Senate Budget and Fiscal Review—Mark Leno, Chair
SUBCOMMITTEE NO. 2 **Agenda**

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

OUTCOMES
Wednesday, May 9, 2012
2:30 pm or upon adjournment of Rules Committee
Hearing Room 4203

Consultant: Catherine Freeman

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ITEMS PROPOSED FOR VOTE-ONLY (TECHNICAL SPRING FINANCE LETTERS)

0540 Secretary for Natural Resources

1. **Reappropriation: Strategic Growth Council Modeling Incentives Program—Proposition 84**. The Secretary requests reappropriation of funds for data gathering and model projects in compliance with Chapter 728, Statutes of 2008 (SB 375).

2. **Reappropriation: Proposition 50 Bond Funds.** The Secretary requests reappropriation of funds for the River Parkways grant program to allow ongoing projects to be completed and remaining funds to be awarded in the final round of program funding.

3340 California Conservation Corps

3. **Increase Reimbursement Authority.** The department requests an increase of $354,000 (Collins-Dugan Reimbursement Account) to enable the Corps to support proposed contracts for the elimination of noxious weeds in agriculture and grazing lands and for the Backcountry Trails program.

4. **Capital Outlay Reappropriations: Delta Service Center Acquisition and Construction.** The department requests two reappropriations for an ongoing project to include acquisition, preliminary plans, working drawings, and construction.

5. **Capital Outlay Reappropriation: Tahoe Base Center Relocation.** The department requests reappropriation of funds for an ongoing project that is under construction. Regional permitting will require a minor redesign of the project. This reappropriation will permit the remainder of the project to continue through construction.

3600 Department of Fish and Game

6. **Bond Fund Realignment.** The budget proposes a realignment of bond funds to align expenditure authority with anticipated expenditures and available resources. These include reappropriation of the Delta Ecosystem Restoration Program and Natural Community Conservation Plan.

3680 Boating and Waterways

7. **Technical Correction to Budget Bill Language.** The budget proposes a technical change to correct an existing reappropriation's budget year reference.

3680 San Francisco Bay Conservation Development Commission

8. **Reimbursements.** The budget proposes to increase reimbursements by $242,000 to provide funding for the Coastal Impact Assistance Program. Funds for this program are from federal sources and administered by the Secretary for Natural Resources.

3885 Delta Stewardship Council

9. **Reimbursements.** The budget requests extension of six existing limited-term positions until June 30, 2014 (no new funding is required). A previous reappropriation proposal provides the funding for these continued positions.

3680 Santa Monica Mountains Conservancy

10. **Various Bond Funds: Capital Outlay Funding Reversion.** The budget proposes to revert $4.7 million (Proposition 12) and $1.4 million (Proposition 50) bond funds to align program expenditures with existing projects.

11. **Capital Outlay Funding (including proposed Budget Bill Language):** The budget proposes to appropriate funding from a proposed reversion (see previous item) to be used for high priority projects in the Santa Monica Mountains Zone and Rim of the Valley Trail Corridor consistent with the adopted Santa Monica Mountains Conservancy Work Program. The proposal also requests Budget Bill Language (BBL) to authorize the expenditure of funds only after verification that the Conservancy has adequately addressed specified bond audit findings. Department of Finance has informed Staff that "the conditions that led us to propose the language have been resolved and the language is no longer necessary." However, the Department is not planning to formally withdraw the language.

12. **Various Bond Funds: Capital Outlay Extension of Liquidation Period (including proposed Budget Bill Language).** The budget requests an extension of liquidation for various bond funds until June 30, 2013. The proposal also requests Budget Bill Language (BBL) to authorize the expenditure of funds only after verification that the Conservancy has adequately addressed specified bond audit findings. Department of Finance has informed Staff that "the conditions that led us to propose the language have been resolved and the language is no longer necessary." However, the Department is not planning to formally withdraw the language.

3680 Baldwin Hills Conservancy

13. **Proposition 84 Program: Position Extension.** The budget proposes amending an existing appropriation to extend a limited-term position until June 20, 2015, to align the position with existing bond expenditure programs.

