the out years. The cost of the COLA in 2018-19 is almost $1.3 billion. The ability to provide a COLA in future years will depend upon increases in the minimum guarantee.

The Governor has also proposed measures to continue building a system of support to provide technical assistance to school districts that are identified as in need. While little detail has been provided thus far, the Governor’s approach of increasing the capacity of county offices of education to provide assistance to school districts and create more regional support seems reasonable. The Legislature will want to continue to provide oversight over the accountability system and to ensure resources are devoted to robust accountability based on achieving outcomes for our students. (See *Local Control Funding Formula and Accountability* for a detailed discussion of the LCFF and accountability.)

The Governor has also focused on two additional areas: Special Education and CTE. Special education has long been an area with persistent challenges. Funding for Special education continues to be an ongoing challenge for school districts; while the state provides funding through a categorical program, the federal share of funding has never matched the amount promised when the federal government enacted the Individuals with Disabilities Education Act in the 1970s (reauthorized most recently in 2015) and school districts bear the remaining cost. In addition, shortages of teachers continue to be most prevalent in the area of special education. Finally, the state's new accountability system, which just recently began to release results by subgroups of students, highlights the need to improve outcomes for students with disabilities throughout the state. These factors contributed to the Governor's proposals for special education and the Legislature may wish to consider these and other investments in improving outcomes for this group of students.

In the area of CTE, the Governor is proposing a new program for K-12 schools, given the expiration at the end of 2017-18 of the CTE Incentive Grant program. This proposal is discussed more fully in the section of this report entitled *K-12 Career Technical Education*.

Finally, the Legislature has long prioritized care and education for our youngest learners. The Governor's proposal for 2018-19 would complete a multi-year deal enacted in 2016-17 to increase rates and preschool slots. Over multiple years, these investments have provided much needed increases to the state's providers of child care and early education and increased access to preschool for our earliest learners. The Legislature may wish to consider the early care and education system as a whole after these investments and evaluate the need for additional investments to provide support to children and their families during critical early years. The Governor has proposed providing one-time grants to update facilities for children ages 0-5 to ensure inclusive learning environments.

Local Control Funding Formula and Accountability

BACKGROUND

Just under five years ago, California embarked on the largest reform of K-12 education financing and accountability systems in decades. The new funding formula, known as the Local Control Funding Formula (LCFF) is based on the idea that in order to achieve equitable outcomes and opportunities for all students, additional funding should be distributed for the support of those students with greater needs. At the same time, responsibility for decisions about how to best spend these funds was moved to the local level along with a greater emphasis on outcomes for students rather than expenditure requirements.

Local Control Funding Formula

Commencing in the 2013-14 fiscal year, the state significantly reformed the system for allocating funding to school districts, charter schools, and county offices of education. The LCFF replaced the state's prior system of distributing funds to local education agencies (LEAs) through revenue limit apportionments (based on per student average daily attendance) and approximately 50 state categorical education programs. Under the previous system, revenue limits provided LEAs with discretionary (unrestricted) funding for general education purposes, and categorical program (restricted) funding was provided for specialized purposes, with each program having a unique allocation methodology, spending restrictions, and reporting requirements. Revenue limits made up about two-thirds of state funding for schools, while categorical program funding made up the remaining one-third portion. That system became increasingly cumbersome to LEAs as they tried to meet student needs through various fund sources that were layered with individual requirements.

The LCFF combines the prior funding from revenue limits and more than 30 categorical programs that were eliminated, and uses new methods to allocate these resources, additional amounts of new Proposition 98 funding since 2013-14, and future allocations to school districts, charter schools, and county offices of education. The LCFF allows LEAs much greater flexibility in how they spend the funds. There is a single funding formula for school districts and charter schools, and a separate funding formula for county offices of education that has some similarities to the district formula, but also some key differences.

School Districts and Charter Schools Formula. The LCFF is designed to provide districts and charter schools with the bulk of their resources in unrestricted funding to support the basic educational program for all students. It also includes additional funding based on the enrollment of low-income students, English learners, and foster youth for increasing or improving services to these high-needs students. Low-income students, English learners, and foster youth students are referred to as "unduplicated" students in reference to the LCFF because, for the purpose of providing supplemental and concentration grant funding, these students are counted once, regardless of if they fit into more than one of the three identified high-need categories. Major components of the formula are briefly described below.

- **Base Grants** are calculated on a per-student basis (measured by student average daily attendance [ADA]) according to grade span (K-3, 4-6, 7-8, and 9-12) with adjustments that increase the base rates for grades K-3 (10.4 percent of base rate) and grades 9-12 (2.6 percent of base rate). The adjustment for grades K-3 is associated with a requirement to reduce class sizes in those grades to no more than 24 students by 2020-21, unless other agreements are collectively bargained at the local level. The adjustment for grades 9-12 recognizes the additional cost of providing career technical education in high schools.

- **Supplemental Grants** provide an additional 20 percent in base grant funding for the percentage of enrollment that is made up of unduplicated students.

- **Concentration Grants** provide an additional 50 percent above base grant funding for the percentage of unduplicated students that exceed 55 percent of total enrollment.

- **Categorical Program** add-ons for Targeted Instructional Improvement Block Grant and Home-to-School Transportation provide districts the same amount of funding they received for these two programs in 2012-13. The transportation funds must be used for transportation purposes. Charter schools are not eligible for these add-ons.

- **LCFF Economic Recovery Target** add-on ensures that districts receive, by 2020-21, at least the amount of funding they would have received under the old finance system to restore funding to their 2007-08 level adjusted for inflation. Districts are not eligible for this add-on if their LCFF funding exceeds the 90th percentile of per-pupil funding rates estimated under the old system.

- **Hold Harmless Provision** ensures that no school district or charter school will receive less funding under the LCFF than its 2012-13 funding level under the old system.

County Offices of Education Formula. The County Offices of Education (COE) formula is very similar to the school district formula, in terms of providing base grants, plus supplemental and concentration grants for the students that COEs serve directly, typically in an alternative school setting. However, COEs also receive an operational grant that is calculated based on the number of districts within the COE and the number of students county-wide. This operational grant reflects the additional responsibilities COEs have for support and oversight of the districts and students in their county.

Budget Appropriations. The LCFF established new “target” LCFF funding amounts for each LEA, and these amounts are adjusted annually for COLAs and pupil counts. When the formula was initially introduced, funding all school districts and charter schools at their target levels was expected to take eight years and cost an additional $18 billion, with completion by 2020-21. However, as noted below under the *Governor’s Proposal* section, with increased Proposition 98 growth for 2018-19, the Governor is proposing to fully fund LCFF. County offices of education reached their target funding levels in 2014-15, which adjusts each year for COLAs and ADA growth.

Each individual LEA was differently situated relative to its LCFF target when the formula was implemented in 2013-14. While each LEA received the same percentage of its remaining need in new implementation funding, the actual dollar amounts varied. The intent was that all LEAs reach full implementation at approximately the same time. During the transition period, LEAs were required to estimate how much of their starting point of funding for LCFF was base grant and how much was supplemental or concentration grant funding. This estimate then allowed an LEA to further estimate how much of the new LCFF implementation funding received each year was attributable to the base grant and how much is attributable to supplemental and concentration grant funds. With full-funding of the formula, this split will no longer be an estimate. LEAs and stakeholders will be able to see how much funding is received through each category on the Department of Education (CDE) website and reported through each LEA's local control and accountability plan (LCAP).

Restrictions on Supplemental Funding. Statute requires LEAs to increase or improve services for unduplicated students in proportion to the supplemental funding LEAs receive for the enrollment of these students. The law also allows this funding to be used for school-wide and district-wide purposes. The State Board of Education (SBE) adopted regulations governing LEAs expenditures of this supplemental funding that require an LEA to increase or improve services for unduplicated students, compared to the services provided for all students, in proportion to the supplemental funding LEAs receive for the enrollment of these students. LEAs determine the proportion by which an LEA must increase or improve services by dividing the amount of the LCFF funding attributed to the supplemental and concentration grant by the remainder of the LEA's LCFF funding. Whereas, this percentage (known as the minimum proportionality percentage (MPP)), relied on an LEA's estimates during the transition period, under a fully funded system it would instead be based on the actual allocation to each LEA as determined by the CDE. The regulations allow an LEA to meet this requirement in a qualitative or quantitative manner and detail these expenditures in their LCAP.

Accountability

Prior to 2013-14, LEAs were held accountable in different ways for a variety of programs. Each individual categorical program had its own accountability requirements, although often this was limited to accountability for the expenditure of funds in accordance with allowable uses, rather than the impact on actual student outcomes. State and federal accountability systems provided an aggregate measure of school and district performance. The state and federal accountability systems relied primarily on student assessment data. The state used the Academic Performance Index (API), which included constructed data from previous statewide assessments, aligned to the former academic standards, to create a performance target. School districts, schools, and student subgroups that did not meet the performance target were required to meet growth targets. The federal accountability system used a measure called Adequate Yearly Progress (AYP) that relies on student assessment scores, student participation in assessments, graduation rates and the API. Schools and districts that failed to meet benchmarks and make progress could be subject to interventions.

In 2013-14, the state began to transition to new assessments, aligned to new statewide academic content standards. Most student assessment scores were not available for assessments given in the spring of 2014, since the state was piloting a new assessment system. In addition the state was moving away from using test scores as the main determinant of LEA success. Accordingly, based on statutory authority, the SBE approved a recommendation by the state superintendent and the Legislature and Governor agreed, to not calculate the API for the 2013-14, 2014-15, 2015-16, and 2016-17 fiscal years.

Federal Accountability

The federal school accountability system was evolving during the same time-frame as the state-level reforms. In December 2015, the federal No Child Left Behind Act was reauthorized as the Every Student Succeeds Act (ESSA). California initially applied for and received a waiver of federal law exempting the state from the calculation of the AYP for some schools and districts. Most federal accountability requirements were frozen during the transition, with most new ESSA accountability requirements effective in 2017-18.

Under ESSA, of the total Title I grant amount (approximately $2 billion), states must set aside seven percent for school improvement interventions and technical assistance. The majority of these funds must be used to provide up to four-year grants to LEAs. States may also set aside three percent of the total Title I allocation for direct services to students. States must develop accountability systems that rate schools using academic achievement, growth rates (K-8), graduation rates (high school), English learner progress in language proficiency, and other factors determined by the state. Title I requires identification of, and intervention in, the lowest performing five percent of schools, high schools that fail to graduate more than one-third of their students, and schools in which any subgroup is in the lowest performing five percent and has not improved over time.

California's implementation of a federal accountability system is dependent on approval of the state plan for ESSA by the federal Department of Education. Currently the SBE has approved a revised plan (updated to respond to feedback from the federal Department of Education) at their January meeting and subsequently submitted it for consideration. At their March 2018 meeting the SBE will vote on methods to identify schools that fall under the Title I requirements for intervention and support. However, the SBE and the CDE have noted their commitment to developing a single system to meet federal requirements within the LCFF accountability system to the greatest extent possible. The selected method would be submitted to the federal Department of Education as a supplement to the state plan.

State Accountability

Local Control and Accountability Plans (LCAP). To ensure accountability for LCFF funds, the state requires that all LEAs annually adopt and update a LCAP. The LCAP must include locally-determined goals, actions, services, and expenditures of LCFF funds for each school year in support of the state educational priorities that are specified in statute, as well as any additional local priorities. In adopting the LCAP, LEAs must consult with parents, students, teachers, and other school employees.

The eight state priorities that must be addressed in the LCAP, for all students and significant student subgroups in a school district and at each school, are:

- *Williams* settlement issues (adequacy of credentialed teachers, instructional materials, and school facilities).
- Implementation of academic content standards.
- Parental involvement.
- Pupil achievement (measured in part by statewide assessments, Academic Performance Index, and progress of English-language learners toward English proficiency).
- Pupil engagement (measured by attendance, graduation, and dropout data).

- School climate (measured in part by suspension and expulsion rates).
- The extent to which students have access to a broad course of study.
- Pupil outcomes for non-state-assessed courses of study.

County offices of education must address the following two priorities, in addition:

- Coordination of services for foster youth.
- Coordination of education for expelled students.

School district LCAPs are subject to review and approval by COEs, while county office of education LCAPs are subject to review and approval by the State Superintendent of Public Instruction (SPI). Statute also established a process for districts to receive technical assistance related to their LCAPs. The SPI is authorized to intervene in a district that is failing to improve outcomes for students after receiving technical assistance.

In addition, under changes made as part of the 2017 Budget Act, COEs are also required to provide a summary of the plan for supporting schools and school districts within their county, including a description of goals for LCAP review, and provision of technical assistance and support. COEs must measure progress towards meeting these goals by identifying and assessing metrics, as well as specifying the actions and expenditures to meet these goals. Finally, COEs must identify how they are collaborating with the California Collaborative for Educational Excellence, the CDE, and other county offices of education.

Evaluation Rubrics. As required by LCFF statute, the SBE adopted tools that evaluate performance based on specified criteria, known as evaluation rubrics, in September 2016. Specifically, the evaluation rubrics developed by the SBE are required to: (1) assist LEAs in evaluating their strengths, weaknesses, and areas that require improvement; (2) assist county superintendents of schools in identifying and providing resources for LEAs in need of technical assistance; and, (3) assist the SPI in identifying LEAs for which technical support and/or intervention is warranted. Statute further requires that the evaluation rubrics provide for a multidimensional assessment of district and school site performance, including adopting standards for performance and improvement in each of the state priority areas.

The SBE developed an online tool and interface for the rubrics, called the California School Dashboard, which was launched at the end of 2017. This new tool includes the following components, some of which are still in progress:

1) State and local performance indicators that reflect performance on the LCFF priorities:

- State level indicators are available through the CDE data system, CALPADS, are comparable statewide, and include the following:
  - o Academic indicator based on student test scores on English Language Arts (ELA) and Math for grades 3–8, including a measure of individual student growth, when feasible, and results on the Next Generation Science Standards assessment, when available.

- College/career indicator, which combines Grade 11 test scores on ELA and Math and other measures of college and career readiness.
- English learner indicator that measures progress of English learners toward English language proficiency and incorporates data on reclassification rates.
- High school graduation rates.
- Chronic absence rates, when available.
- Suspension rates by grade span.

* Local indicators rely on local data and are not reported at the state level. These include:
    - Appropriately assigned teachers, access to curriculum-aligned instructional materials, and safe, clean and functional school facilities.
    - Implementation of state academic standards.
    - Parent engagement.
    - School climate – local climate surveys.
    - Coordination of services for expelled students (county offices of education).
    - Coordination of services for foster youth (county offices of education).

2) Performance standards for each indicator allowing LEAs and schools to identify both progress and needed improvements. For each state indicator, the SBE has determined a measurement based on a LEAs current performance and improvement over time (over a three-year period if available). This combined measure then falls into a color-coded range, with each LEA, school, and student group measured annually. This method will allow for an easily accessible display as part of the dashboard for district and school administrators, teachers, students, parents, and other stakeholders. Currently the SBE has approved performance standards for the state indicators and for local indicators, the SBE has approved some self-reflection tools and a method for LEAs to self-assess as “met”, “not met”, or “not met for more than two years.” The SBE and CDE have several working groups in special subject areas that will continue to inform and help refine the indicators over the next few years.

The dashboard uses color coded pie shapes to show how an LEA scores on a particular indicator. For example, a full pie (blue in color) means that the LEA is in the highest performance category, while a pie with one slice (red in color) means that an LEA is in the lowest performance category. Additional functionality allows for the user to look at school and student group data and understand if an LEA is improving in any indicator area. A sample of the school dashboard is below:

Equity Report | Status and Change Report | Detailed Reports | Student Group Report

The Equity Report shows the performance levels for all students on the state indicators. It also shows the total number of student groups that received a performance level for each indicator and how many of those student groups are in the two lowest performance levels (Red/Orange). The total number of student groups may vary due to the number of grade levels included within each indicator.

State Indicators	All Students Performance	Total Student Groups	Student Groups in Red/Orange
Chronic Absenteeism	N/A	N/A	N/A
Suspension Rate (K-12)		9	2
English Learner Progress (K-12)		1	0
Graduation Rate (9-12)		6	4
College/Career Available Fall 2017. Select for Grade 11 assessment results.		N/A	N/A
English Language Arts (3-8)		8	0
Mathematics (3-8)		8	1

Source: Department of Education

The LCAP template was updated in 2017 to include a description of those indicators for which the LEA scored orange or red and the actions and services an LEA is undertaking in these areas.

The dashboard is also now used in 2017-18 to identify LEAs in need of additional support and assistance under the state's accountability system. Along with the release of the dashboard, the SBE identified LEAs in need of assistance based on the dashboard and created a tiered structure, based on statute, to provide this assistance. The tiers of support are described below in more detail.

Overview of Statewide System of Support

Level of Support	Description of Supports Available
Support for All LEAs and Schools (Level 1)	Various state and local agencies provide an array of resources, tools, and voluntary assistance that **all** LEAs may use to improve student performance at the LEA and school level and narrow disparities among student groups across the LCFF priorities, including recognition for success and the ability to share promising practices.
Differentiated Assistance (Level 2)	County superintendents, the CDE, charter authorizers, and the California Collaborative for Educational Excellence (CCEE) provide **differentiated assistance** for LEAs and schools, in the form of individually designed assistance, to address identified performance issues, including significant disparities in performance among student groups.
Intensive Intervention (Level 3)	The State Superintendent of Public Instruction or, for charter schools, the charter authorizer may require more **intensive interventions** for LEAs or schools with persistent performance issues over a specified time period.

Source: State Board of Education: January 18, 2018 Agenda, Item 3

In December, COEs, coordinated by the California County Superintendents Educational Services Association (CCSESA), reached out to the LEAs in identified in need of differentiated assistance within their county to begin the technical assistance process and discuss additional meetings to further assess the LEA's data. Also notable, in this first cohort identified for technical assistance, approximately two-thirds of the identified LEAs have been identified based on the performance for their students with disabilities student group in one or more priority areas.

California Collaborative for Educational Excellence (CCEE). The CCEE was created as part of the new LCFF accountability framework, with its goal to advise and assist school districts charter schools, and county offices of education to achieve identified outcomes in their LCAPs under the LCFF. Statue allows the CCEE to accept requests or referrals for technical assistance after consulting with the SPI. The CCEE may contract with individuals, LEAs, or organizations with expertise in the LCAP state priority areas and experience in improving the quality of teaching, improving school and district leadership, and addressing the needs of student populations (such as unduplicated students or students with exceptional needs.) Since its inception, the CCEE has been provided one-time funding, totaling over $30 million for its initial operations and one-time work to inform future operations. Although the initial infusion of funding was provided in the 2013-14 year, the CCEE has taken a few years to fully staff up and develop as an agency. Thus far the CCEE has conducted statewide training for LEAs and education stakeholders on the LCAP and the school dashboard, with a focus on improving student outcomes and closing the achievement gap. Statewide trainings and webinars focusing on different components of the accountability system are continuing through the 2017-18 year, as well as training for individual LEAs by request, or groups of stakeholders. The CCEE is also developing and curating materials and resources for a trainer's library to allow registered trainers at the local level to continue to support administrative staff, teachers, students, parents, and the public as needed at an LEA. In addition, the CCEE has facilitated the development of Professional Learning Networks (PLNs) made up of COEs, statewide organizations, and non-profits led by facilitators to support collaborative efforts to build capacity. The response to PLNs from the field has been positive thus far.

The CCEE was also charged with conducting a pilot program designed to assist the CCEE in developing and designing their work in providing technical assistance and intervention to LEAs. The CCEE has undertaken pilot projects in 11 LEAs that reflect urban, suburban, and rural areas with different needs for technical assistance, including a COE and a charter school. LEAs volunteered for the pilot program and the CCEE selected LEAs to participate based on whether the LEA had: 1) persistent academic/achievement challenges as evidenced by achievement gaps between student demographic groups, test scores, or other metrics; 2) a leadership team, including the Board of Trustees overseeing the LEA, that fully commits to participating in pilot process; and 3) the support of their county office of education. The CCEE is conducting pilots over a three-year period beginning in 2016-17 and is required to provide a final evaluation to the Governor and Legislature at the conclusion of the pilot program.

GOVERNOR'S PROPOSAL

The 2018-19 Governor's budget proposes to provide an additional $2.9 billion in ongoing Proposition 98 funding for LCFF implementation. With the addition of this funding, all LEAs would be at their targets and fully funded based on the LCFF. This includes the application of a 2.51 percent cost-of-living adjustment in 2018-19. The Governor also proposes changes to the accountability system as described below:

- **COEs.** $55 million in ongoing Proposition 98 funding for COEs to support districts that are in need of improvement as identified under the new dashboard system as described above. COEs would be provided a base grant (regardless of the number of districts in the county identified for differentiated assistance) and an amount per district in need of assistance adjusted by size of the district. Grants would be averaged over a three year period to ensure consistency of funding amounts. In addition, requirements for COEs to support districts in need of technical assistance are further defined in statute to align to the evolution of the tiered support system at the SBE, including a description of the ability of a school district to seek assistance their own and from other county offices. COEs are also required to report on their plans for provision of technical assistance to the CDE, which in turn will compile the information and make it available on their website by November 1 of each year, beginning in 2019. In addition, $4 million is allocated for the selection and support of COEs as lead agencies in their region as selected by the CCEE.

- **Funding Transparency.** Commencing July 1, 2019, LEAs would be required to complete a new summary document (to be adopted by the SBE) with their LEA budget that would link budget expenditures to corresponding actions, services, and goals in their LCAP.

- **Special Education Local Plan Areas (SELPAs).** $10 million in ongoing Proposition 98 funding for SELPAs to work with COEs to improve outcomes for students with special needs. In addition, CDE is required to develop a template for a summary document that supplements the SELPA plan and links SELPA budgeted activities with services and activities and demonstrates consistency with the LCAPs of LEAs in the SELPA. In addition, new requirements are added for an LEA to consult with their SELPA to ensure actions and services in the LCAP are consistent with strategies in the SELPA plan to support students with disabilities.

- **CCEE.** $11 million Proposition 98 funding ($4.8 million is reappropriated from prior allocations) for the operations of the CCEE in the 2018-19 year. The CCEE is also charged with establishing lead COEs in each region. Between six and ten COEs would be selected by the CCEE to build capacity and collaboration in their region, become repositories of expertise and information, and support other counties in their technical assistance work as needed. The CCEE is also given authority, subject to future budget appropriations, to select lead agencies for areas of specific expertise statewide. Proposed language further details the future operations of the CCEE including ongoing professional development activities, support of lead agencies, and direct technical assistance to LEAs under limited circumstances.

ISSUES TO CONSIDER

LCFF Formula. The Governor's LCFF funding proposal fully funds LCFF two years prior to the estimated full funding date of 2020-21. This not only provides LEAs with significantly new resources earlier than anticipated, but also provides greater transparency for the state, LEAs, and stakeholders about how much each LEAs LCFF allocation is comprised of base grant, supplemental grant, and concentration grant amounts. Since there are regulations that guide the expenditure of supplemental and concentration grant funds, a fully funded formula provides greater transparency around what these grant amounts are and how LEAs are meeting those regulations. The need for transparency of expenditures has been one of the continued themes of some stakeholder groups. The Legislature may wish to examine how the clarity that fully funding the formula may contribute to a greater understanding of LEA budgets and decisions to increase and improve services between LEAs and stakeholders and how the proposal for a new budget alignment document would increase this transparency.

The LCFF is one of Governor Brown's signature reforms during his time in office. Fully funding the LCFF by the end of his last term completes this multi-year endeavor. After full funding, current statute adjusts the formula by growth in ADA and cost of living in future years. With LEAs concerned about rising operational costs (retirement system contributions, health care costs, and special education costs among others), the Legislature may wish to examine multi-year projections and the implication for future growth in LCFF based on the current formula. The Legislature has been a supportive partner in reaching full implementation and may wish to engage in a conversation with the Administration about whether there is a need to shore up the formula for future years and the options for and implications of doing so.

Accountability and Continuous Support. The Legislature should also continue to monitor the ongoing accountability work of the SBE and partners. The accountability system is intended to be a catalyst for improvement. LEAs and their stakeholders can use the information to drive change in practices at the local level, to support outcomes for students, and to make progress towards closing the achievement gap. The LCAP is intended to be a dynamic planning tool that helps to focus resources and drive improvements. The new California Schools Dashboard is intended to help make a new more complex, multi-measure, accountability system easily understandable to the school community and broader public and inform and underpin the LCAP.

However, with the release of the dashboard and the identification of LEAs in need of differentiated assistance, for schools and districts facing the most challenges the tools provided through the SBE and the work of the CDE, COEs, and the CCEE will be critical in providing the guidance to ensure these schools and districts are providing the education that students deserve. There have been multiple intervention, turnaround, and support programs through federal and state law in past years, this new approach is designed to create a continuous improvement culture and build local capacity. The Legislature may wish to examine whether the Governor's proposal to build out the capacity of county offices of education provides enough support and structure to ensure struggling LEAs are provided with pathways to improvement.

The CCEE has been an evolving agency since its creation; along with the new accountability system. While initial work on statewide professional development and pilot programs is winding down, the Legislature may wish to explore lessons learned thus far as they examine the Governor's proposal for operational funding of the CCEE.

Finally, the dashboard has highlighted an unsurprising inequity in our education system, that of outcomes for students with disabilities. Funding for students with disabilities is provided by both a state categorical program and a federal grant with the remainder made up by LEA funds, likely primarily LCFF funds. The LCAP specifically requires LEAs to detail actions and services for all student subgroups, including those students with disabilities. The Governor's proposal to better align the SELPA plans with the LCAP has merit. The Legislature may wish to ensure that the capacity building of COEs and the CCEE, as proposed by the Governor, are aligned with the new SELPA proposals to better incorporate special education services into LCFF accountability, and that the resources are available statewide to address the need for improved outcomes for these students.

K-12 Career Technical Education

BACKGROUND

Career Technical Education (CTE) is generally described as workforce-related training and education. In California's education system, CTE is provided through the K-12 system, primarily in high schools, through the California Community Colleges (CCC), and also through adult education providers.

K-12 CTE. The California Department of Education (CDE) defines career technical education as a *"….program of study that involves a multiyear sequence of courses that integrates core academic knowledge with technical and occupational knowledge to provide students with a pathway to postsecondary education and careers."* It further defines 15 industry fields for career technical education as noted in the table below:

Industry Sectors	
Agriculture	Health Science and Medical Technology
Arts, Media, and Entertainment	Hospitality, Tourism, and Recreation
Building Trades and Construction	Information Technology
Business and Finance	Manufacturing and Product Development
Child Development and Family Services	Marketing, Sales, and Services
Energy and Utilities	Public Services
Engineering and Design	Transportation
Fashion and Interior Design	

In 2005, the State Board of Education (SBE) adopted model curriculum standards for CTE, and in 2007 the board further adopted a framework for implementing the CTE curriculum in grades seven through twelve. In 2013, the board updated these standards and aligned them with the state's Common Core English language and mathematics standards, Next Generation Science standards, and history/social science standards. CTE standards are divided by each of the 15 sectors identified above and, according to the CDE, are intended to define the knowledge, concepts, and skills that students should acquire at each grade level. School districts are required by statute to offer to all otherwise qualified students in grades seven to twelve a course of study that provides an opportunity for those students to attain entry-level employment skills in business or industry upon graduation from high school. Offering CTE courses that comply with the CTE model curriculum standards meets these statutory requirements.

A formal CTE program has long been incorporated into the curriculum of many high schools. In recent years, CTE has largely been operated through Regional Occupational Centers and Programs (ROCPs), which provide services for high school students over 16 and some adult students. According to the CDE, approximately 470,000 students enroll in ROCPs each year. Students may receive training at schools or at regional centers. The provision of CTE by ROCPs varies across the state and services are provided under the following organizational structures: 1) a county office of education operates an ROCP in which school districts participate, 2) school districts participate in a joint powers agreement that operates an ROCP, or 3) a single school district operates an ROCP. Prior to 2008-09, ROCPs received funding through a categorical block grant (approximately $450 million Proposition 98 annually), based on hourly attendance. However under the policy of categorical flexibility, school districts could use ROCP funds for any purpose through 2012-13. Commencing with the 2013-14 fiscal year, the state transitioned to funding K-12 education under the Local Control Funding Formula (LCFF). This new formula eliminated most categorical programs, including separate ROCP funding, and instead provided school districts with a grade span adjusted per average daily attendance (ADA) amount based on the number and characteristics (low-income, English learner and foster youth students generate additional funds) of K-12 students. The high school grade-span rate included an additional 2.6 percent increase over the base grant to represent the cost of CTE in high schools; however, school districts are not required to spend this funding on CTE. In order to protect CTE programs as the state transitioned to LCFF, the Legislature and the Governor enacted a maintenance-of-effort requirement to ensure local educational agencies (LEAs) continued to expend, from their LCFF allocation, the same amount of funds on CTE as they had in 2012-13 through the 2014-15 fiscal year.

CTE Incentive Grant Program. In 2015-16, the Legislature and Governor responded to concerns that CTE programs needed additional support outside of LCFF in the short-term to ensure sustainability of quality programs by enacting the CTE Incentive Grant program. This grant program provided one-time Proposition 98 funding for each of the 2015-16 through 2017-18 fiscal years, with a local matching requirement. The funding amount and match requirement were adjusted each year, as follows:

- 2015-16: $400 million, match requirement 1:1 (grant funding : local match)
- 2016-17: $300 million, match requirement 1:1.5
- 2017-18: $200 million, match requirement 1:2

School districts, charter schools, county offices of education, joint powers agencies, or any combination of those could apply for these funds to develop and expand CTE programs. Matching funds could come from LCFF, foundation funds, federal Perkins Grant, California Partnership Academies, the Agricultural Incentive Grant, and any other fund source with the exception of the California Career Pathways Trust. Grantees were also required to provide a plan for continued support of the program for at least three years after the expiration of the three year grant. In addition, grantees were subject to the following requirements for eligible programs:

- Curriculum and instruction that aligns with the California Career Technical Education Model Curriculum Standards.
- Quality career exploration and guidance for students.
- Pupil support and leadership development.
- System alignment and coherence.
- Ongoing, formal industry and labor partnerships.

- Opportunities for after-school, extended day, and out-of-school work based learning.
- Reflection of regional or local labor market demands, and focused on high skill, high wage, or high-demand occupations.
- Leads to an industry recognized credential, certificate, or appropriate post-secondary training or employment.
- Skilled teachers or faculty with professional development opportunities.
- Data reporting.

The CDE, in conjunction with the SBE, determined whether a grantee continued to receive funds after the initial year based on the data reported by program participants.

The CDE identified, and the SBE approved, 365 applicants for grantees in 2015-16. For 2016-17, the CDE identified and the SBE approved 362 renewal applications, as well as several new grantees. Finally, for 2017-18, the CDE reports that there were 393 total participants in the program, although grant information is still being finalized.

While the majority of the funds were allocated to program applicants, one percent was available for technical assistance activities. The CDE identified the following county offices to provide regional technical assistance: Butte, Fresno, Los Angeles, Napa, Sacramento, San Bernardino, and Santa Barbara.

K-12 CTE Outcomes and Accountability. While the CTE Incentive Grant had measurable outcomes for grant recipients, preparing students for college and careers more broadly is also part of the state's expectations for local educational agencies (LEAs) (school districts, county offices of education, and charter schools) under the state's multiple measure accountability system that was created along with LCFF. Under this system, the SBE adopted the college and career readiness indicator (CCI) for use beginning in the Fall of 2017, based on 2016-17 data. This new indicator ranks the college and career readiness of graduating students, by assessing a student's attainment of the following, in addition to a high school diploma: CTE pathway completion; mastery of English language arts and mathematics standards; completion of Advanced Placement (AP) exams and/or International Baccalaureate (IB) exams; dual enrollment credit, and completion of A-G courses (courses that count towards the requirements for attending a California State University or a University of California). Indicator categories include "prepared", "approaching prepared", and "not-prepared" for college and careers. The CCI is one of several indicators by which the state tracks both the status of LEAs and progress made to determine the need for additional support. In 2017, the California School Dashboard, the online tool for displaying these indicators, will only show the status of LEAs on the CCI as there is only one year of data currently available. Change in status and performance levels will not be reported for any LEA, school, or student group until the Fall 2018 Dashboard. While the CCI is not solely a measure of CTE, LEAs providing access to robust CTE programs will be able to more easily reach higher ratings. At this point, tracking of students into post-secondary education, and specifically CTE programs and employment is limited; however, the SBE has left open the possibility of adding additional metrics to the CCI to increase its' ability to determine "career readiness".

California Community Colleges CTE. CCCs have also historically provided CTE for students to gain the basic knowledge and skills necessary to actively participate as citizens and to enter the workforce. The Chancellor's Office of the CCC defines 15 economic regions and identifies 10 priority industry sectors: advanced manufacturing; advanced transportation and renewable energy; agriculture, water, and environmental technologies; energy, construction, and utilities; global trade and logistics; health; information and communication technologies/digital media; life sciences/biotech; retail, hospitality, and tourism; and small business. Approximately 27 percent of community college enrollment is in CTE courses. Programs range considerably, from short-term certificates in a particular field (e.g. Medical Assistant, Auto Mechanic, Early Child Development Specialist, Landscape Designer) to associate degrees in fields such as nursing. Under their Economic and Workforce Development program, the Chancellor's office has also established common performance measures designed to apply to all CCC workforce programs.

The CCC and K-12 systems have coordinated their CTE programs through some prior and existing efforts**.** For example, the 2013 and 2014 Budget Act provided a total of $500 million Proposition 98 for the California Career Pathways Trust (CCPT). Under this program, approximately $250 million for each of 2013-14 and 2015-16 was made available to school districts, county superintendents of schools, charter schools, and community college districts in the form of one-time competitive grants to establish or expand career pathway programs in grades nine through fourteen to prepare students for employment in industry sectors in their local or regional areas. Grant recipients also were required to commit to support programs for at least two years after state funding ended. Funding was provided for 79 implementation grants over the two-year period, and grantees included a mix of CCCs, LEAs, and other workforce partners collaborating on CTE pathways. In 2016-17 and 2017-18, $48 million was provided for the CCPT.

California Community Colleges – Strong Workforce Program. The 2017-18 budget provided $248 million ongoing Proposition 98 General Fund for the Strong Workforce Program (an increase of $48 million over the initial year of the program in 2016-17 as CCPT funding was folded into the new program) to improve the availability and quality of CTE and workforce programs leading to certificates, degrees, and other credentials. The ongoing funding is consistent with recommendations of the Task Force on Workforce, Job Creation, and a Strong Economy, a group established by the Board-of-Governors of the Community Colleges (BOG) in late 2014.

AB 1602 (Committee on Budget), Chapter 24, Statutes of 2016 required community colleges to coordinate their CTE activities within seven existing regional consortia. Each consortium, consisting of all community colleges in the region, is required to ensure that its offerings are responsive to the needs of employers, workers, civic leaders, and students. To this end, each consortium must collaborate with local workforce development boards, economic development and industry sector leaders, and representatives from civic and labor organizations within its region. Each consortium also must collaborate with LEAs, adult education consortia, and interested California State University and University of California campuses to improve program alignment.

Consortia must meet at least annually to develop or update four–year program plans based on analyses of regional labor market needs. Each plan must include: regional goals aligned with performance measures under the federal Workforce Innovation and Opportunity Act (WIOA); a work plan, spending plan, and budget for regionally prioritized projects identifying the amounts allocated for one–time and ongoing expenditure; and a description of the alignment of the plan with other CTE and workforce plans in the area, including the regional WIOA plan. The Chancellor's Office reviews the plans and will be providing technical assistance to consortia that are not meeting their goals. The first set of plans was developed in the 2016-17 fiscal year and will be updated annually. The Chancellor's Office posts regional plans on the CCC website and, beginning January 1, 2018, must annually submit a report to the Governor and the Legislature on performance outcomes, disaggregated for underserved demographic groups. The first report has not yet been released by the Chancellor's Office.

Under the Strong Workforce Program, the Chancellor provides 40 percent of program funds to the seven CTE regional consortia and 60 percent directly to community college districts. Both pots of funding are for supporting regionally prioritized initiatives aligned with their CTE program plans. CCC districts are prohibited from using the new funds to supplant existing support for CTE programs. The Chancellor may allocate up to five percent of the funds to a community college district for statewide activities to improve and administer the program.

For 2016–17, each region's and district's funding allocation reflected its share of: (1) the state's unemployed adults, (2) FTE students enrolled in CTE courses, and (3) projected job openings. Each of these factors determined one–third of that year's allocation. Beginning in 2017–18, unemployment and CTE enrollment each comprise 33 percent of the allocation, job openings comprise 17 percent, and successful workforce outcomes (as evidenced by the WIOA performance measures) comprise 17 percent. The Chancellor's Office provides its recommended funding allocation to Department of Finance (DOF) and the Legislative Analyst's Office by August 30 of each year. The release of funds is subject to DOF's approval.

GOVERNOR'S PROPOSAL

The budget proposes to provide $200 million in ongoing Proposition 98 funding for K-12 CTE programs. The funds would be distributed through the Strong Workforce Program operated by the Chancellor's Office of the CCCs. Funds would be used by K-12 local educational agencies (LEAs) to establish and support K-12 CTE programs that are aligned with industry needs.

The allocation to each consortia (made up of CCC districts and other local industry, workforce, and education partners, already established for the Strong Workforce Program) would be based on three factors: the unemployment rate in the region, the region's total ADA for students in grades seven through 12, and the proportion of projected job openings in the region. Funding would be further divided within each region to ensure that LEAs of all sizes are able to compete. The Administration proposes to create a subcommittee of individuals with K-12 education and workforce development expertise within each consortium. This subcommittee would award competitive grants to LEAs, in consultation with the consortium. Grantees must align their CTE efforts with the regional consortia plan and provide a 1:1 local match if they apply as an ROCP or program operated as a joint powers agreement, or a 2:1 match if applying on behalf of a single LEA. Programs generally must meet the quality requirements established under the CTE Incentive Grant and report similar outcome data.

The Governor also proposes an additional ongoing $12 million to establish K-12 Workforce Pathway Coordinators in each CCC district to provide technical assistance and create partnerships with local industry.

ISSUES TO CONSIDER

CTE has been a part of high schools, adult education providers, and CCCs in some form since their inception. Over time, the funding and structure have been both formalized and changed several times to keep up with the needs of the students and the system and to reflect evolving attitudes about the purpose of CTE. With the introduction of the Strong Workforce Program, CTE at the CCCs is more closely tied with achieving employment and wage gains for students. Thus far, initial reports regarding the program have been positive, with closer industry ties, more relevant and easier to access coursework, and funding more targeted to communities and students in need, although there is no formal evaluation of the program yet. The CCC also has not yet released the annual summary report of the first year of outcomes that was due January 1, 2018.

CTE in the K-12 system has also evolved to include a standards-based curriculum, increases in CTE courses that are A-G compliant, growing linkages with industries, and increased accountability for student outcomes. With the Governor's proposal, the vision for CTE in K-12 education would shift to be more tied to workforce needs and community college pathways. With the expiration of the CTE Incentive Grant, the Legislature may wish to consider the vision for and funding of K-12 CTE in 2018-19 and future years. The Governor's proposal, while providing ongoing funding for K-12 CTE, does raise a number of issues for Legislative consideration, as detailed below:

State-level Oversight. The proposal would shift funding of K-12 CTE programs from the CDE to the CCC. While the CCC and CDE have coordinated on CTE programs in the past, this would be a shift in the responsibility for the allocation of funding for a K-12 specific program to reside at the CCC. The Legislature may wish to evaluate what the Administration considers to be the benefits of this arrangement and whether there would be drawbacks, particularly given that the CDE houses the state-level technical expertise on these programs, and provides statewide curriculum standards-setting and curricular support. In addition, under the Strong Workforce Program, the CCC currently approves consortia plans and provides technical assistance in meeting goals. They would presumably play this same role for the K-12 system in addition to, or along with, pathway coordinators. The Legislature may wish to consider the alignment of CCC and K-12 CTE goals and desired outcomes to ensure that there is appropriate oversight and support of K-12 CTE. This may be complicated, however, because the CCC and the CDE do not currently have aligned identified industry sectors under their CTE umbrellas.

Local Governance and Accountability. The Governor proposes for the actual selection and awarding of the grants to be done at the consortia level. Funds would be allocated to consortia based on ADA, a measure of unemployment, and a measure of job openings in the area. LEAs would apply for grants that rely on their programs alignment with recognized workforce needs in their areas. The Strong Workforce program consortia have recently established their governance structures under the program they were put in place to operate. The Legislature may wish to consider whether these governance structures are able to accommodate the needs of K-12 education, given they are currently just one of many members, and what changes would need to be made to ensure funding of K-12 CTE is consistent with school district needs for their students. The membership of the subcommittees that would award grants to the LEAs and the influence of the consortia governance on this process remain unclear in the proposal. Expected outcomes for students in the K-12 system may not align with those of students in the CCC system. The focus at the K-12 level in some circumstances may more appropriately be on student completion of high-quality CTE sequences to inform future college and career decision making, rather than the attainment of immediate skilled employment or living wages. In addition, some K-12 CTE may not necessarily be as aligned to immediate regional industry needs because of the prioritization of creating a broad base of experience for high school students and maximizing student participation and engagement. Any program must take into account these and any other differences in the missions of the education segments.

Transitioning from the CTE Incentive Grant. Many K-12 CTE programs may have already received funding under the CTE Incentive Grant. Through that program, grantees had to provide assurances that programs could be sustained for three years after the end of state funding. The Legislature may want to consider how CTE programs supported under the CTE Incentive Grant would be eligible for this newly proposed funding. The Legislature may also wish to consider how best to build off of some of the outcome measures established under the CTE Incentive Grant Program intended to ensure CTE programs were of high quality. The Legislature may also wish to consult with the CDE on any lessons learned from administering the incentive grant program. For example, the CTE Incentive Grant provided technical assistance grants to county offices of education and the evaluation of this practice may inform the need for and use of grants for pathway coordinators at the CCC districts, as proposed by the Administration.

California Community Colleges - Funding

BACKGROUND

The California Community Colleges (CCC) is the largest system of community college education in the United States, serving approximately 2.1 million students annually, with 1.2 million of these full-time equivalent students. The CCC system is made up of 114 colleges operated by 72 community college districts throughout the state. California's two-year institutions provide programs of study and courses, in both credit and noncredit categories, which address its three primary areas of mission: education leading to associates degrees and university transfer; career technical education; and basic skills. The community colleges also offer a wide range of programs and courses to support economic development and specialized populations.

As outlined in the Master Plan for Higher Education in 1960, the community colleges were designated to have an open admission policy and bear the most extensive responsibility for lower-division, undergraduate instruction. The community college mission was further revised with the passage of Assembly Bill 1725 (Vasconcellos), Chapter 973, Statutes of 1988, which called for comprehensive reforms in every aspect of community college education and organization.

The Board of Governors (BOG) of the CCCs was established in 1967 to provide statewide leadership to California's community colleges. The board has 17 members appointed by the Governor, subject to Senate confirmation. Twelve members are appointed to six-year terms and two student members, two faculty members, and one classified member are appointed to two-year terms. The objectives of the board are:

- Provide direction, and coordination to California's community colleges.
- Apportion state funds to districts and ensure prudent use of public resources.
- Improve district and campus programs through informational and technical services on a statewide basis.

Additionally, key functions include setting minimum standards for districts, maintaining comprehensive educational and fiscal accountability system and overseeing statewide programs.

The following table displays proposed 2018-19 expenditures and positions for the CCCs, as compared to the previous and current budget years. Of the amounts displayed in the table, $5.3 billion in 2016-17, $5.7 billion in 2017-18, and $6.1 billion in 2018-19 is from Proposition 98 General Fund, and $18.2 million in 2016-17, $14.7 million in 2017-18, and $18.1 million in 2018-19 is from non-Proposition 98 General Fund. The remainder of funding comes from local property tax revenue, fee revenue and various special and federal fund sources.

California Community Colleges Budgeted Expenditures and Positions
Dollars in Millions

(Dollars in Millions)	2016-17	2017-18	2018-19
Personal Services	$17.9	$19.6	$20.4
Operating Expenses and Equipment	$4	$8.5	$7.8
Local Assistance	$8,907	$9,384	$9,893
Total Expenditures	**$8,928.9**	**$9,412.1**	**$9,921.2**
Positions	**144**	**143.5**	**143.5**

As noted above, the bulk of CCC's core operational funding comes from the state General Fund and local property tax revenue, with much smaller shares coming from student fees and state lottery revenue. In 2016-17, of CCC's $8.9 billion in core operational funding, 74 percent was unrestricted. Unrestricted CCC funds—known as apportionments—are allocated to districts primarily based on enrollment. Other allocation factors include the number and types of colleges in a district and various measures of a district's need for community college access (such as its population growth, adult educational attainment, unemployment, and poverty level). The state provides each district with roughly the same apportionment amount per student. Under a statutory requirement known as the "50 percent law," districts must spend at least one-half of their apportionments on salary and benefits for instructional faculty.

About One-Quarter of CCC Funding Is Restricted. The remaining 26 percent of CCC's core operational funding in 2016-17 was restricted and allocated to districts through categorical programs. The largest categorical programs are the Adult Education Block Grant ($500 million), Student Success and Support Program and Equity Plans ($481 million), and Strong Workforce Program ($248 million). The state allocates funds for these programs based on various factors specific to each program. For example, Strong Workforce funding is allocated based primarily on districts' enrollment levels for occupational courses, student outcomes - such as job placement and wage gains, - and regional unemployment rates and job openings. The bulk of CCC categorical funding is for student support services and financial aid. With recent growth in student support and aid programs, the share of CCC funding allocated through categorical programs has increased by about 10 percentage points over the past five years.

CCC Tracks Low-Income Students Served. CCC defines low-income students primarily as those who meet one of two criteria: (1) they receive a Pell Grant (federal need-based aid) or (2) they receive a fee waiver (state need-based aid). In 2014-15, 22 percent of CCC students systemwide received a Pell Grant, and approximately one-half of all students received a fee waiver. As federal and state aid recipients do not overlap entirely, somewhat more than one-half of all CCC students systemwide are identified as low-income.

In 2015-16, the six-year completion rate for degree or certificate seeking low-income students was 45 percent, compared with 57 percent for other students. Federal data, also from 2015-16, show three-year CCC completion rates for first time, full-time Pell Grant recipients and non-Pell Grant recipients of 26 percent and 34 percent, respectively.

First-Generation College Students Served. To identify the share of first-generation college students, the CCC's application form asks for the highest level of schooling completed by an applicant's parents. If a student provides this information for two parents, CCC uses the highest education level of the two. CCC defines a first-generation college student as one for whom no parent or guardian has earned more than a high school diploma or ever attended college. Overall, CCC reports that 42 percent of students in the 2015-16 academic year were first-generation college students. CCC does not report outcomes specifically for first-generation college students. However, available national data consistently reflects poorer outcomes for these students.

CCC Student Success Initiative Seeks to Improve Completion Rates. The BOG has set specific goals for improving graduation rates and other student outcomes and eliminating achievement gaps among student subgroups over the next ten years. Under the umbrella of the CCC Student Success Initiative, the system has several statewide programs to help it meet these goals. The largest of these programs, the Student Success and Support program ($306 million in 2017-18), provides student orientation, assessment, and counseling services to all students. In 2017-18, the state also provided $150 million one time for the Guided Pathways Initiative, which is intended to develop better systems for helping all students choose, enter, and complete an academic program.

In addition to significant investments to broad-based support programs serving all students, CCC has several programs that specifically benefit low-income and first generation students.

State Funding for California Community Colleges' Student Success Programs
(Dollars in millions)

Program	Description	Funding (In Millions)
Student Equity Plans	Funds activities to identify and address disparities in access and outcomes for various subgroups of CCC Students. Funding is distributed to districts based on various factors including: annual FTES, high need students, educational attainment of residential zip code, poverty rate, unemployment rate, and unduplicated Foster Youth headcount.	$160
Extended Opportunity Programs and Services (EOPS)	EOPS provides various supplemental services, such as academic and support counselling, financial aid and other support services, for low-income and academically disadvantaged students (such as first generation college student or current/former foster youth), as well as welfare-dependent single parents. Funds are distributed based on a standard base allocation for each college, and the number of eligible students.	125
Basic Skills Initiative	Funds counseling and tutoring for academically underprepared students as well as curriculum and professional development for basic skills faculty.	50
CalWORKs Student	Provides child care, career counseling, subsidized employment, and other supplemental services to CCC students receiving CalWORKs	44

Services	assistance. (These services are in addition to those provided to all CalWORKs recipients by county welfare departments.)	
Umoja	Provides professional development for faculty, staff, and students and augments instruction and student services. Purpose is to improve student experiences by promoting awareness of African and African‑American culture.	3
Campus Child Care Centers	Funds child care centers (aimed primarily at low‑income women studying at CCC) at 25 community college districts.	3
Mathematics, Engineering, and Science and Achievement	Provides academic counseling, workshops, and community‑building activities for educationally disadvantaged students seeking careers in math, science, and engineering fields.	2
Puente	Provides faculty and staff professional development and student mentoring and counseling to increase academic achievement for underserved students. Program is a partnership with University of California and emphasizes successful transfer to universities.	2
Middle College High School	Provides high school and community college instruction to high‑potential, at‑risk high school students. Instruction is provided on community college campuses.	2
Total		**$391**

In addition to the student services above, low-income students also receive financial aid through:

- Promise Grant (formerly known as the Board of Governors Fee Waiver): a state support grant to cover enrollment fees.
- Pell Grant: a federally support granted to cover cost of attendance.
- Cal Grant: a state funded financial aid program which includes tuition grant and cash stipends for cost of attendance.
- Full-Time Student Success Grant: a state funded grant for Cal Grant recipients to receive additional aid for enrolling at least 12 units per term.
- Completion Grant: a state funded grant for Cal Grant recipients enrolled in at least 15 units and maintaining academic progress to on-time degree completion.

GOVERNOR'S PROPOSAL

New Funding Model – The Governor proposes a new allocation formula, the Student-Focused Funding Formula, and provides $175 million to ensure no college receives less under the new formula than it would receive under current law. Under the proposed new formula, funding would be allocated as follows:

- About 25 percent based on the number of low-income students served (as measured by eligibility for College Promise Grant fee waivers, formerly known as the Board of Governor's Fee waiver, and federal Pell grants).

- About 25 percent based on performance outcome measures: (1) the number of degrees and certificates granted, and (2) the number of students who complete a degree or certificate in three years or less. This grant would also include additional funds for each Associate Degree for Transfer granted by a college. By comparison, the current apportionment funding is allocated based primarily on enrollment, with none based on performance.

- The remainder would be provided through a base grant where each district receives a grant based on enrollment, and additionally.

- There will be a hold harmless provision where each district will be held harmless to the level they received in 2017-18.

Increases Apportionments for Growth and COLA – The budget proposes an increase of $161 million in apportionments to cover a 2.51 percent cost-of-living-adjustment, and $60 million to fund one percent enrollment growth.

Adjusts Prior Year and Current Year for Enrollment, Property Tax, and Fee Revenue Changes – The Governor's budget reduces apportionments by $74 million in 2016-17 and $78 million in 2017-18 to reflect unused growth funding. Additionally, the budget adjusts 2016-17 and 2017-18 Proposition 98 General Fund for apportionments to account for updated estimates of local property tax and student fee revenue. These adjustments result in net Proposition 98 General Fund savings of $38 million in 2016-17 and $54 million in 2017-18.

Creates Online Community College – The budget includes $120 million to create a new fully online community college. The college would create and coordinate online courses and programs targeted toward working adults with a high school diploma but lacking a college degree or certificate. Of the funding provided, $100 million would support start-up costs, and $20 million would support ongoing operating expenses.

According to the Administration the college's initial focus would be to develop content and programs to provide vocational training, career advancement opportunities, and credentialing for careers in child development, the service sector, advanced manufacturing, health care and in-home supportive services, among other areas. Consistent with the Student-Focused Funding Formula, apportionment funding for this program will be based on enrollment, the number of underrepresented students enrolled, and student outcomes.