3860 Department of Water Resources

14. **FloodSAFE California Program.** The budget requests continued funding from Proposition 1E and Proposition 84 to continue funding for the seven functional areas identified in the FloodSAFE proposal. The majority of funding continues work on flood risk reduction projects.

15. **Water Management.** The budget requests reversion of $45 million and appropriation of $102 million from Proposition 1E Stormwater flood management local assistance funds to continue a second round of grants and to finalize the first round of local grants. The budget also requests reversions and appropriations to align funding for Integrated Regional Water Management grants.

16. **Implementation of the Delta Stewardship Council's Delta Plan.** The budget requests $1.05 million from Proposition 1E bond funds and the State Water Project funds as well as six positions to implement mandated programs and projects within the areas of the state affected by the Delta Stewardship Council's Delta Plan.

17. **Technical Support (Reappropriations, Extension of Liquidation, Reversions).** The budget requests various technical changes to continue previously approved projects including the Yuba Feather Flood Protection Program, the Stockton Deep Water Ship Channel, Water Use Efficiency Grant Program, and various water management programs.

18. **Provisional Language Revision.** The budget requests minor changes to provisional language that allows the department to move forward with projects when federal cost-sharing is not possible.

19. **Capital Outlay Expenditures.** The department requests continued funding for capital projects including one technical change to allow for dollars inadvertently identified as support to be used for capital projects as anticipated. Budget year funding for all projects totals $169 million from various bond funded sources.

3960 Department of Toxic Substances Control

20. **Capital Outlay—Stringfellow New Pre-Treatment Plant.** The budget requests $7.8 million (capital funds) to reflect the final design estimate for the construction phase of the Stringfellow New Pre-Treatment Plant project. This new design includes costs related to inspection, material testing, special consultants, and a five-month increase in the estimated construction duration.

8570 Department of Food and Agriculture

21. **Reimbursements.** The budget requests reappropriations for two previously approved capital projects, the California Animal Health and Food Safety Laboratory (Tulare/Fresno County), and the Yermo Agriculture Inspection Station. Both of these projects are anticipated to start construction in the budget year.

Trailer Bill Language:

22. **Trailer Bill Language (Stand Alone).** The Department of Finance has posted a number of trailer bills to its trailer bill website. A few of these directly tie to budget proposals received by budget staff (for example Orphan Well Cleanup at the Department of Conservation). The majority these bills do not tie directly to a budget proposal and have no supporting documents other than the trailer bill itself.

Staff Comments (including Trailer Bill Language): Staff concurs with the need for items 1-21. Staff has also reviewed a number of trailer bills posted by the Department of Finance to its trailer bill website. Those items without budget proposals are not recommended to be taken up by the budget subcommittee and are recommended to be moved to policy committees.

Recommendation:

1. APPROVE Items 1-21.
2. REJECT Budget Bill Language for items 11-12 (Santa Monica Mountains Conservancy) that is no longer necessary.
3. MOVE trailer bills without budget proposals to policy committee (Item ~~21~~22).

Vote:

APPROVE Items 2-7, 10, 14, 17, 20, 21— (3-0)
APPROVE Items 1, 8, 9, 11-13, 15, 18, 19, (including reject BBL) — (2-1, Fuller)
APPROVE Item 16— (2-1, Fuller)
MOVE Trailer Bill to Policy Committee (Item 22)—(3-0)

ITEMS PROPOSED FOR DISCUSSION

3790 Department of Parks and Recreation

The Department of Parks and Recreation (Parks) acquires, develops, and manages the natural, cultural, and recreational resources in the state park system and the off-highway vehicle trail system. In addition, the department administers state and federal grants to local entities that help provide parks and open-space areas throughout the state.

The state park system consists of 277 units, including 31 units administered by local and regional agencies. The system contains approximately 1.4 million acres, which includes 3,800 miles of trails, 300 miles of coastline, 800 miles of lake and river frontage, and about 14,800 campsites. Over 80 million visitors travel to state parks each year.

Governor's Budget. The Governor's Budget includes $423 million, a decrease of $745,933 and 18 positions from the 2011-12 budget. The decreases are mainly related to bond expenditures ($654,851 million), reductions in Off-Highway Motor Vehicle Division ($10 million) and General Fund ($10 million).

ITEMS PROPOSED FOR VOTE-ONLY (SPRING FINANCE LETTERS)

1. **Air Quality Compliance—State Vehicular Recreation Areas.** Request for $4.8 million from the Off Highway Vehicle Trust Fund to provide funding to implement dust management plans at various state vehicular recreation areas for compliance with fugitive dust emission regulations.

2. **Water Quality Compliance—State Vehicular Recreation Areas.** Request for $1 million from the Off Highway Vehicle Trust Fund to implement a storm water management plan and compete a meta assessment plan at Carnegie State Vehicular Recreation Area for compliance with water quality standards.

3. **Americans with Disabilities Act Program.** Request for $2.6 million from the Proposition 84 to provide funding for projects as required by the Americans with Disabilities Act per a consent decree.

4. **Technical Adjustment to Bond-Funded Program Delivery**. The budget proposes a decrease in funding from various bond funds to align Proposition 12 and Proposition 40 expenditures with reduced program delivery activities.

5. **Proposition 84: Reappropriations to Extend Encumbrance Availability.** Two proposals to re-appropriate $50.8 million Proposition 84 bond funds until June 30, 2014, and to appropriate for $1.8 million funding to complete construction of the People Coordinated Services' Youth and Family Center. The first request will extend the encumbrance period for critical projects impacted by timing, delays in bond fund availability. This proposal is consistent with the department's plan to shift resources as needed to avoid park closures and further service reductions.

6. **Local Assistance Funding Reappropriation.** The budget proposes to extend encumbrance availability consistent with last year's legislative action for bond funded local assistance projects. This would extend the encumbrance and liquidation periods under the Nature Education Facilities Grant Projects program.

7. **Concessions Program.** The department requests approval of concession and operating agreements for Old Town San Diego Historic Park and Morrow Bay Historic Park.

8. **Off-Highway Vehicle Pre-Budget Schematics**. The budget proposes $5.9 million for Hollister Hills SVRA infrastructure and rehabilitation.

Staff Comments: The above proposals do not include any new acquisitions or new projects and are consistent with discussions related to park closures and the need to focus funding on existing and current projects.

Recommendation: APPROVE Items 1-8

Vote: **Items 1-7—(3-0)**
Item 8—(3-0)

ITEM PROPOSED FOR DISCUSSION

State Parks and Recreation—Ongoing Sustainable Funding Proposal

Previous Subcommittee Actions. The Senate Budget Subcommittee #2 heard proposals from the Department of Parks and Recreation on March 7 of this year. The department answered questions from members of the Committee and Senator Evans on the department's response to implement budget reductions and the proposal to close state parks. The subcommittee held open the following: (1) the local assistance program including off-highway vehicle funds, recreational trail funds and federal trust funds; (2) lifeguard headquarters; (3) off-highway vehicle opportunity purchases; and (4) the department's proposal for revenue incentive opportunities. The Subcommittee required the department to submit by April 9 a list of the rationale for park closures which was received on April 9.

Background. As of April 26, the department has reduced the number of parks slated for closure from 70 to 54. While this doesn't mean the parks remaining open will continue to be open in exactly the same manner, the effort of the department and particularly the efforts of the hundreds of local organizations stepping up to support parks is commendable.

Options to Provide Ongoing and Sustainable Support. As referenced in the Senate Red book and testimony by the Department, it is clear that simply funding the department at previous year levels is not sufficient to address structural problems inherent at the department. The breadth of the problem includes a deferred maintenance backlog in excess of $1 billion, increasing operations and maintenance costs, collapse of septic and wastewater systems designed for a much lower capacity, restrictive funding sources, and a need for a cultural shift to match the changed funding streams at the department.