The budget also proposes to accelerate the expansion of courses available through the Online Course Exchange, which will expand access to fully online Associate Degrees for Transfer, and establish a minimum number of fully online transfer degree programs.

New High School Career Technical Education Program Run Through CCC – The budget proposes an increase of $200 million to existing Strong Workforce consortia to be administered by the community colleges in collaboration with California Department of Education. The consortia, in turn, would decide how to allocate the new funds to school districts. Additionally, $12 million would fund local industry experts who would provide technical assistance to school districts with career technical education programs.

Financial Aid Programs – The budget provides $46 million to fund the fee waiver program established by Assembly Bill 19 (Santiago), Chapter 735, Statutes of 2017. AB 19 allows colleges to offer full or partial tuition waivers to all first-time, full-time students who take at least 12 units per semester for their first year of college. The Administration expects colleges to encourage students to take 15 units per semester, or 30 units per year, in order to qualify for AB 19 once guided pathways have been implemented.

The Administration proposes to consolidate the Community College Completion Grant and the Full-Time Student Success Grant into one program, and provides an additional $33 million, bringing total funding for the consolidated program to $124 million. Additionally, the Administration proposes to base the grant amounts on the number of units a qualifying student takes each semester or year.

Apprenticeship Programs Adjustments – The budget proposes a $17.8 million ongoing increase to cover additional costs of classroom instruction for apprenticeship programs, a 32 percent increase over 2017-18. The budget also includes one-time funding of $30.6 million to backfill shortfalls in the reimbursements for classroom instruction for programs from 2013-14 to 2017-18. The budget includes language that would allow apprenticeship programs to claim the credit/enhanced noncredit apportionment funding rate for their classroom instruction. Currently, apprenticeship programs claim reimbursements for classroom instruction at an hourly rate.

Innovation Awards – The budget proposes $20 million one-time to provide grants focused on enhancing equity.

Adult Education Block Grant – The Administration proposes an increase of $20.5 million for a COLA for the program, with $5 million for a data collection and accountability system.

Deferred Maintenance – The budget proposes $264.3 million one-time for deferred maintenance. Of the total, $184 million is from 2017-18 Proposition 98 funds, $81 million is from 2018-19 Proposition 98 funds, and $11 million is from settle-up funds (scored as a Proposition 2 debt payment).

Infrastructure – The budget proposes $45 million in Proposition 51 bonds for five new and 15 continuing CCC infrastructure projects.

Categorical Programs – While the Administration does not have a proposal at this time, the Administration expects the Chancellor's Office to consult with stakeholders to develop a proposal for consideration within the May Revision that would consolidate categorical programs.

Creates an Intersegmental Online Education Learning Lab for Faculty – The budget proposes $10 million General Fund (ongoing) aimed at improving the quality of online courses at UC, CSU, and CCC. Under the Governor's proposal, the Office of Planning and Research would award a multiyear grant to a consortium of institutions. The consortium, in turn, would train faculty from all three segments on effective practices for teaching online. The consortium also would be charged with procuring or developing technology that faculty can use to better assess student learning in their online classes, as well as developing and curating a virtual library of exemplary online courses and course materials.

ISSUES TO CONSIDER

New Funding Model

Enrollment. Over the last few years, colleges are experiencing declining enrollment. The 2016-17 budget set a systemwide growth target of two percent; however, the actual growth was 0.67 percent. Moreover, of the 72 districts, 30 had declining enrollment, 12 are in restoration, and 30 are growing. Additionally, only six college districts met their growth targets. Regarding declines, the state allows districts to claim the higher of their current-year or prior-year enrollment levels—effectively a one-year hold harmless provision. After one year, the state lowers base funding for the affected districts but gives those districts three years to earn back (restore) funding associated with enrollment declines. Each year, some of these districts earn restoration funding. Technically, districts receive restoration funding first, then growth funding. That is, a district receives growth funding only if its actual enrollment exceeds its restoration target. The Administration notes that should this trend and framework continue, many districts risk receiving less funding.

Governor's Proposal. The Governor's proposal for a new CCC allocation formula is a significant departure from how colleges are currently funded. As noted in the background above, funding for community colleges is currently based on the traditional model of enrollment. Under the Governor's proposal, a districts apportionment would be based 50 percent on enrollment, 25 percent on the number of low-income students enrolled, and 25 percent on the number of degrees or certificates earned and number of students who complete a degree or certificate in three years or less. An additional $1,000 would be granted for each Associate Degree for Transfer granted by the college.

The Governor's budget summary notes the state's decades-old community college apportionment formula is not the most effective way for community colleges to reach the goals described in the Chancellor's Office Vision for Success. This plan calls for colleges to significantly increase student completion and transfer rates, increase the number of career technical education students employed in fields of study, and eliminate racial, ethnic and regional achievement gaps. The Governor's budget summary asserts that this formula encourages access for underrepresented students, provides additional funding in recognition of the need to provide additional support for low-income students, and rewards colleges' progress on improving student success metrics.

Many states have instituted performance based funding models in higher education. These types of measures that other states are incorporating include:

- Completion (credential – with weights for type of credential earned, graduation rates, transfer rates, completion for specific student populations)
- Progression (course completion, successful remediation, reaching credit milestones)
- Efficiency/Productivity (time to progression/completion, expenditures per completion, tuition, and debt)
- Graduation Outcomes (job placement, wages, graduate school)

Specifically, according to information provided by the National Conference of State Legislatures, about 32 states have funding formulas or policies in place to allocate a portion of funding based on performance indicators, and five states are currently transitioning to some type of performance funding. The following table provides a few examples of what other states are doing at their community colleges:

Performance-Based Funding For Higher Education			
State	**Status**	**Funding**	**Metrics**
Indiana	In place at two-year and four-year institutions	Six percent for FY 2014 and FY 2015	Metrics for two-year and four-year institutions include: • Degree completion • At-risk degree completion • High impact degree completion • Persistence • Remediation success • On-time graduation • Institution selected measure

Ohio	In place at two-year and four-year institutions	Ohio is in the process of phasing in changes to the state's performance funding model	For FY 2015, two-year colleges are funded as follows:
			• 50 percent course completions
			• 25 percent Completion Milestones—defined as:
			  o Associate degrees
			  o Certificates over 30 credit hours
			  o Students transferring to any four-year institution
			• 25 percent Success Points—defined as:
			  o Students earning their first 15 credit hours.
			  o Students earning their first 30 credit

			hours. o Students earning at least one associate degree. o Students completing their first developmental course. o Students completing any developmental English in the previous year and attempting any college level English either in the remainder of the previous year on any term this year. o Students completing any developmental Math in the previous year and attempting any college level Math either in the remainder of the previous year on any term this year. o Students enrolling for the first time at a University System of Ohio main campus or branch this year and have previously earned at least 15 college level credits at this community college. Additional weights are applied to students who are Pell Grant eligible, Native American, African American, or Hispanic, or are 25 years of age or older when they first enroll at a state institution of higher education.
Tennessee	In place at two-year and four-year institutions	After a base amount is set aside for operational support, 100 percent of state funding is allocated based on institutional outcomes.	Community College Metrics • Student accumulating: 12, 24, and 36 hours • Dual enrolled students • Associated degrees • Graduates placed in jobs • Remedial and development success • Transfers out with 12 credit hours • Workforce training (contact hours) • Award per 100 FTEs
Texas	In place at two-year institutions	10 percent	Ten percent of formula funding is allocated based on points earned from a three-year average of student completion of the following metrics: • Students completing developmental education in mathematics, reading, and writing

			• Students completing first college level course in mathematics, reading intensive, and writing intensive courses • Students completing 15, or 30 credit hours • Students transferring to a General Academic Institution after completing at least 15 semester credit hours • Number of degrees and certificates awarded • Additional points are awarded for degrees in STEM or Allied Health fields

Student Outcomes. A 2016 report from Columbia University's Community College Research Center, *Looking Inside the Black Box of Performance Funding for Higher Education: Policy Instruments, Organizational Obstacles, and Intended and Unintended Impacts*, found that states with performance funding have failed to consistently improve student achievement. Even if student outcomes improve after performance funding is introduced, the report notes that these improvements could be tied to other factors, such as, changes in tuition and financial aid policies, initiatives by state governments, and institutional decisions. As noted above, California has implemented or reformed several statewide initiatives and programs to improve student outcomes, including the Guided Pathways Program, Community College Completion Grant, Full-Time Student Success Grant, Basic Skills Initiative, Basic Skills and Student Outcomes Transformation Program Grant, and the Basic Skills Partnership Pilot Program. The impact of these reforms and programs on student outcomes is still unclear. The Legislature may wish to consider if it is prudent to fundamentally change the way community colleges are funded given that several significant reforms are currently underway. Moreover, the Legislature may also wish consider if community colleges will have the institutional capacity and ability to make additional reforms given the amount of work that is currently underway in the system. Given the mixed results that performance based funding has, the Legislature may wish to consider whether there are alternatives to hold districts accountable for student performance.

Under the Governor's proposal, 25 percent of the new funding formula is based on performance. Specifically, the performance component is based on 1) the number of degrees, certificates, and awards granted by the district in the prior year, and (2) the number of students who complete a degree or certificate in three years or less. This grant would also include additional funds for each Associate Degree for Transfer granted by college. The Legislature may wish to consider if the performance portion of the funding (25 percent) is correct amount for the formula.

Data Collection. For years, the community college system has struggled with low completion rates. Specifically, the six-year completion rate for degree or certificate seeking low-income students at community colleges was 45 percent, compared with 57 percent for other students. The current Student Success Scorecard does not measure performance for a cohort of students until six years after initial enrollment. This means data on students who enrolled after SSSP and student equity implementation will not be available until 2020-21. To permit the Legislature to evaluate these programs before 2020-21, the Legislative Analyst's Office recommends, as an interim measure, the Chancellor's Office produce a three-year scorecard. This three-year scorecard would contain the same performance measures as the existing six-year scorecard, disaggregated by whether students received each of the core SSSP services. In order to effectively evaluate the outcomes of various reforms, the Legislature may wish to modify the data collection timeline.

Unintended Consequences. Moreover, the Columbia University report notes that performance funding provides an unintended incentive to weaken academic quality and to restrict the admission of less prepared and less advantaged students, who are less likely to finish college and thus less likely to pay off for institutions, such changes arise when a public agency encounter difficulties in realizing the intended impacts of performance account, and instead resort to less legitimate means such as lower service delivery standards, or restricting the access of harder-to-service clients. The Administration notes that there will be safeguards to prevent this, and trailer bill language requires the Chancellor's Office to develop minimum standards for the approval of certificates and awards that would count towards the funding formula. Moreover, the trailer bill language specifies that the Chancellor's Office shall develop processes to monitor the implementation of the funding formula, including monitoring the approval of new awards, certificates, and degree programs. Additionally, not all community college students seek to transfer or earn a degree/certificate. Some students may wish to take a few courses in an effort to advance themselves in their existing career, and may not need to earn a certificate, it is unclear how these students would be considered under the formula.

Budgetary Impact. The Governor's proposal raises concerns about the potential impact on colleges overall budgets. Based on conversations with the Administration the performance portion of the formula would be based on prior year data, and the hold harmless provision just ensures that no college would receive less than what they received in 2017-18.

Columbia University noted that based on a survey of Indiana, Ohio and Tennessee community colleges, performance funding program had little to no impact on their college budget. However, the report notes that several factors mitigated against a big financial impact, including: the use of three-year rolling averages rather than annual statistics; hold-harmless provisions in the first few years; rising tuition share of revenues; and the small proportion share of funding driven by performance indicators (until recently in Indiana and Ohio).

The circumstances of which performance funding is implemented in Indiana, Ohio, and Tennessee do not match California. For example, the Administration's proposal will be based on prior year data only, rather than a three year-rolling average. Moreover, the enrollment fee at the CCCs is the lowest in the country, at $46 per unit, and has not changed since 2012-13. Tuition and fees account for approximately five percent of California's community colleges overall 2016-17 budget. Whereas the enrollment fee per unit at Indiana, Ohio, and Tennessee is $138, $142, and $160, respectively. In these states, student tuition and fees accounts for approximately 76 percent and 54 percent of Indiana and Tennessee's community colleges operating budget. Therefore, these states are more dependent on tuition and less on appropriations, whereas, the opposite is true in California.

As the Legislature deliberates the Governor's proposal, it may wish to consider the budgetary impact the proposal has on a colleges overall operating budget, and its long-term budget implications. According to the Administration, spending under this new formula is consistent with existing law in that is to be used for any operating expense and would follow the 50 percent law, and would not be limited to serving specific student populations (i.e. low-income students). This would still provide colleges with flexibility in determining how to address local needs. However, according the Columbia report, performance funding has led to colleges to attempt to improve graduation rates through local reforms, such as revamped remedial education and advising systems. The Legislature may wish to consider if the colleges should continue to receive flexible funds, or should any spending restrictions be placed on districts.

Targeted Student Populations. As noted above, the state currently provides additional programs and support services for specific student populations, including low-income and first generation students. This approach to fund specific programs, known as categorical programs, help ensure colleges may not divert these funds to other purposes, and as a result, more funding than otherwise tends to be available for enhanced supplemental services.

Each program has its own authorizing legislation, regulations, funding formulas, and reporting requirements. According to the LAO, such a system results in organizational silos and compartmentalized staff, making planning challenging and time consuming and often leading to duplication and poor coordination of services. Moreover, the state has no effective way of assessing program results or maintaining accountability for outcomes. Given overlap and differences among these programs, pinpointing which particular program or component might be producing a positive or negative outcome is virtually impossible. Also, because the programs are set in statute and regulations—and funding generally cannot be transferred across programs—the system is not nimble in responding to new information, including changing student needs.

As the Chancellor's Office consults with stakeholders regarding a May Revision proposal that would consolidate categorical programs, the Legislature may wish to consider its role in this consultation. Many of the programs were created through legislation, or are priorities of the Legislature. While staff agrees that greater coordination and accountability is necessary, the Legislature may wish to consider if consolidation is the correct means to achieve this, or are there other alternatives to promote coordination. Additionally, the Chancellor's Office notes that many of these programs have overlapping reporting requirements and processes, which is could be a reason to promote consolidation. However, staff questions whether there are internal mechanisms and regulatory relief within the Chancellor's Office that could help alleviate this. The Governor also has a proposal of $20 million for innovation awards focused on enhancing equity. The Legislature may wish to ask the Administration rationale to create a new grant program, given the potential consolidation of others that specifically target equity, such as $160 million annually for equity plans. Additionally, the Legislature also needs to consider what role categorical programs would play should a new apportionment formula be implemented.

Moreover, the trailer bill language and governor's budget summary notes that the intent of the new formula is to encourage access for underrepresented students, and provide additional funding in recognition of the additional support needed for low income students. However, the funding is not required to be spent on this population, nor does iy provide additional support services for low income student. Moreover, it is unclear how the Administration defines underrepresented students, as the formula only considers the number of students who receive a fee waiver or Pell Grant. If the intent is to help low income students, or other specific populations, the Legislature may wish to evaluate and review the existing programs that are outlined above. These programs, as noted above, can only be used for a specified purpose. The Legislature may wish to consider which programs it should protect from consolidation, or if a new program or metric should be created within the formula specifically for this purpose.

California Community Colleges Online Education

BACKGROUND

The California Community Colleges (CCC) is the largest system of community college education in the United States, serving approximately 2.1 million students annually, with 1.2 million of these full-time equivalent students. The CCC system is made up of 114 colleges operated by 72 community college districts throughout the state. California's two-year institutions provide programs of study and courses, in both credit and noncredit categories, which address its three primary areas of mission: education leading to associates degrees and university transfer; career technical education; and basic skills. The community colleges also offer a wide range of programs and courses to support economic development and specialized populations. As outlined in the Master Plan for Higher Education in 1960, the community colleges were designated to have an open admission policy and bear the most extensive responsibility for lower-division, undergraduate instruction.

Online education generally refers to courses and programs in which faculty and students communicate using the internet and are not in physical proximity to each other. Online education is growing rapidly in higher education. According to the California Virtual Campus, which provides a catalogue of online courses and programs in California higher education (California Community Colleges (CCC), University of California (UC), California State University (CSU), and private colleges), in 2017, CCC offered 14,092 online courses and 593 online degree/certificate programs in the catalog, with roughly 800,000 students enrolled in online courses. According to the Department of Finance, there are 33 out of the 114 community colleges offering these online degree/certificate programs. These programs include electrical apprenticeship, fire technology, psychology, and accounting.

Existing Online Education Efforts

Course Structure. Currently, there are two types of formats that online education is delivered:

- **Hybrid/ blended courses:** Hybrid courses provide interaction between the instructor and students, both online and in the classroom. Hybrid courses allow instructors to use computer-based technologies selectively. The online portion of the course might include: presentation of case studies, tutorials, self-testing exercises, simulations, and other online work in place of some lecture or lab material. Although the coursework is conducted online, an in-person course orientation may be required at the beginning of the semester. In some courses, on-site exams may be held on college campuses at the discretion of the instructor and the department.

- **Fully online:** Under the delayed interaction method, the session is under supervision of the instructor, using the Internet without the immediate involvement of the instructor.

> This may consist of various types of instructional software, computer assisted instruction; digitized visual, and audio or text selected in response to student input. In Fall 2016, this was the most used form of online education, with almost 490,000 community college students enrolled in credit courses.
>
> Under the simultaneous interaction model, the session is under the supervision of an instructor, using the Internet with immediate opportunity for exchange between participants, this includes satellite, and video conferencing. In Fall 2016, about 45,000 community college students were enrolled in these types of online education credit courses.

Additionally, online education can also be delivered asynchronously, in which the student is self-paced in accessing instructional material, such that activities take place within a specified time frame. Whereas, synchronous delivery is one where course activities take place at a single scheduled time.

How are online courses created? In June 2015, the Public Policy Institute of California (PPIC) released a report, *Successful Online Courses in California's Community Colleges*, which states that the development of online and hybrid courses grew organically at each community college based on the interest of individual faculty and the creation of new technological resources. These courses are reviewed and approved according to the community college's district's course and program approval procedure, which typically consists of approval from the local academic senate, board of trustees, curriculum committee, and other college committees. Programs and some courses are sent to the Board of Governor's (BOG) for approval.

Community college faculty members have autonomy in course development, which not only provides flexibility, but also may require faculty to take on the roles of subject matter expert, course designer, media developer, and—sometimes—programmer. In addition, faculty collective-bargaining agreements and federal- and state-legal rules may require community colleges to rely on instructors to design courses. Historically, each community college or district has selected its own course management system from among several vendors. Faculty uses these systems to post course information (such as the syllabus), instructional content (such as readings and videos), assignments, and other material. Students use the system to submit assignments, collaborate with classmates, and communicate with instructors.

Faculty Qualifications. Faculty teaching distance education must meet the minimum qualifications for the discipline into which the courses subject matter falls into. These minimum qualifications must be the same minimum qualifications as faculty teaching non-distance education courses. According to the Legislative Analyst's Office (LAO) report, *The 2016-17 Budget: Higher Education Analysis*, minimum qualifications are determined by the BOG, and are set for each discipline based on recommendations of the statewide Academic Senate. For academic disciplines (which include some career technical education (CTE) subjects), the minimum qualification is a master's degree. For many CTE areas, a master's degree is not generally expected (or available). For these disciplines, the minimum qualification is a bachelor's degree in any major and two years of experience in the occupational area of the assignment, or an associate degree and six years of experience.

Online Education Initiative. The Online Education Initiative (OEI) was established in 2013, and includes several projects: a common course management system for colleges, resources to help community college faculty design high-quality courses, online learner readiness modules, tutoring and counseling platforms, exam-proctoring solutions, and the CCC Online Course Exchange. Piloted in spring 2017, the CCC Online Course Exchange enables a community college student to see what degree-applicable online courses are offered at other community colleges, enroll in those courses, and have their attendance and associated funding attributed to the appropriate colleges. Six community colleges (Butte, Coastline, Foothill, Fresno, Lake Tahoe, and Ventura) participate in the exchange, and 17 more are just beginning implementation. Courses must undergo a peer course review process by faculty trained in the use of the OEI's Course Design Rubric to ensure the course meets established standards related to course design, instruction and accessibility.

To facilitate statewide, online course sharing, the CCC selected the Canvas course management system in February 2015. The Chancellor's Office requires colleges that want to participate in the Online Course Exchange to use Canvas as their course management system and not maintain their former course management systems. Currently, 108 of 114 community colleges are using canvas. The common course management system provides a consistent interface for students enrolled at multiple colleges (about 20 percent of all CCC students). In addition, the system is expanding access for all students to academic support resources (such as the online tutoring and counseling services) through their course web pages. Currently, 68 community colleges have implemented NetTutor 24x7 online tutoring. OEI also is providing more consistency for faculty who teach at multiple colleges and making the sharing of course materials and best practices easier through the OEI course rubric, which 38 colleges have implemented.

The state initially funded the OEI with $17 million Proposition 98 General Fund in 2013-14 and has provided a base amount of $10 million Proposition 98 General Fund annually thereafter to increase CCC students' access to and success in online courses. The 2016-17 budget included $20 million one-time Proposition 98 General Fund to accelerate progress on the initiative. The 2017-18 budget increased the base amount by $10 million Proposition 98 General Fund ongoing; bringing annual funding to $20 million Proposition 98 General Fund ongoing to provide systemwide access to the Initiative's learning management system.

Zero-Textbook-Cost Degree program. The 2016-17 budget provided $5 million one-time Proposition 98 General Fund to support the Zero-Textbook-Cost Degree program, which will provide $200,000 per degree developed by colleges, with a goal of reducing the cost of instructional materials for students. Zero–textbook–cost degrees are degree pathways that students can complete entirely by taking courses that use only free instructional materials, called open educational resources (OER), in place of publisher–owned textbooks. OER's range from course readings, modules, and tests, to full textbooks and courses to videos, and software. Grants have been awarded for various program focus areas, including Associates Degree for Transfer (ADT) in mathematics at Alameda College, ADT in political science at Allan Hancock College, and Certificate of Achievement in child development at Mira Costa College.

Online Courses Student Success Rate. As the number of online course offerings and students enrolled grows, the Legislature may wish to consider the outcomes of these courses. Student success is a priority of the Legislature, and as a result, the state has made significant investments in CCCs over the last several years to help improve student success rates. Online course completion rates at CCCs have steadily improved in the last few years, from 59 percent in 2011-12 to 65 percent in 2016-17. However, there is an achievement gap when comparing the outcomes for in-person and online education. In the fall of 2016, the success rate for all traditional in-class credit courses was 72 percent, whereas for online courses it was 63 percent. Also, the achievement gap for underrepresented minority students taking online education courses is significant. In in-class credit courses, African American and Hispanic success rates for credit courses were 61 percent and 68 percent, respectively, where as their success rates in online education were about 48 percent and 59 percent respectively.

Moreover, when looking at CTE success rates, the achievement gap persists. The overall success rate of CTE courses in the fall of 2016 was approximately 76 percent. When broken down by method of instruction, for internet based online education only, the success rate was 65 percent, and for in-person instruction the success rate was 79 percent. The success rate for in-person CTE classes for African American and Hispanic students were about 67 percent and 76 percent, respectively. However for online instruction only CTE courses, the success rate was 48 percent and 61 percent, respectively. White non-Hispanic and Asian students had a success rate of about 70 percent and 73 percent, respectively for online only instruction.

The PPIC reports that based on a sample of online and traditional in-person courses offered from 2010-2014, with courses offered at the same college, and with at least 250 enrollments in each, differences in passage rates persist even when adjusted for student mix, college, subject, and term. The difference in passage rates reflected more failing grades and more incompletions in online courses than in traditional courses.

Flexible Options for Workers (FLOW). In the spring of 2017, the Governor requested that CCC Chancellor Eloy Ortiz Oakley establish a community college that exclusively offers fully online degree programs. Chancellor Oakley convened a workgroup to assist in the development of a plan to provide three to five options. This endeavor is called "Flexible Options for Workers," or FLOW. The workgroup consisted of 20 members, which included representatives from various colleges, the OEI, the chancellor's office, the Legislative Analyst's Office, faculty, the Department of Finance and the California Labor and Workforce Development Agency. This workgroup met twice: August 28-29, and on October 30th. In November, the Board of Governor's (BOG) was presented with four options:

1. Create a FLOW unit with a statewide mission within an existing institution;

2. Establish FLOW as a consortium of colleges hosted by an existing institution;

3. Create a new FLOW district to develop and deliver fully competency-based programs;

4. Establish FLOW as an extension of the existing OEI.

The Administration advanced option three in the 2018-19 budget proposal, described below.

Other States and Online Education. The Western Governors University (WGU) is a private, nonprofit, fully accredited and online university providing degree programs meeting the needs of working adults, military personnel, and other nontraditional students. WGU provides career-aligned bachelor's and master's degrees in nursing, information technology, teaching, and business. At WGU, students are not charged per course or per credit but instead are charged a flat rate each term that covers all coursework completed in that time. The more courses completed each term, the more affordable the degree becomes. Terms are six months long and begin on the first of the month. Depending on the program chosen, one term costs approximately $3,190.

In September 2017, the U.S. Department of Education's Office of Inspector General called on WGU to repay more than $700 million in federal aid, finding that the university's unbundled (or disaggregated) faculty model does not meet federal distance education regulations to provide "regular and substantive" interaction between students and faculty members. The unbundled model often provides students with more than one academic mentor. Upon enrolling, WGU students are assigned a program mentor with at least a master's degree in their field who works with students until they graduate. Subject matter expert course instructors also interact with students, providing content expertise ranging from specific questions to more fully engaged tutorial support. Program faculties cover everything from approving curriculum and new programs to reviewing competencies and assessments.

GOVERNOR'S PROPOSAL

Creates California Online College – The budget provides $120 million Proposition 98 General Fund to create a new fully online community college district under the Chancellor's Office. The college would create and coordinate online courses and programs targeted toward working adults with a high school diploma but lacking a college degree or certificate. Of the funding provided, $100 million is one-time to support start-up costs, and $20 million is ongoing to support ongoing operating expenses. Specifically:

- One-time start-up costs $100 million over seven years:
    - $25 million for design, development, and capital improvements for scalable technology: Support instructional technologies, personalization technologies, master data management and analytics system, financial system, and 24 hour help desk technology set up.
    - $20 million for a research and development unit: Support design and development of demonstration projects, development and implementation of virtual and mobile labs, and interactive workshops and focus groups.
    - $23 million for set up of core functions: Support design of student-centered experience and supports, faculty and staff experience and supports; staff training;

quality assurance on instructional; and 24 hour supports. This funding will also establish mobile integration, development and testing of non-traditional fee models, and prior learning assessment. Lastly, the college will need to establish partnerships with entities with physical presence, establish partnerships with employers and other partners to review and inform program pathway design and delivery.

- $16 million for scaling efforts: Support scaling efforts over the seven year start-up period, including specialized admissions and records services and financial aid services and related student support services.
- $11 million for operations development: Development of business processes, legal support, initial and long-term staffing plan, development of responsive metrics and indicators driving student success to inform design.
- $5 million for implementation of business plan and establishing accreditation: Supports implementation of a seven-year business plan with key milestones, indicators, and outcomes to facilitate the college's scaling effort; supports the process of seeking and establishing accreditation.

- Ongoing operations costs $20 million:
  - $3 million for ongoing technology related costs: Annual licensing for use of technology, website and related tools and network support, maintenance and upgrade, ongoing training.
  - $5 million for program pathways: Pathway validation and development, content development and improvements, continuous assessment of student program pathways.
  - $11 million for salaries and benefits, facilities, office equipment, supplies, travel, collaboration tools and incidentals.
  - $1 million for other professional services.

The Administration notes that public universities and community colleges are inadequately serving the 2.5 million Californians between the ages of 25 and 34 who are in the workforce but lack a postsecondary degree or credential. These individuals tend to be lower income, and are underrepresented minorities. As a result, these individuals seek educational assistance outside of California or through for-profit institutions, paying tens of thousands of dollars but too often just ending up buried in debt. Based on materials provided by the Administration, the California Online College is intended to assist this population and provide them with short-term credentials and certifications with labor market value, and sub-associate degree credentials. The college will offer at least three program pathways in the first three years of program implementation. It will enroll students by the last quarter of 2019. By the sixth year of implementation, there would be at least 16 program pathways.

The Governor's budget summary states that the college's initial focus would be to develop content and programs to provide vocational training, career advancement opportunities, and credentialing for careers in child development, the service sector, advanced manufacturing, health care and in-home supportive services, among other areas. Consistent with the Administrations proposed Student-Focused Funding Formula, apportionment funding for this program will be based on enrollment, the number of underrepresented students enrolled, and student outcomes.

Furthermore, the online college will also inform professional development opportunities for faculty and staff of the 114 colleges, including learning science, competency-based education, and other teaching and learning technologies.

The budget also proposes to accelerate the expansion of courses available through the Online Course Exchange, which will expand access to fully online Associate Degrees for Transfer, and establish a minimum number of fully online transfer degree programs. However, the budget does not propose additional funds for this purpose.

Creates an Intersegmental Online Education Learning Lab for Faculty – The budget proposes $10 million General Fund (ongoing) aimed at improving the quality of online courses at UC, CSU, and CCC. The Office of Planning and Research would award a multiyear grant to a consortium of institutions. The consortium, in turn, would train faculty from all three segments on effective practices for teaching online. The consortium also would be charged with procuring or developing technology that faculty can use to better assess student learning in their online classes, as well as developing and curating a virtual library of exemplary online courses and course materials.

ISSUES TO CONSIDER

According to the Administration, there are over 100,000 students enrolled in online classes at private institutions, with about 74,000 (60,100 in private for-profit, and 14,000 in private non-profit) enrolled exclusively in distance education. The costs for online credentials, certificates and associate degrees in private institutions are typically higher than at a community college, with some being seven times higher per unit. The purpose of the proposal is to serve 2.5 million Californians between the ages of 25 and 34 who are in the workforce but lack a postsecondary degree or credential through the creation of the online college. While the Administration's goal of serving working adults is important, the Legislature should carefully evaluate the proposal and its implications on students and the state. Specifically, the Legislature may wish to consider governance, accreditation, staffing, and student support services, among others. Trailer bill language was released on February 1, 2018; as a result, staff was not able to provide an in-depth analysis on trailer bill language prior to the budget committee hearing. However, as budget hearings progress, both senate fiscal and policy staff will thoroughly analyze the language.

Governance. The Board of Governors (BOG) of the CCCs was established in 1967 to provide statewide leadership to California's community colleges. The 17-member Board of Governors is appointed by the governor and formally interacts with state and federal officials and other state organizations. The BOG selects a chancellor for the system. The chancellor, through a formal process of consultation, brings recommendations to the BOG, which has the statutory authority to develop and implement policy for the colleges. The 17 members consist of 16 voting members, as follows:

- 12 members appointment by the Governor, and approved by the California State Senate with a two-thirds vote to six-year terms. Two of these members must be current or former elected members of a local community college district governing board.

- One voting student member and one nonvoting student member.

- Two voting tenured faculty members from a community college, appointed by the Governor for two-year terms.

- One voting classified employee, appointed by the Governor for a two-year term.

Each of the 72 community college districts has a locally-elected Board of Trustees, responsive to local community needs and charged with the operations of the local colleges, and typically serves four-year terms. This local Board of Trustees is elected either at large from the community college district boundaries or based on each trustee areas in the community college district.

Based on information provided by the Administration, the BOG will initially serve as the California Online College's governing board, and can designate members with the appropriate skills and experience to act on its behalf. The new district will have the authority to (1) create new online program pathways to serve the targeted student population; (2) coordinate the creation of online learning resources and student supports; (3) identify shortcomings in the student experience and develop solutions; (4) leverage the technology infrastructure made available through the OEI and other Chancellor's Office-funded integrated technologies endeavors; (5) re-design transcripts to link certificates, courses, and competencies, and provide them in a digital, verifiable format that students can quickly access and that can follow the students; (6) develop quality assurance frameworks for employability as part of its outcomes requirements, to establish quality rubrics informing the curriculum development, the student experience, and student support structures; and (7) build a Research and Development Unit.

The Legislature may wish to consider whether the BOG is the appropriate entity to oversee the new college district. Unlike local governing boards, which are elected locally based on boundaries of a community college district, the BOG is appointed by the Governor with confirmation from the Senate. This raises questions of how the BOG would be held accountable for the online community college. Moreover, the BOG would oversee the college, but will also continue with its other responsibilities to oversee the entire system and all 114 colleges. Additionally, this proposal would expand the scope of the work of the Chancellor's office, which may create conflicts of interest. For example, the Chancellor's Office as the systems regulatory agency could be in competition with other colleges. The Legislature may wish to consider if the additional responsibilities and autonomy given to the BOG is appropriate, or if there is a potential for a conflict of interest. The BOG has experience in overseeing systemwide efforts and initiatives, however it is unclear if this translates into the running the day-to-day activities of community college district, which includes responsibilities such as curriculum development, and employing and assigning personnel and faculty.

While the proposal designates the BOG as the initial governing board, it is unclear who would oversee the college in the long-term. The Chancellor's Office notes that an independent governing board would be established upon the college meeting certain benchmarks. Trailer bill language specifies that by July 1, 2025, a District Board of Trustees would be established, and would consist of five voting members and two non-voting members as follows: one voting member appointed by the Assembly, one voting member appointed by the Senate, three voting members appointed by the Governor, and two non-voting members appointed by the Governor. Trailer bill language does not specify the benchmarks the BOG must meet in order to transition to a new board. The Legislature may wish to consider if it is appropriate to have an appointed statewide governing board oversee the new community college district, which departs from the process that other community colleges must follow.

Under the Governor's proposal, the online college proposal targets the specified population by providing flexible course scheduling and start times that do not adhere to a traditional academic calendar, and competency-based education. The Administration notes that the college would have policies and regulations that allow for greater flexibility than what is currently applied to existing online and traditional in-person courses. However, it is unclear which existing regulations and laws would apply to the new college, that apply to all community colleges. Some of these structures are a part of existing local collective bargaining agreements. If one of the goals of the proposal is to provide greater flexibility and options, the Legislature may wish to consider if there are other alternatives, such as modifying existing policies, regulations and laws, or if the creation of a new entity is the solution.

Accreditation. In general, for students to receive federal and state financial aid, such as the Cal Grant and Pell Grants, colleges are required to seek accreditation and meet certain requirements. Trailer bill language specifies that by July 1, 2021, the college must apply for accreditation from a U.S. Department of Education recognized accreditor; however, it is unclear who the accreditor will be. In lieu of receiving state or federal financial aid, the Chancellor's Office notes that under the proposal, students would be eligible for fee waivers that mimic the California Promise Grants and College Promise fee waivers.

The Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges (ACCJC) is part of the Western region. There are many eligibility requirements for ACCJC accreditation, such as having a substantial portion of the institution's educational offerings be programs that lead to degrees, and the college must have at least one degree program that is two academic years in length. In addition to providing short-term credentials and certifications, materials provided by the Administration and the Chancellor's Office notes the online college would also issue sub-awards and badges, however it is unclear if these will meet the ACCJC threshold, or if the college will seek accreditation with another entity for these. Moreover, the college would not have existing degrees into which micro-credentials could easily stack; the college would have to negotiate agreements with existing colleges and their programs. Since the college would not initially be accredited, the college would not be able to offer credit instruction to students. Should a student wish to transfer, or wish to continue their education elsewhere, it is unclear if other colleges would accept these courses or count them towards a degree, certificate or program.

Staffing and Professional Development. According to the Administration, the online college will hire faculty, student support service experts, and other staff. The trailer bill notes that initially, the employer (BOG) representatives will meet and confer with representatives of its employees. As the online college becomes more established, it will transition to collective bargaining with representatives of its employees. Under the Educational Employment Relations Act (EERA), all community college employers are required to participate in collective bargaining with the exclusive representatives of their employees. This allows faculty and staff to negotiate salaries, health, benefits, working conditions, class size, among others. Additionally, under EERA collective bargaining is defined as “meeting and negotiating,” of which meeting and conferring is only one part. Under collective bargaining, parties are legally required to reach an agreement and must comply with negotiated and agreed upon contracts. However, under meet and confer, there is no such requirement to comply. The proposed trailer bill language does not specify a process or timeline of when collective bargaining would occur. The Legislature may wish to consider the precedence this establishes for public employees moving forward.

In order for an online course to succeed, the PPIC report notes that faculty members must receive appropriate training and ongoing professional development. The PPIC also notes that most colleges lack centralized planning, funding, and expertise in online course development, as a result responsibility falls primarily on the shoulders of faculty members. Moreover, the Community College Research Center (CCRC) at Columbia University, studied entry-level online courses at community colleges, and found higher levels of interpersonal interaction correlated with better student performance in online courses; online students placed a high value with interaction with instructors. When instructors used interactive technologies consistently and purposefully students felt less isolated and felt a greater sense of engagement and caring on the part of the instructor. Resources offered through the OEI, such as the creation of online course design standards rubric, self-paced and facilitated workshops, and training courses, have started to fill this gap. Specifically, all courses in the Course Exchange must be certified and aligned to the course design rubric, which means that all faculty who design or teach courses on the exchange are exposed to best practices. Under the Governor’s proposal, $23 million one-time Proposition 98 General Funds is for core functions of the college, a portion of which could be spent on faculty and staff experience and supports, staff training, quality assurance on instructional and 24x7 supports, among other functions. The Governor’s proposal states that the online college can share its methods, learning, insights with the OEI and professional development and training opportunities through the Institutional Effectiveness Partnership Initiative. The Legislature may wish to consider leveraging existing resources and structures to help all colleges and faculty.

Student Fees. Currently, the enrollment fees for online and in-class courses at the CCCs are the lowest in the country, at $46 per unit, and have not changed since 2012-13. Under the Administration’s proposal, the online college could continue with the current fee-per-unit model, but it would also have the flexibility to offer an experimental, subscription-based flat rate for a set time period (or academic term). Regardless of the college's fee structure, the Chancellor’s

Office notes that students would be eligible for fee waivers that mimic the California College Promise Grants and College Promise fee waivers available pursuant to Assembly Bill 19 (Santiago), Chapter 735, Statutes of 2017.

Funding. Currently, funding for community colleges relies heavily on enrollment. Enrollment growth is based on changes in the adult population and excess unemployment, prior demand, and other factors. Over the last few years, colleges are experiencing declining enrollment. The 2016-17 budget set a systemwide growth target of two percent; however the actual growth was 0.67 percent. Moreover, of the 72 districts, 30 had declining enrollment, 12 are not growing, and 30 are growing. In an effort to increase enrollment, colleges are exploring a variety of options, including conducting greater outreach and marketing, and offering night or Friday classes. Consistent with the Governor's budget proposal for a Student-Focused Funding Formula, apportionment funding for the online college would take into account student enrollment and the number of underrepresented students enrolled in the college, as well as incentivizing the online college to focus on student success. Trailer bill language notes that for the first three years, a districts success metric may be based on the statewide average of all other colleges. As many colleges are struggling with declining enrollment, the Legislature may wish to consider options to incentivize and expand access for students through online education and traditional in-person courses.

Student Support Services. Currently, online education students can access various in-person student support services at their college of residence; including disability support programs and services, tutoring centers, campus libraries, computer labs, counseling, veterans' services, education opportunity programs and services (EOPS), Umoja, and various student organizations and groups. Under the Governor's proposal, $23 million Proposition 98 General Fund one-time would be used to set up of core functions, this includes the design of student-centered experience and supports and other 24x7 supports. The online college could collaborate with other community colleges, other education providers, community-based organizations, employers, unions, and libraries, to enable students of the online college to access in-person support services at other physical locations as needed. However, initially, the college will not have these types of partnerships established, and student services may be limited. Additionally, students enrolled in the online college will be spread throughout the state, and it is unclear if there will be equal access to in-person services.

Also, studies have shown that some CTE courses are relatively expensive to deliver. This includes equipment costs and student-to-instructor ratios (including for supervised practicums and laboratory sections) as the two main factors. Under the Administration's proposal, students all over the state would be able to take classes from the online college; however, similar to the support services, it is unclear how in-person hands on training would be offered, and whether or not there would be equitable distribution of this training. It will be important for the online college to ensure students have hands on training, particularly if the college is targeting working adults to help them move up on the career ladder.

Regional and Statewide Approach. The state has made significant investments in workforce development. Specifically, the Strong Workforce Program (SWP) and adult education have focused on addressing regional workforce and student needs.

- Strong Workforce Program (SWP): The 2016-17 budget established the SWP, and provides $248 million ongoing Proposition 98 General Fund for regional CTE consortium to expand CTE and workforce development courses, programs, pathways, credentials, certificates, and degrees that are responsive to the needs of employers, workers, civic leaders, and students. Each regional consortium must collaborate with other public institutions, such as LEAs, adult education consortia, local workforce development boards, civic representatives, representatives from the labor community, economic development and industry sector leaders. Each regional consortia is required to develop a plan based on regional economic and student needs, and develop strategies related to CTE and workforce development courses, programs, and pathways for the region. These plans are required to be aligned with, and expand upon the activities of existing workforce and education regional partnerships, including those partnership activities that pertain to regional planning efforts established pursuant to the federal Workforce Innovation and Opportunity Act (WIOA), adult education block grant consortia, and K-12 career technical education programs.

- Adult Education Block Grant: The Adult Education Block Grant (AEBG) was created in 2015-16 and provides $500 million in ongoing Proposition 98 funding annually for the provision of adult education through the K-12 and community college systems and their local partners. The program has restructured the provision of adult education through the use of regional consortia, made up of adult education providers, to improve coordination and better serve the needs of adult learners within each region. There are currently 71 regional consortia with boundaries that coincide with community college district service areas. Formal membership in consortia is limited to school and community college districts, county offices of education (COEs), and joint powers agencies (JPAs). With input from other adult education and workforce service providers, such as local libraries, community organizations, and workforce investment boards, the consortia have developed regional plans to coordinate and deliver adult education in their regions. Each consortia is required to adopt a plan that evaluates of the educational needs of adults in the region, how they will meet the needs, how they will align the plan with existing regional plans pertaining to the building of career pathways and the employment of workforce sector strategies and those required pursuant to the federal WIOA.

  The Governor’s 2018-19 budget proposes an increase of $20.5 million for a cost-of-living-adjustment for the program, with $5 million for a data collection and accountability system.

As evident from the programs above, the state has pursued a regional approach for workforce development and CTE to help align services and programs to regional workforce needs. The Administration notes that the new online college will build on the momentum established by the SWP. However, the Administration’s approach seems to depart from the state’s regionally focused initiatives for workforce development in creating a statewide education entity. As mentioned previously, the proposal will initially focus on careers in child development, the service sector, advanced manufacturing, health care and in-home supportive services; however, it is unclear how the badges and sub-associate degrees, as well as unaccredited courses will meet the needs of local economic regions. Additionally, the SWP has only been in place for two years, the Legislature may also wish to consider whether the program or the AEBG needs to be modified to address these needs.

Other Issues to Consider. The state has made significant investments in online education and workforce development over the last few years. Specifically, OEI, as noted above, is a collaborative effort among colleges to increase the number of students who obtain associate degrees and/or transfer to four-year colleges through high quality online instruction and student support. In October 2017, MindWires, LLC., conducted an analysis of OEI, and found that the initiative has brought substantial long-term and systemwide benefits in terms of efficiency and effectiveness. Specifically, success rates for students enrolled in courses under the OEI, which met the rubric standards, were higher than the statewide average. The results were similar for African American students, and students between the ages of 30 and 39. One of the options under the FLOW workgroup was to establish FLOW as an extension of OEI.

The report noted several pros regarding this option, including:

1. Established infrastructure that helps collaborate across campuses.

2. Existing OEI participating colleges might shorten time to launch (as colleges would likely have strengths in different programmatic areas), but adding staff to OEI to accomplish a new mission may not improve start-up time.

3. Colleges would have existing CTE certificate and degree programs into which microcredentials could “stack.”

4. Would be the option with the greatest support from the colleges and their faculties.

The report also listed several cons for this option, including:

1. Complicated to manage with participating colleges having competing priorities and constraints based on existing policies and practices.

2. Constrained by existing structures, policies, processes and procedures (e.g. development and approval processes and timelines, delivery mechanisms designed for existing student population that might not serve FLOW students effectively, and financial and student record systems designed to work only on one campus).

3. May be difficult to move quickly and scale up. California’s prior experience in a similar endeavor (OEI’s work) has been focused on associate degree completion – this new initiative would expand the mission to include CTE programs, sub associate programs and certificates, and engage in workforce development. This change in focus could take time.

4. Existing campus programs on which FLOW would depend for initial content were designed to serve a local workforce market. Expanding their reach to statewide audiences will require relief from constraints on marketing outside district boundaries and considerable support from the coordinating entity.

The Chancellor's Office notes that the OEI is not a substitute for comprehensively addressing system-wide barriers needed to effectively serve working Californians who predominantly need sub-associate degree credentials. Moreover, the report notes that the OEI and existing structure, policies, processes and procedures might not serve FLOW students effectively. The Legislature may wish to consider whether legislation or regulatory changes are necessary to address this, or if creating a new college with different rules is the solution.

SUBCOMMITTEE NO. 2

RESOURCES, ENVIRONMENTAL PROTECTION, ENERGY and TRANSPORTATION

The Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2017 (SB 5)

BACKGROUND

SB 5 (de León), Chapter 852, Statutes of 2017, established the Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2017 (SB 5). SB 5 allocates a total of $4.1 billion – $4 billion of which is new bond authority and the remaining $100 million will be redirected from unsold bonds previously approved as part of Propositions 1, 40, and 84. SB 5 is subject to voter approval and has been placed on the June 2018 ballot as Proposition 68.

SB 5 includes the following purposes and accompanying amounts:

SB 5 FUNDING ALLOCATIONS		
SB 5 Chapter	**Purpose**	**Amount (in Millions)**
2	Investments in environmental and social equity, enhancing disadvantaged communities	$725
3	Investments in protecting, enhancing, and accessing local and regional outdoor spaces	285
4	Restoration, preservation, and protection of existing state park facilities and units	218
5	Trails and greenway investments	30
6	Rural recreation, tourism, and economic enrichment investment	25
7	Grants pursuant to the California River Parkways Act of 2004 and the Urban Streams Restoration Program	162
8	To the state conservancies, Wildlife Conservation Board, California Natural Resources Agency, and the Salton Sea Authority for specified purposes	767
9	Ocean, bay, and coastal protection	175
10	Climate preparedness, habitat resiliency, resource enhancement, and innovation	443
11	Clean drinking water and drought preparedness	250
11.1	Groundwater sustainability	80
11.5	Flood protection and repair	550
11.6	Regional sustainability for drought and groundwater, and water recycling	390
TOTAL		**$4,100**

Of the $4.1 billion bond, the Governor proposes to spend $1.02 billion in the 2018-19 budget. (*A breakdown of the SB 5 spending plan may be found below, under "GOVERNOR'S PROPOSAL."*)

Past Natural Resources Bonds. Since 2000, multiple general obligation bonds, totaling approximately $27 billion, have been approved and provide funding for purposes similar to SB 5, including the following:

RESOURCES GENERAL OBLIGATION BONDS SINCE 2000		
Proposition (Year)	**Purpose**	**Amount Authorized (in Billions)**
12 (2000)	Parks and natural resources protection	$2.1
13 (2000)	Safe drinking water, water quality, flood protection, and water reliability projects	1.9*
40 (2002)	Development, restoration, and acquisition of state and local parks, recreation areas and historical resources, and for land, air, and water conservation programs	2.6
50 (2002)	CALFED Bay-Delta Program projects including urban and agricultural water use efficiency projects; grants and loans to reduce Colorado River water use; purchasing, protecting and restoring coastal wetlands near urban areas; competitive grants for water management and water quality improvement projects; development of river parkways; improved security for state, local and regional water systems; and grants for desalination and drinking water disinfecting projects	3.3*
1E (2006)	Rebuild and repair California's most vulnerable flood control structures to protect homes and prevent loss of life from flood-related disasters, including levee failures, flash floods, and mudslides, and to protect California's drinking water supply system by rebuilding delta levees that are vulnerable to earthquakes and storms	4.0*
84 (2006)	Safe drinking water, water quality and supply, flood control, waterway and natural resource protection, water pollution and contamination control, state and local park improvements, public access to natural resources, and water conservation efforts	5.3*
1 (2014)	Ecosystem and watershed protection and restoration, water supply infrastructure projects, including surface and groundwater storage, and drinking water protection	7.5
TOTAL		**$26.7**

* Reflects amount authorized by voters adjusted by Proposition 1 (2014), which reallocated some previously approved bonds for other purposes.

These past resources bonds have been expended and encumbered to varying degrees (as of June 2017), but still have unencumbered moneys available for future spending, as follows:

ENCUMBERED & UNENCUMBERED PORTIONS OF RESOURCES BONDS SINCE 2000		
Bonds since 2000	**Percentage of Bond Expended & Encumbered**	**Amount of Bond Unencumbered**
Proposition 1	10%	$6,765,091,000
Proposition 1E	76	971,254,856
Proposition 84	87	695,380,797
Proposition 50	95	181,223,896
Proposition 40	95	139,227,968
Proposition 13	91	184,919,878
Proposition 12	99	13,896,654
TOTAL	**67%**	**$8,950,995,049**

Although two-thirds of moneys from resources bonds approved by voters since 2000 have been expended and encumbered, almost $9 billion remain unencumbered. SB 5 would add an additional $4 billion, for a total of approximately $13 billion in general obligation bonds available for natural resources and environmental protection purposes.

General Obligation Bonds: General Background. Bond financing is a type of long-term borrowing that the state uses to raise money for various purposes. The state has traditionally used bonds to finance major capital outlay projects such as roads, parks, and water projects (i.e. public infrastructure-related projects). A main reason for issuing bonds is that these facilities provide services over many years. Thus, it is reasonable for not only current, but also future taxpayers to help pay for them. Additionally, the large dollar costs of these projects can be difficult to pay for all at once. The state repays general obligation bonds using the state General Fund, which is largely supported by tax revenues. General obligation bonds must be approved by voters and their repayment is guaranteed by the state's general taxing power.

The annual cost of bond repayment depends primarily on the interest rate and the time period over which the bond must be repaid. The state often makes bond payments over a 30-year period. Assuming an interest rate of five percent, for each $1 borrowed the state would pay close to $2 over a typical 30-year period. Of that $2 amount, $1 would go toward repaying the amount borrowed (the principal) and about $1 for interest. Because the repayment for each bond is spread over the entire 30-year period, the cost after adjusting for inflation is about $1.30 for each $1 borrowed.

General Obligation Bonds: Debt Service. Debt service is a significant General Fund expenditure. Currently, the state is paying just under $6 billion in debt service (including the debt service paid out of UC and CSU's base budgets). According to the Legislative Analyst's Office (LAO), projections will generally increase over time, reaching about $7.3 billion in 2025-26 with the caveat that debt service payments are difficult to predict with any certainty because they are heavily affected by the timing of the issuance of bonds in the future as well as other factors such as interest rates.

The 2017-18 budget includes $1 billion from the General Fund to repay resources-related general obligation bond debt, which reflects 36 percent of the total General Fund expenditures in the resources area.

For the SB 5 bond, which has yet to be approved, LAO is currently assuming an interest rate of five percent and that the bonds would be issued over a ten-year period. LAO also assumes that the last bonds would be repaid 30 years after the final bonds are issued. Based on these assumptions, the estimated average annual General Fund cost would be about $200 million over the next 40 years (for a total of about $7.8 billion over the 40-year period during which the bonds would be paid off).

GOVERNOR'S PROPOSAL

If voter-approved, the Governor's budget proposes $1.02 billion of the bond for the first year of implementation. Of this amount, the budget proposes to dedicate $123 million to climate adaptation and resiliency programs.