Rather than look for one-time solutions solely, this subcommittee proposes a suite of changes, some in statute, and others in budget actions, designed to address the structural funding problem and promote cultural shift within the department. This proposal will still require short-term closures of a smaller number of parks in order to provide time to ramp up some of these programs. In the long run, implementing these changes this will go far towards providing a more stable and long-term solution. This proposal can dramatically reduce the number of full park closures necessary in the budget year, and ensure that the number of parks to be reopened in future budget years increases substantially.

These proposals are intended to complement other legislative proposals currently being considered by the policy committees including SB 1078—the State Parks Revenue Generation Act and SB 974 (Evans) —The State Parks Closure Review Act.

Senate Sustainable Parks Proposal—Recommendations

The following are a series of seven proposals to address problems identified by the Legislature, the Legislative Analyst's Office (LAO), and the administration that are barriers to a sustainable Parks program. The solution statements constitute the staff recommendation, in consultation with Senator Simitian and Senator Evans, including an eighth proposal discussed separately that introduces a transportation funding proposal.

Problem 1: **Department needs funding flexibility to become more entrepreneurial.**
Solution: Approve administration's two-year pilot proposal for continuous appropriation authority including trailer bill language requiring the department to report uses of the fund, and to require at least 50 percent of the funding received from district entrepreneurial projects to remain within that district.

Problem 2: **Personnel structure at the department restricts ability for the department to direct peace officers to the highest priorities.**
Solution: Approve LAO recommendation (trailer bill language) in part to add position authority to allow non-peace officers to administer certain non-law enforcement tasks. This proposal would be phased-in over a period of two years.

Problem 3: **The department should be collecting entrance fees in more locations and utilizing concession agreements in as many areas as practical.**
Solution: Approve LAO recommendation to approve entrance fee proposals and concession agreements. Require a percentage to remain in the district for revenue-related projects (budget bill language).

Problem 4: **Department needs more varied funding sources and Parks supporters need a more visible way to show support for the department.**
Solution: As mentioned in the LAO report, approve trailer bill language for both (1) an opt-in fee for vehicle renewal and (2) a specialty plate for parks alone.

Problem 5: **According to a report by the department in May 2011, at least 20 parks were put on the closure list in part due to water, wastewater, and septic system problems. Many of these are due to both aging facilities and increased visitor-ship beyond the capacity of these older systems.**
Solution: Approve budget bill language appropriating $10 million annually as long-term loans from the Clean Water Revolving Loan Fund for five years to replace the State Parks and Recreation Funding and to complement bond funding for water quality and septic system repairs. Recommend funding be prioritized to allow for re-opening of parks and directed to lower income areas to the extent possible.

Problem 6: **Local nonprofits who step up to take over parks may be subject to additional liability risk which could deter their efforts to help support State Parks.**
Solution: Approve trailer bill language to extend limited liability coverage to local and nonprofit agencies who partner with State Parks to take over functions or management of parks or park properties.

Problem 7: **Restrictive funding streams and categorical allocations reduce the flexibility of the department to more creatively apply state dollars while maximizing both federal and local matching funds.**

Solution: Approve trailer bill language to extend the eligible uses of funds for trails, multi-purpose off-highway vehicle funds (with the exception of direct fees), and local assistance dollars. The intent is to allow greater flexibility for decision-making across the entire State Parks system. This includes amending the Local Assistance Program proposal to allow the department to utilize these funds more broadly for state purposes, so long as federal matching funds and constitutional requirements are not jeopardized.

Transportation Funding at State Parks. The department is responsible for construction and maintenance of roads, construction and maintenance of fixed facilities related to roads, and enforcement of traffic laws on public roads (essentially all roads within the park system including certain vehicle-accessed trails). The state annually transfers about $3.4 million from the Highway Users Tax Account (HUTA) to the department per a longstanding agreement for roads maintenance. However, the department's ongoing costs related to public roads is much higher with a conservative annual funding amount at about $15 million. This does not include enforcement of laws on public roads or deferred maintenance which brings the total higher. This type of gap in funding is part of the structural deficit the department has incurred annually for multiple years.

As this Subcommittee has jurisdiction over transportation funding, it became clear in a recent hearing for Department of Motor Vehicles that there are funds held in balance (about $500 million) well beyond the prudent reserve in the Motor Vehicle Account. The eligible use of these funds is restricted by Article XIX of the California Constitution, which requires the funds to be used for maintenance and enforcement of laws on public roads.

Problem 8: **State Parks has an ongoing gap of up to $15 million for roads and trail maintenance, and for service provided by Park Rangers related to motor vehicles.**

Solution: Approve provisional budget bill language to utilize only a portion of the reserve of funding related to proceeds of the Motor Vehicle Account annually. Up to $10 million of this item shall only be expended in units of the State Park System and only for enforcement of traffic laws on public roads, construction and maintenance of public roads and their fixed facilities, and any other purpose allowable by Article XIX of the California Constitution.

Staff Recommendation. Adopt Senate Sustainable Parks Proposal.

Vote: (HOLD OPEN)

3460 Colorado River Board

The Colorado River Board was established by statute in 1943 to protect California's rights and interests in Colorado River water and power resources. Its membership includes representatives from the six major public agencies with Colorado River water entitlements as well as from the Departments of Water Resources and Fish and Game. The budget proposes expenditures of $1.6 million fully funded by member agencies.

ITEM PROPOSED FOR DISCUSSION

Elimination of the Colorado River Board (CRB)

The Proposal. The Governor's budget proposes eliminating the CRB as part of a larger initiative to streamline state government. The administration argues that CRB's duties are better carried out by the Secretary for Natural Resources

Background. California is unique among the western states that are allocated Colorado River water in that the US Department of the Interior (DOI) has signed contracts with the individual local water agencies in the state, as opposed to with the state directly, to determine water allocations. In all other Colorado River Basin states, DOI contracts directly with each state. Because the contracts are with the individual agencies, the state's role in the board is a partnership with the contracting agencies.

Staff Comments. The Governor's proposal does not lay out a clear plan that would address the concerns raised by the Legislature, the board, and its member agencies. Until such a plan is clearly identified, it would not be prudent to move forward with elimination of the board.

Staff Recommendation: DENY Proposal.

Vote: DENY (3-0)

3480 Department of Conservation

The Department of Conservation (DOC) is charged with the development and management of the state's land, energy, and mineral resources. The department manages programs in the areas of: geology, seismology, and mineral resources; oil, gas, and geothermal resources; and agricultural and open-space land.

Governor's Budget. The Governor's Budget includes $74.7 million and 464 positions for support of the Department. Decreases in funding are largely due to reductions in bond expenditures ($86 million). Increases in positions are tied to a request from the Division of Oil, Gas, and Geothermal Resources to enhance onshore and offshore regulatory programs.

ITEMS PROPOSED FOR DISCUSSION

State Mining and Geology Board (SMGB) Elimination

Background. The SMGB represents the State's interest in the development, utilization and conservation of mineral resources; reclamation of mined lands; development of geologic and seismic hazard information; and to provide a forum for public redress.

Governor's Proposal. The Governor proposes trailer bill language to eliminate the Board and move the appeals process to the Office of Administrative Hearings, and the balance of the Board's responsibilities to the Office of Mine Reclamation within the Department of Conservation. This will allow for necessary functions of the board to continue while eliminating the need for the board itself.

Staff Comments. This proposal is in line with past-year recommendations by the Legislative Analyst's Office. While certain functions of the board are statutorily required, these can be combined with existing offices to streamline government. This proposal will result in minor savings to the department from special fund resources that may be re-dedicated to high priority projects through the budget process.

Recommendation. APPROVE Trailer Bill Language.

Vote: REJECT (3-0)

DOGGR (Division of Oil, Gas, and Geothermal Resources) Compliance and Support Staff Augmentation

Governor's Proposal. The Governor requests 18 permanent positions and a baseline appropriation of $2.5 million ($2.3 ongoing) from the Oil, Gas, and Geothermal Administrative Fund to enhance onshore and offshore regulatory programs by improving its construction site review, environmental compliance, and underground injection control programs.