The following is a list of programs proposed to receive SB 5 funding in 2018-19:

GOVERNOR'S BUDGET 2018-19 SPENDING PLAN FOR SB 5				
Department	**Budget Change Proposal (BCP) Title**	**Program**	**Amount (millions of dollars)**	**Personal Years**
Baldwin Hills Conservancy	Support and local assistance	Restoration	$1.235	0.0
CalFire	Urban forestry program	Forestry	14.625	4.0
CA Conservation Corps	Corps projects and local assistance grants	Habitat restoration	9.750	7.0
Department of Food and Agriculture (CDFA)	Fair deferred maintenance	Deferred maintenance	3.559	2.0
CDFA	State Water Efficiency and Enhancement Program (SWEEP) and Healthy Soils Program	SWEEP and Healthy Soils	27.452	7.0
CA Natural Resources Agency (CNRA)	Appropriations of SB 5 for agency programs	Waterways, parkways, multibenefit green infrastructure	57.200	5.0
Delta Conservancy	Economic development in Delta	Delta	1.056	2.0
Dept. of Fish & Wildlife	Implementation of California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018	Biodiversity conservation	23.634	10.5
Dept. of Conservation	Working lands and riparian corridors	Agricultural land trusts	1.195	0.0
Dept. of Water Resources (DWR)	Drought and groundwater	Regional sustainability	61.750	6.0
DWR	Floodplain management, protection and risk	Floods	2.000	0.0
DWR	Floodwater for groundwater recharge	Groundwater recharge	2.500	0.0
DWR	Multi-benefit flood improvements	Floods	94.000	0.0
DWR	Salton Sea management	Salton Sea	30.000	0.0
DWR	Urban streams restoration	Habitat restoration	0.537	0.0
Ocean Protection Council	CA Ocean Protection Council – SB 5 ocean and coastal health	Marine wildlife and coastal communities	20.284	2.0
Dept. of Parks and Recreation (Parks)	Safe neighborhood parks Local Assistance	Local parks grants	463.427	13.0
Parks	State park system scoping, planning, and redwood reforestation	Maintenance and forestry	4.185	3.0
State Coastal Conservancy	Local assistance and state operations	Coastal	5.063	1.5
San Diego River Conservancy	SB 5 appropriation for program delivery	San Diego River	0.050	1.0
San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy	Los Angeles River watershed and tributaries	Los Angeles River	8.675	0.0
Santa Monica Mountains Conservancy	Los Angeles River watershed and tributaries	Los Angeles River	8.675	0.0
Sierra Nevada Conservancy	Watershed improvement program	Habitat restoration	6.345	3.0
State Water Resources Control Board	California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018	Drinking water, groundwater treatment and sustainability	147.250	10.0
Tahoe Conservancy	Upper Truckee River and Marsh	Restoration	3.200	0.0
Wildlife Conservation Board	Lower American River Conservancy	Habitat restoration	20.853	5.0
TOTAL			**$1,018.500**	**82.0**

Overall, the Governor's proposed spending plan for SB 5 moneys in 2018-19 is consistent with the parameters set forth in SB 5.

ISSUES TO CONSIDER

State Responsibilities and Obligations. SB 5 is required to go to the voters for approval in June of this year. Although the Governor's budget anticipates the passage of this general obligation bond, the budget includes activities/responsibilities that the state would still be obligated to perform/fulfill regardless of whether the SB 5 bond is approved.

For example, DWR requests $30 million in SB 5 funding for the Salton Sea Management Program, which is estimated to cost a total of $383 million. On March 16, 2017, CNRA released its 10-year plan for various actions, such as habitat and dust mitigation projects, at the Salton Sea. The Sea's water level is currently maintained primarily by agricultural runoff, which, by existing agreement – the Quantification Settlement Agreement (QSA) – started being reduced in 2017. Without significant restoration efforts, the QSA water transfers when fully implemented are highly likely to result in the collapse of the Sea's ecosystem over the next 10 to 20 years.

Another example of SB 5 funding for state responsibilities is a BCP entitled, "Multi-Benefit Flood Improvement Projects (SB 5)." DWR requests a total of $94 billion in SB 5 moneys to implement multi-benefit flood improvement projects to support existing staff and contract work needed to carry out projects. The BCP includes State Plan of Flood Control (SPFC) facility improvements such as replacement of aging infrastructures, making urgently needed repairs to existing structures, and improving system capacity. In 2003, a state appellate court found the state responsible for a SPFC levee failure along the Yuba River (this case is commonly referred to as the *Paterno* decision). The state eventually reached a settlement paying $464 million to nearly 3,000 plaintiffs. *Paterno* established a new standard for the state's flood liability and makes it possible that the state could ultimately be held responsible for the structural integrity of *all* SPFC facilities.

If SB 5 is not approved by the voters in June, a question arises as to what alternative funding sources are available to ensure that the state fulfills its responsibilities and obligations, such as the ones noted above.

The State's Debt. The Governor's Budget Summary states, "[E]conomic expansions do not last forever. In the post-war period, the average expansion has lasted about five years. By the end of the 2018-19 fiscal year, the expansion will have matched the longest in modern history a moderate recession will drop state revenues by over $20 billion annually for several years." (Governor's Budget Summary – 2018-19, page 3.) Regardless of the amount of revenue coming in, the state still must pay the debt it has incurred. As mentioned above, debt service is a significant General Fund expenditure – The state pays just under $6 billion in debt service currently and is expected to possibly reach $7.3 billion in 2025-26.

When considering the $1.02 billion worth of proposals put forth by the Governor using SB 5 moneys, the Legislature may wish to consider whether these BCPs are commensurate to its priorities to ensure that they merit adding to the state's debt over the next few decades. In a nutshell, will a proposal utilizing SB 5 moneys give the state the biggest bang for its buck and the interest that it must pay on it?

Department of Fish and Wildlife
Fish and Game Preservation Fund

BACKGROUND

The Department of Fish and Wildlife (DFW) is the state's trustee agency with protecting and conserving fish and wildlife habitat. DFW is responsible for promoting and regulating the hunting of game species, promoting and regulating recreational and commercial fishing, and protecting California's fish and wildlife. The department manages over 1 million acres of public land including ecological reserves, wildlife management areas, and hatcheries throughout the state. For DFW, the budget includes $609.7 million ($93.9 million General Fund) and 2,171.8 positions in 2018-19.

California Fish and Wildlife Strategic Vision (CFWSV). AB 2376 (Huffman), Chapter 424, Statutes of 2010, required the California Natural Resources Agency to convene a committee to develop a strategic vision for the Department of Fish and Game (now called DFW) and the California Fish and Game Commission. The CFWSV Project established a strategic vision for DFW and the Commission that addresses, among other things, improving and enhancing their capacity and effectiveness in fulfilling their public trust responsibilities for protecting and managing the state's fish and wildlife. As part of the project, a blue ribbon citizen commission and a stakeholder advisory group supported the executive committee in developing a strategic vision report in 2012. Since the issuance of the report, DFW has pursued multiple efforts to align its revenue and costs, including: the establishment of regional conservation investment strategies, mitigation banking, California Endangered Species Act permitting fees, revenues for timber harvest plan review, a scientific collecting permit fee, a lands pass program, an indexing fee to account for inflation, and an increase in commercial fishing fees.

Fish and Game Preservation Fund (FGPF): General Background. FGPF was established in 1909 as a repository for all funds collected under the Fish and Game Code and any other law relating to the protection and preservation of birds, mammals, fish, reptiles and amphibia in California. Revenues are generated from the sale of licenses for hunting, recreational and commercial fishing, and numerous special permits.

FGPF is made up of many different accounts. 29 of these accounts are "dedicated" and collect fee revenues that may only be used for specified purposes and activities. For example, the "duck stamp" account, where duck hunters pay a special fee that is deposited into this account, may only be spent on duck-related activities.

Revenue from licenses, fees and permits that are not directed by statute to a dedicated account are deposited in the only "nondedicated" account in FGPF, which makes up 80 percent of the overall FGPF. This account supports general purpose activities of DFW and has experienced an operating shortfall over the years.

FGPF Nondedicated Account: Sources of Revenue. FGPF nondedicated account revenue is derived from a variety of sources. A majority of revenue comes from recreational fishing licenses and permits. The second biggest revenue generator is recreational hunting licenses and permits; this is followed by commercial fishing licenses and permits as well as environmental review fees paid by project proponents. The smallest source of revenue is commercial fishing landing fees.

FGPF Nondedicated Account: DFW Activities. FGPF nondedicated account supports a variety of program activities. Some of the main functions supported by FGPF are displayed in the following table:

Main Functions Supported by FGPF Nondedicated Account	
Law Enforcement	Support for more than 400 wildlife officers positioned throughout the state to promote compliance with laws and regulations protecting fish and wildlife resources. Wildlife officers also investigate habitat destruction, pollution incidents and illegal commercialization of wildlife, and serve the public through general law enforcement, mutual aid and homeland security.
Lands Management	Management of department-owned lands including wildlife areas, ecological reserves, and public access areas to contribute to the conservation, protection, and management of fish and wildlife. Among other things, these activities support hunting opportunities and serve as required match for federal wildlife restoration grant funds.
Wildlife Conservation	Activities conducted by regional and field staff related to resource assessment and monitoring, conservation and management activities for game and nongame species, and public outreach related to those species. Funding for these activities also serves as required match for federal wildlife restoration grant funds.
Fisheries Management	Development and implementation of policies to address management, protection, and restoration of fish species and their habitats. Also promotes commercial and public recreational angling opportunities. These funds serve as required match for federal sport fish restoration grant funds.
Fish and Game Commission	The commission establishes regulations for hunting, sport and commercial fishing, aquaculture, exotic pets, falconry, depredation control, listing of threatened or endangered animals, marine protected areas, public use of department lands, kelp harvest, and acts as a quasi-judicial appeal body.

FGPF: Addressing the Structural Imbalance ($19.6 million). In past years, expenditures have exceeded revenues, with the gap reaching over $20 million annually beginning in 2014-15. While DFW has been able to sustain a higher level of expenditures by utilizing the balance in the reserve, that balance has depleted. Some causes of FGPF nondedicated account's structural imbalance include: fund shifts (particularly to the General Fund), lifting of prior spending restrictions (e.g. vehicles, furloughs), increased need for federal funds, and cost of business increases (e.g. employee compensation). Although revenues in FGPF have remained relatively stable over the last decade, statutory mandates have expanded resulting in increased expenditures while the fund balance continues to decrease.

FGPF: Current Year (2017-18) Spending Plan. The 2017-18 budget plan included $18.7 million from various sources to address the ongoing shortfall in the nondedicated account of FGPF. This additional revenue allowed DFW to sustain current activities supported by this account through the year. Of the total amount provided, $1.6 million – $900,000 increase in commercial landing fees and

$750,000 of $8.7 million in lifetime license revenues – represented ongoing funding. The budget package also included statutory changes associated with these two new revenue sources: 1) A schedule detailing the new commercial landing fees for each species; and, 2) Elimination of the Lifetime License Trust Account and transfer of the existing account balance and future revenues from lifetime license purchases directly into the FGPF nondedicated account and other relevant accounts.

Tire Fee: General Background. Pursuant to the California Tire Recycling Act (Public Resources Code (PRC) §42860 et seq.), a person who purchases a new tire is required to pay a California tire fee. AB 923 (Firebaugh), Chapter 707, Statutes of 2004, adjusted the tire fee from $1 per tire to $1.75 per tire and was due to sunset in 2015. AB 8 (Perea), Chapter 401, Statutes of 2013, extended the sunset to January 1, 2024. $1 of the fee is deposited into the Tire Recycling Fund for oversight, enforcement, and market development grants related to waste tire management and recycling. The remaining $0.75 is deposited in the Air Pollution Control Fund (APCF) for programs and projects that mitigate or remediate air pollution caused by tires. The fee is scheduled to be reduced on January 1, 2024 to $0.75 per tire – at which time, all of the revenue will be deposited into the Tire Recycling Fund.

Tire Fee: Fee or Tax? Contrary to the name, the tire fee is a tax. Proposition 26 (2010) expanded the scope of what is deemed a state or local tax. New laws to create – or extend – certain types of revenue measures are now subject to a higher approval requirement for taxes. Proposition 26 requires a two-thirds vote in the Legislature to pass many charges and tax revenue allocations that under the state's previous rules could have been enacted by a simple majority vote. The tire fee was extended pursuant to AB 8 (Perea), Chapter 401, Statutes of 2013, by a two-thirds vote of the Legislature, post-Proposition 26 (2010); and did not meet any exceptions from the requirement to qualify as a fee. Therefore, revenue raised by the tire fee is considered General Fund and is not constrained by trust for beneficial purposes under the California Constitution. However, it may be directed for a specific purpose by statute.

Tire Fee: The 75-Cent Portion of the Fee: Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program). PRC §42889(a) restricts the use of revenue derived from the 75-cent portion of the tire fee. The revenue must be spent to mitigate or remediate air pollution caused by tires in the state to the extent that the Air Resources Board (ARB) or the applicable district "determines that the program or project remediates air pollution harms created by tires upon which the fee described in Section 42885 is imposed."

The revenue raised by the 75-cent portion of the tire fee is deposited into APCF and is one of three ongoing funding sources for the Carl Moyer Program. The other two sources are the motor vehicle registration charge levied by a local district and the smog abatement fee (smog check). Approximately $1 billion has been allocated to the Carl Moyer Program to date and the program has provided over $60 million in grant funding each year to clean up older, polluting engines throughout the state.

ARB administers the program, which provides grants through the state's 35 local air quality management and air pollution control districts for deployment of engines, equipment, and emission-reduction technologies that are cleaner than required by current laws or regulations and reduce emissions of specified air pollutants. Covered sources include onroad vehicles, off-road nonrecreational equipment and vehicles, locomotives, marine vessels, agricultural sources of air pollution, and other categories necessary for the state and local air districts to meet air quality goals.

According to ARB, emissions from heavy-duty diesel engines have been identified as a major source of air pollution, including smog-forming nitrogen oxides (NOx) and cancer-causing air toxics including particulate matter (PM) from diesel combustion. 70 percent of the airborne carcinogens in California come from diesel exhaust. The Carl Moyer Program accelerates the replacement of older, dirtier diesel engines with newer, cleaner technologies. Emission reductions achieved by the program play a role in helping California meet federal air quality standards and reduce toxic emissions and associated health risk in communities throughout the state. The program provides incentives to obtain early or extra emission reductions, especially from emission sources in minority and low-income communities and areas disproportionately impacted by air pollution.

Greenhouse Gas Reduction Fund (GGRF). Since 2012, ARB has conducted eight California-only and 13 joint California-Quebec cap-and-trade auctions. To date, approximately $6.5 billion has been generated by the cap-and-trade auctions and deposited into GGRF. GGRF revenue is estimated to be $2.7 billion in 2017-18 and $2.4 billion in 2018-19.

State law specifies that the auction revenues must be used to facilitate the achievement of measurable GHG emissions reductions and outlines various categories of allowable expenditures. Statute further requires the Department of Finance, in consultation with ARB and any other relevant state agency, to develop a three-year investment plan for the auction proceeds, which are deposited in GGRF. ARB is required to develop guidance for administering agencies on reporting and quantifying methodologies for programs and projects funded through GGRF to ensure the investments further the regulatory purposes of the California Global Warming Solutions Act of 2006 (AB 32 (Núñez and Pavley), Chapter 488, Statutes of 2006).

Proceeds from cap-and-trade auctions provide an opportunity for the state to invest in projects that help California achieve its climate goals and provide benefits to disadvantaged communities. Statutes require a state agency, prior to expending any money appropriated to it by the Legislature from GGRF, to prepare a description of: 1) Proposed expenditures; 2) How they will further the regulatory purposes of AB 32; 3) How they will achieve specified GHG emissions reductions; 4) How the agency considered other objectives of that act; and, 5) How the agency will document expenditure results.

Motor Vehicle Account (MVA): General Background. MVA derives the majority of its revenue from vehicle registration fees and driver's license fees and primarily supports the California Highway Patrol and the Department of Motor Vehicles. MVA supports the administration and enforcement of laws regulating the use, operation, and registration of vehicles on California public streets and highways, including the enforcement of traffic and vehicle laws by state agencies and the mitigation of negative environmental effects of motor vehicles. Due to expenditures outpacing revenues, the MVA has faced an operational shortfall in recent years. Although revenue has increased over the current year and budget year, the reserve continues to slowly deplete.

MVA: California Constitution Article XIX. The budget change proposal (BCP), "Sustainable Funding for Fish and Wildlife," states that the proposed use of MVA moneys for DFW activities is consistent with California Constitution Article XIX. Article XIX, Section 3(b), refers to Section 2(a), which states that motor vehicle revenues may be used for "research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the administrative costs necessarily incurred in the foregoing purposes."

GOVERNOR'S PROPOSAL

The budget proposes $50.6 million of ongoing funding ($6.6 million General Fund, $18 million MVA and $26 million Tire Recycling Management Fund) for the following purposes: 1) Address the structural deficit in FGPF ($19.6 million); and, 2) Improve and expand DFW's program activities ($31 million).

Fish and Game Preservation Fund (Governor's Proposal) (Dollars in Thousands)			
	2016-17	**2017-18**	**2018-19**
Total Resources	*$164,476*	*$178,828*	*$192,443*
Total Revenue	98,027	120,747	141,996
Total Expenditures	106,395	128,381	142,285
	-8,368	-7,634	-289
Fund Balance	**$58,081**	**$50,447**	**$50,158**

Addressing FGPF Structural Deficit. The budget provides $19.6 million to continue critical programs supported by FGPF that are affected by the long-running structural imbalance. The proposal avoids reducing funding to current level of service or loss of entire program elements. Activities benefitting from this proposal include:

- Recruitment, retention, and reactivation of hunters and anglers;
- Communication with hunters and anglers to provide timely information on hunting and fishing opportunities throughout the state;
- Fisheries management in support of fish stocking in state waterways;
- Human-wildlife interaction;
- Law enforcement capacity to prevent the illegal take of fish and wildlife;
- Native and game fisheries monitoring;
- Management of lands for the improvement of wildlife-related outdoor recreation;
- Upgrade and modernization of marine fisheries data management systems; and,
- Addressing emerging management needs relating to commercial fisheries.

Expanding DFW Programs. The budget includes a $31 million augmentation for purposes of implementing specific priorities identified through the CFWSV process, including:

- Expansion of conservation efforts on land, in rivers and streams, and in the ocean;

- Increasing efforts to recover key declining and endangered species;
- Increasing hatchery production through scientific and production support for inland fisheries;
- Support for voluntary conservation programs for local governments, private landowners, and conservation organizations;
- Increasing efforts to combat wildlife trafficking and expand marine enforcement;
- Exploration of new approaches to ensure sustainable marine fisheries in the face of climate change, including responding to challenges like whale entanglements;
- Updating the joint Caltrans and DFW assessment, "Essential Connectivity," that describes the most important wildlife and fisheries connectivity areas throughout the state and assist with the wildlife and fishery sensitive approach to the Road Repair and Accountability Act of 2017 investments.

New Revenue to FGPF: Tire Fee ($26 million). The budget proposes to divert $26 million ongoing, which would have gone to APCF from the Tire Recycling Management Fund, to FGPF instead. The Cap and Trade Expenditure Plan proposes to backfill APCF with GGRF revenue for the budget year. Trailer bill language (TBL) amends the purpose of the 75-cent portion of the tire fee from mitigation of air pollution caused by tires to mitigation of harms on wildlife and habitat caused by tires.

Tire Fee: Statutory Purpose. Currently, statute governing the 75-cent portion of the tire fee provides that the money be spent to mitigate air pollution harms caused by tires. TBL proposes to change the purpose of the 75-cent fee statutorily by amending PRC §42889 as follows:

> (a) Of the moneys collected pursuant to Section 42885, an amount equal to seventy-five cents ($0.75) per tire on which the fee is imposed shall be transferred by the State Board of Equalization to the ~~**Air Pollution Control Board**~~ ***Fish and Game Preservation*** Fund. The ~~**state board**~~ ***Department of Fish and Wildlife*** shall expend those moneys, or allocate those moneys to the districts for expenditure, to fund programs and projects that mitigate or remediate ~~**air pollution**~~ ***harmful impacts to wildlife and its habitat*** caused by tires in the state, to the extent that the ~~**state board or the applicable distric**~~t ***Department of Fish and Wildlife*** determines that the program or project remediates ~~**air pollution**~~ ***the negative impacts*** ~~**harms**~~ created by tires upon which the fee described in Section 42885 is imposed.

TBL changes the statutory purpose from mitigating or remediating air pollution caused by tires to mitigating or remediating harmful impacts to wildlife and its habitat caused by tires.

New Revenue to FGPF: MVA ($18 million). The budget proposes to use $9.01 million from MVA for the Biodiversity Conservation Program. This program encourages the preservation, conservation, maintenance, and restoration of wildlife resources, including the Ecosystem Restoration Program, under the jurisdiction and influence of the state. Activities involve the conservation, protection and management of fish, wildlife, native plants, and habitat to ensure maintenance of biologically sustainable populations of those species.

The budget proposes to use $8.99 million from MVA for DFW enforcement purposes. This program serves the public through law enforcement, public safety and hunter education. Law enforcement promotes compliance with laws and regulations protecting fish and wildlife resources; investigates habitat destruction, pollution incidents and illegal commercialization of wildlife. Wardens also serve the public through general law enforcement, mutual aid and homeland security.

ISSUES TO CONSIDER

Tire Fee: Backfill Carl Moyer Program Using GGRF. For 2018-19, the Administration's Cap and Trade Expenditure Plan proposes to use $26 million in GGRF to backfill APCF for the $26 million being diverted from APCF to FGPF.

On July 25, 2017, Governor Brown signed AB 398 (E. Garcia), Chapter 135, Statutes of 2017, which, among other things extended authorization for ARB to utilize the cap-and-trade program to reduce GHG emissions after December 31, 2020. There have been questions about whether or not AB 398, which was passed by a two-thirds vote in the Legislature, had any impact on the current cap-and-trade program set to expire December 31, 2020, and the revenues it generates. In the formal opinion of Legislative Counsel, AB 398 did not immediately change the character of cap-and-trade revenue. Specifically, Legislative Counsel has determined that the revenues generated through December 31, 2020 by the current cap-and-trade program continue to be subject to a trust and, therefore, must continue to be appropriated in a manner that is reasonably related to GHG emissions reductions through December 31, 2020. As for revenue generated by the cap-and-trade program post-2020, the Legislative Counsel has not come to a determination yet – the nature of GGRF moneys could potentially change in the coming decade.

At least until 2021, the purpose of GGRF moneys is to reduce GHG emissions regardless from what funds they are spent.

Tire Fee: Backfill to Carl Moyer After the Budget Year. As noted above, the $26 million from the tire fee to FGPF is ongoing funding. The Cap and Trade Expenditure Plan proposes to backfill APCF with GGRF for 2018-19. However, a question arises as to what, if any, source is intended to backfill for the Carl Moyer Program after the budget year.

Tire fee: 2024 Sunset. Current law sunsets PRC §42889 on January 1, 2024. After that date, the entire tire fee reduces from $1.75 per tire to $0.75 per tire with all of the revenue going towards tire recycling purposes. The proposed TBL does not include amendments to extend or eliminate the sunset date. A question arises as to if and how DFW plans to replace the $26 million ongoing revenue source after January 1, 2024, when the 75-cent portion of the tire fee being redirected from APCF to FGPF no longer exists.

Tire Fee: Changing the Statutory Purpose. As noted above, the tire "fee" is actually a tax and may be used for whatever purpose provided in statute. TBL changes the purpose of the tire fee from mitigating air pollution caused by tires to mitigating "harmful impacts to wildlife and its habitat caused by tires in the state." A question arises as to whether the Senate wishes to prioritize $26 million in tire fee revenue in this manner rather than continue using the funds to mitigate environmental pollution caused by waste tires.

Transportation-Related Fund Sources and Environmental Effects to be Mitigated. The BCP states:

> The proposal provides funding from transportation-related fund sources with a clear nexus to fish and wildlife. Road networks across the State have fragmented and isolated habitat to the degree that wildlife migration corridors are obstructed and cause large losses. The Department is consistently working at the local level to minimize these impacts that result from transportation corridors that impede fish and wildlife movement. With a few exceptions (e.g. Caltrans contract positions); the Department is not funded to address this workload.
>
> A 2016 UC Davis Road Ecology Center report estimates the cost of wildlife-vehicle conflict to be at least $225 million annually. This report cites data that nearly 6,000 traffic incidents involved wildlife in 2015, with mule deer being the most common (91 percent), followed by coyote (6 percent), and black bear (2 percent). The Department responds to traffic incidents involving wounded wildlife and makes arrangements for disposition of the animal as appropriate, such as placing the animal with a private wildlife rehabilitation facility. The Department also works with tribes, which may take possession of an animal carcass involved in a traffic collision, consistent with a memorandum of understanding.

Transportation-Related Fund Sources and Waste Tires. The product upon which the tire fee is placed is an integral part of a motor vehicle. However, the authority for the fee, the California Tire Recycling Act, pertains to the tire after the end of its useful life as a form of waste – the fund source, the tire fee, relates to solid waste rather than transportation. Tires no longer in service can cause pollution and become solid waste that need to be disposed or recycled – the tire fee helps pay for activities to address these issues. Environmental damages caused by waste tires still exist and there is no shortage of activities for which these moneys could be appropriated for their current statutory purpose.

MVA: Mitigation of Environmental Effects: Animal Strikes. As noted above, use of MVA moneys are restricted by California Constitution Article XIX. The budget shows that MVA moneys will be used for DFW's Biodiversity Program and Enforcement. DFW proposes to allocate MVA funds for the following activities:

- Enforcement:
  - Wildlife trafficking; and,
  - General law enforcement.

- Biodiversity Conservation Program:
  - Salmon/steelhead monitoring;
  - Trend monitoring and status reviews; and,
  - Statewide connectivity.

In regards to environmental effects being mitigated, DFW states:

> A 2017 UC Davis annual report showed nearly 8,000 plus animals were struck by vehicles costing California more than $276 million in damages, including $38 million attributed to

> wildlife losses. This is up to 20 percent from the previous year's report. This is but a small fraction of documented wildlife mortality on California's roadways…
>
> Environmental effects that need to be mitigated include "taking" species listed under the California Endangered Species Act; incidents involving animal vs. vehicle; presence of aquatic and terrestrial migration barriers; and discharging sediment or other deleterious materials to streams, wetlands, and other sensitive habitats.
>
> Currently, environmental effects caused by public streets and highways are generally being mitigated in a piecemeal fashion absent the project efficiency and economy of scale benefits that are possible from advanced planning. Advanced planning may encompass high priority conservation areas, as well as include larger-scale/landscape-level mitigation which often benefits multiple species and habitats. Coordinated, large-scale mitigation provides economy of scale benefits pertaining to project cost, as well as attendant economy of scale benefits to fish and wildlife resources and their habitats.

The term "environmental effects," in Article XIX, may be broadly interpreted and does not include parameters on the types of environmental effects that may be mitigated. DFW contends that animal strikes are environmental effects that satisfy the Constitutional requirements for using MVA moneys; and that activities related to DFW enforcement and the Biodiversity Conservation Program will mitigate those environmental effects. Streets and highways can divide wildlife habitat and migration corridors, which can lead to animal strikes; DFW activities related to statewide connectivity seems appropriate for mitigating the environmental effect of animal strikes in such cases. However, when considering some of the other activities to be funded by MVA, such as enforcement for wildlife trafficking, questions may arise as to how these activities may mitigate the harm to wildlife that are struck by vehicles.

What are other options for a comprehensive solution? The Governor's proposal amounts to an ongoing solution to addressing the FGPF's structural imbalance. Permanent solutions are necessary. Some of the solutions that have been brought up in the past include: statewide fees/taxes, water rights fee (assessed by State Water Resources Control Board), or a non-consumption user fee (boat rentals, diving, whale watching). In addition, the following table displays revenue generating options that other states use:

Other States Fish and Wildlife Revenue Generation	
General Sales Tax	Missouri, Arkansas
Sales Tax on Outdoor Gear	Texas, Virginia
Real Estate Transfer Tax	Florida, South Carolina
General Obligation Bonds	Nevada
Lottery Funds	Arizona, Maine

Almost all of the FGPF's revenue is derived from fees from recreational hunters and anglers, with some funding coming from California Environmental Quality Act filers and commercial fishers. However, some have raised the argument that the department's work serves a statewide purpose and the public good, which should merit the consideration of some of these alternative proposals.

Title 20 Appliance Efficiency Standards

BACKGROUND

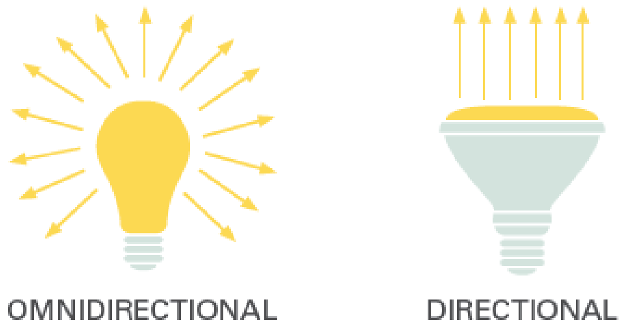
Appliance efficiency standards adoption, testing, and maintenance overview. California's energy sector currently relies on a diversity of practices to achieve legislation-driven goals. Significant legislation pushed the sector to move towards natural gas, renewable energy, and energy efficiency programs to increase renewable generation (from a diversity of sources like hydropower, solar, wind), reduce greenhouse gas (GHG) emissions, reduce energy demand, and reduce coal generation.

In response to legislative requirements to reduce California's energy demand the Energy Resources Conservation and Development Commission (CEC) regularly prescribes appliance efficiency standards through the Warren-Alquist Act of 1976. Also known as the California Code of Regulations, Title 20, Sections 1601 through 1609, these standards are updated regularly to include amendments and new standards.

All appliances and equipment regulated under Title 20 must be tested and certified to the CEC before being offered for sale in California. Broadly defined, appliances are products that use electricity, gas, or water. The California State University, Sacramento Engineering Energy Efficiency Test Laboratory, under an agreement with the CEC, determines if appliances meet the energy efficiency and labeling or marking requirements prescribed in the Title 20 Appliance Efficiency Regulations. Currently, the CEC provides $200,000 in baseline contract funding to support the laboratory. Furthermore, the CEC has, and continually updates, an appliance efficiency database that contains information and consumption metrics for each appliance. Currently, there are over 2.2 million appliances listed in the CEC's Modern Appliance Efficiency Database System. Of these listed appliances approximately 536,000 of these listings are active and 1.6 million are archived listings superseded with new model numbers or standards. The regulations cover 23 appliance product categories and include, but are not limited to:

- Clothes washers and dryers
- Air conditioners, heaters, and fans
- Dishwashers
- Plumbing fittings and fixtures
- Pool and spa equipment
- Refrigerators, refrigerator-freezers, and freezers
- Consumer audio and video equipment
- Water heaters

Over the last 10 years, this list expanded to include televisions, small battery chargers, computers, and monitors—fast-changing and widely-used technologies. As of January 1, 2018 new appliance standard updates exist for additional lighting appliances such as general service LED lamps, small diameter directional lamps, and portable luminaires. General service LED lamps are recognized as a separate category with specific, industrially-relevant performance metrics. The inclusion of this category reflects estimates that 60 percent of residential lighting across the U.S. will be LED-based by 2025. [1] Small diameter directional lamps with a diameter of 2.25 inches or less are also subject to regulation.



Schematic of omnidirectional and directional light bulbs. Adopted from: http://www.energy.ca.gov/appliances/outreach/lighting/How_to_Choose_the_Right_Light-Aisle_Signage.pdf.

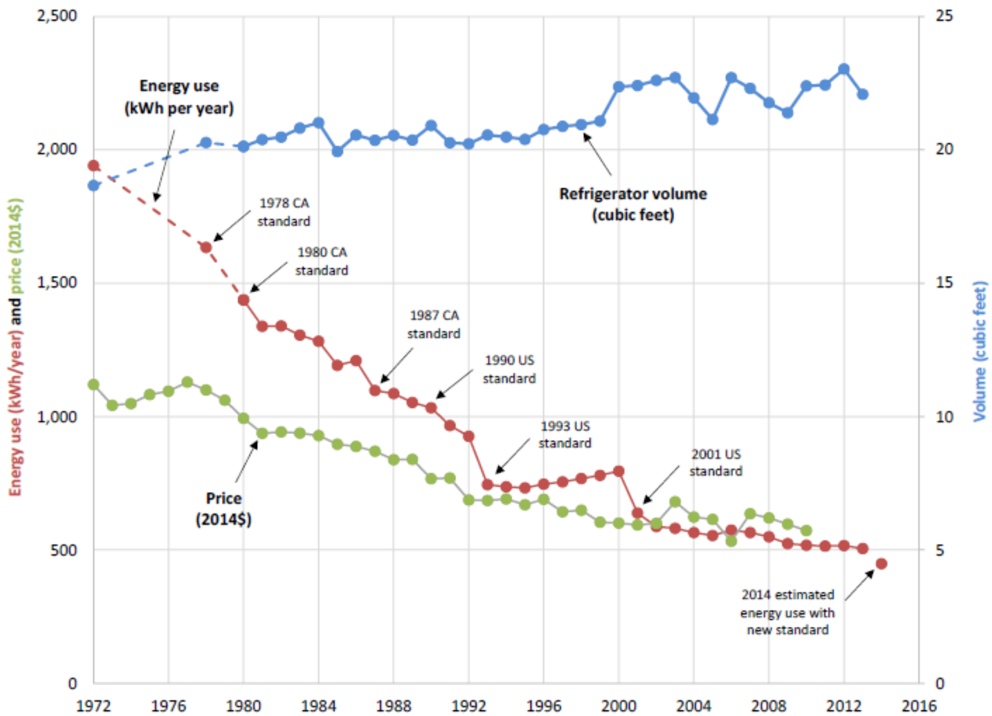
Additional legislative requirements to reduce energy demand exist. SB 350 (de León), Chapter 547, Statutes of 2015, requires the CEC and the CPUC to establish annual statewide energy efficiency savings and demand reduction that achieves the Governor's and Legislature's goal of doubling of energy efficiency savings by 2030. One of the ways the CEC approaches this requirement is through the creation and enforcement of appliance efficiency standards—an effort that has been ongoing for decades. SB 454 (Pavley), Chapter 591, Statutes of 2011, authorizes the Energy Commission to establish an administrative enforcement process for violations of the appliance efficiency standards. On May 12, 2015, the CEC adopted regulations to implement the SB 454 administrative enforcement process which took effect July 1, 2015 with penalties of up to $2,500 per violation.

Appliance efficiency standards enforcement led to millions of penalty collection dollars. Since the SB 454 regulations have been in effect in July 2015, the CEC has closed 26 cases through the settlement process, which has yielded over $2.4 million in penalties, a consumer rebate program, a consumer replacement program, and the redesign of numerous products to be compliant with the appliance efficiency standards.

Appliance energy consumption remains low in California because of appliance standards. The creation, testing, and enforcement of appliance efficiency standards also contributed to the stagnation in energy consumption in the face of population growth and energy use increases over the last 35 years. The refrigerator is a success story of appliance standard creation. The first standards for refrigerators in California took effect in 1978 and have gone through at least four updates. As of the 2014 standard, the energy use of refrigerators dropped by 75 percent, the price of refrigerators dropped

[1] "Choosing the Right Light: LED Buying Guidelines." http://www.energy.ca.gov/appliances/outreach/lighting/How_to_Choose_the_Right_Light-Aisle_Signage.pdf.

by 50 percent, and the volume of the units increased by 18 percent.[2] As the product adopted new capabilities and increased in size, efficiency standards reduced cost and energy consumption. The adoption of television standards in 2009 saved an estimated 6,515 gigawatt hours annually—enough energy to power over 864,000 single family homes for an entire year. Additionally, standards for small battery chargers that typically accompany a variety of products, such as cell phones and power tools, are estimated to save 2,200 gigawatt hours each year – or enough energy to power approximately 350,000 homes.



Graph showing California and U.S. standards (red) for refrigerators versus price (green) and volume (blue) between 1972 and 2016. From: Appliance Standards Awareness Project and American Council for an Energy-Efficient Economy, https://appliance-standards.org/sites/default/files/Next%20Gen%20Report%20Final_1.pdf.

California's energy consumption relative to the U.S. is low because of its appliance efficiency standards. According to the 2015 U.S. Energy Information Administration rankings, California had the third lowest energy per capita use from residential, consumer, industrial, and transportation sectors with 197 million British thermal units.[3] By contrast, the average per capita energy use across the U.S. was 303 million British thermal units.[3] Moreover, California had the second lowest residential and consumer energy per capita use in the U.S.

Carbon dioxide (CO_2) emissions also decreased because of appliance efficiency standards. Moreover, increasing appliance efficiency standards causes a reduction in GHG emissions. The savings from television standards equate to CO_2 emission reductions of over three million metric tons

[2] ASAP (Appliance Standards Awareness Project). 2015. Average Household Refrigerator Energy Use, Volume, and Price Over Time. Boston: ASAP. appliancestandards.org/sites/default/files/Refrigerator_Graph_Nov_2015.pdf.

[3] U.S. Energy Information Administration State Profile and Energy Estimates. https://www.eia.gov/state/seds/data.php?incfile=/state/seds/sep_sum/html/rank_use_capita.html&sid=US.

of CO_2 equivalent per year. The savings from small battery chargers equate to CO_2 emission reductions of over one million metric tons of CO_2 equivalent per year.

Overall, CO_2 and energy consumption savings due to this program are significant for California—they are built into the state's energy forecasts.

Ratepayer savings and water conservation are additional benefits of these standards. The standards for small battery chargers for example save California ratepayers an estimated combined $306 million each year. The conservation of water in drought-prone California is another result of appliance efficiency standards, specifically for appliances such as dishwashers and faucets.[4]

Authorized expenditures and testing capacity. Per Public Resources Code section 25402.11(c), funds in the Appliance Efficiency Enforcement Subaccount (AEES) may be expended by the CEC for public education of appliance energy efficiency and for the enforcement of the regulations adopted pursuant to Public Resources Code section 25402 (c). In 2016-17, the authorized expenditures for this program totaled $1,020,000. These resources enabled the testing of 76 appliances (30 of which failed, 46 of which passed) in 2016-17. The projected amount of tested products in 2017-18 is 80.

GOVERNOR'S PROPOSAL

The CEC requests a $100,000 increase in expenditure authority for baseline contract funding from the AEES to support the Title 20 appliance efficiency enforcement testing contract. Testing appliances is a vital component to discovering appliance efficiency standards violations. The requested resources will increase the testing capacity at the contracted test laboratory to support the growing program infrastructure and allow the laboratory to test a greater variety of appliances. The funds will also be used for additional test laboratory contract services, such as: quarterly internal laboratory audits, consulting services, and general assistance on technical testing related issues. With the requested increase, the CEC projects a 30 percent increase in the number of tested appliances.

ISSUES TO CONSIDER

Can the CEC and its test facility keep up with the pace of fast-changing technology and increasing non-compliance? Compliance from manufacturers, distributors, and retailers continues to be an issue for the CEC. The most recent 2015 market survey conducted by the Energy Commission shows that of a sample search of 4,000 models of appliances, 60 percent (2,400) were not in the CEC database and therefore cannot legally be sold or offered for sale in California. Moreover, in 2015, the CEC's contract test laboratory tested 10 appliances that use small battery charger systems and all 10 appliances failed. These results underscore the fast pace with which new technologies emerge and highlight the unfair business environment that exists between compliant and non-compliant parties. These issues will only grow and undermine the Legislature's energy demand goals as Californians purchase and use new technologies.

[4] "California Appliance Efficiency Database for Consumers." http://www.energy.ca.gov/2012publications/CEC-400-2012-FS/CEC-400-2012-FS-003-En.pdf.

According to the CEC's budget change proposal, additional contract funding for testing is necessary to achieve similar results listed above and yield a higher compliance rate. Currently, there are 45 open cases with two pending settlements that will total over $200,000. There are an additional 76 cases in the "wait list" investigation file with more queuing up each month. The Legislature may want to consider whether the program, as it currently exists, needs to be given more resources and/or expanded to keep up with existing and future technology creation and adoption.

High-Speed Rail Authority

BACKGROUND

The High-Speed Rail Authority (HSRA) was established in 1996 by SB 1420 (Kopp), Chapter 796, Statutes of 1996, for purposes of planning and constructing a high-speed train system to connect the state's major population centers. The project was partially funded following the passage of the High-Speed Rail Passenger Bond Act (Proposition 1A) in 2008, which allowed the state to sell $9 billion in general obligation bonds for the development and construction of the high-speed rail line while imposing certain requirements on the project, such as the requirement that the system operate without a subsidy and provide specified minimum travel times along particular routes. State law also requires the public provision of a Business Plan and Funding Plans for the project. Statute requires the project to be developed in phases, with Phase I connecting San Francisco to Anaheim. A subsequent Phase II would extend the system to San Diego in the south and add a separate link to Sacramento in the north.

Project Funding Comes From Multiple Sources

The high-speed rail project is funded by a combination of federal, state, and local sources. These include federal grants, allocated in 2009 and 2010, for both planning and construction activities, voter-approved bond funds, and auction revenue from the state's Greenhouse Gas Reduction Fund (GGRF), as well as local sales and use tax revenue for certain portions of the project. With the exception of local funding and GGRF funds, all currently-available funding sources are either bond funds or one-time federal funds. Additionally, many of these funds have match limits, restrictions on use of funds, or other limitations on use. State and federal funding sources are detailed below.

Funding Source	Amount Available To-Date	Requirements and Restrictions
Proposition 1A Bond Funds	$9.95 billion • $9 billion for the high speed rail project o Includes $1.1 billion for "bookends" • $950 million for connectivity projects	• 2.5 percent for Administration costs • 7.5 percent for Project Development costs • May not be used for maintenance or operating costs of trains • Requires a one-to-one match from other funds
American Recovery and Reinvestment Act (ARRA) Grant	$2.553 billion • $511 million for Project Development • $2.04 billion for Construction	• Period of performance expires on 12/31/22 • State match: $2.5 billion • Local match: $52 million
Federal FY 10 Grant	$928.6 million	• For Construction only • Performance period expires 12/31/22 • State match: $359.8 million
Greenhouse Gas Reduction Fund	25 percent of annual auction revenues	Currently only authorized for Phase I of the project

High-Speed Rail Business Plans Required by Law

Pursuant to state law, beginning in 2012 and every two years thereafter, HSRA is required to prepare and submit to the Legislature a business plan outlining key elements of the high - speed rail project. At minimum, the plan must include project development information, including a description of the type of service being developed, the timing and sequence of project phases and segments, and estimated capital costs. It must also include estimates and descriptions of the total anticipated federal, state, local, and other funds that HSRA intends to use to construct and operate the system, forecasts of financial scenarios based on projected ridership levels, and maintenance and operations costs. Additionally, it must identify all reasonably foreseeable risks to the project and outline HSRA's strategies for managing those risks.

High-Speed Rail Business Plans to Date

The 2012 Business Plan outlined a framework for development of Phase I at a cost of approximately $68 billion, including an Initial Operating Segment (IOS) that would connect the Central Valley with the Los Angeles Basin within 10 years. It proposed to accelerate the benefits of high-speed rail through a "blended approach" which utilizes and upgrades existing rail infrastructure wherever possible, combined with increased early investment in certain bookend projects at either end of the proposed system. The purpose of this early investment was to enhance regional rail service in two major population centers while simultaneously paving the way for future high-speed rail service. At that time, the primary rationale for a southern-oriented IOS (as opposed to a northern connection to San Francisco) was that the densely populated Los Angeles Basin could provide the high levels of ridership needed to operate the system without a subsidy. The intent was to complete the northern connection to San Francisco once the IOS was operational and ridership levels could be demonstrated. This plan also defined the connectivity and bookend projects to be funded by Proposition 1A and local funds. The bookend projects consist of the Caltrain electrification project and a variety of locally-selected projects in the LA region meant to improve local networks and facilitate high-speed rail travel to Southern California. SB 1029 (Committee on Budget and Fiscal Review), Chapter 152, Statutes of 2012, funded both bookends with roughly $1.2 billion in Proposition 1A funds, to be matched by local and some private funds.

The 2014 Business Plan maintained the Phase I project's cost estimates at $68 billion, proposed a number of potential revenue sources, and revised HSRA's ridership and revenue forecasts, but did not significantly alter the construction plan.

HSRA awarded the first significant construction contract for the project in 2013, a $985 million design-build contract for the construction of 29 miles in the Fresno region. This was the first contract awarded along the Initial Construction Segment, now referred to as the Central Valley Segment, a 119-mile stretch between Madera and Shafter in the Central Valley. In 2014, SB 862 (Committee on Budget and Fiscal Review), Chapter 36, Statutes of 2014, continuously appropriated 25 percent of all revenues generated from the State's cap-and-trade program to the project beginning in 2016.

The 2016 Business Plan provided updated cost and schedule information informed by lessons learned through the work completed to date. In addition, it proposed significant changes to the construction plan and sequencing originally outlined in the 2012 Business Plan. It proposed to begin service on the Central Valley segment of the project by 2025. Key elements of the plan included the following:

- Change to northern orientation for IOS now to travel from the central valley to San Jose
- Full funding plan for northern IOS
- Updated cost and schedule estimates for Phase I (including projected savings)
- Expanded project scope in Burbank-to-Anaheim Corridor (using projected savings)
- Concepts for full funding of the total Phase I

2017 Funding Plans Reflected the 2016 Business Plan

On January 3, 2017, HSRA submitted proposed funding plans to construct the projects detailed in the 2017 funding plans. Specifically, these plans laid out the proposed funding sources for the Central Valley Segment, the San Francisco-San Jose Caltrain electrification project, and the Rosecrans/Marquadt grade separation project, the first of the Southern California bookend projects. The 2017 funding plans are detailed below.

	San Francisco – San Jose	***Central Valley Segment***	***Rosecrans / Marquadt Grade Separation***
State Funding	$741 million	$4.84 billion	$98.7 million
Federal Funding	$978 million	$2.97 billion	$23.1 million
Local Funding	$262 million	N/A	$26.5 million
Total	**$1.98 billion**	**$7.81 billion**	**$155.3 million**[1]

[1] Includes $7 million in funding from the Burlington Northern Santa Fe Railroad Company

Expenditures to Date

To date, the Legislature has appropriated $16.1 billion for the high-speed rail project. This includes $2.6 billion for the Central Valley Segment, and $1.1 billion for the bookend projects. HSRA has spent a total of $6.1 billion on the project. These expenditures are detailed below.

Total Expenditures (As of 11/30/17)

	Total Authorized	Total Appropriated	Total Spent	Remaining Appropriation
Proposition 1A	$ 9,950,000,000	$ 5,457,197,226	$ 1,491,410,792	$ 3,965,786,434
Administration	$ 225,000,000	$ 225,000,000	$ 111,760,445	$ 113,239,555
Project Development	$ 675,000,000	$ 574,804,226	$ 423,807,469	$ 150,996,757
Bookends	$ 1,100,000,000	$ 1,100,000,000	$ -	$ 1,100,000,000
Construction	$ 7,000,000,000	$ 2,609,076,000	$ 343,983,875	$ 2,265,092,125
Connectivity	$ 950,000,000	$ 948,317,000	$ 611,859,000	$ 336,458,000
ARRA Grant	$ 2,552,556,232	$ 2,552,556,232	$ 2,552,556,232	$ -
FY 10 Grant	$ 928,620,000	$ 928,620,000	$ -	$ 928,620,000
EPA Brownfields	$ 600,000	$ 600,000	$ -	$ 600,000
Rail Property Management Fund	$ 750,000	$ 750,000	$ -	$ 750,000
Public Transit Account Loan	$ 29,300,000	$ 29,300,000	$ 25,621,545	$ 3,678,455
GGRF	25% CA	$ 1,686,496,743	$ 617,152,536	$ 1,069,344,207
TOTAL		**$ 16,112,717,427**	**$ 6,178,151,894**	**$ 9,934,565,533**

Cost Increases on Central Valley Segment

As noted above, the 2017 Funding Plan estimated the final cost of the 119-mile Central Valley Segment at $7.8 billion. However, the Authority recently announced a $2.8 billion increase in the estimated project cost, to $10.6 billion. The components of this cost increase are highlighted below. The Authority has not indicated whether these additional costs will result in project delays.

Cost Category	Cost Increase
Railroad-related • Example: Construction of intrusion barriers between HSRA and freight rail lines	$450 million
Right-of-Way Acquisition • Explanation: Rising parcel costs	$400 million
Right-of-Way Delay Costs • Example: Increased contracting costs due to delays in delivering contracted work	$325 million
Third-Party related costs • State-route 46 bridge widening to accommodate redirected road traffic	$250 million
Excluded Third Party costs • Example: Utility relocation work along project route	$350 million
Contingency Costs • Additional project contingency funding	$1 billion

GOVERNOR'S PROPOSAL

The budget requests a $1.6 billion reappropriation from multiple funding sources for HSRA. Specifically, the budget requests to reappropriate $381 million in FY 10 Federal funds and $148 million in Proposition 1A funds for the Central Valley Segment, and $1 billion in Proposition 1A funds for the bookend projects. These funds were originally appropriated in 2012, and are reaching the end of their statutorily-allowed encumbrance period. The budget requests that these funds be available for encumbrance until 2022, and for liquidation through 2024.

ISSUES TO CONSIDER

Project May Face Delays

As stated above, the 2016 Business Plan committed to providing passenger service on the Central Valley segment of the project by 2025. HSRA determined that the segment could be completed with existing funding and in accordance with the requirements of Proposition 1A.

However, the project has already experienced delays in Right-of-Way acquisition and unanticipated difficulties in working around properties owned by third parties, such as the Union Pacific railroad and Pacific Gas & Electric. This has resulted in HSRA completing work at a slower rate than anticipated. As a result, a number of the original appropriations for the project are in danger of expiring. SB 1029 (Committee on Budget and Fiscal Review), Chapter 152, Statutes of 2012, appropriated $5.8 billion ($2.6 billion Proposition 1A funds and $3.2 billion in federal funds) for the acquisition of land and construction on the Central Valley Segment and initial bookend projects. HSRA was given until June 30, 2018 to encumber these funds, an extended period that was initially deemed a sufficient length of time to allow HSRA to complete the required work. However, due to a number of the delays described above, HSRA has indicated that much of this funding will not be encumbered by June 30, 2018, and that they therefore require a reappropriation to allow work to continue. Of the $1.6 billion reappropriation request, $528 million is for the Central Valley Segment, with the remainder for the bookends.

HSRA has stated that lessons have been learned from these delays, and that current policies and procedures have been adjusted to both address the current delays and prevent them from reoccurring in the future. HSRA has not indicated that these delays have led to a delay in the delivery date for the Central Valley Segment. However, the Legislature may want to perform a closer review of HSRA business practices to better understand both the sources of and potential fixes to future delays, and to determine if there are any required legislative solutions.

Project Cost May Increase Further

As stated above, HSRA recently released an updated cost estimate for the Central Valley Segment, increasing their estimate of the cost of the segment from $7.8 billion to $10.6 billion. While this is higher than the $10.4 billion currently appropriated to the project, future cap-and-trade auction revenues are likely to be sufficient to close the gap. As explained above, HSRA has released a detailed accounting of the sources of this cost increase, and has committed to identifying approaches to both minimize the potential impacts of these issues and to prevent them from reoccurring.

However, HSRA has not updated the overall cost of the project as a whole since announcing these cost increases. Any cost update should be included in the forthcoming 2018 Business Plan. While HSRA has committed to identifying approaches to avoid similar cost increases in the future, it is reasonable to believe that the overall cost of the project as a whole is likely to increase from the current $64 billion. The Legislature may want to consider asking HSRA to detail potential cost risks in future segments and steps the Authority could take to mitigate those risks.

Project Funding Structure May Lead to Delays

As detailed above, with the exception of cap-and-trade funds, all of the current funding for the high-speed rail project are either bond financed or one-time funds. Additionally, these funding sources typically require a match of some sort before they can be spent. For example, both federal ARRA funds and state Proposition 1A funds require matching funds be available before they can be spent. The federal FY 10 grant cannot be expended until all ARRA funds have been matched.