Previous Budget Actions. The subcommittee heard this item in March of this year and held the item open. The Chair requested the department address concerns with (1) workload analysis, and (2) a roadmap that describes how the department plans to move forward with hydraulic fracturing regulations.

Staff Comments. On April 30, 2012, the Department submitted a workload analysis to the Subcommittee, both of its existing division resources as well as proposed positions. At a meeting with Department staff on May 1, the Department gave a brief overview of its soon-to-be released roadmap and also described the public process it plans to pursue leading to regulation of hydraulic fracturing.

Staff have reviewed the roadmap and position request. While it is clear that under the current plan there would likely be workload associated with the positions, it is not clear whether or not this workload will change with: (1) the adoption of hydraulic fracturing regulation; and (2) a cautionary approach to permitting prior to a more in-depth review of the department's roadmap. Given that, the Legislature may wish to direct the department to work on hydraulic fracturing regulations and development of a related database. The Legislature should also ensure sufficient staff to accomplish this goal.

Recommendation. (1) APPROVE 12 positions. (2) REJECT 6 Associated Oil and Gas Engineer positions. (3) ADOPT the following Budget Bill Language to ensure the department follows legislative direction clearly.

1. On or before January 1, 2014, the department shall adopt rules and regulations for the implementation of this division specific to hydraulic fracturing. The regulations shall include, but are not limited to, all of the following:
   a) The operations and maintenance of wells, including well location, fracture depth, and reporting of well casing failures.
   b) The tracking of injection and disposal of hydraulic fracturing fluids and the associated produced water.
   c) The location of any known seismic faults within five miles of the well.
2. Develop a hydraulic fracturing database available for the public.

Vote: APPROVE 18 Positions (3-0)
APPROVE BBL adding 1. d) content and ingredients in hydraulic fracturing and their impact on public health and safety. (2-1, Fuller)

0540 Secretary for Natural Resources (Tahoe Issues)

This item includes recommendations for agencies under the Secretary for Natural Resources as they relate to Lake Tahoe issues including the California Tahoe Conservancy and Special Resources Programs (Tahoe Regional Planning Agency).

The Secretary for Natural Resources heads the Natural Resources Agency. The Secretary is responsible for overseeing and coordinating the activities of the boards, departments, and conservancies under the jurisdiction of the Natural Resources Agency. The mission of the Resources Agency is to restore, protect, and manage the State's natural, historical, and cultural resources for current and future generations using creative approaches and solutions based on science, collaboration, and respect for all involved communities. The Secretary for Resources, a member of the Governor's cabinet, sets the policies and coordinates the environmental preservation and restoration activities of 27 various departments, boards, commissions, and conservancies.

Governor's Budget. The Governor's January Budget includes $47.7 million to support the Secretary for Natural Resources. This is a $125 million decrease under current year estimated expenditures primarily due to reduced bond fund expenditures.

ITEMS PROPOSED FOR DISCUSSION

Lake Tahoe Issues

Background. On April 11 of this year, the Senate Budget Subcommittee #2 heard proposals from agencies funded by the state within the Lake Tahoe Basin. The subcommittee heard testimony from the California Tahoe Conservancy, Tahoe Transportation District, Mayor of South Lake Tahoe, Tahoe Regional Planning Agency, a variety of local interests, and the California Tahoe Consortium. The purpose of the hearing was to get a better understanding of some of the more complex issues related to management of lands in the Basin, receive updates to legislative requests for information from previous years, and to discuss funding for projects in the basin. The subcommittee was also updated on the potential impacts of recent legislation in Nevada that would withdraw Nevada from the Bi-State Tahoe Compact should certain criteria not be met in the coming years.

The Secretary for Natural Resources and the Legislature have made it a priority to resolve these issues that were brought up at the hearing on April 11. The Secretary has taken the lead role for the administration both in resolving state-only issues as well as interacting with the State of Nevada on inter-state and Tahoe Compact issues.