Once federal funds have been matched and expended, and until Proposition 1A bonds have been fully sold and the proceeds expended, the project is effectively limited to spending twice the amount of the cap-and-trade auction proceeds received by the project in a given year. For example, the budget estimates roughly $750 million in cap-and-trade funding will be available for the project in 2018-19. If there were no restrictions or delays on the amount of work that could be performed on the project, HSRA would be limited to $1.5 billion in work for the year, evenly split between cap and trade auction proceeds and Proposition 1A bond proceeds. Once Proposition 1A bonds have been exhausted, the project will be limited to cap-and-trade funds, augmented by any outside sources of funding HSRA can cobble together. This effective cap on project spending could potentially delay project delivery by making it extremely difficult to spend the funds necessary to complete the entirety of the project within a reasonable timeframe. The Legislature may want to consider whether this funding structure meets legislative intent for the completion of the project, or if changes need to be made.

SUBCOMMITTEE NO. 3

HEALTH and HUMAN SERVICES

Health

Human Services

Continued Uncertainty of Federal Health Policy

BACKGROUND

Funding and programmatic stability for the state’s health care programs for low- and middle-income families are highly dependent on decisions made by the federal government. Recent proposals by Congress and the federal Administration threaten the availability of federal funds for many of these programs, as well as the availability of coverage and stability of premiums in the individual health insurance market. Approval of any of these proposals may require state legislative action to mitigate the risk of major coverage losses for millions of Californians.

Medi-Cal: A State-Federal Partnership. Created in 1965, the federal Medicaid program provides health, dental, mental health, substance use disorder, and long-term care services to low-income families, seniors, individuals with disabilities, and other adults in a fiscal and programmatic partnership with states. California’s Medicaid program, known as Medi-Cal, covers 13.5 million Californians, including more than five million children, at a total estimated cost of $100 billion in 2017-18 and $101.5 billion in 2018-19. Of that amount, the federal government is expected to contribute $63.7 billion in 2017-18 and $67.1 billion in 2018-19 as a share of health care-related expenditures for Medi-Cal beneficiaries. The rate at which federal matching funds are provided to states is dependent on a state’s per capita income. California has traditionally received a federal match of 50 percent, the minimum percentage allowable, due to the state’s high per capita income relative to other states. Certain beneficiary populations and categories of Medi-Cal expenditures are eligible for higher federal matching rates, such as children eligible for the Children’s Health Insurance Program (CHIP), adults eligible for the expansion of Medi-Cal under the Affordable Care Act, family planning expenditures, and improvements to information technology systems.

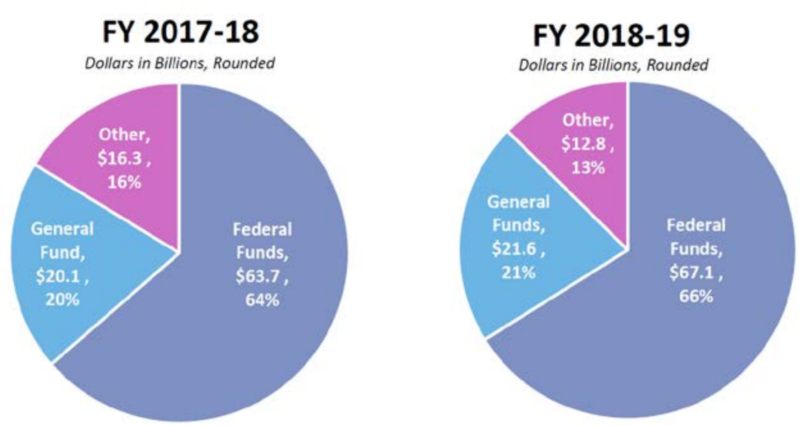


Figure 1: 2017-18 and 2018-19 Funding for Medi-Cal
Source: *Medi-Cal November 2017 Local Assistance Estimate for Fiscal Years 2017-18 and 2018-19*

Children’s Health Insurance Program. Title XXI of the Social Security Act, known as the Children’s Health Insurance Program (CHIP), permits states to provide health care services to children up to 266 percent of the Federal Poverty Level (FPL). CHIP allows states to integrate these children into an existing state Medicaid program, or to create a stand-alone program. California originally chose the latter option, establishing the Healthy Families Program administered by the Managed Risk Medical Insurance Board to provide health, dental and vision coverage to eligible children. The 2012 Budget Act, as part of a package of budget-balancing solutions, eliminated the Healthy Families Program, transferring its beneficiaries to Medi-Cal over a 12 month period. The new program for these beneficiaries is known as the Optional Targeted Low-Income Children Program (OTLICP). CHIP funds health care for 1.3 million children, or about one in eight Californians under 18 years of age, across several state health care programs with a total estimated federal matching contribution of $2 billion in 2017-18 and $2.2 billion in 2018-19.

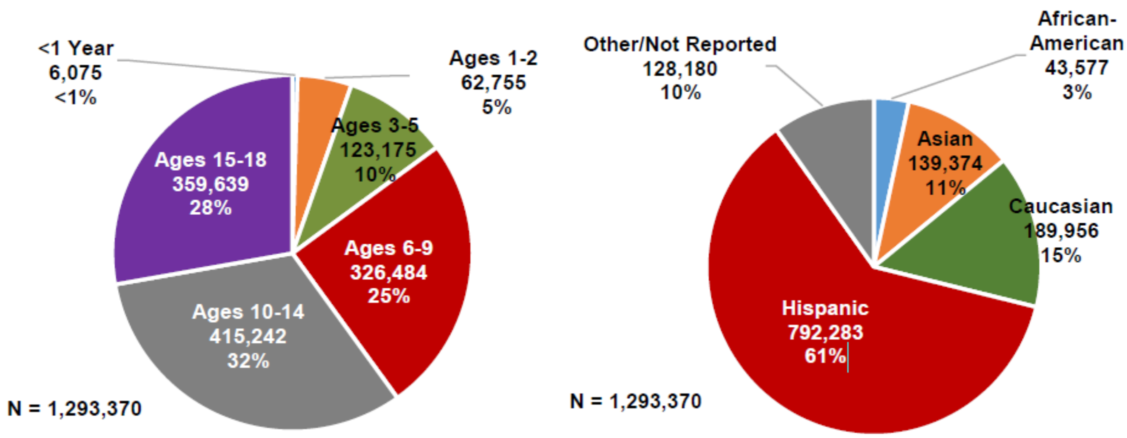


Figure 2: Age and Race Distribution of Children Enrolled in CHIP Coverage in California

Source: *Research and Analytic Studies Division. 2017, October. Medi-Cal's Children's Health Insurance Program (CHIP) Population. Medi-Cal Statistical Brief. California Department of Health Care Services.*

CHIP: Enhanced Federal Match and Maintenance of Effort. Title XXI provides an enhanced federal match for states' CHIP expenditures. California's traditional matching percentage for Title XXI spending has been 65 percent. However, approval of the federal Patient Protection and Affordable Care Act (ACA) made two significant changes to the state-federal requirements and fiscal relationship regarding CHIP:

1. Enhanced Match to 88 Percent -- ACA provided for an increase in the enhanced match for CHIP to 88 percent effective October 1, 2015 until September 30, 2019. However, availability of the enhanced federal match is dependent on Congressional funding of the program. Recent Congressional action funded CHIP and phases-out the enhanced federal match on September 30, 2020.

2. Maintenance of Effort – ACA also required states to maintain eligibility levels and requirements for children in both Medicaid and CHIP until September 30, 2019. Recent Congressional action extended the maintenance of effort requirement until September 30, 2027 for children under 300 percent of the FPL.

CHIP: Congressional Actions Extend Enhanced Federal Match and Maintenance of Effort. In January 2018, Congress approved the Healthy Kids Act, which extended authorization and federal funding for the CHIP program for six years. Congress had allowed the program and its funding to expire at the end of September 2017. The Healthy Kids Act extends the enhanced federal match for

CHIP of 88 percent until September 30, 2019, reduces the match to 76.5 percent until September 30, 2020, and reduces the match to its traditional 65 percent thereafter. In addition, the Healthy Kids Act extended the maintenance of effort requirements for children in Medi-Cal and CHIP until September 30, 2023, and extended other eligibility and outreach programs and funding related to CHIP. The Bipartisan Budget Act, approved by Congress in February 2018, extends CHIP funding and the maintenance of effort requirements for an additional four years, until September 30, 2027.

Affordable Care Act: Optional Expansion of Medi-Cal. The ACA authorizes states to expand their Medicaid programs to previously uninsured individuals. ABX1 1 (Pérez) and SBX1 1 (Hernandez), Chapters 3 and 4, Statutes of 2013, authorized California’s Optional Expansion of the Medi-Cal program. The Optional Expansion, effective January 1, 2014, expanded eligibility for previously ineligible persons, primarily childless adults at or below 138 percent of the federal poverty level. Optional Expansion beneficiaries are mandatorily enrolled in managed care for their Medi-Cal benefits.

For states that expanded Medicaid, the ACA authorized federal matching funds of 100 percent for services provided to this population until January 1, 2017. States received a federal match of 95 percent for calendar year 2017, and will receive a federal match of 94 percent for calendar year 2018, 93 percent for calendar year 2019, and 90 percent for calendar year 2020 and beyond. Medi-Cal assumed a five percent General Fund share for the Optional Expansion population beginning January 1, 2017, and a six percent General Fund share beginning January 1, 2018. In addition, the share of capitation payments for abortion-related services offered by Medi-Cal managed care has been borne by the state’s General Fund since 2014, as federal funding is not available for this purpose.

The budget includes $17.7 billion ($1.4 billion General Fund, $14.8 billion federal funds, and $1.8 billion county and other funds) in 2017-18 and $22.9 billion ($1.6 billion General Fund, $20.5 billion federal funds, and $756 million county and other funds) in 2018-19 for coverage of the Optional Expansion population. The department estimates Optional Expansion enrollment of approximately 3.9 million beneficiaries in 2017-18 and 2018-19.

Affordable Care Act: Individual Market Reforms and Covered California. The ACA also made significant improvements to coverage offered in the individual health insurance market. Beginning in September 2010, ACA individual market reforms:

1. Eliminated lifetime limits on coverage.

2. Prohibited post-claims underwriting and rescission of policies.

3. Required health plans to offer coverage to dependent children up to age 26.

4. Eliminated pre-existing condition exclusions for children.

5. Eliminated copays and other cost sharing provisions for 45 preventive services.

6. Required health plans to spend at least 85 percent of premium dollars on health expenditures or provide rebates to customers (effective January 2012).

According to federal data, by 2013 more than eight million Californians received access to no-cost preventive services and 1.4 million residents with private insurance coverage received $65.7 million in insurance company rebates.

Beginning in January 2014, the ACA implemented additional market reforms and required establishment of health benefit exchanges, which provide federally subsidized health care coverage to individuals between 138 and 400 percent of the FPL. California established its own health benefit exchange, Covered California, funded by assessments on health plan premiums. Covered California offers several options for individual health care coverage negotiated for cost and quality with health plans. Enrollment occurs during an annual open enrollment period that begins November 1 and ends January 31. The ACA requires all health insurance products, with some exceptions, to cover certain essential health benefits to be considered minimum essential coverage. These benefits include:

- Ambulatory patient services.
- Prescription drugs.
- Emergency services.
- Rehabilitative and habilitative services and devices.
- Hospitalization.
- Laboratory services.
- Maternity and newborn care.
- Preventive and wellness services and chronic disease management.
- Mental health and substance use disorder services, including behavioral health treatment.
- Pediatric services, including oral and vision care.

In addition to individual market reforms and new coverage options, the ACA eliminated pre-existing condition exclusions for adults and imposed a requirement that individuals enroll in health plans that offer minimum essential coverage or pay a penalty, known as the individual mandate. The individual mandate is designed to stabilize premiums by encouraging healthy individuals to enroll in health coverage and reduce the overall acuity of health insurance risk pools. Because health plans cannot deny coverage based on a pre-existing condition, in the absence of a mandate individuals may delay enrolling in coverage until they are diagnosed with a high-cost health condition, resulting in higher overall plan expenditures which lead to higher premiums. The ACA also limited the amount of cost-sharing that could be required of plan beneficiaries under 250 percent of the FPL. These cost-sharing reductions result in savings to beneficiaries on deductibles, copayments, coinsurance, and maximum out-of-pocket costs. Until recently, the federal government provided cost-sharing reduction subsidies to health plans to help mitigate the costs of limiting cost-sharing amounts for these beneficiaries. These subsidies were designed to maintain those cost-sharing limits while reducing higher premium costs that would otherwise be required. The federal Administration eliminated the payment of cost-sharing subsidies in October 2017.

Federal Medicaid Proposals: Expansion Phase-Out, Per Capita Caps, and Other Changes. The federal Administration and leaders in Congress have proposed significant changes to the ACA, including funding mechanisms for both traditional Medicaid and the Medicaid expansion. In May 2017, the U.S. House of Representatives passed the American Health Care Act (AHCA), which included provisions that would have frozen enrollment and phased out enhanced federal funding for the Optional Expansion of Medi-Cal and imposed a per capita capped allotment for the non-expansion Medi-Cal population. Either of these provisions would have had a devastating impact on funding for health care services in Medi-Cal. The Department of Health Care Services' and the Department of Finance's review of AHCA identified significant programmatic and fiscal concerns. The review highlighted AHCA's significant shift of costs from the federal government to states, which would have resulted in nearly $6 billion in costs to California in 2020, growing to $24.3 billion by 2027. The General Fund share of costs would have been $4.3 billion in 2020, increasing to $18.6 billion in 2027.

Though Congress failed to approve AHCA and the U.S. Senate's similar proposal, the Better Care Reconciliation Act (BCRA), Congressional Republican leaders have recently expressed interest in pursuing additional Medicaid changes, including beneficiary work requirements and cost-sharing. The federal Centers for Medicare and Medicaid Services (CMS) has already approved waivers for state Medicaid programs in Kentucky and Indiana to impose such work requirements and cost-sharing. Seven other states (Arkansas, Arizona, Kansas, Maine, Mississippi, New Hampshire, Utah, and Wisconsin) have similar waiver applications pending. While it is unlikely that California will apply for such a waiver in the near-term, if these federal regulatory changes persist there may be pressure during a subsequent gubernatorial administration to adopt these changes to achieve budgetary or programmatic goals. CMS has also made other changes that disproportionately impact states that expanded their Medi-Cal population. In particular, CMS altered a formula for federal funding of hospitals that provide care to a disproportionate share of low-income and uninsured individuals, resulting in reduced funding for states with a lower share of uninsured individuals due to an expansion of Medicaid. This formula change will have a negative impact on California's hospital system relative to other states that did not expand their Medicaid programs. However, the Bipartisan Budget Act delayed these reductions for two years.

Elimination of Cost Sharing Reduction Subsidies and Repeal of Individual Mandate. In October 2017, the federal Administration eliminated cost-sharing reduction subsidies that prevent premium growth due to ACA requirements that limit cost-sharing for health plan beneficiaries under 250 percent of the FPL. According to Covered California, the loss of these subsidies will result in an annual reduction of approximately $750 million of federal funds available to reduce premiums. According to the Kaiser Family Foundation, health plans imposed cost-sharing reduction surcharges ranging from seven to 38 percent on premiums for 2018.

The recently enacted federal tax proposal also included the repeal of the individual mandate for purchase of health care coverage. The repeal takes effect beginning in 2019. According to Covered California, the increased premiums in 2019 resulting from elimination of the cost-sharing reduction subsidies and the individual mandate could range between 16 and 30 percent.

GOVERNOR'S PROPOSAL

Assumes Reduction of Enhanced Federal CHIP Funding. Despite the enhanced federal match for CHIP contained in the ACA statute, the CHIP program and its funding expired at the end of September 2017. Though Congress extended funding for CHIP at the enhanced federal match in the Healthy Kids Act, the passage of this legislation occurred after release of the Governor's January budget. As a result, the budget assumes an 88 percent federal match until December 31, 2017, and a 65 percent federal match thereafter, consistent with assumptions contained in the 2017 Budget Act. Based on assumptions contained in the Medi-Cal local assistance estimate, the extension of the enhanced federal match is likely to result in General Fund savings of approximately $300 million in 2017-18, $600 million in 2018-19, $375 million in 2019-20, and $75 million in 2020-21. These savings should be reflected in the May Revision.

Assumes No Other Changes to Current Federal Law. The budget assumes no other changes will be made to current federal law before the end of the 2018-19 fiscal year.

ISSUES TO CONSIDER

While Congressional efforts to dramatically restructure Medicaid and the ACA appear to have stalled, the current Congressional majorities and the federal Administration continue to express interest in pursuing changes that could have devastating impacts on California's low- and middle-income health coverage programs, particularly Medi-Cal and Covered California. The potential cost-shifts represented by these policy changes would place significant pressure on the state's General Fund to maintain adequate health coverage for these populations, adding tens of billions of dollars of additional costs over time.

What are California's Options in the Event of Dramatic Changes to Medi-Cal or Covered California? California receives significant federal financial investment to provide health care coverage to Medi-Cal's nearly 14 million beneficiaries and subsidize coverage for more than one million individuals purchasing coverage through Covered California. Since 2010, California has undertaken one of the most aggressive efforts to implement provisions of the ACA in the nation, establishing our own health benefit exchange, expanding Medi-Cal to childless adults up to 138 percent of the FPL, and providing new health care coverage to approximately eight million Californians. The Administration's estimate that AHCA would have resulted in new General Fund costs of $4.3 billion in 2020, growing to $18.6 billion in 2027, highlight the devastating impacts these changes could have on the Medi-Cal budget and the availability of coverage for millions of Californians. While these proposals appear to have temporarily stalled in Congress, the rapidity with which they were moved through the legislative process suggests that extremely destabilizing federal policy changes could occur suddenly. The Legislature may wish to consider how the state should respond to a significant withdrawal of federal financial support for its health care programs serving low- and middle-income Californians.

Should California Respond to the Elimination of Cost-Sharing Reduction Subsidies and the Individual Mandate? Californians face potentially significant increases in individual health insurance market premiums resulting from the federal elimination of cost-sharing reduction subsidies and the individual mandate. The Legislature may wish to consider whether to respond with fiscal or policy changes that could mitigate the increase in premiums such as reinsurance, state-funded cost-sharing subsidies, or a state-based individual mandate.

Incompetent to Stand Trial Diversion

BACKGROUND

The Department of State Hospitals (DSH) admits individuals found incompetent to stand trial (IST), typically for felony offenses, and provides clinical and medical services to restore these individuals to competency. Because of capacity constraints within the state hospital system, 840 individuals in the IST population are housed in county jails because they are awaiting placement into a state hospital bed or jail-based competency program. This backlog, which has grown 40 percent in the last year, places operational and fiscal stress on county jails and may violate the rights of individuals in custody for longer than a reasonable time to evaluate their potential for restoration to competency. The budget includes the latest in a series of Administration proposals over recent years to address the IST backlog.

California's State Hospitals. DSH oversees five state hospitals which comprise the largest inpatient forensic mental health hospital system in the nation. In addition to forensic admissions, which comprise 91 percent of its population, the five state hospitals admit individuals civilly committed under the Lanterman-Petris-Short (LPS) Act because they require physically secure 24-hour care and meet legal criteria that they represent a danger to themselves or others. The categories of individuals admitted to state hospitals for treatment are:

- **Incompetent to Stand Trial (IST) –** IST patients are referred to DSH under section 1370 of the Penal Code if a court has determined they are unable to understand the nature of criminal proceedings or assist counsel in their defense. IST patients receive competency-based treatment and are returned to court once able to participate in court proceedings. Most IST patients are charged with felonies, with some misdemeanors.

- **Not Guilty by Reason of Insanity (NGI) –** NGI patients are individuals found guilty of an offense, but are admitted to DSH if a court determines the individual was "insane" at the time the crime was committed. NGI patients are committed for a term equal to the maximum sentence which could have been imposed, though may be recommitted for an additional two years if the individual represents a substantial danger of physical harm.

- **Mentally Disordered Offenders (MDO) –** MDO patients are parolees who meet the following six criteria for MDO classification: (1) presence of a severe mental disorder, (2) the mental disorder is not in remission or requires treatment to be kept in remission, (3) the mental disorder was a factor in the commitment offense, (4) the prisoner has been in treatment at least 90 days in the year prior to release, (5) the commitment offense involved force or violence or serious bodily injury, (6) the prisoner continues to be dangerous due to the severe mental disorder. MDO commitments under section 2962 of the Penal Code span the length of the parole term, but may be extended for up to one year if the patient represents a substantial danger of physical harm to others.

- **Sexually Violent Predators (SVP) –** SVP commitments are civil commitments of prisoners released from prison who meet certain criteria under the Sexually Violent Predator Act, including being convicted of certain sex offenses and diagnosed with a mental disorder that increases the likelihood of engaging in sexually violent criminal behavior. SVP patients undergo an annual review process to evaluate the patient's suitability for release into the community, either conditionally or without supervision.

- **Lanterman-Petris-Short (LPS) –** LPS patients are individuals that require physically secure 24-hour care and are committed through civil court proceedings that determine the individual is a danger to themselves or others or suffers from a grave disability. LPS patients are discharged when their county of residence places them in a different facility, in independent living, or with family, or if a court removes the conservatorship.

- ***Coleman* Class Patients (Mentally Ill Prisoners) –** *Coleman* patients are referred by the California Department of Corrections and Rehabilitation (CDCR) when they are found to be mentally ill while in prison. *Coleman* patients return to CDCR custody when they have received the maximum benefit from treatment. If these individuals are still mentally ill at the end of their prison term, they may be committed to DSH as MDO.

- **Conditional Release Program (CONREP) –** CONREP provides outpatient treatment to individuals ordered by a court to be released if their symptoms have been stabilized and they no longer represent a danger to society. After one year, a court hearing determines if the patient will continue in the program, be sent back to DSH, or be released.

	2017-18	**2018-19**
Population by Hospital		
Atascadero	1,247	1,175
Coalinga	1,318	1,393
Metropolitan	807	1,043
Napa	1,269	1,269
Patton	1,509	1,492
Population Total	**6,150**	**6,372**
Population by Commitment Type		
Incomptent to Stand Trial (IST)	1,523	1,774
Not Guilty by Reason of Insanity (NGI)	1,407	1,404
Mentally Disordered Offender (MDO)	1,328	1,296
Sexually Violent Predator (SVP)	920	920
Lanterman-Petris-Short Civil Commitments (LPS)	628	634
Coleman Referrals	336	336
Dept. of Juvenile Justice (DJJ)	8	8
Jail-Based Competency Treatment (JBCT) Programs		
Riverside JBCT	25	25
San Bernardino JBCT	126	146
Sacramento JBCT (Male and Female)	44	44
San Diego JBCT	30	30
Sonoma JBCT	10	10
Kern Admission, Evaluation, and Stabilization (AES) Center	60	60
Mendocino JBCT	TBD	TBD
Stansislaus JBCT	12	12
Proposed Expansion of JBCT	--	54
Total JBCT Programs	**307**	**381**

Figure 1: State Hospital Population by Hospital, Commitment Type and JBCT Programs
Source: *2018-19 Governor's Budget Proposals and Estimates, Department of State Hospitals, January 2018*

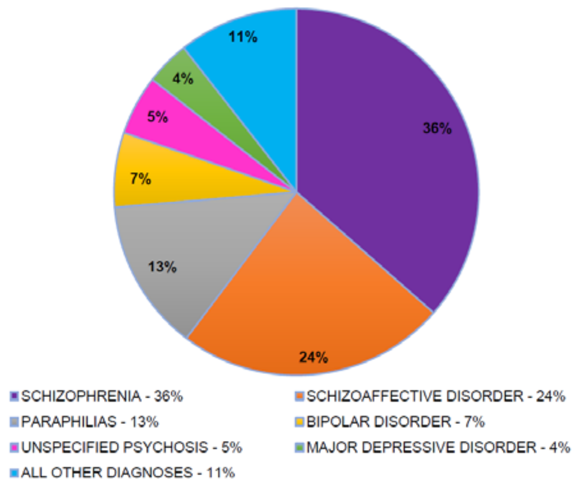


Figure 2: State Hospital Population By Major Diagnosis, as of July 1, 2017
Source: *Report on Measures of Patient Outcomes, Department of State Hospitals, January 2018*

The five state hospitals operated by DSH are:

- **Atascadero State Hospital –** Located on the Central Coast in San Luis Obispo County, Atascadero is a self-contained psychiatric hospital with an all-male population primarily composed of MDO, *Coleman*, IST, and NGI patients. Atascadero has a licensed bed capacity of 1,275 and an operational bed capacity of 1,185.

- **Coalinga State Hospital –** Located in the Central Valley in Fresno County, Coalinga is a self-contained psychiatric hospital with an all-male population primarily composed of MDO, *Coleman*, and SVP patients. Coalinga has a licensed bed capacity of 1,500 and an operational bed capacity of 1,310.

- **Metropolitan State Hospital –** Located in Norwalk in Los Angeles County, Metropolitan is an "open" style campus within a security perimeter. Due to community concerns, a formal agreement with the City of Norwalk and the county sheriff prohibits Metropolitan from accepting patients charged with murder or a sex crime, or at high risk for escape. Metropolitan primarily serves LPS, IST, MDO, and NGI patients and has a licensed bed capacity of 1,106 and an operational bed capacity of 826.

- **Napa State Hospital** – Located in Napa County, Napa has an "open" style campus within a security perimeter. Napa primarily treats IST, NGI and LPS patients and has a licensed bed capacity of 1,418 and an operational bed capacity of 1,270.

- **Patton State Hospital –** Located in the town of Highland in San Bernardino County, Patton is an "open" style campus within a security perimeter operated by correctional officers from CDCR due to concerns from the surrounding community. Patton primarily serves LPS, IST, MDO, and NGI patients and has a licensed bed capacity of 1,287 and an operational bed capacity of 1,527.

Incompetent to Stand Trial Referrals. Under California law "[a] person cannot be tried or adjudged to punishment or have his or her probation, mandatory supervision, postrelease community supervision, or parole revoked while that person is mentally incompetent." IST patients are referred to DSH under section 1370 of the Penal Code if a court has determined they are unable to understand the nature of criminal proceedings or assist counsel in their defense. IST patients receive competency-based treatment and are returned to court once able to participate in court proceedings. If a defendant's attorney raises concerns about his or her competency to stand trial, the judge in the case may order a mental health evaluation by a psychiatrist or clinical psychologist. If the evaluation finds substantial evidence the defendant is incompetent, a competency hearing is scheduled with additional expert testimony and an opportunity for the defendant to respond to or refute the findings of the evaluation. If the court finds a defendant incompetent to stand trial, the local community health director determines whether the defendant is best treated in a local facility, an outpatient facility, or at a state hospital. Misdemeanants are typically treated in an outpatient setting or released, while felonies are typically referred for treatment at a state hospital. If a bed is not available in a state hospital, the defendant remains in the custody of the county until a bed becomes available. Capacity constraints in the state hospital system have resulted in ongoing backlogs of defendants deemed IST in county jails for extended periods awaiting treatment.

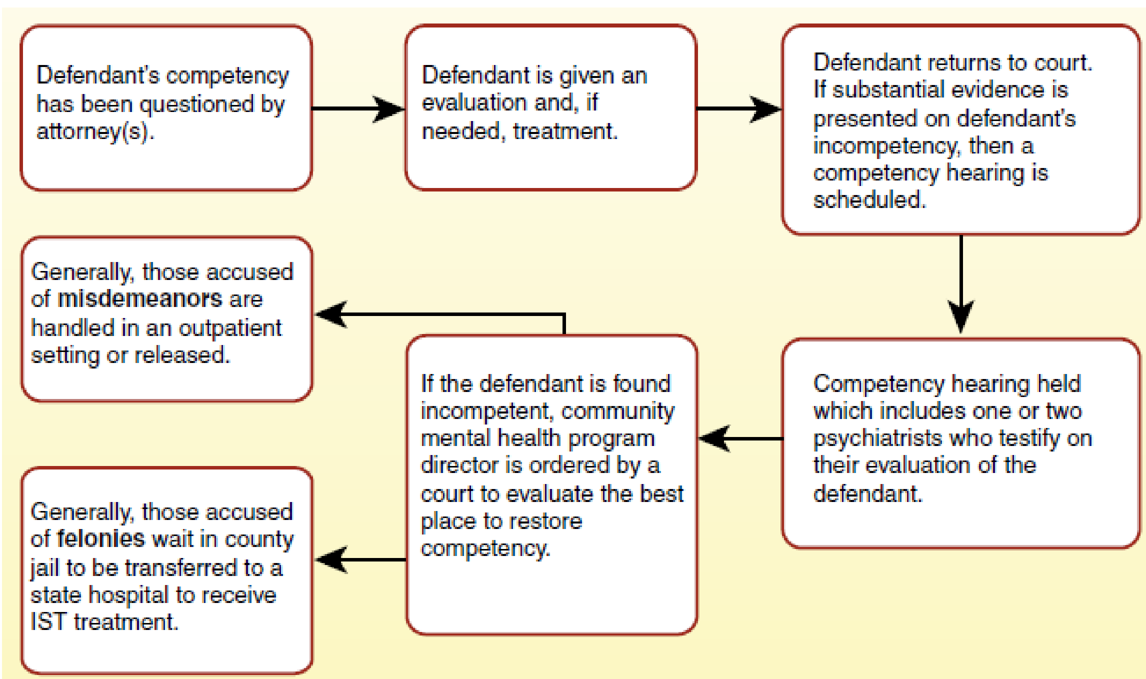


Figure 3: Incompetent to Stand Trial Commitment Process
Source: *"An Alternative Approach:Treating the Incompetent to Stand Trial", Legislative Analyst's Office, Jan 2012*

Long-Standing Issues With IST Backlog. Since the 2007-08 fiscal year, the backlog of IST referrals awaiting treatment in state hospitals has grown from between 200 and 300 to 840 as of December 2017. In 1972, the United States Supreme Court found in *Jackson v. Indiana* that a person committed on account of his or her incapacity to proceed to trial cannot be held for longer than the reasonable period of time necessary to determine whether the individual is likely to attain capacity. California law requires state hospital or outpatient facility staff to report to the court within 90 days on the status of the defendant's restoration to competency. Based on this 90 day requirement, several court rulings have recommended that a "reasonable" time to transfer IST patients for treatment is no more than 30 to 35 days. Many IST patients remain in county custody for longer, which may violate these patients' due process rights. In addition, the housing of IST patients in county jails while they await availability of treatment beds in state hospitals places stress on county jail systems.

GOVERNOR'S PROPOSAL

State-County Partnerships for Diversion of Potential IST Offenders. The budget includes $100 million General Fund for DSH to contract with counties to develop new or expand existing diversion programs for individuals with severe mental illnesses with potential to be found incompetent to stand trial on felony charges. Programs would provide evidence-based community mental health treatment and wrap around services and target certain individuals with serious mental illnesses linked to criminal activity. Counties would be required to contribute matching funds of 20 percent of the program costs and provide outcomes data to DSH on the success of the program towards the goal of reducing IST referrals by 30 percent.

Los Angeles County Community Mental Health Treatment of IST Offenders. The budget includes $14.8 million General Fund for DSH to contract with Los Angeles County for 150 beds to treat IST patients in community settings. The contract, currently under negotiation to begin July 2018, would provide a coordinated continuum of mental health placements including five beds in a locked acute psychiatric hospital, 45 beds in a locked Institute for Mental Disease or mental health rehabilitation center, and 100 beds in residential facilities with clinical and supportive services. Los Angeles County has approximately 185 IST offenders awaiting state hospital placement.

MHSOAC Funding for Coordination of Innovative Programs for Diversion. The budget includes $2.5 million from the state administration account of the Mental Health Services Fund for a consultant to evaluate existing county plans and innovative strategies to address local mental health needs, coordinate with the state and counties to utilize existing resources and programs to support mental health treatment, and assist counties with coordination of programs to support IST diversion efforts.

Expansion of New Jail-Based Competency Treatment (JBCT) Programs. The budget includes $8 million General Fund in 2018-19 and $9.3 million General Fund in 2019-20 to establish new JBCT programs with capacity between five and twelve beds. The programs would be established in five Northern California counties (including two small counties, one Southern California county, and one Central California county. The total proposed capacity of these expansions would be 104 beds.

Implementation of Previous Budget Actions to Reduce IST Backlog. The budget includes funding for several projects approved in previous budget actions intended to reduce the IST backlog:

1. *Activation of Newly Secured Units at Metropolitan State Hospital.* The budget includes 346.1 positions and $53.1 million General Fund in 2018-19 and 473.4 positions and $68.9 million General Fund in 2019-20 to activate 236 new beds for the treatment of IST patients at Metropolitan State Hospital. The 2016 Budget Act included capital outlay funding to fence existing buildings at the Metropolitan State Hospital, which had previously been used for the treatment of civilly committed patients, to treat IST patients. The budget also includes $3.7 million General Fund for the ongoing operating equipment and expenses associated with the expansion at Metropolitan.

2. *Previously Approved Expansions of Jail-Based Competency Treatment (JBCT) Program.* The budget includes a total of $8.1 million General Fund in 2018-19 and $8.3 million General Fund in 2019-20 for the JBCT program. These expenditures include $3.1 million General Fund approved in the 2017 Budget Act for expansion of the program. Previously approved programs in Mendocino, Sacramento, Stanislaus, and Riverside have experienced delays, but were expected to expand treatment availability between late 2017 and early 2018. San Bernardino, which currently operates 96 JBCT beds, is expected to add 30 beds in March 2018 and another 20 beds in July 2018.

3. *Patient Admissions to Kern Admission, Evaluation, and Stabilization (AES) Center.* The budget includes $7.2 million General Fund in 2017-18 and $10.8 million General Fund in 2018-19 for activation of the 60-bed AES Center at the Lerdo Pre-Trial Facility operated by the Kern County Sheriff's Office. The AES Center will receive IST patients beginning in March 2018 from catchment counties in Southern California. These resources were originally approved in the 2017 Budget Act.

ISSUES TO CONSIDER

Timing and Administration of Diversion Contract Funding. The Administration's proposal to allocate $100 million General Fund in 2018-19 for state-county partnerships to promote community-based mental health diversion is an important investment in prevention and reduction of future IST referrals. However, this one year allocation funds programs for which an ongoing funding source is likely needed to preserve any gains to community mental health systems and diversion efforts. The Legislature may wish to consider whether this program merits an ongoing commitment of state resources.

In addition, DSH has limited experience evaluating and coordinating community mental health and other services that may help address underlying unmet mental health needs. Given the availability of resources and program expertise from other state and county health and human services programs, effective coordination and integration of these efforts would likely improve the likelihood of success. The Legislature may wish to consider whether State Hospitals or another state entity possesses the appropriate expertise to administer the award of funds for diversion programs that most effectively coordinate and leverage the full continuum of services to reduce referrals to the criminal justice system.

Interaction with Community Mental Health Infrastructure Grants. The 2017 Budget Act included $68 million for the California Health Facilities Financing Authority (CHFFA) for grant funding to assist communities to build capacity in providing mental health or substance use disorder treatment. This funding was approved to promote public safety diversion programs and services by increasing the number of mental health, substance use disorder, and trauma-related services facilities. It is unclear when CHFFA will begin disbursement of these infrastructure grants. The Legislature may wish to consider whether the Administration's proposed investment in criminal justice diversion programs would benefit from a linkage with previously approved funds for building infrastructure capacity for such programs.

Narrow Focus of Diversion Proposal. Although the Administration's 2018-19 budget proposals primarily focus on community mental health treatment as a tool for diversion from potential future IST referrals, efforts to address unmet mental health needs that lead to, and are exacerbated by, involvement in the criminal justice system could benefit from a broader focus. Despite past efforts to increase capacity for treatment of IST patients, IST referrals continue to grow, suggesting there may be pent up demand in the criminal justice system for the treatment services DSH provides. The Legislature may wish to consider whether it is appropriate to implement a more comprehensive and coordinated approach to forensic mental health treatment, including addressing the unmet mental health needs of individuals involved with other criminal justice entities.

Initiative Funding for Health Programs

BACKGROUND

Two revenue-generating ballot initiatives approved by voters in 2016, Propositions 55 and 56, contain provisions that could allocate significant amounts of new revenue for funding essential health programs in California. Proposition 55, which extends income tax provisions originally implemented in 2012, contained an additional provision that directs up to $2 billion of revenue in excess of amounts needed to fund schools and the state's workload budget to the Medi-Cal program. Proposition 56, which imposes taxes on tobacco products, allocates more than $1 billion of tobacco tax revenue annually for additional spending on state and local health programs, particularly the state's Medi-Cal program.

A third ballot initiative approved by voters in 2016, Proposition 64, which legalizes and taxes the recreational use of cannabis, will provide additional resources to Medi-Cal to address education, outreach, and additional services for children to prevent and treat substance use disorders.

Proposition 55 Tax Extension Provides Potential Medi-Cal Funding. Proposition 55, approved by voters in 2016, extended by twelve years the temporary personal income tax increases enacted in Proposition 30 (2012). In addition to the tax extensions, the initiative requires the Director of Finance, before June 30, 2018, and before every June 30 thereafter until 2030, to calculate the amount of additional tax revenue needed to fully fund: 1) the minimum guarantee to education pursuant to Proposition 98; and 2) the state's workload budget for the following fiscal year. If the additional revenue received exceeds amounts required for education and the workload budget, 50 percent of the additional revenue is transferred to the Department of Health Care Services, up to $2 billion, for additional expenditures on critical, emergency, acute, and preventive health care services to children and their families in the Medi-Cal program.

The initiative defines the term "workload budget" by reference to the definition contained in Section 13308.05 of the Government Code:

13308.05. For purposes of Section 13308, "workload budget" means the budget year cost of currently authorized services, adjusted for changes in enrollment, caseload, or population, or all of these changes and any of the following:
(a) Statutory cost-of-living adjustments.
(b) Chaptered legislation.
(c) One-time expenditures.
(d) The full-year costs of partial-year programs.
(e) Costs incurred pursuant to constitutional requirements.
(f) Federal mandates.
(g) Court-ordered mandates.
(h) State employee merit salary adjustments.
(i) State agency operating expense and equipment cost adjustments to reflect price increases.

The initiative also specifies that for purposes of the "workload budget" calculation, the term "currently authorized services" means only those services that were understood as currently authorized as of January 1, 2016. Under that definition, budget growth not related to changes in enrollment, caseload, or population would not be considered "currently authorized services."

Proposition 56 Tobacco Tax Funds A Variety of Health-Related Programs.
Proposition 56, also approved by voters in 2016, increased the excise tax rate on cigarettes by $2 per pack, with an equivalent increase on other tobacco products, including electronic cigarettes. The initiative requires tax revenue to first be allocated to administration and auditing activities, as well as to account for reduced tax revenue to programs funded by two previous tobacco tax initiatives, Proposition 99 (1988) and Proposition 10 (1998), as well as reductions to state and local General Fund, due to reductions in taxable tobacco product purchases resulting from the higher level of taxation. After these allocations, the initiative requires transfer of 82 percent of the remaining revenue to the Medi-Cal program, and 13 percent to the Department of Public Health (DPH), the Department of Education, and the University of California for tobacco and nicotine product education and prevention and research on tobacco-related diseases. The initiative further requires fixed annual allocations of $40 million to the University of California for graduate medical education of primary care and emergency physicians, $30 million to the Department of Public Health for its Oral Health Program, and $48 million to law enforcement and the Board of Equalization to prevent illegal tobacco sales.

Proposition 56 Expenditures
(Dollars in Millions)

Investment Category	Department	Program	2018-19 Governor's Budget
Enforcement	Department of Justice	Local Law Enforcement Grants[1/]	$30.0
	Department of Justice	Distribution and Retail Sale Enforcement[1/]	$6.0
	Board of Equalization	Distribution and Retail Sales Tax Enforcement[1/]	$6.0
	Department of Public Health	Law Enforcement[1/]	$6.0
Education, Prevention, and Research	University of California	Cigarette and Tobacco Products Surtax Medical Research Program	$57.0
	University of California	Graduate Medical Education[1/]	$40.0
	Department of Public Health	State Dental Program[1/]	$30.0
	Department of Public Health	Tobacco Prevention and Control	$125.9
	Department of Education	School Programs	$22.2
Health Care	Department of Health Care Services	Health Care Treatment	$850.9
Administration and Oversight	State Auditor	Financial Audits	$0.4
	Board of Equalization	Sales and Use Tax	$1.3
Revenue Backfills	Proposition 99, Breast Cancer Research Fund, Proposition 10, and General Fund		$125.8
Total			**$1,301.5**

[1/] Annual amount specified in statute.

Figure 1: Proposition 56 Expenditures, 2018-19 Governor's Budget
Source: *2018-19 Governor's Budget Summary – Health and Human Services, January 2018*

Proposition 56: Medi-Cal Funding. After the allocations for administration, auditing, and backfills of other revenue streams, Proposition 56 requires 82 percent of remaining funds be transferred to the Healthcare Treatment Fund to increase funding for existing healthcare programs and services by providing improved payments for all healthcare, treatment, and services in the Medi-Cal program. Proposition 56 also provides that "funds shall not be used to supplant existing state general funds for these same purposes", "the funding shall be used only for care provided by health care professionals, clinics, health facilities" and "health plans contracting with the State Department of Health Care Services to provide health benefits".

Beginning with the Governor's 2017 January budget, the Administration has interpreted the statutory provisions of Proposition 56 to allow allocation of revenue to fund growth in Medi-Cal program expenditures over the level contained in the 2016 Budget Act. Although these expenditures would have otherwise been funded with state General Fund, the Administration asserts this use of funds does not violate the non-supplantation provisions of Proposition 56. The 2017 January budget allocated all $1.2 billion allocated to Medi-Cal in 2017-18 for program growth. However, the 2017 Budget Act ultimately allocated Medi-Cal funding as follows:

- $650 million ($325 million Proposition 56, $325 million federal funds) to fund supplemental payments for physician services.
- $280 million ($140 million Proposition 56, $140 million federal funds) to fund supplemental payments for dental services.
- $167 million ($50 million Proposition 56, $117 million federal funds) to fund supplemental payments for women's health services.
- $54 million ($27 million Proposition 56, $27 million federal funds) to fund supplemental payments to effectively unfreeze reimbursement rates to intermediate care facilities for individuals with developmental disabilities (ICF-DDs).
- $8 million ($4 million Proposition 56, $4 million federal funds) to fund supplemental payments to increase reimbursement to providers serving beneficiaries of the AIDS Waiver.
- $711.2 million from Proposition 56 to fund Medi-Cal program growth over the General Fund appropriation levels approved in the 2016 Budget Act.

Proposition 56: Oral Health Program Funding. Proposition 56 allocates $30 million annually to the Oral Health Program at DPH for the purpose of educating about, preventing and treating dental disease, including dental disease caused by use of cigarettes and other tobacco products, by funding activities that support the state dental plan based on demonstrated oral health needs and prioritizing serving underserved areas and populations. Funded program activities include education, disease prevention, disease treatment, surveillance, and case management.

The 2017 Budget Act authorized DPH to use its Proposition 56 allocation to create a comprehensive public health infrastructure to support oral health education, prevention, surveillance, and treatment of dental disease. Beginning in 2017-18, DPH plans to expand the capacity of the Oral Health Program, local jurisdictions, and Denti-Cal to implement the goals, objectives, strategies, and activities of the recently released State Oral Health Plan, the Healthy People 2020 Oral Health Objectives, Denti-Cal and Maternal Child and Health Services Block Grant performance measures, and the California Wellness Plan. The impact of the expanded program activities will be evaluated through analysis of: 1) oral health surveys of kindergarten and 3rd grade children; 2) Denti-Cal utilization reported in the annual Denti-Cal performance report; 3) the Maternal and Infant Health Assessment; 4) the Behavioral Risk Factor Surveillance System; 5) the Youth Risk Behavior Surveillance System; 6) the California Health Interview Survey; 7) the National Survey of Children's Health; 8) the California Cancer Registry; and 9) survey of dental practitioners.

Proposition 56: Tobacco Prevention and Enforcement Funding. Proposition 56 allocates a percentage of collected excise tax revenue to the Tobacco Control Branch ($125.9 million in 2018-19), which was established after the passage in 1988 of Proposition 99. The Tobacco Control Branch administers funds to local health departments and competitively selected community-based organizations, runs a statewide tobacco prevention media campaign, and completes comprehensive evaluation efforts. The 2017 Budget Act authorized Proposition 56 funded expenditures for this program, including 26 positions and local assistance funding for: 1) advertising and public relations contracts; 2) evaluation and surveillance contracts and interagency agreements; 3) local health department allocations; 4) community-focused competitive grants awarded to non-profit organizations to conduct tobacco prevention programs; and 5) statewide-focused competitive grants, contracts, and interagency agreements awarded for training and technical assistance, Helpline services, and support services.

In addition, Proposition 56 allocates $6 million annually to DPH for tobacco law enforcement programs, including, but not limited to, providing grants and contracts to local law enforcement agencies to provide training and funding for preventing illegal tobacco sales to minors, as well as enforcement activities under the 1995 Stop Tobacco Access to Kids Enforcement (STAKE) Act. The 2017 Budget Act authorized 20 positions and local assistance funding for the STAKE Act Unit, which includes funding for local law enforcement agencies for training and increased tobacco retailer compliance checks.

Proposition 56: Graduate Medical Education Funding. Proposition 56 allocates $40 million annually to the University of California (UC) to "sustain, retain, and expand graduate medical education (GME) programs to achieve the goal of increasing the number of primary care and emergency physicians in the State of California based on demonstrated workforce needs and priorities." The 2017 Budget Act allocates these Proposition 56 funds to offset General Fund expenditures in the UC budget. This fund shift assumes that the university will fund existing UC graduate medical education programs currently funded with General Fund resources with its Proposition 56 allocation. However, the initiative text directs UC to administer these funds as a grant program awarded to public and private entities throughout the state, including UC, for additional primary and emergency care residency training programs. UC has not disbursed these funds to date.

Proposition 64 Provides Revenue for Substance Use Disorder Services. Proposition 64, approved by voters in 2016, legalizes, regulates, and taxes the sale of recreational cannabis in California. After accounting for the costs of administration and other fixed allocations, the initiative provides a percentage of the remaining revenue to the Medi-Cal program for programs for youth that are designed to educate about and prevent substance use disorders, and prevent harm from substance use. These programs may include prevention and early intervention services, school grants for student assistance programs to prevent suspension or expulsion, programs for homeless and out-of-school youth with substance use disorders, access and linkage to care provided by county behavioral health programs for individuals with or at risk of a substance use disorder, youth-focused substance use disorder treatment programs, programs to reduce stigma of substance use disorders, workforce programs for behavioral health staff, or construction of community-based youth treatment facilities.

GOVERNOR'S PROPOSAL

"Workload Budget" Calculation Precludes Additional Medi-Cal Funding in 2018-19. The Department of Finance analysis of Proposition 55 revenues and expenditures indicates that expenditures exceed revenues by $1.9 billion. As a result, the budget includes no additional funding from Proposition 55 for the Medi-Cal program.

Additional Supplemental Reimbursements for Medi-Cal Providers. The budget includes $1.1 billion ($360.1 million Proposition 56, $788.2 million federal funds) in 2017-18 and $2 billion ($649.9 million Proposition 56, $1.4 billion federal funds) in 2018-19 for supplemental provider payments in Medi-Cal. The supplemental payments by category are as follows:

Supplemental Payments *(dollars in thousands)*	FY 2017-18 2017 Budget Act	FY 2017-18 2018 Gov Budget	FY 2018-19 2018 Gov Budget
Physician Services			
Total Fund	$ 650,000	$ 746,051	$ 1,338,039
Proposition 56	$ 325,000	$ 229,756	$ 416,593
Federal Funds	$ 325,000	$ 516,295	$ 921,446
Dental Services			
Total Fund	$ 280,000	$ 223,809	$ 461,501
Proposition 56	$ 140,000	$ 78,819	$ 164,519
Federal Funds	$ 140,000	$ 144,990	$ 296,982
Women's Health Services			
Total Fund	$ 167,000	$ 158,347	$ 183,259
Proposition 56	$ 50,000	$ 42,608	$ 49,001
Federal Funds	$ 117,000	$ 115,739	$ 134,258

ICF-DDs			
Total Fund	$ 54,000	$ 13,257	$ 35,616
Proposition 56	$ 27,000	$ 5,472	$ 16,412
Federal Funds	$ 27,000	$ 7,785	$ 19,204
AIDS Waiver			
Total Fund	$ 8,000	$ 6,800	$ 6,800
Proposition 56	$ 4,000	$ 3,400	$ 3,400
Federal Funds	$ 4,000	$ 3,400	$ 3,400
TOTAL, ALL PROVIDERS			
Total Fund	$ 1,159,000	$ 1,148,264	$ 2,025,215
Proposition 56	$ 546,000	$ 360,055	$ 649,925
Federal Funds	$ 613,000	$ 788,209	$ 1,375,290

The overall Proposition 56 allocation for supplemental provider payments is $185.9 million lower in 2017-18, and $103.9 million higher in 2018-19, compared to the 2017 Budget Act. The Governor's Budget Summary indicates the budget "allocates $649.9 million in 2018-19, an increase of $232.8 million, for supplemental payments and rate increases based on those approved in the 2017 budget package." However, the Healthcare Treatment Fund, which distributes the Proposition 56 allocation for Medi-Cal, reflects a final fund balance of $331.1 million in 2017-18 and $414.7 million in 2018-19. The Administration indicates a portion of this fund balance is being retained to account for a lag in the payment of claims caused by system changes and deferrals into 2019-20. In addition, the budget continues to include $711.2 million in 2017-18 for Medi-Cal program growth over levels in the 2016 Budget Act. In 2018-19, however, the allocation for Medi-Cal program growth drops to $169.4 million.

Home Health Rate Increase Funded by Proposition 56. The budget includes $64.5 million ($31.6 million Proposition 56, $32.8 million federal funds) to fund a 50 percent increase in reimbursement rates paid to providers of medically necessary, in-home services to children and adults in the fee-for-service system or through the state's home- and community-based services waivers. While other Proposition 56-related reimbursement changes are delivered through time-limited supplemental payments, the proposed increase for home health providers would be applied to base reimbursement rates and would be ongoing.

Ongoing General Fund Reduction to UC based on GME Allocation. The budget continues to offset General Fund allocations to UC with the Proposition 56 allocation intended for primary and emergency care residency training programs.

No Proposition 64 Funding in 2018-19. Although taxable recreational marijuana sales have begun in California, General Fund expenditures for administrative costs prior to the effective date of the initiative must be repaid before any revenue may be provided to Medi-Cal. As a result, no revenue is expected to be allocated to Medi-Cal in the 2018-19 fiscal year and the budget includes no proposals for programs that may be funded in the future by Proposition 64 revenue.

ISSUES TO CONSIDER

The Administration's Calculation of the "Workload" Budget Merits Scrutiny. While Proposition 55 provides significant discretion to the Department of Finance to calculate the "workload budget" for the purposes of determining whether any additional tax revenue may be provided for the Medi-Cal program, it is essential that the assumptions made for that calculation be reasonable and consistent over time. The Legislature may wish to further analyze whether these calculations are consistent with the statutory definitions of "workload budget" referenced in the text of Proposition 55, and consider where additional resources devoted to Medi-Cal could best improve the program.

Non-Federal Share of Supplemental Payments Less Than Appropriated Funding. While the Administration's willingness to increase Proposition 56 allocations for new Medi-Cal expenditures is a positive development, it is unclear whether the payment lags and deferrals referenced in budget documents can account for the significant amount of Proposition 56 revenue that is expected to remain unspent at the end of each fiscal year. The Legislature may wish to further analyze how the department is allocating Proposition 56 supplemental payments and work with the Administration to evaluate whether changes are warranted to the supplemental payment methodologies to more effectively improve access to necessary medical care for Medi-Cal beneficiaries.

General Fund Offset of UC Funding with Proposition 56 GME Allocation. The Administration's decision to offset General Fund allocations to UC with Proposition 56 funding designated for primary and emergency care residency training programs is likely inconsistent with the intent of the initiative, which describes a program administered by UC, but not exclusively for its benefit. The Legislature may wish to consider whether this General Fund offset is appropriate and how these voter-approved funds should be distributed to expand opportunities for developing the primary and emergency care workforce.

Most Effective Use of Proposition 64 Funding. While no funding is likely to be available for Medi-Cal substance use disorder services in 2018-19 from new recreational cannabis taxes, Proposition 64 represents the potential for significant new resources for substance use disorder education, prevention, and treatment for Medi-Cal beneficiaries. The Legislature may wish to consider how best to deploy these resources once they are available to improve the state's programs and infrastructure to address substance use disorders.

Child Welfare Services: Continuum of Care Reform

BACKGROUND

Significant research documents the poor outcomes of children and youth in group homes, such as higher re-entry rates into foster care, low high school graduation rates, and increased risk of arrest. These group homes are generally more expensive than family placements. The Continuum of Care Reform (CCR) began by trying to find solutions to these problems, but eventually broadened the effort into a more comprehensive set of changes for the whole foster care system. The Child Welfare Services (CWS) branch of the Department of Social Services (DSS), along with the counties, is responsible for overseeing this large-scale overhaul of the foster care system.

In 2012, the Legislature passed SB 1013 (Budget and Fiscal Review Committee), Chapter 35, Statutes of 2012, which authorized the CCR to develop recommendations related to the state's current rate setting system, and to services and programs that serve children and families in the continuum of Aid to Families with Dependent Children-Foster Care (AFDC-FC) eligible placement settings. In January 2015, the department released the report "California's Child Welfare Continuum of Care Reform", which listed recommendations to improve assessment of child and families to make more appropriate initial placement decisions; emphasize home-based family care; support placement with available services; change the goals for group home care placement; and, increase transparency for child outcomes. The Legislature subsequently passed AB 403 (Stone), Chapter 773, Statutes of 2015, to implement the CCR, which codified the recommendations.

Some of the main components of the CCR are:

- The creation of Short-Term Residential Treatment Placements (STRTPs), which are intended to replace group homes and provide short-term, therapeutic services to stabilize children so that they may quickly return to a home-based family care setting.

- Additional integration between child welfare and mental health services is expected, and STRTPs and Foster Family Agencies (FFAs), which are private, nonprofit corporations intended to provide treatment and certify placement homes for children with higher level treatment needs, will be required to ensure access to specialty mental health services and strengthen their permanency placement services.

- Resource Family Approval (RFA) is a new, streamlined assessment that replaces the existing multiple approval, licensing, and certification processes for home-based family caregivers.

- The required use of child and family teams (CFTs) in decision-making.

- A new Home-Based Family Care (HBFC) rate structure. Prior to CCR, group home facilities were organized under a system of rate classification levels ranging from 1-14 that are based on levels of staff training and ratios. Reimbursement rates for 14 separate group home levels have been replaced by the HBFC Rate Structure that is based on the needs of the child. In order to implement the HBFC rate structure, a tool must be developed to aid county social workers on how to assess foster youth and place them in the appropriate Level of Care (LOC). Below is the new rate structure:

Home-Based Family Care Rate Structure for FY 2018-19
Based on Level of Care[1]

Pay to Resource Family	Basic Level	LOC-2	LOC-3	LOC-4
Basic Rate	$960	$1,068	$1,177	$1,285

Pay to Foster Family Agency	Basic Level	LOC-2	LOC-3	LOC-4
Basic Rate[2]	$960	$1,068	$1,177	$1,285
Social Worker	$340	$340	$340	$340
Social Services & Support	$156	$200	$244	$323
RFA	$48	$48	$48	$48
Administration	$672	$672	$672	$672
Total	**$2,176**	**$2,328**	**$2,481**	**$2,668**

Pay to Resource Family for Intensive Services Foster Care	
Intensive Services Foster Care Rate	$2,507

Pay to Foster Family Agency for Intensive Services Foster Care (including Administration)	
Intensive Services Foster Care Administration	$3,482
Intensive Services Foster Care Social Services & Support	$200
Total	**$6,189**

Pay to Short-Term Residential Therapeutic Program	
Short-Term Residential Therapeutic Program Rate[2]	$13,003

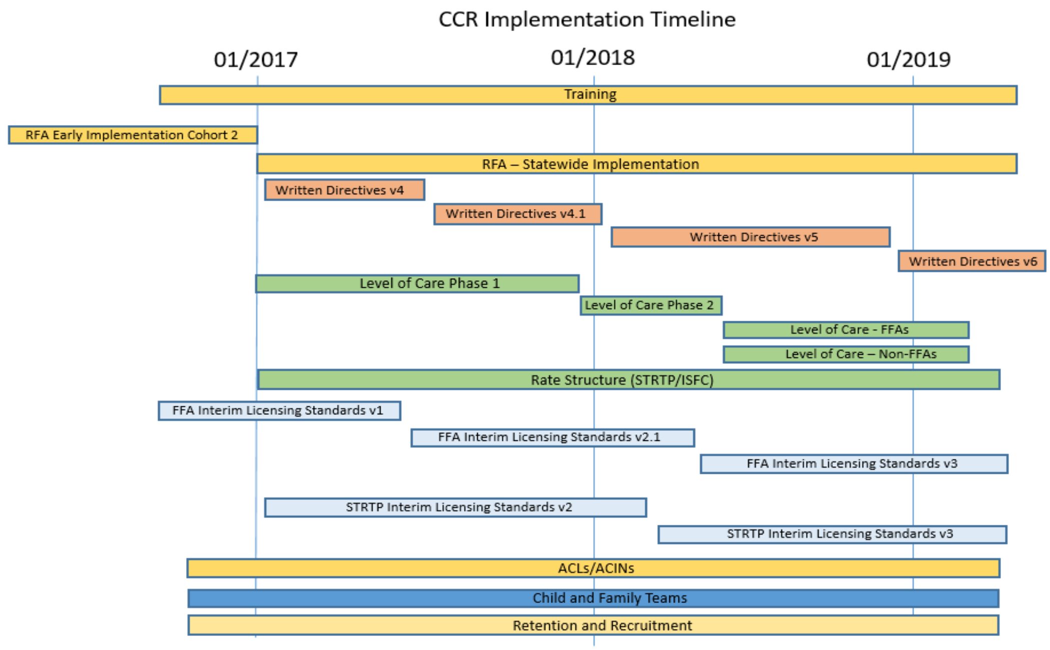
Pay to Foster Family Agency or Community-Based Organizations for Services Only	
Total Rate[2]	$833

Implementation Update

Several components of CCR were implemented on July 1, 2015, including the foster family agency social worker rate increase and foster parent recruitment, retention, and support activities for resource families and foster parents. Accreditation of STRTPs and FFAs, and the RFA process in thirteen counties, began on July 1, 2016.

Other implementation activities of the CCR have been split into Phase I and Phase II. Phase I began to implement January 1, 2017, and includes the basic level of the rate paid to families and the series and supports components of the FFA payment, the utilization of CFTs, and the remainder of counties beginning to use the RFA process. Phase II began implementation on February 1, 2017, and includes the use of all LOCs of the HBFC rate structure.

Implementation is an ongoing, evolving effort that will take at least several years to successfully roll out all components. The following page shows a timeline of implementation activities:



DSS, in accordance with supplementary reporting language included in the 2016 Budget Act, has been providing Legislative staff with monthly, and now quarterly updates, on the progress of CCR implementation. Below are the latest updates on the various CCR components:

<u>The CFT Process.</u> DSS has written and disseminated several All-County-Letters (ACLs), including instructions on how to record CFTs in the Child Welfare Services/Case Management System (CWS/CMS), that provides information on a range of CFT topics. DSS also continues to work with CFT specialists at UC Davis to develop a state-approved CFT curriculum, with an anticipated release in February 2018. Several brochures about CFT meant to inform youth, parents, and professionals about the CFT process have also been developed with the help of stakeholders and should be posted to the DSS websites.

<u>Rates Implementation and Assessment Tools.</u> Long-term, the department has selected the well-known and piloted Child and Adolescent Needs and Strengths (CANS) tool after a multi-month selection process. However, the CANS will not be able to fully implement as a tool to guide placements in counties for at least two years. Consequently, the department has worked on an interim tool, or the LOC Protocol. This tool has piloted in several counties, and is scheduled for full statewide implementation in May 2018.

Specialized Care Increments (SCIs) are payments provided by counties on top of the LOC payment if a county determines that the LOC rate the child was placed in does not cover all of the child's needs. Counties have been using SCIs under the old rate structure, and will be able to continue using them with the new rate structure. It is assumed that starting April 1, 2018, counties will reduce their SCI investments in amounts consistent with the incremental difference between the old age-based rate structure and the new HBFC rate structure, and this offset will be used to reduce the General Fund investment amounts.

Counties are still awaiting specific instruction on how to implement the LOC Protocol with the HBFC rate structure, and to figure out how to adapt SCI payments with the new tool and rates. After hearing stakeholder concerns about the readiness of the LOC Protocol, the department has come to the recent decision of delaying the full county implementation of the HBFC rates and LOC protocol tool on February 1, 2018, and instead will facilitate a limited implementation in FFAs beginning March 1, 2018 through May 1, 2018. During this two month time period, the department will contract with researchers to closely monitor the effects of the new rates and interim tool on foster youth and families, and will work with counties to fix any problems in real-time. On May 1, 2018, full county implementation, informed by lessons learned from the FFA implementation, will occur. The department will be communicating closely with legislative staff during the FFA implementation process to assess whether the May 1 implementation date is feasible.

The department will also release an ACL in early February regarding the implementation of the Intensive Services Foster Care (ISFC) Program. Certified foster parents and approved resource parents in an existing Intensive Treatment Foster Care Program (ITFC) program should already be receiving the current ISFC rate.

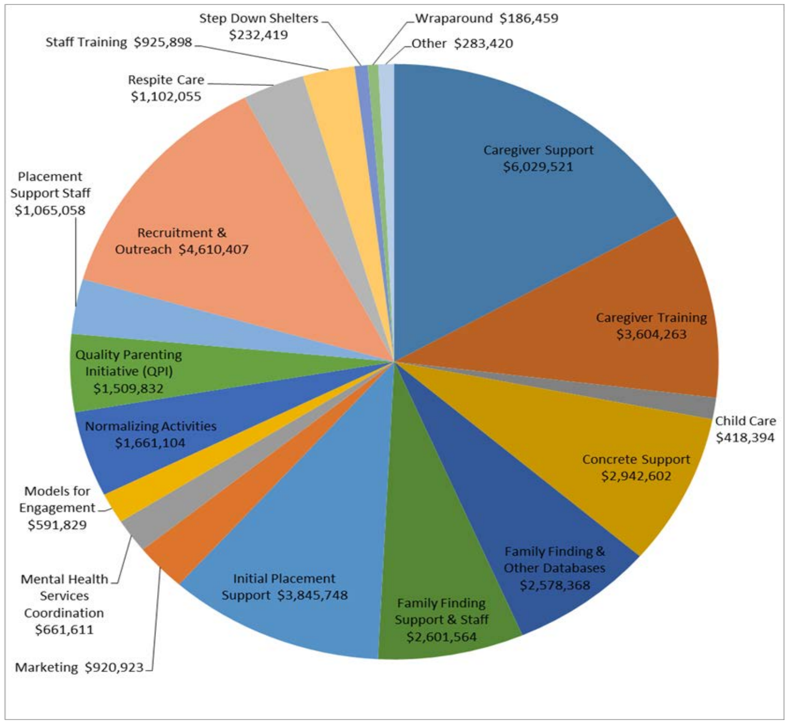
<u>RFA.</u> All counties began using RFA as part of CCR implementation effective January 1, 2017. Families who have gone through the RFA process in the early implementing counties were invited to participate in a satisfaction survey. Many identified the length of the process as an issue. More recently, it seems that in many counties the RFA process is taking as long as six months – far beyond the goal of 90 days. However, many FFAs are claiming that they are able to finish the RFA process within the 90 day timeframe. Below is a county-submitted data snapshot on where families are currently at in the RFA process. Based on this data, it is clear that there is a large backlog of families slowing counties down:

Statewide (44 counties)

	# of RFA apps approved since 1/1/17	**# of RFA apps denied since 1/1/17**	**# of RFA apps withdrawn since 1/1/17**	**# of RFA apps pending since 1/1/17**	**Total # of RFA apps received since 1/1/17**	**Total # of over 90 days for approval**	**Total # of over 90 days pending**
Total	4,163	101	3,140	8,831	16,263	1,795	4,872

All county child welfare directors and probation chiefs will receive a letter in early February requesting a county assessment and plan to address barriers to timely approval.

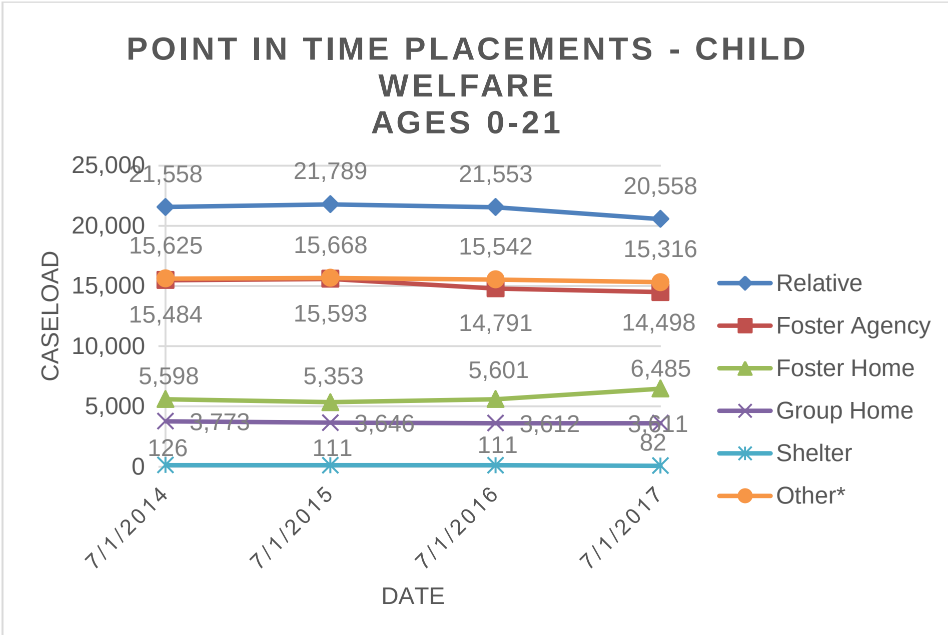
<u>Foster Parent Recruitment Retention and Support (FPPRS).</u> From January 1, 2016 to June 30, 2016, the department notes that 2,295 new non-relative foster caregivers were contacted and engaged; 7,195 potential relative/non-relative extended family members were identified by counties; approximately 3,177 children were affected by FPPRS activities and assisted in placing children in less-restrictive settings, and/or stepping down children from group homes to family-like placements; and approximately 1,487 children were assisted in achieving permanency by FPPRS activities. Below is a chart showing the top uses for FPPRs funds for counties in 2017-18.



Mental Health. Legislative staff has spent time during the fall of 2017 to work with DSS and the Department of Health Care Services (DHCS) on gaining a more thorough understanding of what data DHCS collects on Specialty Mental Health Services (SMHS), and to discuss what other data might be important to begin to collect. DSS and DHCS continue to work together to produce reports on SMHS utilization on a quarterly basis. Both departments are conducting regional county convenings in 2018 to support counties in their implementation efforts and initiatives related to SMHS for children and youth.

STRTPs. As of January 1, 2017, group homes are no longer a placement option (subject to case-by-case exceptions that may allow them to continue to operate for a period of time). The foster youth in group home care will transition to alternative placements. In 2018-19, the department assumes that 710 group home placements will move to an intensive services foster care placement; 1,868 group home placements will move to an STRTP placement; and 904 group home placements will move to a family-based setting. The remaining 2,046 group home placements will not yet transition. Although this is a higher projection than current year estimate, the transition of group home placements to lower levels of care is progressing slower than originally projected.

Below is a table reflecting placements over the past few years through July 2017.



Automation. The Child Welfare Services – California Automated Response and Engagement System (CWS-CARES) will replace the Child Welfare Services/Case Management System (CWS/CMS) and provides an automated child welfare system with capabilities that include mobile and web-based technology to support the current and future business practice needs of the counties and the state. The new system will support child welfare programs, business processes and legislated improvements focused on protecting the safety of children and families. The CWS-CARES Project will use an Agile procurement and design/development approach, where an Request for Proposal (RFP) is broken into a set of smaller modules that can be delivered in a short period of time, and a separate vendor is selected for each module

While the CWS-CARES remains in its early stages, various changes to the CWS/CMS and licensing systems are required to implement CCR, including what is necessary for the automation of foster care payments. Below is a chart reflecting these changes.

System	Current Status	Next Step	Next Step Due Date
SAWS	Phase 2 was completed in November 2017 and implemented in all three of the SAWS	Phase 2 was the final phase of the SAWS automation and implementation. There are no more updates scheduled at this time.	N/A
Administrative Action Records System (AARS)	The AARS has been in production for 4 months with few problems being reported by users. As of 11/20/2017: • 1,087 users have been registered to accessed the system. 47 Notice of Action (NOA's) have been uploaded to the database.	All development of additional enhancements have been placed on hold to the DSS IT resource constraints. A Request For Offer (RFO) to hire a contractor for the remaining enhancements requested by the customer has been developed and is in the review process. When finalized this contract will fund the development of all remaining customer requirements.	January, 2018
CWS/CMS	Release 8.1 is scheduled for deployment into production on January 6, 2018. This release includes additional Background Check information for caregiver approval, the ability to document when Mental Health needs meet the definition of medical necessity, and new processes to ease data entry and more accurately record history when existing licensed homes go through resource family approval.	Complete Release 8.1 testing before rollout of the CCR Phase 3 code changes for the CWS/CMS application. This release will complete the requested CWS/CMS changes to support RFA / CCR	January 6,2018
Child Welfare Digital Services (CWDS)	Case Management Module is currently in the development phase. The CANS assessment tool was chosen and the CWDS is exploring options for automation.	CWDS will work with CDSS to plan New System functionality that limits or prevents duplicative data entry for the county social workers.	TBD

GOVERNOR'S PROPOSALS

The 2018-19 Governor's budget proposes $238.2 million ($179.7 million General Fund) to continue implementation of CCR activities.

The table below provides a high-level summary of changes between the 2017-18 Budget Act and the 2018-19 Governor's budget:

Funding (in millions)	FY 2017-18 Appropriation	FY 2017-18 Revised Budget	FY 2018-19 Governor's Budget	FY 2017-18 Change from Appropriation	FY 2018-19 Change from Appropriation
Total*	$11.3	$87.7	$38.6	$76.4	$27.3
Federal/ TANF	0.0	13.3	4.5	13.3	4.5
State	11.0	74.3	33.7	63.3	22.7

The table below provides a detailed breakdown of the proposed funding.

Total CCR Program costs

CCR Components (values in 000s)	FY 2017-18 Total	FY 2017-18 Federal[1]	FY 2017-18 Non-Fed	FY 2018-19 Total	FY 2018-19 Federal[2]	FY 2018-19 Non-Fed
Home-Based Family Care Rate[3]	$87,687	$13,279	$74,408	$38,557	$4,473	$34,084
Accreditation	2,827	1,414	1,413	0	0	0
Contracts (budgeted in CCR Administration)	6,044	1,934	4,110	8,354	2,689	5,665
Contracts (budgeted in Child Welfare Training)	6,014	3,775	2,239	5,787	3,548	2,239
Second Level Administration Review	29	6	23	244	47	197
Child and Family Teams	63,644	12,467	51,177	64,518	12,575	51,943
Foster Parent Recruitment, Retention, and Support	54,372	11,112	43,260	27,076	5,446	21,630
RFA	27,406	8,850	18,556	34,149	11,004	23,145
Automation	500	250	250	0	0	0
SAWS	5,020	2,921	2,099	0	0	0
CDSS Local Assistance Total	**$253,543**	**$56,008**	**$197,535**	**$178,685**	**$39,782**	**$138,903**

ISSUES TO CONSIDER

Concerns regarding the LOC Protocol and readiness of full HBFC Rate implementation. Advocates have raised several concerns about the LOC Protocol: 1) The CANS assessment is rolling out statewide at the same time as the LOC Protocol; this will only serve to confuse and overburden social workers and children who will be assessed twice; 2) Counties have not had time to figure out how their SCIs will work with the LOC Protocol, and this could result in children not receiving the full array of services they need; 3) The LOC Protocol has not demonstrated its reliability, based both on the department's pilot and the advocate's own pilot; advocates worry that the LOC Protocol is weighted towards assessing the majority of children at the lowest levels of care, regardless of their actual level of need.

The department, however, feels that the LOC Protocol pilot they conducted does in fact prove the reliability of the tool. Nevertheless, they have agreed to move the full implementation date out to May 2018 and test the LOC Protocol and HBFC rates out on FFAs only in March 2018, which is a population of approximately 600-700 children, and study this to ensure that there are no unintended consequences and apply any lessons learned in the full roll-out.

While it is helpful that the department has agreed to delay full implementation of the LOC Protocol and HBFC rates, the two-month period allotted to study the smaller FFA-only implementation is a very short and busy window. The Legislature should monitor this effort closely and communicate often with DSS, county partners, and advocates to ensure that any issues that come up are resolved quickly, and that ultimately children and families are not bearing the brunt of a rushed implementation. In the meantime, the department should share its longer-term plan for implementation of CANS.

Concerns regarding the RFA process. Both anecdotally and through the results of the department's own satisfaction survey given to RFA participants in early implementing counties, it appears that the RFA process is taking far longer than anticipated. This has potential harmful impacts on children and families, particularly for relative caregivers who must take in children on an emergency basis, and do not receive funding until the RFA process is completed. The Legislature should consider what needs to be done in order to shorten the RFA process to its intended length and to make it less burdensome on families.

Continuing the conversation about data collection to ensure access to mental health services. Providing mental health services for foster youth is a key component of CCR. Even after multiple conversations with DHCS and DSS, it is unclear whether there will be an effort made to collect any new data that Legislative staff and other stakeholders believe are important to understanding the effectiveness of the CCR and ensuring that foster youth are receiving appropriate and timely services and supports. The Legislature should continue conversations with DHCS and DSS, and identify what data points will be the most helpful in this endeavor, and continue to monitor existing data to make sure no service gaps are emerging.

Monitoring consistency and outcomes across counties. Similar to the data collection conversation relating to mental health services, the Legislature should consider if there are specific goals that should be monitored across counties related to other components of the CCR, and think about what kind of data would be helpful in measuring the CCR's overall success. The Legislature should also take a closer look at CWS-CARES as it progresses to ensure that it parallels the CCR effort, particularly since the CWS-CARES effort uses an incremental, module-based design approach.

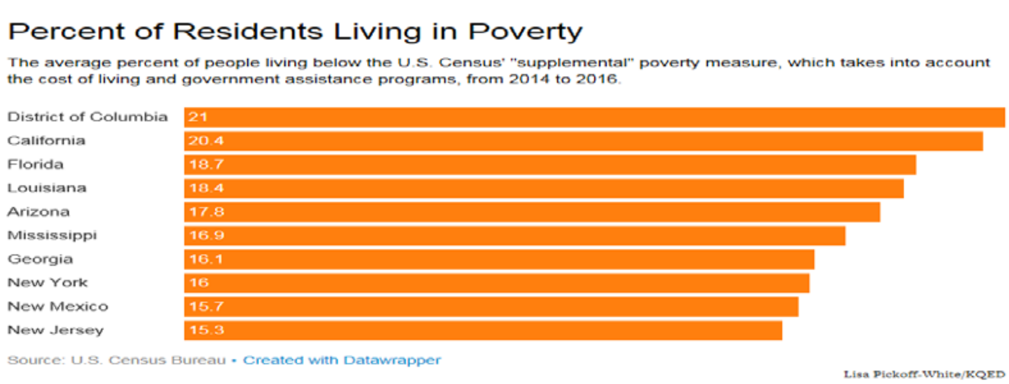
Looking out for special populations. Among foster youth, there are many subpopulations that face even more obstacles than a typical foster youth, including the CSEC population, homeless youth, and probation youth. Also, among caregivers, relatives are a unique population that need special consideration to ensure they receive adequate support, as they are another critical key in the overall goals of CCR. The Legislature should make sure the department has separate plans to monitor how these populations are doing and has the flexibility within CCR to make adjustments to help these populations if they are identified as needing help.

Poverty and Safety Net Programs Overview

BACKGROUND

This overview will explore poverty in California, the unique conditions that contribute to poverty in California, and the impacts of poverty on Californians and the state as a whole. It will also examine current human services safety net programs in California, specifically the Supplemental Security Income/State Supplemental Payment (SSI/SSP) Program, the California Work Opportunities and Responsibilities to Kids (CalWORKs) Program, and CalFresh, and how these programs alleviate poverty in California. This overview looks specifically through a human services lens, and does not discuss MediCal or other health-related programs for low-income Californians. Other programs, like the Earned Income Tax Credit or the Low-Income Home Energy Assistance Program, can also be considered anti-poverty programs, but are not addressed in this overview either.

Poverty in California. Nearly one in five Californians lives in poverty – close to eight million residents[1]. In 2015, the U.S. Census Bureau and the Bureau of Labor Statistics released its estimates of poverty based on the Supplemental Poverty Measure (SPM), which takes into account the effects of government programs designed to assist low-income families, including refundable tax credits and other in-kind public benefit programs; necessary expenses that may affect family resources, such as out-of-pocket medical expenses and childcare costs; and geographic differences in housing costs.[2] According to the 2015 U.S. Census Bureau figure, California's current official poverty measure is 15 percent; under the SPM, its poverty rate over 2013-2015 averaged 20.6 percent—the highest of any state in the nation except for the District of Columbia. See below table for comparisons.

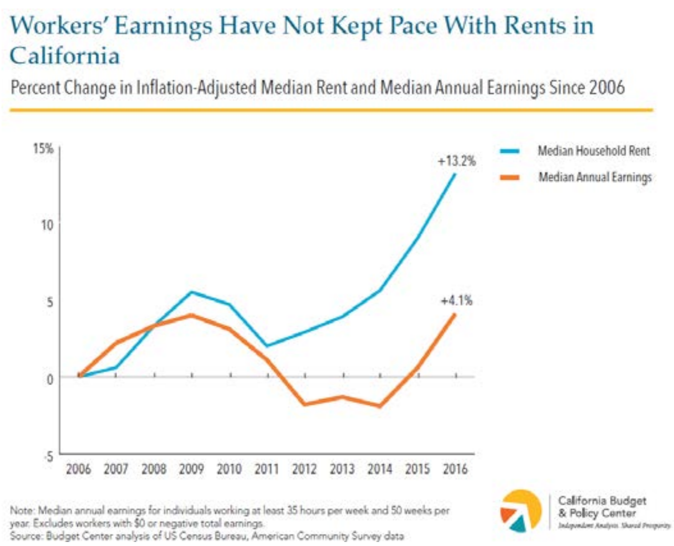


[1] Public Policy Institute of California. "Just the Facts: Poverty in California." October 2017. http://www.ppic.org/wp-content/uploads/JTF_PovertyJTF.pdf

[2] Trudi Renwick and Liana Fox. "The Supplemental Poverty Measure: 2015." *U.S. Census Bureau, Economics and Statistics Administration.* September 2015. https://www.census.gov/content/dam/Census/library/publications/2016/demo/p60-258.pdf

Poverty rates vary significantly across California's counties, due to differences in the cost-of-living. Using the California Poverty Measure (CPM), which accounts for the cost-of-living and a range of family resources, including social safety net benefits, the table below shows the poverty rates across counties. In 2013, Placer County had the lowest poverty rate (13 percent), and Los Angeles had the highest (26 percent).[3]

Among the factors that contribute to poverty in California, one of the main reasons is that wages have not kept pace with inflation or the rapidly rising costs of housing. According to a 2015 study by the California Housing Partnership Corporation, California has a shortfall of 1.5 million affordable homes and includes 13 of the 14 least affordable metropolitan areas in the country. California requires the third-highest wage in the country to assure access to housing, ahead of just Hawaii and Washington D.C. In the 2017 report "Making Ends Meet", the California Budget and Policy Center found that after adjusting for inflation, the median rent in California has increased by 13.2 percent since 2006, while the median annual earnings for full-time, year-round workers has increased by only 4.1 percent over the same time period. The report also found that in all 58 counties, the annual salary of a full-time minimum wage worker is not sufficient to cover the basic budget for a single-parent family, and further that the combined salary of two full-time minimum wage workers is not enough to cover the basic budget for a two-parent working family.



Children whose parents are less educated and are working part-time or unemployed are more likely to live in poverty[4]. However, most poor families in California have at least one working adult. For poor families with young children ages zero to five, 78 percent of adults work low-wage jobs and 31 percent pay more than half of their income toward housing.

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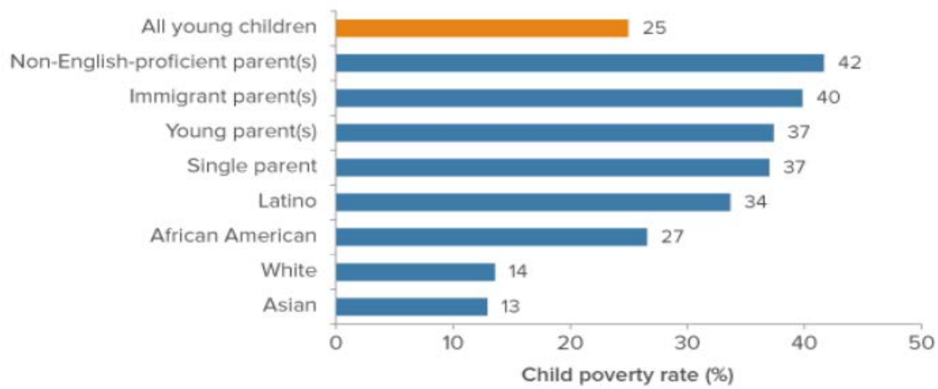
[3] Public Policy Institute of California. "Just the Facts: Poverty in California." October 2017. http://www.ppic.org/wp-content/uploads/JTF_PovertyJTF.pdf

[4] Public Policy Institute of California. "Geography of Child Poverty in California." February 2017. http://www.ppic.org/content/pubs/report/R_0217SBR.pdf

Many Californians living in poverty are among the most vulnerable populations – the elderly, single mothers, and young children. Latinos and African-Americans have higher poverty rates than whites in California.[5] A report by the Kaiser Family Foundation found that 21 percent of Californians age 65 and older live in poverty. One in five single older women lives below the federal poverty line, and 60 percent of all single elderly women of color are facing economic insecurity.[6] Single mothers are disproportionately represented among those in poverty in California – 92 percent of heads of CalWORKs recipient households are women, and two-thirds of these households are headed by single women.[7] One quarter of young children between the ages of zero and five in California live in poverty.[8] Below is a chart displaying how poverty affects children in various demographics across the state.



SOURCE: Author calculations from the 2011–2014 California Poverty Measure.
NOTES: Statewide poverty rates for young children age 0–5 calculated within the given demographic subgroup.

Families and individuals in poverty experience a high degree of chronic stress. Much of this stress is related to the difficulties of navigating a life of poverty, such as food insecurity and or living in a dangerous neighborhood. This kind of daily stress over a long period of time leads to negative effects like memory impairment and the inability to focus, and has a particularly negative impact on the developing brain in children.

Various research has established that children who grow up in poverty often perform poorly in academic settings, and have poorer physical and mental health than children from families with higher socioeconomic status. Children growing up in poverty are at higher risk for problems such as developmental delays, behavioral problems, asthma, poor nutrition, low birth weight, and pneumonia.

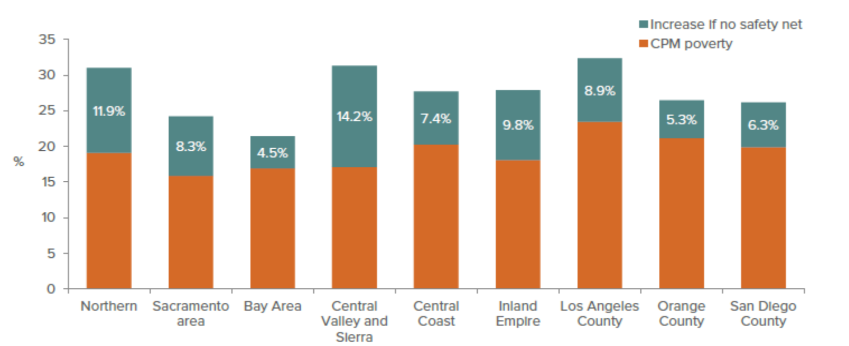
It is important to distinguish between poverty and deep poverty. Deep poverty is defined as living below half of the federal poverty threshold. For example, this would mean that a single individual

[5] Public Policy Institute of California. "Just the Facts: Poverty in California." October 2017. http://www.ppic.org/wp-content/uploads/JTF_PovertyJTF.pdf
[6] California Commission on Aging. "Aging, Women and Poverty in California." June 2016. http://www.justiceinaging.org/wp-content/uploads/2016/11/AWIP-Report-published-1-1.pdf
[7] Kate Karpilow and Diane Reed. "Understanding CalWORKs: A Primer for Service Providers and Policymakers." April 2010. http://www.phi.org/uploads/application/files/c0d53exiozgdiy3brz168ysvgznc0usx5xah6xs4clek736omr.pdf
[8] Public Policy Institute of California. "Geography of Child Poverty in California." February 2017. http://www.ppic.org/content/pubs/report/R_0217SBR.pdf

under 65 in deep poverty would have an income below $6,243 in 2016, while for a family of four with two children an income of $12,169 would be considered in deep poverty[9]. Research has shown that those living in deep poverty face more of the risks associated with poverty in general. Children who grow up in poverty are more likely to stay impoverished - 40 percent of people born into deep poverty had incomes in the bottom fifth of the income distribution as adults compared to 18 percent of people born into middle-income families.[10] From early on, these children, and later adults, face extended exposure a poor quality diet, limited options for housing, few chances for educational advancement, and limited access to healthcare.[11] Ultimately, adults living in poverty suffer disproportionately from almost all diseases and experience a higher rate of mortality. The hardships associated with poverty make it more difficult to find work and secure a stable income, compounding the issue.

The Role of Safety Net Programs in Reducing and Alleviating Poverty. Research has shown that safety net programs can aid those living in poverty significantly. The table below shows, by region, the estimated percentage of individuals who would be in poverty if it weren't for these programs. For example, in Los Angeles County, the poverty rate was at approximately 25.7 percent in 2013. However, if it weren't for existing social safety net programs, the poverty rate would be significantly higher at close to 40 percent. At a larger state level, the Public Policy Institute of California found that in 2015, social safety net programs, in combination with low-income tax programs kept 8.2 percent of Californians out of poverty.

Poverty would be even higher without the social safety net, especially in inland and northern areas



Source: Estimates from the 2015 CPM.

Poverty has negative consequences not only for those living in poverty but for the state as a whole. By reducing poverty, safety net programs can also benefit the economy of the state. As previously mentioned, children growing up in poverty are much more likely to have low earnings as adults, which negatively effects the workforce.[12] A report by the Center for American Progress found that nationally, each year, childhood poverty: 1) reduces productivity and economic output by about 1.3 percent of

[9] Center for Poverty Research, University of California, Davis. "What is "deep poverty"?" January 2018. https://poverty.ucdavis.edu/faq/what-deep-poverty

[10] National Center for Children in Poverty. "Childhood and Intergenerational Poverty: The Long-Term Consequences of Growing Up Poor." November 2009. https://academiccommons.columbia.edu/catalog/ac:126233

[11] California Commission on Aging. "Aging, Women and Poverty in California." June 2016. http://www.justiceinaging.org/wp-content/uploads/2016/11/AWIP-Report-published-1-1.pdf

[12] Center for American Progress. "The Economic Costs of Poverty in the United States." January 2007. https://cdn.americanprogress.org/wp-content/uploads/issues/2007/01/pdf/poverty_report.pdf

gross domestic products (GDP); 2) raises the costs of crime by 1.3 percent of GDP; and 3) raises health expenditures and reduces the value of health by 1.2 percent of GDP. The report emphasizes that these estimates likely underestimate the true costs of poverty to the economy.

California Safety Net Program Overviews. California has several programs, funded both out of the state General Fund and various federal and county funding streams, aimed at alleviating poverty in different populations through a human services lens.

Supplemental Security Income/State Supplemental Payment (SSI/SSP). The SSI/SSP programs provide cash assistance to around 1.3 million Californians, who are aged 65 or older (28 percent), are blind (one percent), or have disabilities (71 percent), and in each case meet federal income and resource limits. A qualified SSI recipient is automatically qualified for SSP. SSI grants are 100 percent federally funded. The state pays SSP, which augments the federal benefit.

The federal government has established a maintenance-of-effort (MOE) for the amount of SSP paid by California. The current SSP grant for individuals and couples is the state's March 1983 payment level. Violating this MOE would risk all of the state's Medicaid funding. In addition, California's SSI/SSP beneficiaries are ineligible for CalFresh benefits, due to the state's "cash-out" policy.

The 2018-19 budget proposes $11.2 billion total funds ($2.8 billion General Fund) for SSI/SSP. These costs also include the Cash Assistance Program for Immigrants (CAPI) and the California Veterans Cash Benefits Program (CVCB) Program.

California Work Opportunities and Responsibilities to Kids (CalWORKs). CalWORKs is the state's version of the federal Temporary Assistance for Needy Families (TANF) program and provides cash assistance and welfare-to-work services to eligible low-income families with children.

CalWORKs is funded through a combination of the federal TANF block grant, the state General Fund (including the Single Allocation, which funds employment services, eligibility, administration, and Stage 1 Child Care), other various funding allocations from the state, realignment funds (including the Child Poverty and Family Supplemental Subaccount, which funds Maximum Aid Payment (MAP) increases, and the repeal of the Maximum Family Grant (MFG) rule), and other county funds. The 2018-19 budget includes $5.1 billion in federal, state and local funds for the program, and estimates an average monthly caseload of 401,000 (a decline of 11 percent from the previous estimate).

Adults eligible for CalWORKs are subject to a lifetime limit of 48 months of assistance. Unless exempt for reasons, such as disability or caregiving for an ill family member, adults must participate in work and other welfare-to-work (for example, educational) activities. Effective January 1, 2013, clients are under the 24-month clock, which provides 24 months of additional flexibility around how to meet work requirements, but after the initial 24-months, imposes stricter work requirements to receive assistance and a limit on the number of recipients who can.

In more than half of CalWORKs cases (called "child-only" cases), the state provides cash assistance on behalf of children only and does not provide adults with cash aid or welfare-to-work services. There is no time limit on aid for minors.

The program also offers various supportive services, including child care, subsidized employment, and housing support and homeless assistance. For clients who are experiencing a crisis and on the 24-month time clock, Family Stabilization funds can be used flexibly to aid families during this time.

CalFresh. CalFresh is California's name for the national Supplemental Nutrition Assistance Program (SNAP). As the largest food assistance program in the nation, SNAP aims to prevent hunger and to improve nutrition and health by helping low-income households buy the food they need for a nutritionally adequate diet. CalFresh households, except those with a member who is aged or has a disability, or where all members receive cash assistance, must meet gross and net income tests.

CalFresh benefits are provided on electronic benefit transfer (EBT) cards, and participants may use them to purchase food at participating retailers, including most grocery stores, convenience stores, and farmers' markets.

CalFresh food benefits are funded nearly exclusively by the federal government. Californians are expected to receive approximately $7 billion (all federal funds) in CalFresh benefits in 2018-19. The Governor's budget includes $1.8 billion ($625.9 million General Fund) for CalFresh administration in 2018-19. The CalFresh caseload is projected to serve 1.8 million households in 2018-19.

Since 1997, California has also funded the California Food Assistance Program (CFAP), a corresponding program for legal permanent non-citizens, who are ineligible for federal nutrition assistance due to their immigration status.

Grant Levels. The chart below summarizes average grant levels in the programs discussed in the previous section, as compared to ten years ago.

Program	**2018-19 Average Monthly Grant Level**	**2008-09 Average Monthly Grant Level**
SSI/SSP		
- *Individual*	$910	$907
- *Couple*	$1532	$1579
CalWORKs		
- *Family of 3*	$714	$723
CalFresh		
- *Per individual*	$138	$120
- *Per household*	$287	$293

*Grant levels in each program can vary depending on the size of the family or household.

Many of these programs have not seen a sizable increase in grant levels for quite some time. All of these programs have not kept up with inflation or the rising costs of housing in California.

In 2009, the recession had hit and California was in the midst of a budget crisis. In order to help close budget gaps, cuts were made to many health and human services programs, particularly SSI/SSP and CalWORKs. Now, almost a decade later, many of these budget and program cuts have yet to be restored.

The federal SSI and grant payments for SSI/SSP recipients are adjusted for inflation each January through cost-of-living adjustments (COLAs). The state COLA for the SSP grant was suspended periodically throughout the 1990s and into the 2000s, and was permanently repealed in 2011 through statute. However, in 2016-17, the Administration proposed and the Legislature approved a one-time SSP COLA of 2.76 percent. This added approximately $4.63 per month for individuals and $11.73 per month for couples. SSP grants were reduced to the minimum federally required level in 2009-10 for couples and 2011-12 for individuals.

In CalWORKs, grant levels used to keep pace with the federal poverty level, but the COLA was eliminated and grants were reduced by four percent in 2009, and grants were further reduced by eight percent in 2010. These grants were partially restored in five percent increments in March and April 2014. However, grant levels still remain well below the federal poverty level. Other policy changes in the CalWORKs program have made it more difficult for families on the program; for example, the reduction of the 60-month lifetime limit for adults to 48 months.

In CalFresh, grants have remained relatively the same over time; although the program did not see the large cuts of the recession, the grants have not grown. Additionally, some federally driven policies have made the program more restrictive, such as the 36-month time limit for unemployed childless adults between the ages of 18 and 49 years old, referred to as ABAWDs (Able-Bodied Adult Without Dependents). California has been operating under a waiver to avoid this time limitation; however, the waiver expires on August 31, 2018. The expiration of this waiver will likely put hundreds of thousands of individuals at risk for not receiving CalFresh benefits, even with the department working to mitigate this impact.

GOVERNOR'S PROPOSAL

Despite the state's significantly improved revenue outlook, the 2018-19 Governor's budget proposes funding that is relatively flat and caseload-driven in the three aforementioned programs. The budget also includes $26.7 million in 2018-19 for a voluntary Home Visiting Pilot program for young, first-time parents in the CalWORKs program. Otherwise, there are no new policies proposed in these programs.

ISSUES TO CONSIDER

Why were recession-era cuts never fully restored to programs? What has the cost been to the state to continue to allow so many Californians live in poverty?

When considering changes to safety-net programs, what kinds of policy options are available to the Legislature?

How can we most effectively target state investments towards reducing poverty?

What populations are most at-risk that the Legislature may wish to focus on?

SUBCOMMITTEE NO. 4

STATE ADMINISTRATION and GENERAL GOVERNMENT

State Administration and General Government

[1]Federal Tax Reform section researched and written by John Thompson, Policy Consultant, Senate Office of Research.

2017 Housing Package

BACKGROUND

California's high cost of housing is well documented. The Department of Housing and Community Development (HCD) estimates that California built an average of 80,000 new homes a year between 2005 and 2015. However, the department projects that the state will need to produce 180,000 new homes a year between 2015 and 2025 to keep up with housing demand. This undersupply, combined with a growing economy, has pushed housing prices upwards and created a significant affordability gap for many Californians.

In California, the current supply of rental housing can only accommodate 21 of every 100 extremely low-income renter households. Additionally, HCD estimates that roughly 1.7 million lower-income households are severely rent-burdened. The increasing rental burden in California is mirrored in homeownership, where median home prices have increased from $370,405 in 1991 to $526,580 in August of 2016 (adjusted to 2015 dollars). This has resulted in a significant decline in home affordability. The California homeownership rate is currently 53.7 percent, the lowest since the 1940s.

2017 Housing Package

In 2017 the Legislature passed a package of 15 bills aimed at increasing the affordability of housing in California. The package included proposals to place a general obligation bond on the November 2018 ballot, create a permanent funding source for affordable housing by levying a transaction fee on new real estate transactions, and a variety of regulatory reforms to speed up development and construction of new housing. The bills included in the package are detailed below.

2017 Housing Package Statutes

Statute	Housing Package Component
Dedicated Housing Funding	
SB 2 (Atkins), Chapter 364, Statutes of 2017	Create a permanent source of funding for affordable housing with a document recording fee on real estate transactions.
SB 3 (Beall), Chapter 365, Statutes of 2017	Invest in a $4 billion housing bond with $3 billion for affordable housing and $1 billion for veterans housing.

Streamlining Housing Development	
SB 35 (Wiener), Chapter 366, Statutes of 2017	Streamline multifamily housing developments with an affordable component in infill areas across the state.
SB 540 (Roth), Chapter 369, Statutes of 2017	Establish Workforce Housing Opportunity Zones to streamline development in priority areas.
AB 73 (Chiu), Chapter 371, Statutes of 2017	Form Housing Sustainability Districts to streamline development in infill areas.
Accountability and Enforcement	
AB 72 (Santiago), Chapter 370, Statutes of 2017	Allow for interim housing element monitoring; enforce existing housing laws through collaboration with the Attorney General.
AB 879 (Grayson), Chapter 374, Statutes of 2017	Improve local reporting on housing outcomes; conduct a fee reasonableness study to evaluate local development fees.
AB 678 (Bocanegra), Chapter 373, Statutes of 2017	Strengthen the Housing Accountability Act.
SB 167 (Skinner), Chapter 368, Statutes of 2017	
AB 1515 (Daly), Chapter 378, Statutes of 2017	
AB 166 (Skinner), Chapter 367, Statutes of 2017	Secure "No Net Loss" in housing element sites inventory.

AB 1397 (Low), Chapter 375, Statutes of 2017	Promote feasibility of sites included in sites inventory.
AB 1505 (Bloom), Chapter 376, Statutes of 2017	Clarify that local governments may adopt inclusionary ordinances that require affordable housing set-asides.
AB 1521 (Bloom), Chapter 377, Statutes of 2017	Strengthen preservation requirements on rent-restricted affordable housing units.
AB 571 (Eduardo Garcia), Chapter 372, Statutes of 2017	Support farmworker housing by easing access to tax credit financing and allowing extensions for seasonal housing centers.

Previous Bond Funding Winding Down

Historically, much of the funding for California's affordable housing programs has come from voter-approved housing bonds, specifically Propositions 1C, 41, and 46. While these bonds have provided much-needed resources for affordable housing programs, much of the available bond proceeds have been spent, leading to a decline in funding in recent years. The state will pay roughly $394 million from the General Fund for debt service for outstanding housing bonds in 2018-19, part of the estimated $10.7 billion in total debt service for these bonds over their life.

California voters approved the Housing and Emergency Shelter Trust Fund Act (Proposition 1C) in November 2006, which was, at that time, the nation's largest housing bond measure at $2.85 billion. Eleven years later, the funds are nearing depletion. As of June 30, 2017, HCD had invested nearly $2.3 billion in Proposition 1C funds to create more affordable homes for Californians, administering funds to hundreds of public and private organizations to help build, rehabilitate, preserve, or contribute other incentives for approximately 114,000 affordable homes and apartments, including nearly 3,000 shelter spaces.

Approximately $111.1 million in Proposition 1C funds remain available to HCD across various programs, a slight increase from the previous year, due to the recapture of previously awarded funds from projects that did not proceed as planned. Additionally, the California Housing Finance Agency (CalHFA) has awarded $190.4 million of Proposition 1C funds to create new homeowners through down payment assistance programs.

Proposition 46 was approved by voters in November 2002, and authorized $2.1 billion in state bonds to create housing opportunities for Californians though a variety of new housing investments, $1.81 billion of which was designated for HCD programs. As of June 30, 2017, HCD had invested nearly all Proposition 46 funds to build, rehabilitate, preserve, or provide incentives for approximately 91,000 affordable homes and apartments, including more than 10,000 shelter and dormitory spaces.

Approximately $29 million remains spread across several Proposition 46 programs. This is a slight increase from the previous year, due to the recapture of previously awarded funds from projects that did not proceed as planned.

In 2014, California voters approved Proposition 41, which modified the Veteran's Bond Act of 2008. This repurposed $600 million in unused homeownership bond funds to help veterans rent affordable apartments. HCD, in collaboration with the California Department of Veterans Affairs and CalHFA, developed the Veterans Housing and Homelessness Prevention program to help veterans who are experiencing or at-risk of homelessness find safe and stable rental homes.

Recent Budgets Have Provided Increased Resources

Recent state actions have also funded a variety of affordable housing programs. Specifically, the No Place Like Home Program provides $2 billion in bond authority for housing for the chronically homeless and mentally ill, supported by Proposition 63 Mental Health Services Act funding. The budget proposes to spend roughly $267 million of these funds in 2018-19.

Additionally, the 2017 housing package provided two significant new sources of funding for affordable housing programs. First, SB 3 (Beall), Chapter 365, Statutes of 2017 authorized the issuance of a $4 billion general obligation bond, pending approval by voters in November of 2018. $3 billion of this, backed by general tax revenue, will be available for affordable housing programs, as specified. An additional $1 billion, backed by program income, will be available for veterans housing programs. The Administration has indicated that the bond will incur debt service costs of $6.32 billion over the life of the bond.

SB 2 (Atkins), Chapter 364, Statutes of 2017 imposed a $75 fee on real estate transaction documents, excluding commercial and residential real estate sales, to provide funding for affordable housing. Half of the funds collected in the first year are required to be spent on homelessness issues, and the remaining half to be made available to localities to update planning document and zoning ordinances. In year two and beyond, 70 percent of the funds will be distributed directly to locals and 30 percent to the state for farmworker housing, state incentive programs, and mixed income multifamily residential housing affordable to lower and moderate income housing. The Administration estimates that this fee will raise roughly $129 million in revenue in 2017-18, and $258 million in 2018-19.

The addition of these new funding sources has provided a needed influx of resources while legacy sources of funding are declining. In 2013-14, the budget provided HCD with $509.8 million in resources across all funding sources. By 2015-16, the Department's budget had declined to $420.4 million. Over the same period, the resources provided by the various bonds and ongoing sources of funding identified above declined from $211 million in 2013-14 to a low of roughly $103 million in 2015-16. The 2018-19 budget, by contrast, provides $1.2 billion total, with $600 million in resources from bond funds and the new real estate transaction fee.

GOVERNOR'S PROPOSAL

The budget allocates $3 million General Fund to HCD, in addition to resources from an estimated $258 million in real estate transaction fee revenue for housing programs and $285 million in proceeds from the housing bond that will be available upon voter approval in November 2018 to implement the changes includes in the 2017 statewide legislative housing package. The budget also requests 81 positions in 2018-19 to perform the workload necessary to implement the requirements of the housing package.

ISSUES TO CONSIDER

Funding for Affordable Housing Programs Alone May Not Solve Problem
As noted in last year's budget overview, the state's ability to directly address housing affordability is limited. Zoning, land use, and permitting decisions are predominantly made at the local level. While the state may incentivize the planning or construction of additional housing, or streamline the planning and permitting process, the state's ability to mandate the construction of housing, affordable or not, is limited.

One option the state has is to directly subsidize the construction of additional units of affordable housing. Such an approach is likely to be prohibitively expensive. It is estimated that it costs between $70,000 and $165,000 to subsidize an affordable housing unit in the state, depending on where the unit is located. At this cost, subsidizing construction of affordable homes for the 1.7 million lower-income households HCD estimates to be severely rent burdened would cost the state between $119 billion and $280 billion.

A number of bills passed in the 2017 housing package seek to reform planning, zoning, and development processes to help ease the construction of new housing. Specifically, SB 35 (Wiener) allows the approval of multifamily housing developments with an affordable component in infill areas across the state through a streamlined "ministerial" process. SB 540 (Roth) establishes Workforce Housing Opportunity Zones to streamline development in priority areas, while AB 73 (Chiu) allows the creation of Housing Sustainability Districts to streamline development in specified infill areas. These policy changes, along with a number of changes to planning regulations, may allow local jurisdictions to more easily zone, approve, and develop housing projects. Actual production resulting from these changes will become clearer in future years.

Budget Raises Staffing and Timing Issues
The 2018-19 budget proposes $1.2 billion in resources in 2018-19, a 64 percent increase over 2017-18. Putting this new funding to work will require additional staff to be quickly brought on-board to meet the requirements of the housing package.