Staff Comments. Based on testimony submitted both in person and written by state and local agencies as well as stakeholders in the Basin, and due to the timing of the public release of documents impacting the Basin by the Tahoe Regional Planning Agency, staff recommends the following actions to ensure continued collaboration in the Basin.

Recommendation: Adopt the following budget bill language (3 items).

0540 Natural Resources Agency

a. The Natural Resources Agency shall, by September 1, 2012, in coordination with the Tahoe Conservancy and the Department of Parks and Recreation, complete an agreement to consolidate and exchange state lands, and to share personnel, facilities, and other resources to more efficiently manage state-owned land in the Tahoe basin. The agreement shall include, but not be limited to, the long-term consolidation and transfer of land from the Conservancy to State Parks at Van Sickle Bi-State Park, Washoe Meadows State Park, Emerald Bay State Park, and Burton Creek State Park, and from State Parks to the Conservancy at Kings Beach State Recreation Area and Ward Creek. The agreement shall also provide for an interim multi-year operating agreement and sharing of personnel to ensure that the transfer does not increase management costs to either State Parks or the Conservancy.
b. The Secretary, in consultation with the Attorney General, shall determine that the Regional Plan update is consistent with the compact and submit this to the relevant fiscal and policy committees by April 1, 2013.

3110 Special Resources Programs (Tahoe Regional Planning Agency)

TRPA shall, by December 31, 2012:

1. In coordination with the California Natural Resources Agency and the Nevada Department of Conservation and Natural Resources, establish 4-year measurable performance benchmarks for all of the implementation measures and programmatic provisions included in the 2012 Regional Plan Update; and

2. In coordination with the Tahoe Science Consortium (TSC), CARB, SWRCB, Caltrans, Fish and Game, Tahoe Conservancy, CalFire, and other state and federal agencies, develop a comprehensive monitoring, evaluation, and reporting plan, including a scope, schedule, and budget for:
   a. monitoring all environmental threshold standards;
   b. TSC review of the scientific basis of the threshold standards and indicators;
   c. TSC development of annual reports on the Regional Plan performance benchmarks and a 4-year report (with an independent peer review) on the status of the threshold standards. Both reports shall be independently issued by the Tahoe Science Consortium.

3125 California Tahoe Conservancy

The Tahoe Conservancy shall, no later than February 15, 2013, prepare and submit an interagency cross-cut budget, including a summary of:

1. Federal, State, local, and private expenditures in the preceding fiscal year to implement the Environmental Improvement Program (EIP);
2. Accomplishments in the preceding fiscal year to implement the EIP; and
3. The proposed budget for the projects and programs of each State agency involved in implementing the EIP.

Vote: APPROVE (2-0, Lowenthal) adding the following language to Item 0540 (Natural Resources Agency)

1. a) The agreement shall also provide for parking for and access to the North Tahoe Event Center owned and operated by the North Tahoe Utility District by deed or easement.

3540 Department of Forestry and Fire Protection

The California Department of Forestry and Fire Protection (DFFP) or "CalFIRE," under the policy direction of the Board of Forestry, provides fire protection services directly or through contracts for timberlands, rangelands, and brushlands owned privately or by state or local agencies. In addition, DFFP: (1) regulates timber harvesting on forestland owned privately or by the state and (2) provides a variety of resource management services for owners of forestlands, rangelands, and brushlands.

Governor's Budget. Excluding capital outlay, where the amount of carryover makes year-to-year comparisons less meaningful, the Governor's Budget includes $1.1 billion, which represents an overall decrease of $11.3 million and 41 positions from the 2011-12 budget. Decreases in funding are largely the result of re-benching the department's Emergency Fund (E-Fund).

ITEM PROPOSED FOR VOTE-ONLY (SPRING FINANCE LETTERS)

1. **Carbon Sequestration Research and Analysis.** Request for $290,000 from the Air Pollution Control Fund to enable CalFIRE to conduct research studies and technical analyses as required by Chapter 534, Statutes of 2010 (AB 1504). AB 1504 requires the Board of Forestry to ensure that its rules and regulations that govern timber harvesting consider the capacity of forest researches to sequester carbon in an effort to meet greenhouse gas emission targets outlined in Chapter 488, Statutes of 2006 (AB 32).