To this end, the budget requests 81 positions in 2018-19, a nearly 10 percent increase from 2017-18. The budget requests a further 128 positions in 2019-20. Such a large staffing increase presents an organizational challenge for the department, requiring the listing, selection, and onboarding of a large number of new employees. Any delays in onboarding the required staff will require the department to redirect existing resources to complete the work statutorily required by the housing package, disrupting other important work within the department.

It is important to note that the housing package at least partially goes into effect during the latter half of 2017-18. The real estate transaction fee implemented by SB 2 went into effect in January of 2018, and revenue collected by the counties will be remitted to the state beginning in March of 2018. Under the requirements of the package, half of this first-year revenue is to be spent on planning and zoning programs, and half on homelessness issues. However, HCD was not given any additional resources to implement the requirements of the package as part of the 2017-18 budget.

The 2018-19 budget addresses this by declaring the 2018-19 budget year the first program year for the relevant programs created or funded by the housing package. This means that a half year of revenue raised between January and June of 2018, estimated at roughly $129 million, would be remitted to HCD before any funding is disbursed for affordable housing projects. While this does give HCD time to identify and onboard the necessary staff resources, the Legislature may want to consider whether this timeframe is consistent with the intent of the housing package.

New Funding Requires New Program Design

As noted above, the new funding provided through the 2017 housing package has a number of statutorily-designated uses. In the first year of the program, one half of the revenue from the real estate transaction fee is designated for planning and zoning grants and technical assistance programs, and one half for homelessness programs. In year two and onward, 70 percent of the funds will be distributed directly to locals and 30 percent to the state for farmworker housing, state incentive programs, and mixed income multifamily residential housing affordable to lower and moderate income housing. Should the SB 3 bond be approved by voters in November 2018, proceeds from bond sales shall be split among a variety of currently existing housing and homelessness programs.

While the majority of the new funding will go out via already-existing housing programs, several new programs must be created from scratch. For example, first year funding for both planning and zoning grants and a new homelessness program both require the creation of new program guidelines, administrative processes, and new processes for granting, disbursing, and evaluating grant funding. While HCD is well-versed in the creation and administration of similar grant programs, the Legislature may want to provide oversight for these efforts to ensure that the final program design reflects legislative intent.

California Competes Tax Credit

BACKGROUND

Assembly Bill 93 (Committee on Budget), Chapter 69, Statutes of 2013, and Senate Bill 90 (Galgiani), Chapter 70, Statutes of 2013, are now commonly referred to as the Governor's Economic Development Initiative. AB 93 and SB 90 phased out the Enterprise Zone Program and replaced it with three new tax incentive programs. The first program of the initiative is a statewide, California Department of Tax and Fee Administration administered, partial sales and use tax exemption applicable to equipment procured by businesses engaged in manufacturing or biotechnology research and development. The second program is a geographically targeted hiring tax credit administered by the Franchise Tax Board. The third program is the California Competes Tax Credit (CCTC), which is administered by the Administration (GO-Biz).

The CCTC is a targeted tax credit program administered by GO-Biz and the Franchise Tax Board (FTB). The purpose of the CCTC is to attract, expand, and retain businesses in California. Business entities that apply for the credit are evaluated on the basis of number of employees; jobs created or retained; location of the company in the state; and magnitude of new investment. The tax credit packages are negotiated between the business and the GO-Biz and then voted on by the GO-Biz committee, consisting of the director of GO-Biz, the director of the Department of Finance (DOF), the State Treasurer, and one appointee each from the Senate and the Assembly. Under current law, the state may only make new California Competes tax credit awards through 2017-18.

Taxpayers may receive a maximum of 20 percent of the total amount of credits available for a particular year. In addition, 25 percent of the currently available credits must be provided to small businesses (companies with gross receipts of $2 million or less). Up to $780 million California Competes awards are available in total between 2013-14 and 2017-18. By fiscal year, the amount of credits that is allocated is up to $30 million in 2013-14, $150 million in 2014-15 and $200 million, per year, for years 2015-16 through 2017-18. These amounts may be reduced in order to ensure the total amount of tax reductions resulting from the program and two other tax preference programs (sales and use tax exemption for certain capital investments and new hiring tax credit) is no greater than $750 million in a fiscal year.

The DOF annually adjusts the amount available to reallocate (1) credits not awarded in a prior year and (2) “recaptured” credits. In 2016-17, for example, DOF allocated $243.4 million to California Competes because $39.9 million in tax credits were not awarded during the prior year and an additional $3.5 million had been recaptured.

The CCTC is a non-refundable credit that: may be utilized against the corporate franchise tax or individual income tax, has a carryover period of six years, may be utilized to reduce California tax below tentative minimum tax, and may be assigned under CRTC 23663. Over the three year history of the program, tax credit awardees have received as little as $20,000 and up to $15 million in tax credits.

Any business can apply for the CCTC. The credit is available statewide to all industries. However, while there are no geographic or sector-specific restrictions, the purpose of the CCTC is to attract and retain high-value employers in California in industries with high economic multipliers and that provide their employees good wages and benefits. According to the Administration, the program has succeeded in this mission, playing a significant role in the decision by many large companies to locate in California rather than out of state. California Competes awardees include companies such as, Tesla, Amazon, General Motors, Samsung, Proterra, BYD Motors, Hulu, and many others.

In administering this tax credit program, GO-Biz has several responsibilities that include: increasing awareness about the credit among the business community, accepting tax credit applications, evaluating applications, negotiating tax credit agreements, and monitoring agreement compliance for at least five years after the agreements are signed. The implementation of the program is defined based on the application process, evaluation process, negotiation process and committee process.

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

Three Application Periods in 2017-18. The first step is to submit an application. Businesses can learn about the application process from the GO-Biz website, e-mail notifications, the workshops, and other media. GO-Biz accepts applications during specified periods—three such application periods were scheduled for the 2017-18 fiscal year:

- July 24, 2017 to August 21, 2017.
- January 2, 2018 to January 22, 2018.
- March 5, 2018 to March 26, 2018.

According the Legislative Analyst's Office, GO-Biz received 3,045 applications between the start of the program and June 2017. About 300 businesses, on average, apply for tax credits during each application period.

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

Evaluation Phase 1: Applications Ranked. In the first phase, GO-Biz scores each application using the information provided by each business about their hiring and investment plans. The purpose of this first phase is to weed out the businesses planning modest expansions relative to the amount of tax credit they are requesting. In this process, a business that requests a smaller tax credit—holding constant the proposed amount of hiring and investment—receives a higher score. Applicants with the highest scores move on to the second evaluation phase. The LAO noted that, the number of applications per period has remained stable while the amount of available tax credits has increased significantly. Over the most recent two years, more than 90 percent of the applications have moved on to the second evaluation phase, compared to fewer than 70 percent during the first two years of California Competes.

Evaluation Phase 2: Additional Factors Considered. State law gives GO-Biz broad authority to decide which businesses will receive tax credit awards. While the law requires GO-Biz to consider numerous factors, GO-Biz decides how much weight to give each factor in evaluating the applications. GO-Biz scores each application and then negotiates tax credit agreements with the highest scoring businesses on a case-by-case basis. The following table lists factors that GO-Biz considers when reviewing applications.

Factors GO-Biz Will Consider When Reviewing Applications
• The number of jobs the business will create or retain in this state.
• The compensation paid or proposed to be paid by the business to its employees, including wages, benefits, and fringe benefits.
• The amount of investment in this state by the business.
• The extent of unemployment or poverty where the business is located.
• The incentives available to the business in this state, including incentives from the state, local government, and other entities.
• The incentives available to the business in other states.
• The duration of the business' proposed project and the duration the business commits to remain in this state.
• The overall economic impact in this state of the applicant's project or business.
• The strategic importance of the business to the state, region, or locality.
• The opportunity for future growth and expansion in this state by the business.
• The extent to which the anticipated benefit to the state exceeds the projected benefit to the business from the tax credit.

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

Monitoring. The inherent accountability in the California Competes program is due to the fact that the credit is prospective rather than retrospective, meaning that companies must apply for their tax credit in advance of creating the jobs and making investments, and must fulfill their promised hiring and investing before they may claim the benefit of the credit. In general, the credit agreements are for five years with an additional three years to maintain employment increases and salary levels. Since the credit agreement period may be up to eight years, multiple reviews may be conducted.

Some examples of acceptable records to show that a business is meeting milestones include: 1) employment and compensation levels - payroll reports and records to support hire dates, hours, or weeks worked; wages and salary levels for new employees and compensation paid, and 2) project investment - authorization for expenditures, invoices, deeds, contracts, lease/rental agreements etc.; project documents, timelines, capitalized costs, schedule of project costs etc.; summary analysis of changes in property, plant, and equipment; depreciation records; general ledger records.

LAO Analysis. In October of 2017, the LAO published a review of the CCTC focused on the experience to date in meeting the Legislature's goal for the program. The findings of the LAO report include:

- **Hiring and Investment Commitments Have Lessened.** The average contractual hiring and investment targets in these CCTC agreements have lessened over time. The LAO believes that the agreement terms have lessened because the number of applicants during each cycle has remained stable—at between 250 and 350 applicants—while the amount of available tax credits increased. Only $30 million was available in the first year of the program. DOF allocated $151 million to California Competes for 2014-15, $201 million for 2015-16, and $243 million for 2016-17. Since the credits are awarded on a competitive basis, it is not unreasonable that the hiring and investment targets could decline when there are fewer applicants competing for each tax credit dollar.

- **Small Businesses Not Fully Utilizing 25 Percent Set Aside.** California Competes reserves one quarter of the tax credits for businesses with gross annual revenues below $2 million. As of June 2017, GO-Biz has awarded 293 tax credit agreements—amounting to $99 million in total—to small businesses. This amount is about 19 percent of the total $528 million awarded and less than 17 percent of the $590 million that was available. While GO-Biz sets aside 25 percent of the available tax credits for small businesses, as required, too few qualified businesses have applied to California Competes to utilize all of those credits. In 2016-17, GO-Biz awarded $30 million in tax credits to small businesses—or 49 percent of the amount reserved for them. GO-Biz has sought to increase the number of small business applicants by increasing their outreach efforts and translating reference material into languages other than English.

- **Tax Credits to Non-Tradable Businesses Are Windfall Benefits.** The CCTC is a windfall benefit for most businesses operating in the non-tradable sector of the economy. That is, the state provides a benefit to businesses without achieving the state's desired goal of increasing economic activity in the state.

- **Tax Credits to Non-Tradable Businesses Harm Economy.** The LAO notes that CCTC awarded to non-tradable businesses have negative economic impacts. First, nearly all economic growth that might be directly attributed to the tax credit was either already going to occur or came at the expense of other California businesses. That is, the credits did not achieve the goal set out for the program of increasing the overall level of economic activity in the state (jobs and/or investments). At the same time, the tax credits have "opportunity costs"—that is, they consume state resources that would have otherwise benefited the state's residents. For instance, the funds dedicated to the credits could have otherwise been used on other state spending priorities or on tax reductions to state residents or businesses. Finally, the credits create an uneven playing field, benefitting a handful of businesses while disadvantaging other businesses.

- **Many Non-Tradable Businesses Awarded Credits.** The LAO estimates that about 35 percent of the California Competes tax credit agreements were made with non-tradable businesses. (the LAO attempted to distinguish between the primary industry of the business and the specific project when possible.) However, most of these tax credits awards were relatively small. As a result, the LAO estimates that only about 15 percent of the dollar value of the tax credits were awarded to such businesses.

- **Tradable Businesses Spur Economic Growth.** Many goods and services are tradable. Most manufactured goods, for example, can easily be shipped to another state or another country. Inexpensive and quick telecommunications and transportation also allow many services to also be tradable. A management consultant, for example, can live and work in California and have clients located anywhere in the world.

- **Credits to Tradable Businesses May Still Have Negative Impacts.** Providing credits to tradable businesses can still result in the same negative effects associated with credits awarded to non-tradable business. The simplest example is a business that had already planned to expand in California. Such a business has little to lose in applying for a CCTC. Moreover, there is no way to know with any certainty the actual plans of any business applying to the program. Accordingly, many credits to tradable businesses still produce windfalls and are, therefore, ineffective at attracting new investment and jobs. The state has also disadvantaged all other competing businesses that did not receive a credit.

The LAO concluded that, if the Legislature decides to continue California Competes, they would suggest several changes that could partially address the problems noted above, including: 1) more narrowly targeting the program to tradable businesses, 2) refocusing the program on its core mission as a tool for interstate economic development competition, and 3) modifying the small business provisions.

GOVERNOR'S PROPOSAL

The Governor's budget proposes a five-year extension of the CCTC program, tax credit allocation authority of $180 million per year through the 2022-23 fiscal year, and $1.4 million General Fund per year through the 2022-23 fiscal year to maintain the 10 positions currently associated with administering the program. The proposal also requests to remove provisions of law that reserve a portion of the credit allocation for businesses with gross receipts of less than $2,000,000 (small businesses).

The requested tax credit allocation authority of $180 million per fiscal year reflects a redirection of $20 million (from the historical $200 million annual allocation level) to provide funding for direct technical assistance to small businesses.

According to the Administration, there are multiple reasons why the California Competes program should be extended. First, the value of the jobs and investment created under the program will continue to far exceed its requested funding. Second, it helps attract and retain high value employers to the state.

Third, the program is more cost effective, accountable, and transparent than the former Enterprise Zone program which it replaced. Finally, it is a unique, flexible economic development tool that allows California to compete with other states that are actively recruiting employers to relocate or expand outside of California.

The California Competes program is in now in its fourth full fiscal year of operation. Since the inception of the program, GO-Biz has awarded $624.9 million in tax credits, in exchange for commitments from business to create a projected 83,412 new full time jobs in California and invest $16.6 billion in the state. Additionally, these numbers represent only the direct impact of the California Competes program; they do not take into account the additional indirect, and induced economic impacts created by the vast amount of investment and employment facilitated by the program.

ISSUES TO CONSIDER

One of the underlying problems associated with traditional open-ended tax incentives is that the majority of the tax benefit goes to businesses that would have engaged in the desired behavior irrespective of the incentive program. Put another way, only businesses operating 'on the margin' would engage in the desired behavior because of the incentive. The result is a significant loss in revenue with little or no associated impact on economic activity. The GO-Biz CCTC program attempts to eliminate or minimize this loss by targeting its incentives at companies on the margin; its ability to do this, however, is open to question (as it would be for any outside entity attempting to measure internal business investment decisions).

As staff has indicated in the past, one way to measure success in this regard would be to examine companies that met the cost-benefit threshold (initial evaluation phase) and were among the finalists in selected criteria (second evaluation phase), but for one reason or another, were not selected as credit recipients. The legislature may want to consider the following issues with respect to CCTC:

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

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

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

Department of Technology: Re-modification of Project Management

BACKGROUND

The State of California invests a significant amount of resources in information technology (IT) projects annually. The California Department of Technology (CDT) is the state's central IT entity and has broad responsibility and authority over all aspects of technology in California state government, including: policy formation, interagency coordination, IT project oversight, information security, technology service delivery, and advocacy.

California has had a number of challenges delivering on-time and on-budget IT projects. Several high-profile projects have experienced suspensions, terminations, significant revisions, delays, and cost overruns. These numerous setbacks have been the topic of several legislative oversight hearings.

The Administration and Legislature found fundamental errors with the state's ability to implement and complete IT projects. Prior to 2015, the Senate Budget and Fiscal Review Subcommittee No. 4 (subcommittee) conducted an extensive review of the state's IT procurement and project implementation process. The subcommittee's review began with the procurement and project implementation of the State Controller's 21st Century Project as well as several other high-profile IT projects that that faced difficulty. For example, the California Department of Motor Vehicles' (DMV) $200 million IT modernization project was suspended in 2013. Upon learning of the suspension of the DMV's IT modernization project, the subcommittee questioned whether or not there was an underlying issue that had handicapped the state's ability to deliver an IT project on time and on budget. The subcommittee came to a conclusion that was similar to the Administration's—the individuals tasked with implementing an IT project often lack the experience necessary to successfully deliver complex IT projects.

These issues were attributable to the state's decentralized IT project management process. Under this structure, the oversight of day-to-day project implementation activities are often left to the department and internal project management staff are expected to learn project methodologies and create a team to support the project implementation process. One of the primary challenges of decentralized project management is the lack of experienced project management staff at the department level. Many project managers lack experienced team members, structure, and/or a fundamental understanding of project methodologies for complex projects. Moreover, lessons learned from one project to the next are infrequently shared, and training is applied at varying levels. This approach also often relies heavily on vendor support to assist with the project implementation process.

Other states successfully use a centralized IT approach to serve citizens. By contrast Utah and Michigan cited a centralized project management process for their respective successes with their online vehicle registration and Medicaid compliance programs. The Center for Digital Government scored these two states with high marks for their ability to use technology to serve citizens. Additional high scoring states also cited a centralized IT approach for their success.

Furthermore, the subcommittee found the short-term nature of an IT project results in a significant amount of resources being dedicated to a department that may not see another IT project for a decade. The result of legislative oversight hearings has been organizational and process changes within the Administration. One of the more significant changes was the Legislature's approval of a statewide project management office (PMO) within the CDT.

Original budget proposal, Legislative intent, and subsequent funding drove a shift towards a centralized project management approach. As part of the 2014-15 Budget Act two positions and $208,000 (General Fund) were approved to begin the process of creating a statewide PMO at CDT. The approved positions helped CDT create a framework for the statewide project management office, develop guidelines, and identify projects that require direct PMO assistance in the near future. In 2015-16 the Governor proposed, and the Legislature adopted, 11 additional positions (13 total) and $1.5 million (special fund) to continue these actions. The Department of Finance committed to working closely with CDT to further determine the requirements that may be needed to fully implement a statewide project management office. Ultimately, the PMO would alleviate some of the project management issues by assuming responsibility for the management of an IT project from the beginning to final deployment. Additionally, the CDT would shift from a decentralized to centralized approach of project management. Under a centralized approach in which information sharing is more feasible, training could be applied uniformly, and the personnel deployed for project management services are experienced, highly-skilled professionals who could handle complex projects. It was the Legislative intent of the PMO, though not explicitly defined in statue, to ramp up their staff and capacity so that they could eventually manage some of California's largest, most-complex, highest cost projects. These efforts are documented in the 2015-16 Overview of the Budget. The 2017-18 budget provided the PMO with 14 positions and $2.5 million (special fund).

Current PMO project portfolio. The PMO's strategy was to build visibility, capacity, and credibility by ramping up their project portfolio over time. Initially, they selected six small, less complex IT projects from six departments who directly sought PMO services. The projects range in purpose and cost from analytics tools to identify fraud to a case management system for discrimination complaints. Moreover, the projects vary in size; ranging from an overall project cost of $200,000 to $69.1 million. The portfolio is shown below. Of these six, three are under development and three are in a planning phase.

Sponsor Department	Project Type	Project Cost, approximate ($)
Department of Conservation	Well management system to meet state and federal requirements	69,000,000
Department of Fair Employment and Housing	Case management system for discrimination complaints	6,500,000
Commission on Teacher Credentialing	Data collection system for CTC accreditation	6,500,000
California Workforce Development Board	Data repository and analytics platform for workforce development	4,200,000
Department of Insurance	Analytics to identify fraud	4,100,000
Office of Traffic Safety	Automating paper-based grants application process	200,000

Overview of current PMO portfolio. Adopted from: LAO Report, "Evaluation of the Statewide Project Management Office," December 7, 2017, http://www.lao.ca.gov/Publications/Report/3723.

Costs of PMO services. For projects using direct PMO services, fees have ranged from $15,000 to $18,000 per month, depending on the complexity of the project. Most of CDT is funded through the Technology Services Revolving Fund (TSRF), which collects fees paid by departments for services provided by CDT, including those charged for PMO services.[1] The service rates are largely due to project manager salary and benefits, but do not include administrative responsibilities and other services such as the development of frameworks, methodologies, and other tools.

Overall department satisfaction with current PMO structure exists. Despite the lack of explicit statutory objectives for the PMO's, a December 2017 LAO report found alignment with the Legislature's intention for establishing the office. Their report gathered data from interviews with key staff members of the six sponsoring departments receiving direct PMO services and executive staff at CDT.[1] The projects were, overall, largely progressing as intended with project managers receiving praise for keeping projects on schedule and mitigating delays. The PMO involvement led to departments overcoming obstacles previously encountered by departments under the decentralized project management approach. Departments considered these rates more cost-effective option than contracting for project management services. They were also satisfied with the project managers' quality of performance, qualifications, and integration with project staff. The departments noted the project managers' ability to assess programming needs.

Two major changes, one in organizational structure and one in eligibility for direct PMO services occurred in 2016. The first change came shortly after the CDT assumed new leadership in spring. As part of a larger internal department reorganization, the new director placed both the project oversight and project management responsibilities under the same chief deputy director. However, this new structure, which sought to "achieve organizational efficiencies across a variety of CDT's functions," consequently created a conflict of interest—raising the possibility that CDT could evaluate the effectiveness of its own project management in the future. The second change was to CDT's policy for projects that are eligible for direct PMO services. Historically, the CDT distinguishes between "reportable" projects that are costly, complex, and necessitate CDT project approval, and "non-reportable" projects that are less complex and can be independently overseen by the departments. As of Summer 2016, most reportable projects are ineligible for PMO services. The CDT noted its preference for allowing centralized PMO services for smaller, less complex projects but a decentralized approach for large, complex projects.[1] These larger projects are eligible for services only during the project planning phase (as opposed to project planning and implementation).

ISSUES TO CONSIDER

Although the CDT has no proposed increases for the PMO in the 2018-19 budget, multiple oversight considerations exist:

The new organizational structure causes a conflict of interest. The two responsibilities of project oversight and project management were previously placed under separate branches. This structure enabled CDT to continue their project oversight functions even with their new PMO responsibilities.

[1] Overview of current PMO portfolio. Adopted from: LAO Report, "Evaluation of the Statewide Project Management Office," December 7, 2017, http://www.lao.ca.gov/Publications/Report/3723.

However, the new leadership's current organizational structure places these separate responsibilities under the same branch. The current departmental structure compromises the CDT's ability to maintain independent and objective oversight for projects managed by the PMO. Moreover, it opens the possibility of the CDT oversight office and PMO inappropriately sharing information—compromising a sponsor department's relationship and transparency with the PMO. As such, the Legislature may wish to, in statue, separate the responsibilities of oversight and management as well as express their intent to have the PMO operate independently.

The new changes contradict the original Legislative intent. The new eligibility requirements narrowed the scope of projects that the PMO could serve—going from more-to-less complex. According to the LAO, of the six current projects in the PMO portfolio three highly complex projects, ranging from $4 million to $69 million, would now be declared ineligible. Given the disconnect between original intent and current practices, the Legislature may want to codify the specific purpose and objectives of the PMO. Explicitly defining the role of the PMO ensures that the original intent and current practices are well-aligned.

Staffing will once again be an issue for Statewide IT Projects. The re-introduction of a decentralized PMO approach will revive certain issues that the Legislature sought to solve within the 2014-15 Budget Act. Many large-scale IT projects within the state had a difficult time identifying qualified candidates to fill vacant full-time management positions. Re-shifting the project management responsibilities for larger projects to a department revives the recruitment and retention issues that previously plagued departments but could be overcome with the PMO. Therefore, finding and retaining experienced staff will, once again, become one of the primary obstacles that a department encounters when completing a project on time and on budget as well.

In order to provide any kind of impact to the state's IT portfolio growth within the office will need to be significant. However, the state risks losing its valuable project management expertise as these managers, who could participate in projects overseen by the centralized PMO, could consider opportunities outside of the state government. While it is clear that IT professionals can seek higher pay in the private sector, there may be other benefits that can be offered by the state to incentivize high quality staff to stay. For example, there are a large number of professional development courses that could be provided, contingent upon a commitment to work for the state for a set period of time. The Administration and Legislature may wish to set goals for position growth and assess ways to meet this growth.

Do reportable positive outcomes from the new project eligibility requirements exist? In an analysis of the CDT's new approach, which largely provides services for smaller projects, the LAO speculated that small projects may not stand to gain the most benefits from PMO services. And, by allocating resources and services to smaller projects, the potential state cost savings is smaller than larger scale projects. Therefore, this allocation of resources may not be best for the state. The Legislature may wish to identify reporting requirements that can illustrate progress of this hybridized management approach. The Legislature may wish to consider reportable information that that will provide a greater level of accountability for the PMO's new policy. For example, are there any tangible benefits that can inform the Legislature on the success of the statewide PMO under this new eligibility policy? How do these successes compare to the successes under the centralized project management approach?

The Legislature may also wish to consider asking how many new projects have been assumed by the statewide project management office under the CDT's new project eligibility requirements and how many projects will require external assistance.

Disaster Assistance Funding

BACKGROUND

With 39 million residents, California is the most populous state in the nation. The state is home to over 800 miles of coastline, dozens of fault lines, and thousands of square miles of forest. Unfortunately, the extensive coastline, fault lines, and forestry in the state combined with the large population base create a recipe for costly man-made and natural disasters. Potential disasters include hazardous material spills, civil unrest, flood, fire, earthquake, energy disruption, cyber-attack, severe weather, food and/or agricultural emergency, pandemic/epidemic, and dam or levee failure.

The role of the California Governor's Office of Emergency Services (Cal OES) is to address risks and threats, maintain a state of readiness, and plan for and mitigate impacts. The office coordinates the state agency response to major disasters in support of local governments, and homeland security activities throughout the state. Cal OES provides leadership, assistance, training, and support to state and local agencies; and coordinates with federal agencies in planning and preparing for the most effective use of resources in emergencies.

California Disaster Assistance Act (CDAA). The CDAA was established to provide financial and other assistance to local governments for the repair and restoration of public property in the event of natural disasters, acts of terrorism, or health epidemics. When a local government is overwhelmed by an emergency it can apply to the state for funds from the CDAA program. Funds are disbursed when the Director concurs with a local emergency proclamation requesting state disaster assistance or in response to a state of emergency proclaimed by the Governor. Cal OES serves as the grantor of the CDAA program. The application process for the CDAA program requires that a local agency submit an application to OES within 60 days of the date of the local proclamation. Additionally, the applicant must have incurred a minimum aggregate total damage of $3,340 in order for costs to be eligible under CDAA. The process for requesting CDAA funds is listed below:

- Initial damage estimate conducted by local authorities.
- State assessment of initial damage estimate.
- Governor's Proclamation or notice of concurrence issued by the Director of OES.
- Application submission and a briefing provided by applicant.
- Kickoff meeting, project formulation, and cost estimates are conducted.
- Project review and validation.
- Obligation of funds.
- Project completion.
- Final claim process and closeout.

California Disaster Assistance Funding. The 2018-19 Governor's budget provides a $33.1 million General Fund augmentation for CDAA funds. The amount funded each year varies, depending on how much local agencies are seeking and the occurrence of recent natural disasters. CDAA funding is typically done on a reimbursement basis so costs are often lagged. For example, some funding proposed in the 2018-19 budget is for costs associated with the 2005-06 winter storms. Bear in mind that this is not the total amount that the state is contributing to disaster assistance. (Some disaster assistance costs are captured in other departmental budgets and through various other means.) Local agencies are typically responsible for 25 percent of project costs. The state share for eligible projects may not exceed 75 percent, unless specified in statute. The CDAA is not the only source of Cal OES funding made available in times of emergency and recovery. The office also manages the state private nonprofit organizations assistance program which provides assistance to qualified nonprofits that incur extraordinary costs while assisting at the request of local agencies.

Other Agencies also provide assistance. Cal OES is not the only state agency to provide assistance to local governmental entities during a disaster. For example, the Department of Education can provide schools relief from the loss of state average daily attendance funding during a disaster. In the 2017-18 budget the Department of Forestry and Fire Protection, along with Cal OES, provided local assistance funding to specified counties for tree mortality programs. A sampling of the programs deployed during the recent wildfires, and managed by agencies other than Cal OES, is listed in the table below. These programs, and similar ones, are often utilized in times of emergency.

State Programs for Disaster Assistance During the October/December 2017 Wildfires

Support Type	Resource/Program	Provider Agency/ Department	Intended Recipients
Individuals	Disaster Unemployment Assistance	Employment Development Department	Business owners or self-employed individuals ineligible for state unemployment benefits and those whose unemployment benefits have run out, but are still unemployed due to the disaster.
Individuals	Tax Relief; Calamity Property Tax Reassessment	Affected county tax assessor	Homeowners of property that has been destroyed or damaged as a result of a Governor-declared disaster.
Individuals, Households	State Supplemental Grant Program	Department of Social Services	Eligible individuals and households who are unable to meet disaster-related necessary expenses and serious needs.
Individuals, Local Governments	Debris Removal	Department of Resources Recycling and Recovery and Department of Toxic Substances Control	Homeowners with destroyed structures/home over 120 square feet on their property.

Individuals, Businesses, Non-Profits, Tribal Governments	Legal Services for Disaster Relief	The California State Bar Association	Disaster survivors
Individuals, Businesses	Emergency Tax Relief for Business Owners	Department of Tax and Fee Administration	Business Owners
Businesses, Non-Profits	Disaster Assistance for Employers	Employment Development Department	California businesses

Federal Disaster Assistance. When the state is overwhelmed by an emergency, it can apply to the Federal Emergency Management Agency (FEMA) for disaster assistance. The Governor must submit a request for a declaration disaster to the President within 30 days of the event in order to receive federal funding. The process for requesting FEMA disaster relief funds is listed below:

- Preliminary damage assessment (conducted in coordination with FEMA)[1].
- Governor submits declaration request within 30 days of incident.
- Declaration of disaster by the President.
- Cal OES holds applicant briefings with local entities.
- Applicants submit requests for public assistance to Cal OES within 30 days of declaration.
- Kickoff meetings with applicants, Cal OES, and FEMA are held within 21 days of request approval.
- Project scope of work and costs are determined.
- Obligation of funds to Cal OES from the federal Disaster Relief Fund[2] .
- Funding is disbursed through Cal OES to applicants.
- Applicants provide quarterly status updates.
- Work is completed, recipient certifies completion, and closeout process with FEMA and Cal OES begins.

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[1] Generally, the preliminary damage assessment is completed prior to the submission of the Governor's request for a major disaster declaration. However, when an obviously severe or catastrophic event occurs, the Governor's request may be submitted prior to completion of the assessment.

[2] FEMA may lend a state the portion of assistance for which it is responsible for under specific circumstances outlined in Title 44 of the Code of Federal Regulations.

There are three types of federal disaster declarations. Emergency declarations can be declared in any circumstance in which the President determines federal assistance is needed. These declarations supplement state and local government efforts in providing emergency services, or to lessen the threat of a catastrophe. The amount provided in response to an emergency declaration may not exceed $5 million unless Congress gives authorization to exceed that amount. Only assistance for debris removal, emergency protective measures, and individual and household assistance (such as for housing, clothing, etc.) are available for emergency declarations. Public assistance is commonly provided on a 75 percent federal, 25 percent non-federal cost sharing basis. The state and locals typically split that 25 percent share, with the state paying approximately 19 percent of the total costs, and locals paying the remaining six percent. Housing assistance for individuals is provided at a 100 percent federal share and all other individual assistance programs require a 25 percent non-federal cost share.

The second type of federal declaration is a Major Disaster declaration. These can be declared in the occurrence of any natural event, and can provide assistance for both individuals and public infrastructure. The particular types of assistance available are specific to the individual event, and are determined by the information in the Governor's request, and needs identified during the preliminary damage assessment. The federal share of costs depends on the type of assistance provided. However, funding for major disasters is commonly provided on a 75 percent federal, 25 percent non-federal cost sharing basis. Note that, in general, more types of assistance are available for major disasters than in emergencies. Infrastructure repair and replacement, crisis counseling, and unemployment assistance are just a few examples of the types of assistance available in major disasters but not necessarily in emergencies.

The third type of declaration is the Fire Management Assistance Declaration. The process for requesting a fire management assistance declaration significantly differs from the process for the other two types of declarations. The process is expedited and initiates upon the submission of a request for assistance from the state to the FEMA regional director. FEMA renders a decision within hours. The federal government provides a 75 percent cost share and the state pays the remaining 25 percent. While the other two declarations mentioned are focused on recovery after disasters, the Fire Management Assistance Declaration focuses more on first response and protective measures, so larger fires do not graduate to become major disasters. The state spends a significant amount of funds on fire response each year, mostly from the Department of Forestry and Fire Protection. This type of declaration, while not directly relevant to the topic of this piece, is worth mentioning since the state spends a substantial amount of funding on fire response each year.

FEMA is not the only source of federal aid in times of disaster, as other federal agencies can provide assistance. For example, the Small Business Administration is able to provide loans to businesses that suffer damage in certain events. A small sample of federal disaster aid programs managed by agencies other than FEMA is described in the next table.

Federal Programs for Disaster Assistance

Support Type	Resource/Program	Provider Agency/ Department	Intended Recipients
Individuals	Forbearance and Loan Modifications Programs and Immediate Foreclosure Relief	U.S. Department of Housing and Urban Development	Federal Housing Administration Loan Borrowers.
Individuals	Disaster Assistance for Students	U.S. Department of Education	Financial aid recipients and students seeking financial aid assistance.
Individuals	Public Safety Officers' Benefit Program	U.S. Department of Justice	Law enforcement officers, firefighters, other first responders.
Individuals	Disaster Unemployment Assistance	U.S. Department of Labor	Individuals whose employment or self-employment has been lost or interrupted as a direct result of a major disaster and who are not eligible for regular unemployment insurance benefits.
Individuals, Households	Multi-Family Housing Program	U.S. Department of Agriculture Rural Development	Individuals and families whose property was destroyed by a declared disaster.
Individuals, Businesses, Local Governments	RestoreYourEconomy.org	U.S. Economic Development Administration	Economic development and chamber of commerce professionals, and community leaders, working on economic recovery efforts for disaster-impacted communities.
Local Governments, States, Territories	Federal Highway Administration Public Transportation Emergency Relief Program	U.S. Department of Transportation, Federal Highway Administration	Public transportation systems to prepare or respond to a disaster event.

Federal Disaster Relief Fund (DRF). The DRF is the account used to fund disaster assistance programs to state, local, and tribal governments, as well as certain nonprofit entities. The fund acts as a reserve for future incidents as well as an account to pay for ongoing projects to recover from previous disasters. Congress funds the DRF through regular annual appropriations; however, unused funds at the end of a fiscal year carry over to the next year. Each year Congress routinely provides two appropriations to the DRF. The first, known as base funding, is for FEMA operations and routine events. The second is for major declarations; the amount is calculated based on how much was spent on disaster relief in the past decade. When recovery efforts surpass FEMA funding, Congress can authorize more.

Determination of Assistance. While there are a number of factors taken into consideration, cost plays a major factor in determining if assistance is needed. FEMA utilizes a per-capita cost threshold as one of the determining factors in providing assistance. The estimated cost of public assistance is evaluated against the statewide population to give a measure of the per capita impact within the state. For California, the damage estimate would need to exceed $57 million before assistance can be requested.

In the event that local first responders are not adequately resourced to address an emergency they can seek assistance from the state. The state is then able to provide state resources. Meanwhile, a preliminary damage assessment is conducted by state, local, federal, and volunteer agencies. Upon completion of the preliminary damage assessment, the Governor may issue a state disaster declaration. The declaration commits funds and resources to the long-term recovery effort. After a declaration has been made, CDAA funds may be made available to eligible applicants. If the disaster exceeds the state's capacity the Governor may seek federal assistance. FEMA then assesses the request and provides a recommendation to the President as to whether or not federal support shall be provided.

GOVERNOR'S PROPOSAL

The Governor's budget proposes total expenditures of $1.39 billion ($1 billion federal trust fund, $221 million special funds, $166.3 million General Fund, and $4.6 million reimbursements) for Cal OES. Approximately $1.2 billion of total expenditures is proposed for local assistance (i.e., grants for victim services, mitigation efforts, and criminal justice) and the remainder is to be used for Cal OES operations.

$72.2 million General Fund of the Cal OES budget is planned for CDAA costs. The base budget for the CDAA is $39.1 million, and the 2018-19 budget proposes a $33.1 million augmentation for CDAA funding. Note that about $10.7 million for recovery costs are also included in budget item 9901.

ISSUES TO CONSIDER

More detail on disaster assistance funding is needed. As mentioned above, not all disaster related expenditures are provided via CDAA funds. Departmental budgets sometimes capture these costs, and other times disaster related costs are budgeted in other line items. With various means of providing disaster funding it is often difficult to ascertain just how much the state is spending on disasters. It would be useful to have this information for planning purposes in future budgets. The proposed budget also does not contain specific proposals for disaster costs, but instead lists costs with unclear descriptors (see table below). It is uncertain as to what the funding will be specifically used for. Without more details it is difficult to determine the merits of the funding. The Legislature may wish to consider directing the Administration to use a consolidated approach to documenting disaster costs, and to request funding for disaster assistance in detailed budget proposals.

Disaster Assistance Costs Associated with the October and December 2017 Wildfires

	Estimated 2017-18	Proposed[1] 2018-19	Purpose
Northern California Wildfires (October 2017)			
Governor's Office of Emergency Services	$203,254	$0	Debris removal
Governor's Office of Emergency Services	21,250	0	Fire response
Governor's Office of Emergency Services	307	0	Field operations
Governor's Office of Emergency Services	3,199	10,663	Public assistance
Department of General Services	13,000	-10,400	Miscellaneous
Department of Social Services	6,550	-1,670	Shelter support
California Military Department	5,000	-4,000	Fire response
Department of Public Health	1,424	-1,139	Field operations
Department of Housing and Community Development	652	212	Public assistance
Emergency Medical Services Authority	315	-252	Field operations
Costs Captured in Departmental Budgets (non-add to 9901)			
Department of Forestry and Fire Protection[2]	(169,300)	-190,894	Fire response
Department of Resources Recycling and Recovery	(17,500)	0	Debris removal
Department of Social Services	(5,000)	0	Public assistance
Department of Toxic Substances Control	(750)	0	Debris removal
Backfill of Local Property Tax	0	(23,700)	Public assistance
Backfill of Local Property Tax (Proposition 98)	(11,400)	(13,000)	Public assistance
Subtotal Northern California Wildfires (October 2017)	**$254,951**	**-$197,480**	
Southern California Wildfires (December 2017)			
Costs Captured in Departmental Budgets (non-add to 9901)			
Department of Forestry and Fire Protection[3]	($300,000)	-$180,000	Fire response
Department of Toxic Substances Control	(950)	0	Debris removal
Subtotal Northern California Wildfires (October 2017)	**$0**	**-$180,000**	
Total Estimated Expenditures: Item 9901-503-0001	**$254,951**	**-$377,480**	
Total Estimated Expenditures: all Departments and 9901	$759,851	-$340,780	

[1] 2018-19 negative figures represent estimated federal abatements on reimbursable costs that are not anticipated to be received until 2018-19.

[2] 2018-19 federal abatement exceeds the 2017-18 augmentation because the abatement is based on total wildfire Emergency Fund expenditures of $238.6 million. Federal abatement is budgeted in 9901.

[3] Federal abatement is budgeted in 9901.

Elections Administration and Funding

BACKGROUND

The Secretary of State (SOS) serves as the state's chief elections officer, overseeing all federal and state elections within California and ensuring that elections laws are enforced. The elections program within the Secretary of State's office maintains a statewide database of all registered voters, tracks and certifies ballot measures, candidates, and elections results. In addition, the program oversees the modernization of voting equipment and the improvement of current electoral database systems, enhancing the voting processes, providing accessibility to voters, working to increase people's knowledge of the electoral system. The SOS also investigates elections related criminal violations as provided by California Elections Code.

Administration of Elections. County elections officials administer most local, state, and federal elections in California. They also operate elections for most cities, schools, and special districts. County responsibilities include processing voter registrations, verifying signatures on petitions to qualify ballot initiatives, choosing voting equipment, establishing precincts, printing ballots, mailing materials to voters, and recording elections results. Beyond the specific requirements established in state and federal law, county elections officials have discretion in how people vote in their county. Consequently, elections operations—including equipment used to cast and count ballots—vary across counties.

The current and traditional model for voting relies on precincts. Precincts are usually comprised of no more than 1,000 voters. Addresses are assigned precincts, and each precinct has a polling place where voters go to cast their ballots. Voters also have the option of casting their ballots by mail. Casting a vote by mail can be done on a one-time or permanent basis.

Vote Center Model. The signing of Senate Bill 450 (Allen), Chapter 832, Statutes of 2016, will significantly change the way elections are conducted throughout the state. SB 450 creates a new model for elections, known as the vote center model. Every registered voter will be delivered a vote-by-mail (VBM) ballot before Election Day and will be able to either vote in-person at a vote center, mail his/her ballot in, or drop it off at a vote center or ballot drop-off location. Polling places will be replaced by vote centers, where voters will have the freedom to cast a ballot at any vote center in their county beginning 10 days before the election. Voters will also have the option of returning their ballots at a drop-off location starting 28 days before Election Day. Implementation of the vote center model is voluntary for all counties. 14 counties are permitted to use the new vote center model for the 2018 election cycle; however, only the counties of Madera, Napa, Nevada, Sacramento, and San Mateo have committed to using the vote center model for 2018 elections. On or after January 1, 2020, Los Angeles County has the option to conduct special elections as an all-mailed ballot election and the remaining 43 counties will be eligible to conduct any election using the vote center model. Counties that choose to apply this new model must develop a plan for implementation that must be approved by the Secretary of State.

The vote center model generally requires increased elections related costs up front, but savings in the long-term. Counties will incur costs to create vote centers, provide all ballot types at vote centers and mail all registered voters a ballot. Conversely, the vote center model will require fewer voting machines which will decrease elections costs for counties and will generally lead to long-term savings. These predicted fiscal effects are largely dependent on the size and population of the county.

Funding for Elections. Generally, counties pay for costs associated with elections out of their general funds. Other local entities whose elections are managed by counties pay those counties for administering their elections. There are certain requirements, put in place by the state, which counties must meet when administering elections – these are known as reimbursable mandates. The state is required to reimburse counties for these mandates. However, the state can choose to suspend mandates in the annual budget act which removes the state's responsibility to reimburse counties and the counties' responsibilities to comply with those mandates in that year. In the current budget year, all six elections mandates (described in box below) were suspended by the Legislature. Still, many counties have chosen to continue with the activities associated with the suspended mandates. In a survey of all 58 counties conducted by the Department of Finance in 2016 the majority of respondents completed all suspended mandates. However, there were a few counties that did not comply with all of the activities associated with mandates #1 and #5 in the box below. Note that if the mandates are "reactivated," the state would be obligated to pay all past accrued costs.

Currently, the outstanding balance of elections mandates is more than $75 million. Even though the state has suspended these mandates it does, on occasion, provide one-time funding for elections purposes. An example of this was in 2016, when the Legislature provided a $16.3 million one-time augmentation to reimburse counties for specific elections costs.

Current Elections Mandates

- Absentee Ballots: Requires absentee ballots be made available to any registered voter.
- Absentee Ballots – Tabulation by Precinct: Requires the county's list of absentee voters to include the voter's election precinct.
- Modified Primary Election: Requires partisan primary ballots to be provided to non-affiliated voters who request such a ballot.
- Permanent Absentee Voters: Requires county elections officials to allow any voter to apply for permanent absent voter status
- Voter Identification Procedures: Requires elections officials to compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration.
- Voter Registration Procedures: Requires county clerks to accept affidavits of registration at any time up to 28 days before any election.

Not only does the state reimburse counties for mandates, it also provides funding for the update of elections equipment. Most voting equipment used in California counties is obsolete. Many have parts that are no longer available or rely on operating systems that no longer receive support from the manufacturer. For this reason, the 2018-19 budget proposes a one-time augmentation to replace voting systems throughout the state.

The federal government also provides funds for elections purposes. However, these funds are to be used solely for the administration of federal elections. The Help America Vote Act (HAVA), provides federal funding to states to implement mandated elections changes. The requirements of HAVA include statewide modernization or replacement of voting equipment, education and training programs for elections officials and poll workers, and a statewide voter registration database.

GOVERNOR'S PROPOSAL

$231.7 million ($166.8 million General Fund, $53.3 million special funds, and $11.6 million federal funds) in total expenditures is proposed for the Secretary of State. $134.3 million General Fund is a one-time increase to cover the costs for the replacement of voting systems – including software and hardware. The proposal assumes a 50/50 split between the states and counties. Cost estimates were determined with the assumption that large jurisdictions would move to the vote center model and small jurisdictions, those with fewer than 50 precincts, would remain using the traditional polling place model. The Administration hopes the replacement will create an incentive for counties to transition to the vote center model. The remaining General Fund expenditures are for general operations costs, such as salary and benefit adjustments.

ISSUES TO CONSIDER

State's Financial Role in Elections. The Legislature often suspends reimbursable mandates to avoid repayment to counties. However, counties often continue to comply with these requirements since they are state law and continue to incur costs due to these requirements. The state receives significant benefit from the county administration of elections but has provided sporadic financial support for elections administration. All elections mandates discussed above have been proposed for suspension in the Governor's proposed 2018-19 budget. With the implementation of the new vote center model, new costs related to the purchase of new voting equipment proposed in the Governor's budget, and the flawed reimbursable mandate process, the Legislature may want to consider a new approach to funding elections throughout the state. Revisions to the mandate process would provide more certainty as the existing process lacks clarity.

Cost of Voting System Replacements. The Governor has proposed $134.3 million for the replacement of voting systems throughout the state. The proposed amount was determined with the assumption that certain counties, based on size, would switch to the vote center model. As of January 9, 2018, the counties of Madera, Napa, Nevada, Sacramento, and San Mateo have committed to switching to the vote center model for the 2018 election cycle. However, only the implementation plan for Napa County has been approved by the Secretary of State as of January 30, 2018. It is unclear when the final plans for the other four counties will be submitted and approved, thus the number of vote centers and the amount of equipment ultimately needed in those counties is still unknown. In a

March 2017 report, the Legislative Analyst's Office estimated that the total costs of replacing voting equipment would be around $400 million, which is significantly more than the $134.3 million proposed in the Governor's budget. The Legislature may wish to consider the costs associated with the replacement of voting systems and if the proposed funding would be adequate.

Federal Tax Reform

BACKGROUND

The Tax Cuts and Jobs Act. In December 2017, Congress passed and the President signed H.R. 1, the Tax Cuts and Jobs Act (Public law no. 115-97), an extensive tax reform package that makes sweeping changes to the tax code which went into effect on January 1, 2018. Passed via the budget reconciliation process[1], H.R. 1 is projected to add approximately $1.455 trillion to the federal deficit over the next ten years, or approximately $1 trillion when macroeconomic factors are taken into effect, according the Congressional Budget Office. While most taxpayers are expected to benefit from the plan on average, analyses show that the exact effect of the change will depend on individual circumstances.

The comprehensive law consists of many changes to the tax code[2], but the primary objectives of the bill can be summarized as follows: reducing tax rates for individuals and corporations; simplifying the individual tax code; broadening the tax base by eliminating or limiting many itemized deductions; and reducing the tax on corporations by repealing provisions such as the alternative minimum tax (AMT) in order to spur economic growth. In order to comply with the budget reconciliation procedure, under which a bill cannot add to the national deficit after ten years, the majority of the individual provisions of the bill are set to gradually phase out and expire over the next ten years, while most of the corporate changes are permanent.

Some of the major provisions of H.R. 1 are summarized below:

For Individual Taxpayers[3]

- Lowers individual tax rates, with the top rate going from 39.6 to 37 percent.
- Eliminates personal exemptions while nearly doubling the standard deduction, from $6,350 to $12,000 for single filers and $12,700 to $24,000 for married filers.
- Doubles the child tax credit from $1,000 to $2,000 and raises the income levels at which it phases out.
- Limits the deduction for state and local taxes (SALT) and property taxes combined to $10,000, previously not directly capped.
- Lowers the cap on the mortgage interest deduction to $750,000 from $1.1 million.

[1] Budget reconciliation is a process established by the Congressional Budget Act of 1974 that allows Congress to pass certain legislation related to the budget and bypass typical procedural rules, most notably the Senate filibuster. As such, legislation passed via budget reconciliation needs only 51 votes to pass the Senate, rather than the 60 required to overcome the filibuster. Budget reconciliation can only be used on legislation with a direct connection to the budget via spending and revenues and any wider policy changes unrelated to the budget are ineligible. In this case, H.R. 1 passed Congress with no Democrat support and 12 Republican 'no' votes in the House (Senate: 51-48, House: 224-201).
[2] For a full, section-by-section summary of the provisions of the tax bill, see *Tax Cuts and Jobs Act: Conference Report to Accompany H.R. 1*, December 15, 2017. https://www.congress.gov/115/crpt/hrpt466/CRPT-115hrpt466.pdf
[3] These provisions, unless otherwise noted, sunset after 2025.

- Doubles the value of estates exempt from the estate tax.
- Provides a 20 percent deduction on pass through business income, previously taxed at the top individual rate.
- Permanently sets the penalty that individuals without adequate health insurance must pay under the Affordable Care Act to $0 starting in 2019, effectively negating the individual mandate.

Additionally, the law permanently changes the way tax brackets and other provisions are adjusted for inflation, causing them to grow at a slower rate under the new law.[4] Coupled with the sunsetting provisions to tax payers, these changes have led experts to conclude that many individual taxpayers will likely have a larger tax liability under the new law in 2027 if the tax cuts are not extended by a future Congress.[5]

For Corporations

- Lowers the top corporate tax rate from 35 to 21 percent.
- Repeals the corporate AMT, which effectively prevented corporations from paying below a certain amount through the use of deductions and exemptions.
- Allows full expensing of new investments for the first five years, which gradually phases out in the next five years.
- Disallows the deduction of net business interest greater than 30 percent of business income (previously fully deductible).
- Shifts the U.S. from a worldwide taxation system to a territorial system[6], with a one-time tax on repatriated foreign earnings.

State Conformity to Federal Tax Provisions. All states incorporate some aspects of the federal tax code into their own state tax code, though the specific method of conformity can vary widely. As such, the extent to which the state does or does not conform to federal tax law could have a significant effect on state revenues. California currently links its Revenue and Taxation Code (RTC) in certain sections to the Internal Revenue Code (IRC) as it existed on January 1, 2015.[7] Unless the Legislature enacts legislation to conform to federal changes, the provisions of H.R. 1 will not immediately be incorporated into the RTC.

[4] Under the previous law, tax brackets, the standard deduction, and other provisions were indexed to the consumer price index (CPI). Now they are indexed to chain-weighted CPI, which grows at a slower rate.
[5] An analysis prepared by the Tax Policy Center concludes that 53 percent of taxpayers will have a higher tax liability in 2027 than they would under current law. See *Distributional Analysis of the Conference Agreement for the Tax Cuts and Jobs Act*, Urban Institute Tax Policy Center, December 18, 2017. http://www.taxpolicycenter.org/publications/distributional-analysis-conference-agreement-tax-cuts-and-jobs-act.
[6] A worldwide taxation system taxes a corporation on its worldwide income, whereas a territorial taxation system only taxes income generated within the country.
[7] California RTC §17024.5

For example, when determining their starting income when calculating their state taxes, California taxpayers use their adjusted gross income (AGI) as determined according to the IRC on January 1, 2015. The following table summarizes some of the provisions of the new tax law and the extent of California's conformity to them as of 2015:

State Conformity with IRC as of January 1, 2015[8]

Tax Provision	Federal Conformity to 1/1/2015 IRC
Individual Income Starting Point	Yes (Federal AGI)
Standard Deduction	No
Personal Exemption	Linked to federal exemptions claimed[9]
Mortgage Interest Deduction	Yes
Property Tax Deduction	Yes
Child Tax Credit	No
Corporate Income Starting Point	Yes (Federal taxable income before net operating losses and special deductions)
Pass-through business income deduction	No
Expensing on new investments	No

The Franchise Tax Board (FTB) is required by statute to produce a report every year detailing the changes made to the IRC in the previous year and estimating the effect of conformity to these provisions on state revenues.[10] FTB is expected to present this report to the Legislature in April.

SALT and Property Tax Deduction. The $10,000 cap on the SALT and property tax deduction will have a disproportionate impact on millions of taxpayers in states with higher tax rates, such as California. According to the most recent data from the Internal Revenue Service (IRS), for the tax year 2015, over 6.1 million California taxpayers claimed the SALT deduction with an average claim of $18,438. Approximately 2.5 million Californians, or 15 percent of all taxpayers in the state, have a state, local, and property tax liability above the $10,000 cap. A breakdown of the income brackets of these taxpayers, based on data compiled by FTB, is shown in the table below:

[8] For a discussion of state approaches to conformity, see *Tax Reform Moves to the States: State Revenue Implications and Reform Opportunities Following Federal Tax Reform,* Tax Foundation, January 31, 2018, https://taxfoundation.org/state-conformity-federal-tax-reform/.

[9] While California does not conform to the federal personal exemption directly, it offers a tax credit based on the number of dependents for whom a taxpayer claimed a personal exemption on their federal return. If personal exemptions are repealed (as they are under the new tax law), this deduction will be effectively repealed as taxpayers will not be able to claim any dependents on their federal returns.

[10] RTC §19522

SALT and Property Tax Deduction
By Income Bracket

Adjusted Gross Income Range	All Returns (thousands)	Returns with SALT and Property Tax Deductions Greater than $10,000	
		Returns (thousands)	Amount ($ millions)
Less than $100,000	13,191	326	$5,283
$100,001 - $250,000	2,409	1,523	$26,284
$250,001 - $500,000	493	455	$16,469
$500,001 - $1,000,000	131	128	$9,965
$1,000,000+	70	69	$32,469
Total	16,294	2,501	$90,471

GOVERNOR'S PROPOSAL

The Governor's budget does not include any proposals related to federal tax reform, though it does note that its economic and revenue forecasts were finalized before the federal tax package was passed. However, the Department of Finance indicates that the May Revision will include a revised analysis of the potential impact of the federal changes on state revenues.

ISSUES TO CONSIDER

How should the state conform to Federal Tax Law? California's decision on the extent to conform to the Federal tax law could have a significant impact on state revenues. For example, if the state conformed to the base broadeners in the new federal law while maintaining current state tax rates, this could result in an increase in state revenues at the expense of higher taxes paid by California taxpayers. However, conforming to federal law does offer much greater simplicity for taxpayers preparing their returns. Assuming no changes to federal conformity for the 2018 tax year, California taxpayers would have to calculate their AGI under the new IRC when preparing their federal taxes and calculate their AGI under the January 1, 2015 IRC when preparing their state taxes, further complicating an already complex process and potentially leading to more errors in tax filings and audits.

Historically, California has lagged behind federal tax reform. The most recent conformity bill, passed in 2015, incorporated Federal changes that had been made to the IRC in the previous six years since California had conformed in 2009. In 1986, when Congress approved a tax overhaul of a similar scale to H.R. 1, it took two years for California to conform on specific provisions. Under Proposition 26, any bill which raises taxes for even one individual requires a supermajority to be approved by the Legislature. Ultimately, the Legislature should consider both the effects on state revenues and California taxpayers when determining whether it conforms to the new federal law, and if so, how it conforms with respect to individual provisions. FTB's April report on federal tax reform will provide important data on the impacts to state revenues and should be considered before the Legislature takes any action on issues of conformity.

How to account for uncertainty in state revenues? The passage of H.R. 1 will also introduce significant new uncertainties in projecting state revenues (which already carries an inherent amount of uncertainty). The effect of the new tax law on the economy and individual behaviors is difficult to predict and some of these effects are already being observed in revenues collected. For example, the Legislative Analyst's Office (LAO) noted in their Overview of the Governor's budget that the state experienced a billion-dollar surge in revenues in December 2017, likely due to a surging stock market and individuals and businesses attempting to maximize their short-term benefits before the new law took effect. LAO goes on to say that these effects may raise revenues in some months and lower them in others, and it will likely take months or years to develop an understanding of how these changes will affect state revenues moving forward.

Will the state lessen the impact of the SALT deduction cap for taxpayers? The ability of taxpayers to deduct state and local taxes from their federal returns has existed since a permanent federal income tax was first established in 1913. California and other impacted states are currently considering several strategies for reducing the impact of the SALT and property tax deduction cap on affected taxpayers. Many of these strategies consist of transforming state taxes that are no longer fully deductible under the new tax law into equivalent contributions to the state government that are.

Charitable Contributions to the State. H.R. 1 still allows taxpayers to deduct any charitable contributions that they make during the tax year. One possible avenue to mitigate the impact of the SALT changes is for states to establish a tax credit for charitable contributions to the state, allowing taxpayers to offset their state tax liability via a donation to a fund for state operations, which could then be deducted from their federal taxes.

The Legislature is currently considering one such proposal in SB 227 (de León) and SB 581 (de León). Collectively, these bills would establish the California Excellence Fund in the General Fund to accept contributions for exclusively public purposes and establish a tax credit that can be applied against state income tax equal to 85 percent of the amount contributed in a given tax year. The package will also ensure that the new fund will not impact the state's K-12 spending responsibilities under Proposition 98 and allow donors to the fund to direct their contributions to specific beneficiaries, such as state education or parks. The Legislature may wish to work off SB 227 and incorporate this concept into this year's budget deliberations.

Ultimately, the IRS, the Department of the Treasury, and perhaps the federal courts, will decide if contributions to the California Excellence Fund, or other similar approaches, qualify as charitable contributions under the IRC, though the tax credit was modeled after other similar credits now allowed by the IRS. Additionally, there is some precedent for such a state tax credit derived from a federally deductible charitable contribution. For example, in California, the College Access Tax Credit allows a tax credit in an amount equal to 50 percent of charitable contributions to the College Access Tax Credit Fund, which funds Cal Grants.

Payroll Tax. Another potential avenue for relief from the SALT deduction limit, currently under consideration by New York, is the establishment of an employer collected state payroll tax, in lieu of an income tax on wages. While H.R. 1 limits the ability of individual taxpayers to deduct state income taxes, it places no such limit on the ability of business to deduct expenses incurred for operating within a given state. A tax placed on employers on wages paid out to employees would be completely deductible under the new tax code.

California already has several payroll taxes administered by the Employment Development Department, but shifting the state income tax to an employer side payroll tax would create its own set of policy and administrative challenges. A payroll tax alone would not capture income from capital gains, interest, and dividends, a major revenue generator in California. Additionally, California's progressive income tax structure could complicate the collection of the tax, particularly for employees who receive wages from more than one employer.

State Property Management

BACKGROUND

The construction and maintenance of physical infrastructure is a core function of state government. Infrastructure and capital assets allow for the delivery of public services, foster economic growth, and enhance the quality of life. An indispensable part of infrastructure is the management of state assets.

Governor's Infrastructure Plan. AB 1473 (Hertzberg), Chapter 606, Statutes of 1999, directs the Governor to annually submit a statewide five-year infrastructure plan and a proposal for its funding. The Legislature considers the plan in conjunction with the Governor's budget proposal. After the introduction of this proposal the Legislature considers the proposals and whether to authorize funding in legislation and the budget act. After funds are appropriated by the Legislature, the Legislature maintains oversight of financial changes to the project. The Administration is responsible for carrying out projects and management of assets after projects are completed.

State Assets. California's land and property holdings are diverse, and are used for a variety of purposes, including university campuses, reservoirs, mental hospitals, veterans homes, and laboratories. Currently, the state owns 2,878 real properties. Real properties consist of immovable property such as land or buildings. The state's real estate portfolio totals approximately 6.9 million acres statewide. The Department of Transportation is the state's largest holder of real properties, and the State Lands Commission is the largest holder of land with close to 4.5 million acres. While the state owns and maintains numerous properties, this overview will focus on the management of state-owned office buildings and the role of the Department of General Services (DGS) in property management.

Legislative Approval and Oversight of Capital Outlay Projects. Capital outlay is the creation of new buildings, additions to and modifications of existing buildings, and includes projects that generally expand the capacity or change the function of state-owned properties. Generally, any capital outlay project must be approved by the Legislature through the annual budget process. Under the traditional state budget process, the Administration proposes individual capital outlay projects as part of the Governor's proposed budget for the coming fiscal year. These capital outlay budget change proposals generally include important details on the proposed projects—such as the project scope, construction timeline, costs by project phase, funding sources, delivery method, and a narrative justification. As part of its review of these proposals, the Legislature assesses if projects are consistent with its funding priorities.

After an individual capital outlay project is approved, the Legislature maintains oversight of certain changes related to the project. Specifically, if the scope of a project changes substantively or if the project's costs increase by more than 20 percent, the Administration is generally required to seek legislative approval through the traditional budget process before being able to proceed. (If the project's scope changes minimally or its costs increase by between 10 percent and 20 percent, the typical process requires the Administration to notify the Joint Legislative Budget Committee.) If the Legislature has concerns about the Administration's proposed changes, the Legislature has the opportunity to reject them or to direct the Administration to make modifications to address the concerns.

Management of State Property. DGS is responsible for managing approximately 34.3 million square feet of space that supports a variety of state programs and functions. Of this amount, 11.9 million net usable square feet is attributable to 56 DGS-managed state office buildings, including the State Capitol; 2.9 million gross square feet related to 23 other state-owned buildings including warehouses, storage, the Central Heating and Cooling Plant, the State Printing Plant, parking structures, and the State Records Warehouse; and 19.6 million net usable square feet is associated with DGS-managed commercial leases of all space types. Additionally, DGS has jurisdiction over retail and residential properties in downtown Sacramento that the Capitol Area Development Authority manages directly. DGS does not oversee every state-owned building, as there are around 30 agencies that retain their own building management.

Within DGS the Real Estate Services Division (RESD) is responsible for managing statewide real estate functions. It is a full service real estate organization that designs and constructs state facilities as well as being accountable for the state's real property needs. The RESD is comprised of three branches: Asset Management, Construction Inspection and Management, and Project Management and Development. The Asset Management branch often serves as the first point of contact for agencies or departments seeking new services. It oversees leasing, space planning and interior design, sales, appraisal, and acquisition services. This branch also has the responsibility of maximizing the performance of state real estate assets.

Statewide Property Inventory. The statewide property inventory is a centralized real estate management information system. The database contains a comprehensive inventory of all leased facilities reported to DGS by state agencies and all state proprietary land holdings, except for existing highways and public trust lands. State agencies are required to supply DGS with a record of the property in its possession by July 1 of each year. Among other basic information, the material provided must include a detailed description of the current uses of the property and any projected future uses for the next five years. Current building and property conditions are not required to be included in the inventory.

Deferred Maintenance. Facilities require routine maintenance and upkeep to remain in a working and acceptable condition. When this maintenance is delayed or ignored it is referred to as deferred maintenance. Although billions of dollars have been spent over the past decade to build state facilities, less attention has been paid to the availability of permanent funds to maintain these facilities. Between 2015 and 2016 approximately $942 million General Fund was provided to address deferred maintenance projects statewide. Yet, even with the 2015-16 investments in deferred maintenance there are still substantial deferred maintenance needs among many state properties. At present, the reported statewide deferred maintenance need totals $67 billion. Note that these costs include a wide array of activities, such as replacing old equipment, repainting, reroofing, repairing wiring and plumbing, dredging river or stream beds, and repairing roads, not just the upkeep of state buildings. Deferred maintenance needs at DGS total $148 million. This severe deficiency in maintenance funding is largely due to underfunding maintenance needs in the past.

Long-range Planning Study. As part of the 2014-15 budget, the Administration proposed and the Legislature approved a total of $2.5 million for DGS to complete a long–range planning study of state–owned general purpose office space in the Sacramento area. The study was to include 1) an update of an earlier planning study identifying potential office space development opportunities in Sacramento (office planning study); 2) condition assessments of all state office buildings in the Sacramento area (assessment report); 3) a plan for sequencing the renovation or replacement of state office buildings in Sacramento (sequencing plan); and 4) a funding plan for undertaking these projects, including project cost estimates and an economic analysis.

AB 1656 (Dickinson), Chapter 451, Statutes of 2014, required that DGS complete this study by July 1, 2015, as well as provided direction on the contents of the study and how it was to be used by DGS. First, the legislation specified that the study should guide the state's actions on state buildings over the next 25 years. Second, it required that DGS use the information as the basis for developing detailed cost and scope information to be considered in future budget proposals. Finally, it directed DGS to issue requests for proposals to address the renovation and replacement needs of Sacramento office buildings, starting with the three buildings with the most significant and immediate facility needs.

In 2015 DGS completed the office planning study and identified 41 potential sites in Sacramento for future development. DGS released the assessment report portion of the planning study in July 2015; reporting the conditions of 29 state-owned office buildings in the Sacramento region. While there were buildings that required maintenance work, the report concluded that all buildings were in safe, serviceable condition. In March 2016 DGS completed the sequencing plan portion of the study. The sequencing plan discussed the Administration's strategy for addressing facility needs in Sacramento office buildings. It also laid out the Administration's plans for addressing facility needs in Sacramento and goals, such as the consolidation of office space and the reduction of leased space. The funding portion of the study was not completed.

To better understand the condition of the statewide DGS office portfolio, the assessment report was expanded to analyze state-owned, DGS managed office buildings outside of Sacramento. DGS completed the statewide study of 21 office buildings in September 2016. The same assessments applied to the Sacramento portfolio were extended to these other buildings. The assessment identified two buildings in poor condition, five in fair condition, and fourteen in good condition. The table below shows the results of both the statewide and the Sacramento region assessments. While DGS completed a sequencing plan for the Sacramento portfolio, a similar plan for state buildings outside of Sacramento was never completed.

Ranking of Office Buildings from Completed Assessments

Building	City	Condition
Blue Anchor Building	Sacramento Area	Poor
Bonderson Building	Sacramento Area	
EDD Headquarters	Sacramento Area	
Employment Development Department (EDD) Annex	Sacramento Area	
Gregory Bateson Building	Sacramento Area	
Jesse M. Unruh Building	Sacramento Area	
Justice Building	Sacramento Area	
Personnel Building	Sacramento Area	
Resources Building	Sacramento Area	
San Diego State Building	San Diego	
Stockton State Building	Stockton	
Board of Equalization (BOE) Headquarters	Sacramento Area	Fair
California Energy Commission Building	Sacramento Area	
Franchise Tax Board (FTB) Complex – Phase I	Sacramento Area	
Fresno Water Resources Building	Fresno	
Hugh Burns State Building	Fresno	
Library and Courts Building II	Sacramento Area	
Redding State Building	Redding	
Santa Ana State Building	Santa Ana	
Van Nuys State Building	Los Angeles	
4th District Court of Appeal	Riverside	Good
Agriculture Building	Sacramento Area	
Alfred E. Alquist Building	San Jose	
Attorney General Building	Sacramento Area	
Buildings and Grounds Headquarters	Sacramento Area	
California Tower	Riverside	
Campbell Building – Office of Emergency Services	Sacramento Area	
East End Complex Block 171	Sacramento Area	
East End Complex Block 172	Sacramento Area	

East End Complex Block 173	Sacramento Area	Good
East End Complex Block 174	Sacramento Area	
East End Complex Block 225	Sacramento Area	
Elihu M. Harris State Building	Oakland	
FTB Complex – Phase II	Sacramento Area	
FTB Complex – Phase III	Sacramento Area	
Governor Edmund G. "Pat" Brown Building	San Francisco	
Junipero Serra Office Building	Los Angeles	
Justice Joseph A. Rattigan Building	Santa Rosa	
Leo J. Trombatore Building	Marysville	
Mission Valley State Building	San Diego	
Office Building 8	Sacramento Area	
Office Building 9	Sacramento Area	
Red Bluff State Building	Red Bluff	
Rehabilitation Building	Sacramento Area	
Ronald M. George State Office Complex	San Francisco	
Ronald Reagan State Building	Los Angeles	
Secretary of State/Archives Building	Sacramento Area	
Stanley Mosk Library and Courts Building	Sacramento Area	
Wadie P. Deddeh State Office Building	San Diego	

*Note: Some of the Sacramento area buildings shown in this table have already been slated for renovation or replacement.

GOVERNOR'S PROPOSAL

The Governor's budget proposes approximately $1.08 billion ($18.9 million General Fund, $1.05 billion special funds, and $5.6 million reimbursements) in total expenditures for DGS. This is an almost $11 million increase from 2017-18 total expenditures. The budget proposes $30.4 million General Fund of the DGS budget for infrastructure usage. Specifically, the funds will be used for the continuation of the State Printing Plant Demolition project ($815,000), and to initiate three new projects in Sacramento: the Gregory Bateson Building renovation ($5.2 million), the Jesse Unruh Building renovation ($6.3 million), and a new office complex project on Richards Boulevard ($18.1 million).

Under the Governor's infrastructure plan $61.3 billion is proposed for infrastructure improvements across all agencies and program areas in the state. The table below shows the proposed infrastructure spending for DGS for the next five fiscal years.

Proposed Infrastructure Spending at DGS (Dollars in Thousands)

2018-19	2019-20	2020-21	2021-22	2022-23	Total
$30,416	$1,038,211	$240,796	$380,194	$14,767	$1,704,384

ISSUES TO CONSIDER

Need for a statewide building strategy. After the completion of its long-range planning study of office buildings in Sacramento, DGS completed an assessment of the condition of general purpose office buildings in other parts of the state. This assessment identified some buildings that were rated in worse condition than buildings in Sacramento. However, a plan for renovation or replacement of these other statewide office buildings has not been completed, and it is unclear whether DGS anticipates using the assessment results to develop a plan. Just as a long-range planning study was completed for Sacramento, an equivalent study for buildings statewide would be valuable. A study of this magnitude would be invaluable to the Asset Management branch of RESD as it carries out its duties of developing regional plans and implementing strategies for future state office requirements. The Legislature may wish to inquire about how DGS is using these assessment results in carrying out their duties and to request plans for future use of state-owned buildings throughout California.

Data may need to be improved. To improve the state's management of its property, the Legislature may wish to consider mandatory audits of state property. The audit would consist of condition assessments, which are not currently included in the statewide property inventory. Conducting regular assessments and keeping an accurate, updated record of the condition of state buildings would be extremely valuable. The statewide property inventory could be a much more valuable resource if this additional information was included.

Coordination across state agencies is needed. While one of the department's primary responsibilities is asset management, DGS is not the only state department and/or agency that is responsible for management of state property. Out of the 2,626 office buildings owned by the state only 56 are managed by DGS. A list of all state agencies and/or departments that maintain state property is in the table below.

Office Structures Maintained by State Departments and Agencies

Department/Agency	Office Structures Maintained
Department of Corrections and Rehabilitation	555
Department of Transportation	445
Department of Parks and Recreation	339
California State University	259
Department of Forestry and Fire Protection	136
District Agricultural Associations	125
California Highway Patrol	116
Judicial Council	103
Department of Motor Vehicles	95
Military Department	74
Department of Food and Agriculture	61
Department of General Services	56
Department of State Hospitals	54
Department of Fish and Wildlife	44
Department of Developmental Services	39
University of California	33
Employment Development Department	23
California Conservation Corps	19
Department of Veterans Affairs	12
Department of Education	9
Department of Water Resources	7
State Lottery Commission	5
Department of Public Health Santa Monica Mountains Conservancy	4
California Exposition and State Fair California Science Center	3
Department of Consumer Affairs State Legislature Department of Rehabilitation State Lands Commission Department of Technology Department of Toxic Substances Control	1

The statewide property inventory has the potential to be a useful tool for future infrastructure planning, but because DGS has no oversight authority it is unclear whether this inventory is being used to its full potential. The current organizational framework does not provide California's asset management system with any one entity in charge. The state lacks an entity that can provide central coordinating asset management efforts. Agencies often conduct their asset management functions in silos and decisions are made without reference to an overarching strategy. At one point, the state did have such an entity providing asset management decisions as a centralized function. In 1989, the Governor's Office of Planning and Research (OPR) was charged with proactively managing the state's assets. The task of managing state assets was removed from OPR in the mid '90's and since then, the state has lacked a centralized asset approach. While the Governor's infrastructure plan does consider infrastructure needs across state agencies it is uncertain whether this approach will continue with future Administrations. Even though a 1999 statute required the Governor to submit an infrastructure plan with the annual budget, the plan was not regularly submitted until 2014. It may be beneficial for the Legislature to address the lack of a coordinating entity in regards to property management and infrastructure planning.

SUBCOMMITTEE NO. 5

CORRECTIONS, PUBLIC SAFETY, AND THE JUDICIARY

Corrections and Public Safety

Inmate Fire Fighters

BACKGROUND

California's Wildfires and Related Disasters. Five consecutive years of severe drought, a dramatic rise in bark beetle infestations and 129 million dead trees have combined to create unprecedented fire conditions resulting in severe, year-round wildfires. Eleven of California's most destructive wildfires have occurred in the last ten years. Historically, the California Department of Forestry and Fire Protection (CalFire) responds to over 5,600 wildfires annually. In recent years, wildfires have increased, reaching approximately 2,000 more than average in 2017.

In fact, 2017 proved to be the worst fire season in California's history. Between January 1 and December 31, 2017, over 1.7 million acres of land burned in California, over 47 people died as a result of the fires and over 12,000 buildings were damaged or destroyed. CalFire estimates that the emergency fire suppression costs for the 2017-18 fiscal year could reach $900 million. In addition, the California Insurance Commissioner reports that nearly 45,000 claims detailing almost $12 billion in losses have been filed for the fires in October and December alone. Those claims are primarily related to the two most destructive fires this year. A cluster of fires in October in Napa, Sonoma, Mendocino, Lake and Solano counties burned almost 245,000 acres, killed 44 people, destroyed 8,920 structures and damaged another 736, and resulted in $262,437,625 in total costs. Then in December, the largest wildfire in the state's history, the Thomas fire, erupted in Santa Barbara and Ventura counties. That fire ultimately burned over 308,380 acres, killed two people, destroyed over 1,375 structures and damaged another 440, and resulted in $188,450,301 in costs. As a result of the damage from the Thomas fire, Santa Barbara County subsequently faced devastating mudslides in January that killed at least 21 people and destroyed dozens of homes.

To fight the state's wildfires and other natural disasters, CalFire employs over 5,000 year-round professional fire fighters and over 1,700 seasonal fire fighters. In addition, they rely on 2,750 local volunteer fire fighters and 3,500 inmate fire fighters. Incarcerated people make up nearly a third of the state's firefighting force.

State's Reliance on Incarcerated Fire Fighters. As the state's need for people to fight an increasing number of wild fires grows, the number of inmates available to assist in those efforts continues to decline. Due to new sentencing laws and Public Safety Realignment in 2011, which shifted most non-violent, non-sex-related, non-serious offenders back to county jails, there are fewer people in prison at the lower security levels who are eligible to work and live in the state's fire camps. The state currently has enough capacity to house approximately 4,600 adult and juvenile inmate fire fighters. However, there are currently less than 3,600 inmate fire fighters in those camps. At their peak in July of 2007, 4,508 fire fighters were in the state's fire camps. As of January 31, 2018, there were 3,507 incarcerated men and women in the fire camps.

Conservation (Fire) Camps. The Conservation Camp Program was initiated by the California Department of Corrections and Rehabilitation (CDCR) to provide able-bodied inmates the opportunity to work on meaningful projects throughout the state. CDCR road camps were established in 1915. During World War II much of the work force that was used by the Division of Forestry (now known as

CalFire), was depleted. CDCR filled that void by having inmates occupy "temporary camps" to augment the regular firefighting forces. There were 41 “interim camps” during WWII, which were the foundation for the network of camps in operation today. In 1946, the Rainbow Conservation Camp was opened as the first permanent male conservation camp. Rainbow made history again when it converted to a female camp in 1983. The Los Angeles County Fire Department, in contract with the CDCR, opened five camps in Los Angeles County in the 1980's.

There are 43 conservation camps for adult offenders and one camp for juvenile offenders. Three of the adult offender camps house female fire fighters. Thirty-nine adult camps and the juvenile offender camp are jointly managed by CDCR and CalFire. Five of the camps are jointly managed with the Los Angeles County Fire Department.

The conservation camps, which are located in 29 counties, can house up to 4,522 adult inmates and 80 juveniles, which make up approximately 219 fire-fighting crews. A typical camp houses five 17-member fire-fighting crews as well as inmates who provide support services. As of January 31, 2018, there were 3,507 adults and 58 youth living and working in the camps.

The state does not track exact numbers on the total budget for the fire camps across the departments involved. However, the CDCR/CalFire annual operating budget is approximately $2.35 million per camp. Therefore, one can assume the state spends roughly $100 million General Fund per year on fire camps.

Eligibility. All inmates must earn the right to work in a conservation camp by their non-violent behavior and conformance to rules while they are incarcerated. Only inmates who have earned minimum-custody status through good behavior can volunteer to work in fire camps. In addition, people in prison for arson, kidnapping, and violent sex offenses or who have attempted to escape within the previous 10 years or used force in an attempt to escape, are serving life sentences, or have a mental health diagnosis that requires treatment, are prohibited from working in the camps. In addition, an inmate must be within five years of their release date. Finally, inmates who volunteer for the camps must pass a medical exam and meet high physical fitness standards.

Training. Training for inmate fire fighters is significantly different from that of professional fire fighters. One of the reasons for that noted by CDCR is that there are different expectations for inmate firefighting teams. Primarily, fire camp participants are tasked with containment functions requiring the use of hand tools such as chainsaws, axes, and rakes to contain fire by clearing out vegetation. CalFire fire fighters have specialized responsibilities that require the use of heavy machinery and are tasked with search and rescue functions and structure-related firefighting duties.

Given the different expectations, incarcerated fire fighters receive the following training:

- Training begins with two weeks of physical training where inmates must complete the following to the satisfaction of CDCR coaches: 35 push-ups; 25 sit-ups; 35 burpees; 5 pull-ups; 5 chin-ups; a one-mile run in nine minutes or less; 14 minutes of Harvard steps; and a four-mile power walk in less than 54 minutes.

- Following the passing of physical fitness training, offenders continue to fire-fighting training which includes 29 hours of classroom training.

- Each offender must maintain an 80 percent average on all written tests and achieve a minimum of 80 percent on the final exam.

- Following classroom instruction, there are 29 hours of field training. In this week, the offender will start every day ensuring their personal protective equipment fits properly and is in good condition. Field training consists of riding in the Emergency Crew Transports or other crew vehicles to learn proper seat assignments, seat belt use, public contact, receiving and returning tools, tool inspection, carrying and storage of tools, and the use and sharpening of tools. Instruction also includes the use of each tool, construction of different types of fire lines, participation in practical exercises on how and when to deploy a fire shelter, and participation in a mop-up exercise.

- To graduate from the training program offenders are evaluated during a four-mile hike while wearing all of their turn-out gear.

Unlike training for professional fire fighters, the CDCR fire crews do not receive any of the certificates needed to become career fire fighters. Among those requirements for professional fire fighters are the Basic Fire fighter 1, which requires 179 hours of training; the completion of a respiratory protection program (RPP); emergency medical services training; and completion of a fire service training and education program (FSTEP) (which includes: live-fire training, auto extrication (or any forcible entry) and wildland firefighting). The Administration notes that due to the different level of training, despite significant experience working on fire lines, inmate fire fighters are generally not successful in gaining post-incarceration employment in the firefighting field due to the lack of entry-level training.

Wages and Benefits. Incarcerated people working in the fire camps are paid between $1.45 and $3.90 per day in the camps, based on skill level and position. In addition, the fire fighters receive $1 per hour for time spent on a fire line or other emergency. Generally, the fire fighters work 24-hour shifts with 24-hours on duty on a fire line followed by 24-hours off duty. In addition to wages, people with non-violent convictions working in the camps earn two days of credit toward their time served for every day in the camp. People with violent convictions receive one day of credit off of their sentence for every day they are in a fire camp. The earning credit for violent offenders is a result of changes from the passage of Proposition 57 (the California Parole for Non-Violent Criminal and Juvenile Court Trial Requirements Initiative passed November 8, 2016).

CalFire estimates that the use of inmate fire fighters saves the state approximately $100 million per year because without the inmates, the state would need to pay additional career and volunteer fire fighters throughout the state. Local volunteer fire fighters are paid minimum wage for every hour they are dispatched to a fire line or emergency.

GOVERNOR'S PROPOSAL

The proposed budget includes $26.6 million General Fund ($18.9 million for the construction necessary to upgrade the camp; $7.7 million in 2018-19 for camp operations; and $6.3 million and 12.4 positions, on-going) to establish a Fire fighter Training and Certification Program for ex-offenders to provide the necessary education and training to become a fire fighter. The program creates a training center at the Ventura Conservation Camp to provide training and jobs skills for 80 ex-offenders. The California Conservation Corps will be the employer of record and provide the base wages and benefits consistent with other Corps members. CalFire will be responsible for the administration of the facility, fire training, and certification.

CDCR and CalFire will jointly select participants for the program, and CalFire will recommend individuals that are housed at fire camps while incarcerated. According to the proposal, the 18-month program will consist of three phases: phase one is a three-month orientation training that includes completion of life skills training, any required treatment programs, and basic forestry and firefighting courses; phase two will include three months of fire fighter training to complete advanced, comprehensive industry fire fighter courses and certification; and phase three is a Type I Fire Crew assignment for 12 months, during which participants will gain the necessary hands-on work experience component of the program. The Administration asserts that upon completion of the program, participants will be qualified through experience and certifications to apply for entry-level firefighting jobs with local, state, and federal firefighting agencies. In addition, the program will allow up to 20 California Conservation Corps members to participate in training courses at the facility.

ISSUES TO CONSIDER

Overcoming barriers to formerly incarcerated people getting firefighting jobs. Currently, CalFire only requires criminal background checks for employees in specific classifications, such as law enforcement officers or investigators. Therefore, fire fighters do not have to undergo a background check when applying to CalFire. However, it is likely that most firefighting jobs, outside of CalFire, require a criminal background check. While a background check, in itself, does not prohibit an individual with a felony criminal record, it is unknown how that information is used to determine suitability for employment, since each local jurisdiction will have its own policies. However, generally speaking, the firefighting profession is an impacted profession and local fire departments often receive hundreds of applications for each open fire fighter position. Therefore, it is highly unlikely that a department would decide to hire an applicant with a serious criminal background rather than one of the other applicants who has no prior criminal justice system involvement.

To date, the Administration has not provided an analysis of the likelihood that people with a felony record will be able to find employment in local fire departments. Nor have they provided any suggested trailer bill language that would limit the ability of fire departments to use certain criminal convictions as a prohibiting factor when hiring fire fighters. A review of hiring qualifications for the state’s 10 largest cities shows that while only San Francisco specifically prohibits anyone who has been convicted of a felony from becoming a fire fighter, all require Emergency Medical Technician (EMT) certificates (which most people with felony records are prohibited from receiving) for their entry level fire fighters (discussed in more detail below) and it is standard practice to conduct background checks on all fire fighter recruits.

In addition to other barriers to hiring, as noted above, career fire fighters are required to obtain an EMT certificate in order to be eligible for an entry-level firefighting job. Certification requirements for EMTs are overseen by the state’s Emergency Medical Services Authority (EMSA). EMSA is mandated by statute to develop and implement regulations that set training standards and the scope of practice for emergency medical personnel, including EMTs, Advanced EMTs, Paramedics, Mobile

Intensive Care Nurses (MICN), Fire fighters, Peace Officers and Lifeguards. The Emergency Medical Services Act (Division 2.5 of the Health & Safety Code) establishes a fingerprint and criminal record check as part of the licensing process. In addition, the act states in Health and Safety Code 1798.200:

(b) The authority may deny, suspend, or revoke any EMT-P license issued under this division, or may place any EMT-P license issued under this division, or may place any EMT-P licenseholder on probation upon the finding by the director of the occurrence of any of the actions listed in subdivision (c). Proceedings against any EMT-P license or licenseholder shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Section (c) states, in part:

(c) *Any of the following actions shall be considered evidence of a threat to the public health and safety and may result in the denial, suspension, or revocation of a certificate or license issued under this division, or in the placement on probation of a certificate holder or licenseholder under this division:*
(1) Fraud in the procurement of any certificate or license under this division.
(2) Gross negligence.
(3) Repeated negligent acts.
(4) Incompetence.
(5) The commission of any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, and duties of prehospital personnel.
<u>*(6) Conviction of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel. The record of conviction or a certified copy of the record shall be conclusive evidence of the conviction.*</u>

As a result of that statute, EMSA promulgated regulations that include the following restrictions:

(c) The medical director shall deny or revoke an EMT or Advanced EMT certificate if any of the following apply to the applicant:

(1) Has committed any sexually related offense specified under Section 290 of the Penal Code.[1]

(2) Has been convicted of murder, attempted murder, or murder for hire.

(3) Has been convicted of two (2) or more felonies.

(4) Is on parole or probation for any felony.

(5) Has been convicted and released from incarceration for said offense during the preceding fifteen (15) years for the crime of manslaughter or involuntary manslaughter.

(6) Has been convicted and released from incarceration for said offense during the preceding ten (10) years for any offense punishable as a felony.

[1] Penal Code 290 is the "Sex Offender Registration Act" and requires lifetime sex offender registration for people who have committed the most serious sex-related crimes.

(7) Has been convicted of two (2) or more misdemeanors within the preceding five (5) years for any offense relating to the use, sale, possession, or transportation of narcotics or addictive or dangerous drugs.

(8) Has been convicted of two (2) or more misdemeanors within the preceding five (5) years for any offense relating to force, threat, violence, or intimidation.

(9) Has been convicted within the preceding five (5) years of any theft related misdemeanor.

These restrictions prohibit any person who has been convicted of two or more felonies from ever receiving an EMT certificate, which is likely the majority of the state's prison population and a significant number of the state's jail population. In addition, for those relatively few people who have been convicted of committing only one felony and have been incarcerated in a state prison or county jail, they will be ineligible to become an EMT for 10 years after their release. Given these limitations, absent a policy change, even inmates and former inmates who receive the necessary training to become professional fire fighters will be unable to find employment in a local fire department since they cannot become a certified EMT.

However, these people could conceivably work as fire fighters for CalFire. In fact, the only minimum qualification for the fire fighter I (seasonal) position in the state is that the applicant be 18 years old at the time they begin work. They do not require EMT certification for their fire fighters. However, many of the CalFire fire fighters do have their EMT certificates.

Given these limitations, the Senate will need to consider what policy changes are necessary in approving the Governor's proposal or in expanding the training of inmates who are currently serving as fire fighters to ensure that people who are trained are able to receive EMT certificates. Alternatively, the budget proposal and potential expansion to inmates, should be focused on providing the training necessary for the fire fighters to obtain CalFire firefighting jobs, without the expectation that people being released from prison will be able to find work as career fire fighters in local fire departments.

Concerns regarding the state's reliance on incarcerated people to fight fires. The American Civil Liberties Union and others have expressed concern about the use of inmate fire fighters. While the program is voluntary for people in prison, they note that prison is a punitive and coercive environment where few things are actually voluntary. In a December 2017 *Atlantic Monthly* article on the use of inmate fire fighters in California, the author asserts that in order to escape "unpalatable prison conditions" people in prison may be willing to take on great personal risk, "performing tasks that put them in greater danger than most of their civilian counterparts who work farther from the flames. . . ."[2]

On the other hand, some fire fighters have expressed a great deal of satisfaction related to the work they are doing as fire fighters. They note that not only do they get to live outside of prison in a camp setting and be fed better food than in prisons, but they also get to provide a vital service to their communities both by fighting fires and through the conservation work they do year round.

The notion that the state saves money by putting people in prison on the front lines of fires throughout the state while only paying them one dollar an hour, does potentially raise ethical questions for the

[2] Neklason, Annika. "California is Running Out of Inmates to Fight Its Fires." *The Atlantic*. December 7, 2017.

Senate. Do the sentence reduction credits, freedom from a traditional prison setting, and potential personal gratification for being able to do meaningful work while in prison offset the fact that the state is relying on people that have been imprisoned to do some of the most dangerous work in the state, while only paying them one dollar per hour for that work?

Professional training for incarcerated fire fighters. As noted earlier, the training for fire fighters who are incarcerated is very different than the training for professional fire fighters. Currently, inmates receive none of the training or certificates necessary to work as a career fire fighter once they are released from prison. Therefore, despite years of firefighting experience, people who worked as fire fighters while in prison are unable to compete for firefighting jobs once they have completed their sentences. One way the state could expand the benefits for an inmate willing to work as a fire fighter is to provide appropriate training and certification to become professional fire fighters while they are serving their time in prison, rather than waiting until they finish their sentence to provide the training. Either in lieu of the Governor’s proposal, or in addition to it, the Senate could consider dedicating the resources necessary to expand the existing fire fighter training in some or all of the conservation camps. In addition to expanding training, the Senate should consider requiring CDCR to establish a process that assists people leaving prison with obtaining firefighting jobs, both at CalFire and in the community. Finally, the Senate may wish to consider establishing an evaluation component for the fire camps to determine whether or not formerly incarcerated people are able to successfully find and retain work as career fire fighters.

California's Juvenile Justice System

BACKGROUND

California's juvenile justice system is one that is largely handled locally by trial courts, county probation departments, and local law enforcement. Over the past 20 years, the Legislature has enacted various measures which realigned to counties increasing responsibility for managing juvenile offenders. Under current law, only youth adjudicated for a serious, violent, or sex offense can be sent to state facilities by the juvenile courts. As a result, over 98 percent of juvenile offenders are housed or supervised by counties. In 2016, while there were approximately 39,000 youth involved in the county probation system, with 29,000 being wards under the Welfare and Institutions Code 602 for felony and misdemeanor crimes, there were only 653 youth under the jurisdiction of the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ).

In addition to shifting responsibility for juvenile justice from the state to counties, the juvenile crime rate has declined significantly contributing to the 73 percent decline in the state's DJJ population from 2,516 youth in 2007 to 653 youth in 2016. At the same time, there has been a 60 percent reduction in the population housed in county juvenile camps and halls, down from 11,000 youth in 2007 to 4,200 youth in 2016.[1] This significant and continuing decline offers an opportunity for California to comprehensively assess its juvenile justice system and invest in the best treatments and interventions for rehabilitating youth and emerging adults and to explore additional interventions in order to continue to reduce the number of young people who end up in the criminal justice system.

Juvenile Arrest Rates. As noted above, juvenile crime rates have decreased dramatically in recent decades, declining from a peak of 408,131 juvenile arrests in 1974 down to 62,743 in 2016. More recently, juvenile felony arrests decreased 54.7 percent between 2011 and 2016. In addition, juvenile misdemeanor and status offenses[2] have decreased by 59.4 percent between 2011 and 2016.

Of the 62,743 arrests made in 2016, 19,656 (31.3 percent) were for felonies, 35,756 (57 percent) were for misdemeanors, and 7,331 (11.7 percent) were for status offenses. Of the 2016 arrests, 44,980 were males and 17,763 were females. Of the felony arrests, 36.3 percent were for violent offenses (i.e. homicide, forcible rape, robbery, and assault), 29.8 percent were for property offenses (i.e. burglary, theft, and arson), 6.8 percent were for drug offenses, and 27.1 percent were for all other felony offenses (i.e. vehicular manslaughter, hit-and-run, lewd or lascivious acts, or weapons related offenses).[3]

Court Adjudications. In the juvenile justice system, cases are handled differently than the adult system. When a juvenile is arrested by a local law enforcement agency in California, there are various criminal justice outcomes that can occur depending on the circumstances of the offense and the criminal history of the offender. Many juveniles who are arrested, particularly if their alleged offenses

[1] Data provided by the Chief Probationers of California.
[2] A "status offense" is an offense that would not be considered a crime if it were committed by an adult. Examples include: underage drinking, skipping school, violating a city or county curfew, or running away.
[3] Department of Justice, *Juvenile Justice in California* (2016).

are more serious, are referred to county probation departments. (Probation departments also receive referrals from non–law enforcement entities and people—such as schools and parents.) The probation department then has the option to close the case, place the juvenile in a diversion program or on informal probation, or refer the case to the courts. Most such referrals are adjudicated in juvenile court, but depending on the nature of the alleged offense and the age of the accused, some cases may be prosecuted in adult criminal court. The courts place almost all juvenile offenders under the supervision of county probation departments, while a small number of juvenile offenders, are sent to state institutions, either a juvenile facility operated by DJJ or state prison.[4]

Juvenile Court Petitions. In 2016, there were 40,569 petitions filed in juvenile court. Each juvenile court petition can contain up to five different offenses, as a result within those petitions filed, there were 60,239 different offenses. Of those petitions, 24,453 (40.6 percent) were for felony offenses, 25,855 (42.9 percent) were for misdemeanors, and 9,931 (16.5 percent) were for status offenses. Of the felony petitions, 31.4 percent were for violent offenses, 31.7 percent were for property offenses, 30.7 percent are for "other" offenses, and 6.7 percent were for drug offenses.[5]

Of those 40,569 cases filed in 2016, the majority, 25,471 (62.8 percent) ended up under the care of the county probation departments in wardship probation. 17.2 percent (6,975) of the cases were dismissed. Of the remaining cases 2,899 (7.1 percent) resulted in informal probation, 2,529 (6.2 percent) resulted in non-ward probation, and 2,695 (6.6 percent) resulted in other dispositions including transfer to adult court, deportation, diversion, or deferred entry of judgement. Finally, 183 youth were sent to one of the state's facilities under the jurisdiction of CDCR's DJJ. [6]

For those youth receiving wardship probation, the majority (52.4 percent) were sentenced to serve that probation in their own or a relative's home. The next largest wardship probation group, 30.8 percent, were sentenced to a locked county facility. Of that group, two were under the age of 12, 855 were between the ages of 12 and 14, 5,705 were between 15 and 17 and 1,292 were between 18 and 24. Among those 25,471 sentenced to wardship probation, 20,906 were male and 4,595 were female.[7]

Direct Files to Adult Court. Of those youth who were arrested and referred to county probation departments, less than one half of one percent (340 youth) was transferred directly to an adult court. Of those youth who were direct filed to an adult court, 317 were male and 23 were female. In addition, eight were 14 years old, 21 were 15, 100 were 16, 187 were 17, and 24 are listed as "other ages." Finally, of those 340, 39 (11.5 percent) were white, 202 (59.4 percent) were Hispanic, 77 (22.6 percent) were black, and 22 (6.5 percent) were from other racial or ethnic groups.[8]

Of the 376 adult court dispositions for juveniles in 2016, 290 (77.1 percent) resulted in a conviction, 51 (13.6 percent) were dismissed, two (0.5 percent) were acquitted, and 33 (8.8 percent) were shifted to juvenile court.[9] Of the 290 convictions in 2016, 180 (62.3 percent) were sentenced to adult prison or

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[4] Legislative Analyst's Office, *California's Criminal Justice System: A Primer*, January 2013.
[5] Department of Justice, *Juvenile Justice in California* (2016), p. 32.
[6] Department of Justice, *Juvenile Justice in California* (2016), Table 21, p. 81.
[7] Ibid.
[8] Department of Justice, *Juvenile Justice in California* (2016), pp. 26-27.
[9] According to DOJ, the reason for the increase in the number of youth redirected to juvenile court was due to the passage of Proposition 57 in November of 2016 which requires that juvenile have a fitness hearing in juvenile court prior to being sent to an adult court.

the Division of Juvenile Justice (DJJ), 63 (21.7 percent) received probation and a jail term, nine (3.1 percent) received a jail term, and 20 (6.9 percent) received another sentence. Of the 290 convicted in adult court, 266 were male and 24 were female. In addition, 13 were 14 years of age, 32 were 15, 81 were 16, and 164 were 17. Seven of the 14 year olds and 15 of the 15 year olds were sentenced to DJJ or state prison.[10]

Juvenile Justice Realignment. As noted previously, over the last 20 years the state has realigned responsibility for most youth in the juvenile justice system to the counties. Specifically, the Legislature took the following steps:

- **Sliding Scale.** In 1996, the Legislature passed SB 681 (Hurtt), Chapter 6, Statutes of 1996, which established a sliding scale fee to counties committing wards to the state. Under this arrangement, counties were required to pay a share of the state's costs to house each ward sent to DJJ (then called the Department of the Youth Authority), with a higher share of costs paid for lower–level offenders than for higher–level offenders. SB 681 was designed to incentivize counties to manage less serious offenders locally and decrease state costs. This sliding scale was ultimately replaced with a flat fee of $24,000 per youthful offender in 2012.

- **Lower–Level Offenders.** Approximately a decade later, the state enacted, SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007, which limited admission to DJJ only to juveniles who are violent, serious, or sex offenders. To help them manage these new responsibilities, SB 81 also established the Youthful Offender Block Grant (YOBG), which provided counties with $117,000 for each ward estimated to have been realigned under the measure. In addition, SB 81 also provided counties with $100 million in lease–revenue funding to construct or renovate juvenile facilities, an amount that was later increased to $300 million.

- **Parolees.** Finally, in the 2010–11 budget, the Legislature realigned from the state to county probation departments full responsibility for supervising in the community all wards released from DJJ. As part of that measure, the Legislature also established the Juvenile Reentry Grant, which provides counties with ongoing funding for managing these parolees.

As noted, along with the increased responsibility, the state has provided local governments with resources to house and treat juvenile offenders, including the following estimated amounts for 2018-19 that are all ongoing:

(dollars in millions)

Source	Amount
Enhancing Law Enforcement Activities Subaccount	$435.22
Juvenile Justice Sub Account	$175.10
Total	$610.32

County Juvenile Justice System. Following the arrest of a juvenile, the law enforcement officer has the discretion to release the juvenile to his or her parents, or to take the suspect to juvenile hall and refer the case to the county probation department. Juvenile court judges generally take into account the recommendations of probation department staff in deciding whether to make the offender a ward of the

[10] Department of Justice, *Juvenile Justice in California* (2016), Table 30, p. 93.

court and, ultimately, determine the appropriate placement and treatment for the juvenile based on such factors as the juvenile's offense, prior record, criminal sophistication, and the county's capacity to provide treatment. Judges declare the juvenile a ward almost two-thirds of the time.

Most wards are placed under the supervision of the county probation department. These youth are typically placed in a county facility for treatment (such as juvenile hall or camp) or supervised at home. Other wards are placed in foster care or a group home. Finally, a small number of wards (under two percent annually), generally constituting the state's most serious and chronic juvenile offenders, are committed to DJJ and become a state responsibility.

County Services and Programs. Counties vary widely in the quality and types of programs they provide for the youth in their locked juvenile facilities and no data is collected by the state on the specific types of rehabilitative programs provided in each juvenile facility. However, appropriate schooling is provided to all of the youth, as is mental health treatment, substance use disorder treatment and cognitive behavioral therapy, for those youth who need it. Many probation offices also work closely with their community partners to provide a wide array of programs, including art programs, faith-based programs, restorative justice programs, and foster grandparent programs. For example, during a Legislative staff visit to Yolo County's juvenile facility, staff there noted that they work with over 100 outside community organizations to provide programs for the less than 100 youth in their facility.

Innovative County Programs. County probation departments and the juvenile justice system has made great progress over the last decade to ensure that only youth who are a threat to public safety or themselves and cannot otherwise be safely served in the community are detained. Improved screening to determine need for detainment, statewide application of risk-needs assessment, implementation of effective prevention and diversion programs, and declining arrest rates has led to a two-fold impact on juvenile probation departments: 1) decline in facility population and 2) rise in severity of risks and needs of the youth who remain in juvenile facilities.

According to the chief probation officers association, as a result, probation now currently has youth in county facilities that have more acute rehabilitation and therapeutic needs (mental health, substance use disorder, behavioral interventions, aggression, and sexually acting out/assaultive). The association notes that probation departments, which may have an empty unit or pod in a facility or an empty camp or juvenile facility, are now adapting their facilities to meet the current and future needs of the youth they serve by operating within a youth-centric model versus a criminal justice approach upon which older facilities were built. According to the association, the primary hurdle that prohibits more counties from adopting a youth-centric model is the infrastructure costs and financial investments necessary to retrofit or renovate facilities in order to establish these types of programs.

Examples of such programs include:

> **Coastal Valley Academy (San Luis Obispo County).** The Coastal Valley Academy (CVA) was established in San Luis Obispo County and is a custody commitment program in juvenile hall for 14-17 year old male and female youth who are moderate to high risk and in need of residential treatment. Youth are ordered to stay for 6-12 months and receive intensive case management, treatment and educational services through collaboration with local treatment providers and the County Office of Education. The physical features of the unit are more home-

like and the programming, education, living unit and recreation yard are all separate, even though the program is located onsite with the juvenile hall. CVS serves as an alternative to group home care and provides a safe, structured, and locally controlled alternative to group homes for youth that need to be removed from their homes, but are not appropriate for a home-based foster care setting. It also provides for greater family involvement as youth remain local.

Job Training Center (Los Angeles County). The Los Angeles County Probation Department intends to repurpose a juvenile camp into a voluntary residential reentry and vocational training center. Those eligible for the program would include youth exiting the juvenile probation facilities or county jails, transition-age foster youth, and youth experiencing homelessness. The target population is young adults between 18 and 25. Youth in the program will be required to stay Monday through Friday and would be able to leave the campus on weekends, but participating in the program is voluntary. The camp conversion project is intended to equip these young adults with vocational skills and link youth to a pipeline of jobs in the county.

Transitional Adult Youth Program (Alameda, Butte, Napa, Nevada, Santa Clara Counties). SB 1004 (Hill), Statutes of 2016, Chapter 865, authorized the counties of Alameda, Butte, Napa, Nevada and Santa Clara to enact a pilot program that allows young adult offenders age 18-21 to be housed in a juvenile detention facility, as opposed to adult county jail. The program is voluntary for eligible young adults, and upon completion of the program, they will have their felony charges dismissed. Because these young adults will be housed in juvenile detention facilities they will have services available to them, such as mental health, vocational, and educational services they otherwise would not get in a county jail.

The program is based on research that shows that young adults are undergoing significant brain development and this age group may be better served by the juvenile justice system with corresponding age appropriate intensive services such as cognitive behavioral therapy, mental health treatment, vocational training, and education. The program includes a portion of time in the juvenile hall with a focus on reentry and community supports to assist the participants in their transition back into the community.

Gateway Program (San Bernardino County). The Gateway program is a secure treatment facility that houses up to 42 youth and utilizes evidence-based assessments, treatment and evaluations aimed at reducing recidivism. The program is designed to house youth who have committed non-violent offenses and includes community access for those ready for reintegration services. Treatment includes mental health, family counseling, social learning activities, substance use counseling, anger management and employment services. The San Bernardino Probation Department works closely with the Department of Behavioral Health, County Schools, Workforce Development and private providers to provide services for the program.[11]

Division of Juvenile Justice. DJJ, originally known as the California Youth Authority (CYA), was created by statute in 1941 and began operating in 1943, providing training and parole supervision for juvenile and young adult offenders. In a reorganization of the California corrections agencies in 2005, the CYA became the DJJ within the Department of Corrections and Rehabilitation. DJJ carries out its

[11] Information on innovative county programs provided by the Chief Probation Officers of California.

responsibilities through three divisions: the Division of Juvenile Facilities, the Division of Juvenile Programs, and the Division of Juvenile Parole Operations. The Juvenile Parole Board, an administrative body separate from DJJ, determines a youth's parole readiness.

Youths committed directly to the DJJ do not receive determinate sentences. A youth's length of stay is determined by the severity of the committing offense and their progress toward parole readiness; however, DJJ is authorized to house youths until age 21 or 23, depending upon their commitment offense. DJJ also provides housing for youths under the age of 18 who have been sentenced to state prison. Youths sentenced to state prison may remain at DJJ until age 18, or if the youth can complete his or her sentence prior to age 21, the DJJ may house him or her until released to parole.

The state has four juvenile detention facilities: N.A. Chaderjian Youth Correctional Facility (Chad) and O.H. Close Youth Correctional Facility (Close) in Stockton housing 217 and 166 males, respectively, as of December 2017; Pine Grove Youth Conservation Camp, housing 57 males as of December; and, Ventura Youth Correctional Facility, housing 145 males and 23 females. In addition, 23 males under DJJ's jurisdiction were being housed in an adult prison. In total, there were 631 juveniles in a state detention facility on December 31, 2017. With 1,175 beds in the four facilities, the facilities are currently filled to just over 50 percent of capacity.

Characteristics of Current DJJ Wards. Of the 631 youth housed in a DJJ facility as of December 31, 2017, about two–thirds (470) had an assault or robbery charge as their primary offense. 55 (8.7 percent) were convicted of a homicide and 72 (11.4 percent) were convicted of forcible rape or other eligible sex offense. Currently, about 96 percent of DJJ youth are male, and about 87 percent are either African–American or Latino and 10 percent are white. The average age of the youth being housed in DJJ is 19, with the one youth currently residing in DJJ who is 14 and 10 who are 15. At the opposite end of the age spectrum, five are 22 years-old, two are 23 and three are 24 or older. For females specifically, the mean age is 18.7 and the youngest is 15 years-old and the oldest is 20. Currently, about 137 youth residing in DJJ facilities were tried in adult court (about 22 percent of the DJJ ward population). Of those, 70 were sentenced to DJJ and 67 were sentenced to a CDCR adult facility but are being housed in a DJJ facility until they reach the age of 18 and can be transferred to an adult prison.

County of Origin. As discussed previously, for a very small portion of the juvenile justice population, county probation departments determine that the crimes committed or the needs of the juvenile are so great that they cannot provide adequate care and treatment in their facilities. Those youth are then sent to the state's DJJ facilities. Based on data provided by CDCR, on November 30, 2017, there were 619 youth being housed in DJJ facilities. Not surprisingly, the majority of those youth (128) came from Los Angeles County. When comparing the proportion of youth from each county with their corresponding percentage of the state population, a handful of the state's counties appear to be sending a disproportionate number of youth to the state facilities. For example, while Sacramento County comprises 3.84 percent of the state's population, they are responsible for sending 7.94 percent of the DJJ population. Similarly, 2.87 percent of Californians reside in Contra Costa County. However, their youth make up 6.3 percent of the DJJ population. In addition, Fresno County accounts for 2.52 percent of the state's population, but is responsible for 5.82 percent of the DJJ population. Also, Kings County is home to only 0.38 percent of Californians, but 3.07 percent of DJJ wards were sent by Kings County. Finally, Merced County is responsible for 2.42 percent of DJJ's wards, but contains only 0.4 percent of the state's population.

In contrast, there are other counties who send fewer wards to DJJ than their population would suggest. In fact, 28 of the small counties in the state do not have any youth housed at DJJ or have only one youth. In addition, as noted above, Los Angeles is the county of residence for 128 of the DJJ wards, which is 20.68 percent of the DJJ population. However, almost 26 percent of Californians reside in Los Angeles County. In addition, Orange County only has four wards housed at DJJ (0.65 percent) but is home to 8.08 percent of the state's population.

Farrell v. Kernan. On January 16, 2003, Margaret Farrell, a taxpayer in the state of California, filed a lawsuit against the director of what was then called the California Youth Authority (CYA). The suit claimed CYA was expending funds on policies, procedures and practices that were illegal under state law. Farrell also claimed that CYA failed in its statutory duties to provide adequate treatment and rehabilitation for juvenile offenders in its care. The lawsuit also alleged that the youth offenders were denied adequate medical, dental and mental health care.

On November 19, 2004, the parties entered into a consent decree in which DJJ agreed to develop and implement six detailed remedial plans in the following areas: safety and welfare, mental health, education, sexual behavior treatment, health care, dental services, and youth with disabilities.
After more than a decade of reforms in California's juvenile justice system – including limiting use of force, involving families in the rehabilitation of youth, and greatly reducing the juvenile offender population – on February 25, 2016, the Alameda County Superior Court terminated the *Farrell* lawsuit against the California Department of Corrections and Rehabilitation's (CDCR) DJJ.

Rehabilitation Programming. According to CDCR's website, DJJ provides academic and vocational education, treatment programs that address violent and criminogenic behavior, sex offender behavior, substance use disorder and mental health problems, and medical care. This treatment and programming description is similar to what the CDCR provides for adult inmates. However, the actual rehabilitation programming is significantly different.

DJJ operates an accredited school district, providing youth with the same high school curriculum in each of its four institutions that they would receive in their local community. Youth attend school each day to achieve a high school diploma. Youth whose commitment period is too short to fulfill that requirement are guided through a general education development (GED) curriculum. DJJ considers a diploma or GED a minimum requirement for parole consideration. Certificates in a variety of vocations and college classes are offered to graduates as well.

According to CDCR, youth are also encouraged to build positive social and leadership skills through participation in groups and activities such as the student council, spiritual services, and events and fundraisers for victims' rights.

Integrated Behavior Treatment Model (IBTM). The framework for DJJ's programs is the Integrated Behavior Treatment Model (IBTM). It is designed to reduce institutional violence and future criminal behavior by teaching anti-criminal attitudes and providing personal skills for youth to better manage their environment. DJJ staff from every discipline work as a team to assess the needs of each youth and to develop an individualized treatment program to address them. Through collaboration with the youth, the team administers a case plan that takes advantage of each youth's personal strengths to maximize treatment in other areas of their life to reduce the risk of re-offending.

The IBTM guides all services provided to youth from arrival at DJJ to community reentry. Upon arrival, each youth is assessed to determine needs and strengths in the following areas:

- Education & Employment
- Attitudes & Thinking
- Mental & Physical Health
- Family & Community Support & Stability
- Peer Influences
- Violence & Aggression
- Substance Use

Using that information, staff works collaboratively with each other, the youth and the youth's family to develop and routinely update a treatment plan that helps the youth build skills for successful reentry into the community. Positive skill building is strengthened through a comprehensive behavior management system that discourages negative behavior and uses daily, weekly and monthly rewards to recognize and encourage positive change.

The impact of the IBTM treatment model on the recidivism rate for youth at DJJ is currently unknown. DJJ is currently working with the University of California at Irvine to conduct an updated outcomes evaluation, which will better measure the impact of the IBTM model. Unfortunately, the study will not be available until the second half of 2020, at the earliest.

Volunteer Programs. Based on information provided by DJJ last spring, unlike many of the adult institutions, DJJ facilities appear to have a fairly limited number of volunteer programs for the wards. Pine Grove Conservation Camp has the most programs, with 13, and Ventura has the least, with only five volunteer programs. The other two have ten (Chad) and seven programs (Close). In contrast, CDCR hopes to have over 3,000 volunteer programs in place in their 34 adult prisons in 2018-19.

The majority of the DJJ programs at all of the institutions appear to be faith-based. With the exception of Incarcerated Men Putting Away Childish Things (IMPACT), which operates at three of the facilities, none of the programs appear to be based on restorative justice or offender responsibility principles. In addition, despite being listed as volunteer programs, many on the list appear to be short-term or one-time in nature. For example, the Anti-Recidivism Coalition (ARC) is listed as providing volunteer programming at Chad and Pine Grove. However, according to ARC, they hold a monthly meeting with youth at Ventura who are scheduled to be going home and they meet with youth quarterly at the other three facilities. Similarly, Motorcycle Ministries visits Pine Grove monthly and the Lockwood Fire Department holds events twice a year at Pine Grove. Unlike volunteer programs in adult prisons, the presence of volunteer programs, and programming in general, outside of the educational programs, are lacking.

To increase the number of volunteer programs in the juvenile facilities, the 2017 Budget Act created two community resource manager positions and redirected $500,000 for innovative programming grants to expand the number of available volunteer programs. Those grants are scheduled to be awarded this spring. In addition, the new leadership at DJJ is committed to significantly increasing community involvement in the facilities, including working with former prison inmates who can serve as mentors to the young men and women in the DJJ facilities.

Arts in the State's Juvenile Justice Facilities. Currently, the Arts in Corrections program is only available for adult inmates and the state does not provide an organized, formal arts program to the juveniles confined to the four juvenile justice facilities. Through their schooling, students are required to take 10 hours of fine arts credit to meet California graduation requirements. In addition, the O. H. Close Youth Correctional Facility School has a band, recreational therapists are providing informal arts and crafts, and the Sexual Behavior Treatment Program has an arts component. This is in contrast to the adult institutions that have Arts in Corrections programs overseen by the California Arts Council (CAC). To rectify this problem, the 2017 Budget Act included $750,000 in General Fund for CAC to expand their Jump StArts grant program to include all of the state's juvenile facilities. Those grants are scheduled to be awarded this spring.

Juvenile Recidivism Rates. According to CDCR's most recent report to the Legislature on their annual performance measures, juveniles have a similar rearrest and recidivism rate to adult offenders overall. For example, after three years, 51.3 percent of adults have been convicted of a new crime. For juveniles, the conviction rate after three years is 53.8 percent. While 75.1 percent of adults are arrested within three years of their release, 74.2 percent of juvenile wards have been arrested during the same time period. In addition, 30.5 percent of juvenile offenders are committed to an adult prison within three years of their release from a DJJ facility. Finally, 64 percent of youth who returned to state-level incarceration did so within 18 months of their release from DJJ.[12]

However, when looking specifically at their similar-aged cohorts housed in state prisons, it appears that youth in DJJ facilities have a lower recidivism rate than their counterparts. For example, of the 18 and 19 year olds released in 2011-12 (the same year as the DJJ population that is being tracked for recidivism data), 67.3 percent had a new conviction after three years, as opposed to 53.8 percent of DJJ youth. In addition, of the people between the ages of 20 and 24 who were released from prison in 2011-12, 62.8 percent had a new conviction within three years.[13] Therefore, while overall recidivism rates appear to be similar between adult and youth prisons, emerging adults in the juvenile system appear to fare better than their counterparts sent to adult prison.

[12] *Supplemental Report of the 2015-16 Budget Package Annual Performance Measures Report*. January 13, 2017.
[13] *2016 Outcome Evaluation Report: An Examination of Offenders Released in Fiscal Year 2011-12*. CDCR. October 2017. Page 21.

KEY LEGISLATION AND INITIATIVES

Legislation

SB 625 (Atkins), Chapter 683, Statutes of 2017, authorized the Board of Juvenile Hearings (BJH) to make honorable discharge determinations and to grant an honorable discharge to a person discharged from a DJJ facility who has proven the ability to desist from criminal behavior and to initiate a successful transition into adulthood.

SB 1021 (Committee on Budget and Fiscal Review), Chapter 41, Statutes of 2012, lowered the jurisdiction age for youth from 25 to 23 and replaced the previous sliding scale county reimbursement rates with an annual rate of $24,000 per youth committed to DJJ via juvenile court. It also eliminated juvenile parole, disciplinary time additions, and new parole violator admissions after December 31, 2012. The legislation also restructured the methodology for discharge consideration hearings. It requires that all youth, on or before their initial projected board date, must be reviewed by the Juvenile Parole Board for release consideration regardless of behavior or program completion.

AB 1628 (Blumenfield), Chapter 729, Statutes of 2010, transferred supervisorial responsibility to the jurisdiction county's probation department for community supervision of youth released on or after implementation.

SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007; and AB 191 (Committee on Budget), Chapter 257, Statutes of 2007, restricted juvenile court commitments to cases committed for specified (serious/violent) offenses listed in subdivision (b) of section 707 of the Welfare and Institution Code (WIC) or for specified non-WIC 707(b) sex offender registrants (Penal Code section 290.008). Non-WIC 707(b) (excluding sex offenders) cases that were on parole on September 1, 2007 and were discharged once they completed their parole time.

SB 681 (Hurtt), Chapter 6, Statutes of 1996, required counties to pay the state for each juvenile court commitment pursuant to a "sliding scale fee system" based on commitment offense as an incentive to the county when they do not commit a juvenile because of the associated costs. Commitment offenses are categorized according to Title 15 of the California Code of Regulations seriousness of the primary offense: Category I, most serious to Category VII, least serious. Counties paid 50 percent of the per capita facility cost for offense Category V juvenile court commitments, 75 percent for Category VI commitments, and 100 percent for Category VII commitments.

AB 3369 (Bordonaro), Chapter 195, Statutes of 1996, reduced the age limit for authorizing a transfer of a person to CYA, now known as DJJ, by the Director of CDCR to under 18 years and requires the transfer to terminate in specified situations. This was only applicable to minors convicted as an adult but housed at the DJJ under WIC 1731.5(c).

Initiatives

Proposition 57 – Public Safety and Rehabilitation Act of 2016 (November 8, 2016) provided juvenile court judges authority to decide whether juveniles aged 14 and older should be sentenced as adults for specified offenses.

Proposition 21 – Gang Violence and Juvenile Crime Preventive Act (March 7, 2000) made changes to the prosecution, sentencing, and incarceration of juvenile offenders:

- Increased punishment for gang-related felonies; death penalty for gang-related murder; indeterminate life sentences for home-invasion robbery, carjacking, witness intimidation, and drive-by shootings; created crime of recruiting for gang activities; and authorized wiretapping for gang activities.
- Allowed for the direct filing of a felony complaint to the adult criminal court for juveniles aged 14 years or older under a variety of circumstances.
- Eliminated informal probation for juveniles committing felonies.
- Required registration for gang related offenses.
- Designated additional crimes as violent and serious felonies, thereby making offenders subject to adult prosecution.

GOVERNOR'S PROPOSAL

Proposed 2018-19 Budget. The 2018–19 budget includes roughly $200 million to support the operations of DJJ, mostly from the General Fund (including $20 million in Proposition 98 funds). This reflects an average cost to the state of keeping a ward in DJJ of $303,160 per year. This is an increase of over $37,000 per ward over the 2017 Budget Act. The costs of DJJ have been rising dramatically in the last decade, largely because of staffing and service requirements imposed by the federal court while under the jurisdiction of a special master as a result of the *Farrell v. Kernan* lawsuit related to educational, mental health, medical, and other deficiencies in DJJ facilities. In contrast to the proposed funding of $303,160 in funding per youth, the budget proposes spending $80,729 per year for each adult inmate.

Partially offsetting the state's cost, counties are assessed a reimbursement rate of $24,000 per year for most wards sent to DJJ. The budget assumes approximately $10 million in reimbursements from the counties for 2017-18, growing to $10.5 million in 2018-19.

Average Cost Per Offender in Division of Juvenile Justice Facilities			
Type of Expenditure	**2015-16**	**2016-17**	**2017-18**
Treatment	$ 83,000	$ 82,000	$ 77,000
Security	55,000	64,000	61,000
Administration	39,000	42,000	39,000
Health Care	29,000	33,000	30,000
Education	26,000	34,000	32,000
Support (food, clothing, other)	20,000	28,000	27,000
Total	$252,000	$284,000	$266,000

Age of Jurisdiction. The *Farrell v. Kernan* lawsuit resulted in a complete reform of the state juvenile system, including several legislative changes that were implemented to dramatically reduce the Division of Juvenile Justice population from around 3,000 in 2005 to approximately 1,100 in 2011. To continue population reductions and generate savings, the 2012 Budget Act changed the age of jurisdiction from 25 to 23 for youths sent to the Division of Juvenile Justice.

New research on brain development and juvenile case law around diminished culpability of juvenile offenders has prompted the Administration to reevaluate this decision. Currently, juvenile court commitments are eligible to be housed at a juvenile facility until the age of 23, and superior court commitments are transferred to an adult prison at the age of 18 if they are not able to finish their sentence by the age of 21. To allow offenders to benefit from rehabilitative programming designed for young offenders and be more successful upon release, the Administration proposes to raise the age of jurisdiction to 25. While the exact population effects are unknown, prior to reducing the age of jurisdiction in 2012-13 from 25 to 23, DJJ housed approximately 40 wards that were ages 23 or older.

Young Adult Offender Pilot Program. As noted above, the landscape of juvenile sentencing and rehabilitation policy is rapidly changing. In addition to juvenile brain development research, there is other research that indicates that emerging adult offenders released from adult prison recidivate at a higher rate than similarly aged offenders released from a juvenile facility (see previous recidivism rate discussion). There appears to be widespread interest in treating the emerging adult offender group similar to today's juvenile offender population. As noted previously, in recognition of the changing philosophy related to the emerging adult population, the Legislature enacted SB 1004 (Hill), Chapter 865, Statutes of 2016, which authorized a five county pilot program to house youth aged 18 to 21 in juvenile halls rather than county jails. The budget proposes creating a similar pilot at DJJ for emerging adults in prison.

The Administration notes, all of these recent changes, including changes made to juvenile sentencing under Proposition 57, have led them to propose a similar pilot program at the state level. The proposed budget includes $3.8 million General Fund to establish two housing units to support a Young Adult Offender Pilot Program that would divert 76 young adult offenders from adult prison to a juvenile facility. Specifically, the pilot would be available for male offenders who were sentenced for committing specified crimes prior to their 18th birthday and who could complete their sentences prior to the age of 25. This would allow these offenders to benefit from specialized rehabilitative programming designed for young offenders with the goal of reducing recidivism. The Administration notes that, both of the proposed changes are intended to divert young offenders from adult prison to DJJ to avoid the adult prison environment, especially gang activity.

ISSUES TO CONSIDER

Drawbacks Related to Continuing to House Youth in the State's Three DJJ Facilities. The Governor's budget for 2012–13 included a plan to complete the realignment of juvenile justice to counties. Under the plan, DJJ would have stopped receiving new wards on January 1, 2013. However, DJJ would continue to house wards admitted to its facilities prior to this date until they were released. The Administration estimated that DJJ's population would reach zero by June 30, 2015, at which time all DJJ facilities would have been closed and the division would have been eliminated. However, in the May Revision that year, the Administration withdrew the proposal.

Since that time, some advocacy groups have continued to advocate for the closure of DJJ. In part, they argue, research shows that youth have better outcomes if they are housed in smaller settings and closer to their communities and families. On the other hand, counties have expressed serious concerns regarding their ability to effectively provide rehabilitative treatment and programming for those youth they currently send to the state.

Given both the concerns of the advocates and the concerns of counties and the research regarding juvenile justice, the Senate may wish to consider following the lead of states like Texas, New Jersey and New York that have implemented a regional approach to juvenile justice in recent years. Essentially, these states have moved away from larger centralized facilities for their youth and have created smaller, regional facilities that house approximately 30 youth each. For example, in 2014 the Texas Legislature passed SB 1630 which represented a fundamental shift in how young people would be served by the justice system by creating a regionalization plan for the Texas Juvenile Justice Department. The plan is designed to allow youth to be kept closer to their home communities in lieu of commitment to distant state-secure facilities.

Adopting an approach like Texas' would ideally address both the concerns of the juvenile justice advocates and of the county probation departments. Youth would be housed closer to their communities and in smaller settings. At the same time, those youth would continue to be under the jurisdiction of the state. Along with the concerns raised by advocates regarding the state's current system, one of the concerns raised by DJJ is the lack of collaboration between them and the counties that are supervising DJJ youth upon their release. Under a regionalized approach, youth would generally be housed either within or close to their county of commitment. Therefore, proximity may make it easier for staff at the regionalized facilities to collaborate and coordinate with the county probation departments that will be overseeing the youth once they leave the DJJ facilities.

Emerging Adults. Under most laws, young people are recognized as adults at age 18. As a result, young adults convicted of crimes currently serve their sentences in county jails or state prisons. But emerging science about brain development suggests that most people do not reach full maturity until the age 25. Research shows that people do not develop adult-quality decision-making skills until their mid-20s. This can be referred to as the "maturity gap." Because of this, young adults are more likely to engage in risk-seeking behavior which may be cultivated in adult county jails and prisons where the young adults are surrounded by older, more experienced criminals and entrenched gangs. Therefore, young offenders age 18-24 are still undergoing significant brain development and it is becoming clear that this age group may be better served by the juvenile justice system with corresponding age appropriate intensive services.

As such, in order to address the unique criminogenic and behavioral needs of young adults, it is important that age appropriate services are provided, services that may not currently be available in the adult criminal justice system. With some modification and enhancements, DJJ facilities may be better equipped to meet the needs of emerging adults. Those services include, but are not limited to the state's IBTM treatment model, cognitive behavioral therapy, mental health treatment, vocational training, and education, among others.

The Governor's budget is currently proposing a pilot program shifting some young adults from prison to DJJ. The Administration hopes DJJ will be better equipped to meet the needs of the emerging adult population. In addition, the Governor proposes increasing the age of jurisdiction for their juvenile justice facilities from 23 to 25 thus allowing young people to remain in DJJ for a longer period of time.

While the Administration's proposal shows a great deal of merit, there is concern that an across the board increase of the age of jurisdiction from 23 to 25 could result in youth remaining in DJJ longer than they would otherwise be required to or need to under the current statute. In addition, the Governor proposes targeting young men in prison who are between the ages of 18 and 21 who committed their crimes at the age of 17 and were sentenced to adult prison. After an initial review of the proposal, some juvenile justice experts have expressed concern that this proposal, which allows young men to be sentenced as adults but serve their sentences entirely in a juvenile justice facility, may result in an increase in the number of youth sentenced as adults. Primarily, the concern is that this program may allow judges who are facing considerable pressure to try a young person as an adult but do not want to sentence that youth to adult prison, to bow to that pressure with an adult conviction and a sentence to be served at DJJ. As a result, more young people could end up with adult convictions on their records.

Neither of the initial concerns raised appear to be insurmountable. The Senate may wish to consider modifying the language for the proposals to limit the expanded age of jurisdiction to only certain crimes or certain sentences. For example, jurisdiction to age 25 could be limited to those youth who would otherwise be facing sentences in adult prison of seven years or more. In addition, rather than limiting the pilot project to individuals who committed their crimes at the age of 17, the Senate may wish to explore refocusing the pilot to those young adults who committed their crimes at the age of 18 or 18 and 19. This shift would avoid any unintended consequences in the sentencing of 17 year olds.

Housing Emerging Adults with Younger Boys. Under the pilot proposed by the Governor, 76 beds would be used to house emerging adults between the ages of 18 and 25 at Chad. Currently, among the 217 youth serving time in Chad, there is one who is 14, five who are 15 and 11 who are 16. While there are no 12 and 13 year-olds at Chad at the present time, children as young as 12 can be committed to a state juvenile justice facility.

As the state begins to consider significantly increasing the number of emerging adults in its DJJ facilities, it is important for the Senate to consider whether it is effective and appropriate for younger boys and girls to be housed in the same facilities and provided with the same rehabilitative programming as emerging adults. The Legislature may wish to take this opportunity to reconsider the minimum age for confinement in a DJJ facility. If confinement in DJJ is limited to youth and emerging adults between the ages of 16 or 17 and 25, it could provide the state with an opportunity to more effectively provide age-appropriate intensive rehabilitative treatment and programming geared toward emerging adults, rather than providing programming to both children and young adults who are at very different stages developmentally.

California Leadership Academy. The 2014 Budget Act included $865,000 from the Recidivism Reduction Fund for CDCR to develop a strategic plan for creating the California Leadership Academy (CLA), which would provide housing and specialized, intensive programming for young men in prison who were between the ages of 18 and 25. As a follow up to the development of a strategic plan, in the 2017-18 budget proposal summary, the Administration noted:

> *The Department contracted with an external consultant to make recommendations for a California Leadership Academy—a program aimed at reducing recidivism among 18‑ to 25‑*

> *year‑old male inmates in the state's adult prison system. The report recommended a college‑like campus that would house approximately 250 offenders with small living units that focus on developing pro‑social behavior, education, and job training. Diverting younger offenders from the adult prison setting is consistent with one of the goals of Proposition 57, and would give younger offenders a better chance of rehabilitation and reduce recidivism. As such, the Administration recommends that the program focus on youthful offenders who are sentenced by an adult court, but serve the beginning of their sentence in the Division of Juvenile Justice and then transfer to an adult prison. Priority would be given to offenders sentenced by an adult court and eligible for release prior to their 26th birthday.*
>
> *The report also recommended a combination of private and public funds. Given the current state of the General Fund, the Administration will work with external stakeholders to solicit interest from private investors to fund this project. While the state has surplus property that could potentially be used as a site for the Academy, depending on the interest of private investors, the state could also choose to dedicate a yard at an existing adult institution or housing unit at an existing juvenile facility to create a smaller Academy.*

CDCR notes that while they have attempted to find private funding to assist with the creation of a leadership academy, so far they have been unsuccessful. They see this year's pilot project proposal as a step toward implementing the goals outlined in their CLA strategic plan.

Lack of Data on Juveniles Involved in the Criminal Justice System. One of the frustrations often noted by people who work in the juvenile justice field in California is that there is a significant lack of data from the counties that allows the state to measure the outcomes for youth involved in the criminal justice system. California—unlike many other large states— has no state-level capacity to produce information on the recidivism or other outcomes of juveniles who are processed through the justice system. While the state is moving rapidly to enact major juvenile justice system reforms, state and local data systems are outdated and unable to provide key information on youth outcomes, the impact of law changes, or the success of new programs.

In response to these frustrations, the Legislature created California Juvenile Justice Data Working Group (JJDWG) in the 2014 budget trailer bill. That group, overseen by the Board of State and Community Corrections, provided a comprehensive analysis and recommendations to the Administration and Legislature to upgrade the state's juvenile justice data capacity in 2016. One task assigned by legislation to the JJDWG in 2014 was to compare California's juvenile justice data capacity to the capacities of other states. The JJDWG report to the Legislature documented multiple ways in which California's data capacity falls below that of other major states. Texas, for example, has completely upgraded its state juvenile justice data system in the wake of a realignment reform (moving state custody youth to local control) that resembles California's own juvenile justice realignment—but nothing comparable has occurred here. Florida collects and publishes recidivism data for each facility in which juvenile offenders are confined. Georgia has developed a juvenile justice data clearing house for public access to key trends and outcome information. In addition, a number of states have participated in national data reform projects sponsored by the Pew Charitable Trust and other foundations that are providing technical assistance to help states upgrade data and outcome measures for juvenile justice populations. The Senate may wish to review the recommendations from the JJDWG with an eye toward implementing them and explore the costs associated with expanding and updating its data collection system for juveniles.

Trial Court Construction

BACKGROUND

The judicial branch is responsible for the interpretation of law, the protection of an individual's 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.

Courthouse Construction. Since the passage of AB 1732 (Escutia), Chapter 1082, Statutes of 2002, enacted the Trial Court Facilities Act of 2002, which developed a process for transferring county courthouses to the state, California's courthouses have been managed at the state level. The Judicial Council is responsible for managing maintenance, renovations, new court construction, and real estate. Two staff offices under the Judicial Council share responsibility for supporting the state's court facilities:

- The Capital Program office leads strategic planning for capital outlay and funding, and manages new courthouse design and construction.

- The Real Estate & Facilities Management office manages court real estate, environmental compliance and sustainability, and facilities maintenance and modifications.

The Judicial Council is also the policymaking body of the California courts, and its two advisory groups - the Court Facilities Advisory Committee and the Trial Court Facility Modification Advisory Committee, provide ongoing oversight and governance of both offices.

The process of building a new courthouse is complex, involving local communities, state and local government agencies, criminal justice partners, and contractors. Each courthouse project follows a standard procedure, from funding and site selection through occupancy and evaluation. Before the construction process even begins, there are several required steps:

- The Judicial Council approves the project.

- A project feasibility report and budget proposal are completed and submitted for executive branch and legislative approvals.

- A local project advisory group is formed.

- Judicial Council staff solicit site offers.

After the judicial branch completes the initial phase, the approved projects go through the state's traditional capital outlay process: 1) site selection and acquisition; 2) design; and 3) construction. As with any major public construction project, it generally takes years for a new courthouse to be completed. Generally speaking, acquisition of new land takes one to two years. Following that stage, preliminary plans and working drawings take one year each for a total of two years. Finally, construction generally takes 24 to 36 months depending on the size of the project and location. Taken together, each new courthouse takes five to seven years to be completed.

Court Construction Funding. The judicial branch's two primary court construction funds, State Court Facilities Construction Fund (SCFCF), established in 2002, and the Immediate and Critical Needs Account (ICNA), established in 2008, receive funding from fees and penalty assessments. The Governor's budget projects a SCFCF fund balance of $365 million for 2018-19. The budget also assumes $161 million in expenditures from that fund in 2018-19. For ICNA, the proposed budget projects a $431 million fund balance in 2018-19, and proposes expending $263 million in ICNA funds. Both funds are discussed in more detail below.

Recession-Era Funding Solutions. During the recent 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.

State Trial Court Facilities Construction Fund. 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.

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 delayed another 10. 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.

ICNA is estimated to receive roughly $195 million in revenue in 2018-19. The fund currently supports about $230 million in various commitments on an annual basis. These include: (1) roughly $100 million in debt–service costs on previously approved projects, (2) $25 million for facility modification projects, (3) $50 million for trial court operations to mitigate the impact of prior–year budget reductions, and (4) roughly $55 million for service payments for the Long Beach courthouse, which grow annually and result from financing the courthouse through a public–private partnership.

ICNA Projects. The following table provides the status of the original 41 courthouses selected through the SB 1407 process.

SB 1407 Program - Project Status		
	County	**Courthouse**
COMPLETED COURTHOUSES		
1	Alameda	New East County Courthouse
2	Butte	New North Butte County Courthouse
3	Kings	New Hanford Courthouse
4	Merced	New Los Banos Courthouse
5	San Diego	New Central San Diego Courthouse
6	San Joaquin	Renovate Juvenile Justice Center Courthouse
7	Santa Clara	New San Jose Family Resources Courthouse
8	Solano	Renovation to Fairfield Old Solano Courthouse
9	Sutter	New Yuba City Courthouse
10	Tehama	New Red Bluff Courthouse
11	Yolo	New Woodland Courthouse
CANCELLED PROJECTS		
12	Alpine	New Markleeville Courthouse
13	Los Angeles	Renovate Lancaster Courthouse
14	Sierra	New Downieville Courthouse

INDEFINITELY DELAYED PROJECTS		
15	Fresno	Renovate Fresno County Courthouse
16	Kern	New Delano Courthouse
17	Kern	New Mojave Courthouse
18	Los Angeles	New Southeast Los Angeles Courthouse
19	Los Angeles	New Glendale Courthouse
20	Los Angeles	New Santa Clarita Courthouse
21	Monterey	New South Monterey County Courthouse
22	Nevada	New Nevada City Courthouse
23	Placer	New Tahoe Area Courthouse
24	Plumas	New Quincy Courthouse
PROPOSED TO BE FUNDED IN THE 2018-19 AND 2019-20 BUDGETS		
25	Glenn	Renovation and Addition to Willows Historic Courthouse
26	Imperial	New El Centro Family Courthouse
27	Riverside	New Indio Juvenile and Family Courthouse
28	Riverside	Addition to Hemet Courthouse
29	Sacramento	New Sacramento Criminal Courthouse
30	Shasta	New Redding Courthouse
31	Siskiyou	New Yreka Courthouse
32	Sonoma	New Santa Rosa Criminal Courthouse
33	Stanislaus	New Modesto Courthouse
34	Tuolumne	New Sonora Courthouse
UNDETERMINED STATUS		
35	El Dorado	New Placerville Courthouse
36	Inyo	New Independence Courthouse (Now Bishop)
37	Lake	New Lakeport Courthouse
38	Los Angeles	New Eastlake Juvenile Courthouse
39	Los Angeles	New Los Angeles Mental Health Courthouse
40	Mendocino	New Ukiah Courthouse
41	Santa Barbara	New Santa Barbara Courthouse

GOVERNOR'S PROPOSAL

The budget proposes using approximately $1.3 billion in General Fund-backed lease revenue bonds to complete construction on the next ten courthouse projects that are ready to proceed. Namely, the budget proposes the following schedule: Imperial, Riverside/Indio, Shasta, Siskiyou, and Tuolumne will begin in 2018-19 and Glenn, Riverside/Mid-County, Sacramento, Sonoma and Stanislaus will begin in 2019-20. Specifically, the 2018-19 budget requests the following:

Project	2018-19 Amount	Total Project Costs
Lease Revenue Bond Funding:		
Imperial - El Centro Courthouse	$ 41,944,000.00	$ 49,944,000.00
Riverside - Indio Juvenile and Family Courthouse	$ 45,327,000.00	$ 54,118,000.00
Shasta - Redding Courthouse	$ 138,763,000.00	$ 160,357,000.00
Siskiyou - Yreka Courthouse	$ 59,203,000.00	$ 68,950,000.00
Tuolumne - Sonora Courthouse	$ 57,722,000.00	$ 66,434,000.00
Immediate and Critical Needs Account:		
Riverside - Mid County Civil Courthouse	$ 5,666,000.00	$ 91,280,000.00
Sonoma - Santa Rosa Criminal Courthouse	$ 11,252,000.00	$ 186,354,000.00
Stanislaus - Modesto Courthouse	$ 15,252,000.00	$ 279,353,000.00

ISSUES TO CONSIDER

Use of General Fund-backed Lease Revenue Bonds for Courthouse Construction. Bond financing is a type of long-term borrowing that state and local governments frequently use to raise money, primarily for long-lived infrastructure assets. They obtain this money by selling bonds to investors. In exchange, they promise to repay this money, with interest, according to specified schedules. The interest the state has to pay investors on the bonds it issues for public infrastructure is exempt from their federal and state income taxes, which makes the state's interest costs on the bonds less than it otherwise would be. Unlike general obligation bonds backed by the full faith and credit of the state, lease-revenue bonds are not, and they may be authorized by law without voter-approval.

The Governor's request for $1.3 billion in lease revenue bond authority will result in a General Fund obligation of approximately $100 million per year over 25 years. At the end of the term, the state will have paid approximately $2.5 billion in General Fund for the construction projects. The Legislative Analyst has identified $7 billion in discretionary funding in this year's budget and has noted that amount could increase significantly through the spring as the state's tax receipts come in. Rather than incurring the debt obligation proposed by the Governor, the Senate may wish to set aside $1.3 billion in General Fund to fund construction of the 10 courthouses, thus reducing future General Fund debt service by $100 million per year.

Potential Increase in Court Security Costs

2011 Realignment of Trial Court Security. As part of the 2011‑12 budget plan, the Legislature enacted a major shift, or "realignment," of state criminal justice, mental health, and social services program responsibilities and revenues to local government. This realignment shifted responsibility for funding most trial court security costs (provided by county sheriffs) from the state General Fund to counties. Specifically, the state shifted $496 million in tax revenues to counties to finance these new responsibilities. State law also requires that any revenue from the growth in these tax revenues is to be distributed annually to counties based on percentages specified in statute. Due to this additional revenue, the amount of funding provided to counties to support trial court security has grown since 2011‑12 and is expected to reach nearly $572.5 million in 2018‑19, an increase of $76.5 million. This additional revenue is distributed among counties based on percentages specified in statute.

Additional General Fund Recently Appropriated for Greater Levels of Trial Court Security. The California Constitution requires that the state bear responsibility for any costs related to legislation, regulations, executive orders, or administrative directives that increase the overall costs borne by a local agency for realigned programs or service levels mandated by the 2011 realignment. As part of the annual budget act, the state provided $7 million in additional General Fund support in 2017-18, above the tax revenue provided through the 2011 realignment, to provide counties with funding to address increased trial court security costs as a result of the construction of new courthouses. This funding is provided on an ongoing basis to those counties that have demonstrated a higher security need as a result of the design of a new courthouse. The Governor's budget proposes continuing to provide $7 million in General Fund to augment trial court security funding.

Eligibility for these funds was limited to counties experiencing increased trial court security costs resulting from the construction of new courthouses occupied after October 9, 2011, (around the time of implementation of the 2011 realignment). Counties are required to apply to the Department of Finance (DOF) for these funds and only receive funding after meeting certain conditions—including that the county prove that a greater level of service is now required from the county sheriff than was provided at the time of realignment.

Increased General Fund Obligation. As demonstrated by other court construction projects, it is likely that a portion of these 10 courthouses will require a higher level of security than the courthouses that are being replaced. The potential for more security should not drive the Senate's decision regarding the approval of the projects. However, they should be cognizant of the fact that along with the General Fund repayment of the bonds, there will likely be an ongoing General Fund obligation for additional court security.

APPENDIX

TIMELINE FOR THE 2018-19 BUDGET BILL

Wednesday	January 10	Governor submits State Budget to the Legislature.
Wednesday	January 10	Committee releases *Summary of Governor's Proposed 2018-19 Budget.*
Friday	January 12	Legislative Analyst submits *The 2018-19 Budget: Overview of the Governor's Budget.*
Thursday	January 18	Committee conducts overview hearing of the Governor's Proposed 2018-19 Budget.
Thursday	February 8	Full Budget Committee holds informational hearing – Overview of the Governor's Proposal to Create an Online Community College.
Wednesday	February 14	Full Budget Committee holds informational hearing – Human Services: Social Safety Net Programs.
Tuesday	February 20	Committee releases *Overview of the 2018-19 Governor's Budget.*
Thursday	March 1	Full Budget Committee holds informational hearing – 2017 Wildfires and Moving Forward.
Thursday	March 8	Subcommittee budget hearings begin.
Thursday	March 22	Spring Recess begins.
Monday	April 2	Department of Finance submits Finance Letters.
Monday	May 14 (est.)	Governor delivers May Revision to the Legislature.
Friday	June 15	Legislature must pass budget to meet constitutional deadline for passage of the budget.
Friday	June 29	Governor signs 2018-19 Budget

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DEVELOPMENTAL SERVICES	RENITA POLK
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VETERANS AFFAIRS	RENITA POLK
COMMITTEE SECRETARY	SANDY PEREZ
COMMITTEE ASSISTANT	MARY TEABO

CALIFORNIA STATE BUDGET HISTORY

Fiscal Year	Bill and Chapter No.	Date Passed and Chaptered		Total Budget ($ Billions)
1965-66	AB 500/757	6-18	6-30	4.0
1966-67[a]	SB 1XX/2	6-30	6-30	4.7
1967-68	AB 303/500	6-29	6-30	5.0
1968-69	SB 240/430	6-28	6-29	5.7
1969-70	SB 255/355	7-3	7-3	6.3
1970-71	AB 525/303	7-4	7-4	6.6
1971-72[b]	SB 207/266	7-2	7-3	6.7
1972-73[c]	SB 50/156	6-15	6-22	7.4
1973-74	AB 110/129	6-28	6-30	9.3
1974-75	SB 1525/375	6-28	6-30	10.3
1975-76	SB 199/176	6-26	7-1	11.5
1976-77	SB 1410/320	7-1	7-2	12.6
1977-78	AB 184/219	6-24	6-30	14.0
1978-79	AB 2190/359	7-5	7-6	18.8
1979-80	SB 190/259	7-12	7-13	21.5
1980-81	AB 2020/510	7-16	7-16	24.5
1981-82c	SB 110/99	6-15	6-28	25.0
1982-83	AB 21/326	6-30	6-30	25.3
1983-84	SB 123/324	7-19	7-21	26.8
1984-85c	AB 2313/258	6-15	6-27	31.0
1985-86c	SB 150/111	6-13	6-28	35.0
1986-87c	AB 3217/186	6-12	6-25	38.1
1987-88	SB 152/135	7-1	7-7	40.5
1988-89	AB 224/313	6-30	7-8	44.6
1989-90	SB 165/93	6-29	7-7	48.6
1990-91	SB 899/467	7-28	7-31	51.4
1991-92	AB 222/118	6-20/7-4	7-16	55.7
1992-93	AB 979/587	8-29	9-2	57.0
1993-94	SB 80/55	6-22	6-30	52.1
1994-95	SB 2120/139	7-4	7-8	57.5
1995-96	AB 903/303	8-2	8-3	56.8
1996-97	SB 1393/162	7-8	7-15	61.5
1997-98	AB 107/282	8-11	8/18	67.2
1998-99	AB 1656/324	8-11	8-21	71.9
1999-00	SB 160/50	6/16	6/29	81.3
2000-01	AB 1740/52	6/22	6/30	99.4
2001-02	SB 739/106	7/21	7/26	103.3
2002-03	AB 425/379	9/1	9/5	98.9
2003-04	AB 1765/157	7/29	8/2	98.9
2004-05	SB 1113/208	7/29	7/31	105.3
2005-06	SB 77/38	7/7	7/11	117.3
2006-07	AB 1801/47	6/27	6/30	131.4
2007-08	SB 77/171	8/21	8/24	146.5
2008-09	AB 1781/268 & AB 88/269	9/16	9/23	144.5
2009-10	SBx3 1/Ch 1 & ABx4 1/Ch 1	2/20 – 7/23	2/19 - 7/28	119.2
2010-11	SB 870/Ch 712	10/7	10/8	125.3
2011-12	SB 87/Ch 33	6/28	6/30	129.5
2012-13c	AB 1464/Ch 21 & AB 1497/Ch 29	6/15	6/27	142.4
2013-14c	AB 110/Ch 20	6/14	7/1	145.3
2014-15c	SB 852/Ch. 25	6/15	6/20	156.4
2015-16c	AB 93/Ch 10, SB 97/Ch 11, and SB 101/Ch 321	6/15, 6/19 9/11	6/19, 6/24 and 9/22	167.6
2016-17c	SB 826/Ch 23, AB 1622/Ch 44, AB 1623/Ch 318, AB 1613/Ch 370	6/15, 6/30, 8/24, /31	6/27, 7/1, 9/13, and 9/14	170.9
2017-18c	AB 97/Ch 14, AB 120/Ch 22, SB 108/Ch 54, AB 98/Ch 12 and SB 107/Ch 53	6/15,6/15, 6/26, 6/15, 6/26	6/21, 6/27 and 7/10	183.3

[a] *1966 Second Extraordinary Session.*
[b] *First year budget was to be enacted by June 15.*
[c] *June 15 constitutional deadline met.*

General Fund Revenues
2018-19 Governor's Budget
(Dollars in Millions)

		2017-18	2018-19	2019-20	2020-21	2021-22
1	**Major Revenues**					
2	Alcoholic Beverage Taxes and Fees	376	382	388	394	400
3	Corporation Tax	10,656	11,224	11,673	12,194	12,756
4	Cigarette Tax	65	63	61	59	58
5	Insurance Gross Premiums Tax	2,438	2,508	2,717	2,780	2,844
6	Mobile Home in-lieu Tax	1	1	0	0	0
7	Personal Income Tax	89,403	93,593	96,321	98,487	101,306
8	Retail Sales and Use Taxes	25,165	26,151	27,214	27,966	28,720
9	**Total Major Revenues**	**$128,104**	**$133,922**	**$138,374**	**$141,880**	**$146,084**
10	**Minor Revenues/Transfers**					
11	Misc Revenue from Local Agencies	168	168	168	168	168
12	Income from Pooled Money Investments	185	294	393	454	422
13	State Lands Royalties	64	13	49	77	76
14	Abandoned Property	400	393	382	382	382
15	Miscellaneous Revenues	46	43	40	40	40
16	Tribal Gaming Revenues	32	2	2	2	2
17	Penalty Assessments - Other	41	41	41	41	41
18	Budgetary Loan Repayments	-128	-186	-37	-268	-388
19	Weight Fee Transfers	-317	-325	-338	-404	-51
20	All Other Transfers and Loans	105	230	52	341	417
21	Transfer to BSA for Rainy Day Funds	-1,698	-5,050	-456	-358	-418
22	Remaining Others	250	247	249	243	237
23	**Total Minor Revenues/Transfers**	**-$852**	**-$4,130**	**$545**	**$718**	**$928**
24	**Total Revenues and Transfers**	**$127,252**	**$129,792**	**$138,919**	**$142,598**	**$147,012**

General Fund Multi-Year N98 Expenditures by Agency
2018-19 Governor's Budget

(Dollars in Millions)

	2017-18	2018-19	2019-20	2020-21	2021-22
N98 excludes Capital Outlay, Debt Service					
Legislative, Executive	1,059	1,315	1,011	1,009	1,000
Courts	2,026	2,182	2,168	2,168	2,169
Business, Consumer Services, and Housing	60	37	36	36	36
Transportation	2	3	3	3	3
Natural Resources	2,509	1,953	1,900	1,833	1,754
Environmental Protection	108	74	73	71	71
Health and Human Services	35,244	37,187	40,427	43,298	45,920
Interim Affordable Care Act County Offset	(-657)	(-530)	(-530)	(-530)	(-530)
Final Reconciliation for Affordable Care Act County Offset[1/]	(-259)	(-208)	(0)	(0)	(0)
Corrections and Rehabilitation	11,111	11,202	11,163	11,182	11,248
Receiver's Costs	(2,153)	(2,149)	(2,166)	(2,191)	(2,216)
Education	12,462	12,925	13,508	14,155	14,842
STRS Contribution	(2,790)	(3,077)	(3,369)	(3,680)	(4,010)
PERS Contribution (GF) (CSU Only)	(661)	(686)	(734)	(760)	(774)
Labor and Workforce Development	147	122	114	95	94
Government Operations	1,127	1,151	1,118	1,102	1,104
General Government	2,364	3,172	4,599	5,247	6,084
Non-Agency Departments	(707)	(660)	(646)	(656)	(656)
Tax Relief/Local Government	(428)	(457)	(433)	(433)	(428)
Statewide Expenditures	(1,229)	(2,055)	(3,520)	(4,158)	(5,000)
PERS Contribution (GF) (State Only)	(2,727)	(2,901)	(3,201)	(3,397)	(3,557)
Item 9800 Employee Compensation	(6)	(605)	(995)	(1,106)	(1,176)
Capital Outlay	158	255	219	146	201
Debt Service	5,394	5,548	5,396	5,312	6,279
Total N98 Expenditures	**$73,771**	**$77,126**	**$81,735**	**$85,657**	**$90,805**

[1/]The 2017-18 and 2018-19 amounts are payments from counties for the 2014-15 and 2015-16 final reconciliations respectively.

General Fund Prop 98 Expenditures
2018-19 Governor's Budget

(Dollars in Millions)

	2017-18	2018-19	2019-20	2020-21	2021-22
Proposition 98 (GF)	45,110	46,484	47,457	47,648	48,139
Education Protection Account	7,631	8,080	8,137	8,227	8,394
Local Property Tax	22,470	23,760	25,096	26,384	27,767
Total Prop 98 guarantee	75,211	78,324	80,690	82,259	84,300
Percent Change to Prior-year	5.35%	4.14%	3.02%	1.94%	2.48%
Prop 98 Test	2	3	3	3	3
General Fund Base	45,110	46,484	47,741	47,648	48,139
Education Protection Account	7,631	8,080	7,853	8,227	8,394
QEIA Payment	0	0	0	0	0
Williams Settlement	0	0	0	0	0
Settle-Up for Old Years	(603)	(100)	100	190	50
Mandate Payments	(1,380)	(1,210)	(100)	(190)	(50)
Total General Fund	52,741	54,564	55,694	56,065	56,583
Prop 98 Obligations					
Maintenance Factor Changes (+/-)	-1,122	92	529	870	43
Maintenance Factor Balance Prior to Proposition 2	0	0	0	0	0
Maintenance Factor Balance After Proposition 2	228	320	849	1,719	1,762
Settle-Up Balance	440	340	240	50	0
Budgetary Deferrals Balance	0	0	0	0	0
QEIA Balance	0	0	0	0	0
Mandate Balance	1,411	954	939	912	905
Williams Settlement Balance	0	0	0	0	0

General Fund Multi-Year Forecast
2018-19 Governor's Budget
(Dollars in Millions)

	2017-18	2018-19	2019-20	2020-21	2021-22
RESOURCES:					
Prior Year Balance	$4,611	$5,351	$3,453	$3,984	$3,913
Revenues/Transfers	128,950	134,842	139,375	142,956	147,430
Transfer to the Budget Stabilization Account [1/]	-1,698	-5,050	-456	-358	-418
Total Resources	$131,863	$135,143	$142,372	$146,582	$150,925
EXPENDITURES:					
Proposition 98	$52,741	$54,564	$55,694	$56,065	$56,583
Non-Proposition 98	73,771	77,126	81,735	85,657	90,805
Infrastructure/deferred maintenance per Prop 2	-	-	959	947	987
Total Expenditures	$126,512	$131,690	$138,388	$142,669	$148,375
FUND BALANCES:	$5,351	$3,453	$3,984	$3,913	$2,550
Reserve for Encumbrances	$1,165	$1,165	$1,165	$1,165	$1,165
Special Fund for Economic Uncertainties	$4,186	$2,288	$2,819	$2,748	$1,385
Budget Stabilization Account/Rainy Day Fund	$8,411	$13,461	$13,917	$14,275	$14,693
BSA balance as a percentage of General Fund tax proceeds	6.5%	10.0%	10.0%	10.0%	10.0%
Operating Surplus/Deficit with BSA Transfer	$740	-$1,898	$531	-$71	-$1,363

[1/] Includes $3.515b supplemental transfer in 2018-19.

Debts and Liabilities Eligible for Accelerated Payments Under Proposition 2
2018-19 Governor's Budget
(Dollars in Millions)

	Outstanding Amount at Start of 2018-19 [2/]	Proposed Use of 2018-19 Pay Down	Proposed Use of 2019-20 Pay Down	Proposed Use of 2020-21 Pay Down	Proposed Use of 2021-22 Pay Down
Budgetary Borrowing					
Loans from Special Funds	$1,248	$205	$39	$288	$474
Underfunding of Proposition 98—Settle-Up	440	100	100	190	50
Weight Fee Payments	1,117	325	338	403	51
Repayment of pre-Proposition 42 Transportation Loans	471	235	236	0	0
State Retirement Liabilities					
State Retiree Health	76,533	195	260	305	315
State Employee Pensions	59,578	475	442	119	515
Teachers' Pensions [1/]	101,586	0	0	0	0
Judges' Pensions	3,489	0	0	0	0
Deferred payments to CalPERS	682	0	0	0	0
University of California Retirement Liabilities					
University of California Employee Pensions	10,851	0	0	0	0
University of California Retiree Health	19,331	0	0	0	0
Total	**$275,326**	**$1,535**	**$1,415**	**$1,305**	**$1,405**

[1/] The state portion of the unfunded liability for teachers' pensions is $29.3 billion.

[2/] For retiree health and pensions, the amounts reflect latest actuarial report available.

Prop 2 Rainy Day Fund - 2018-19 and Out Years
2018-19 Governor's Budget

(Dollars in Millions)

		2018-19	2019-20	2020-21	2021-22
	1.5% of General Fund Revenues & Transfers				
1	General Fund Revenues and Transfers (before BSA transfer)	$134,835	$139,375	$142,956	$147,430
2	1.5% of General Fund Revenues & Transfers	$2,023	$2,091	$2,144	$2,211
	Capital Gain Revenues (Sec 20(b))				
3	General Fund Tax Proceeds	$134,605	$139,175	$142,753	$146,932
4	Personal Income Taxes from Capital Gains	$13,259	$12,884	$12,514	$12,411
5	% of General Fund Tax Proceeds	9.9%	9.3%	8.8%	8.4%
6	8% of General Funds Tax Proceeds	$10,768	$11,134	$11,420	$11,755
7	Personal Income Taxes from Capital Gains in Excess of 8% General Fund Tax Proceeds	$2,491	$1,750	$1,094	$656
8	Prop 98 Share of Capital Gains Tax Revenue above 8%	$1,444	$1,011	$628	$58
9	Non 98 Share of Capital Gain Tax Revenue above 8%	$1,047	$739	$466	$598
10	Total Available (Lines 2 and 9)	$3,070	$2,830	$2,610	$2,809
11	**Debt Repayment (50%)**	**$1,535**	**$1,415**	**$1,305**	**$1,405**
12	**Deposit to Rainy Day Fund (50%)**	**$1,535**	**$1,415**	**$1,305**	**$1,405**
13	**Supplemental BSA Deposit**	**$3,515**	**$0**	**$0**	**$0**
14	**Cumulative Balance in Rainy Day Fund [1/]**	**$13,461**	**$14,876**	**$16,181**	**$17,586**
15	**BSA Balance as a Percentage of General Fund Tax Proceeds**	**10.0%**	**10.7%**	**11.3%**	**12.0%**
16	**Amount in excess of 10 percent of General Fund Tax Proceeds - *(for Infrastructure/Deferred Maintenance)***	$0	$959	$947	$987
17	**Adjusted Deposit to the Rainy Day Fund**	**$5,050**	**$456**	**$358**	**$418**
18	**Adjusted Cumulative Balance in the Rainy Day Fund[1/]**	**$13,461**	**$13,917**	**$14,275**	**$14,693**
		10.0%	**10.0%**	**10.0%**	**10.0%**

[1/] Includes balance of $1.606b from 2014-15, $2.093b from 2015-16, $3.014b (includes $1.759b additional transfer) from 2016-17 after second true up, and $1.698b from 2017-18 after first true-up.

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