2. **Capital Outlay Ongoing Proposals.** Request for various reappropriations to provide ongoing funding for capital projects, including acquisition, working drawings and construction. Projects include the Ventura Youth Conservation Camp, Bautista Conservation Camp, North Regional Fire Stations, South Operations Area Headquarters, among others.

3. **Unemployment Insurance Funding.** The department submitted a proposal requesting $5.3 million General Fund to increase costs associated with Unemployment Insurance for seasonal firefighters. Although CalFIRE's budget includes funding from previous year proposals, more funding is proposed because of a federal UI extension statute.

Staff Comments. Staff has reviewed the proposals and recommends approval of items one and two. However, upon further discussion with the department, it is not clear that the Unemployment Insurance Funding is required for the budget year. Out of an abundance of caution for General Fund expenditures, the administration has withdrawn this proposal.

Recommendation: APPROVE Items 1-2; DENY Item 3

Vote:

APPROVE Item 1 (2-1, Fuller)
APPROVE Item 2 (3-0)
REJECT Item 3 (3-0)

ITEMS PROPOSED FOR DISCUSSION

4. Firefighter I Separation Costs

Background. CalFIRE hires seasonal firefighters to staff its fire engines, Air Attack Bases and Helitack Bases. The department staffing guideline calls for the three Southern units to begin staffing the first engine at all fire stations with seasonal firefighters before the spring equinox. As the fire season winds down seasonal firefighters separate from state employment. Once they separate they are entitled to a lump-sum payment at the time of separation for any unused or accumulated vacation or annual leave. As a result of a lawsuit, a change in practice was made starting in the current year when calculating the lump-sum payment that significantly impacts the base budget for annual seasonal firefighters.

On August 20, 2007, a lawsuit was filed by the CDF Firefighters (CDFF) Union alleging a violation of Government Code Section 19839. The Union contended that Section 19839(a) requires the state to include extended duty week compensation when calculating the lump-sum payments for accumulated leave credits. Until the lawsuit was settled, CalFIRE did not pay out extended duty week compensation. Although Section 19839 does not specifically require the extended duty week compensation to be included when calculating the lump-sum payment upon separation, the court ruled in favor of the Union.

Spring Finance Letter. The department requests an increase of $2.1 million (General Fund) to cover an increase in costs as a result of a negotiated settlement in the afore-mentioned lawsuit. This will cover lump-sum buyout costs associated with the annual separation of the departments seasonal Firefighter I staffing. This amount may increase in future years.

Staff Comments. The department's alternatives analysis includes various ways of funding the extended duty week compensation. However it is not clear if this was an intended compensation package when the union negotiated pay, nor if the Department of Personnel Administration (DPA) has exhausted its efforts to work with the union to negotiate a more cost-effective approach. The department is facing unprecedented budget reductions, both in the current year as well as part of the budget year trigger cuts. The state also is unable to increase General Fund expenditures when alternatives are available.

Recommendation. DENY Funding. Require the department and DPA to draft trailer bill language amending Government Code Section 19839(a) to more clearly reflect the intent of the union negotiations that did not include the extended duty work week lump sum payout. The trailer bill language would be due to this committee on May 14, 2012, for adoption at the May Revision hearing. The department, at that time, should provide a revised funding estimate for this proposal.

Vote: HOLD OPEN

State Responsibility Area Fire Prevention Fee

Governor's Budget. The budget proposes $9.3 million in 2012-13 and ongoing funding of $6.1 million, and 29 positions to implement ABx1 29 of 2011. This legislation authorizes a fee to be assessed on structures located within State Responsibility Areas (SRA) in order to pay for fire prevention activities in the SRA that specifically benefit owners of structures within the SRA. In a companion budget proposal, the Board of Equalization, charged with collection of the fee, is requesting 56 positions and $6 million in order to establish the fee base and collection program.

The proposal also requests Trailer Bill Language that changes to the eligible use of the fee to include additional fire prevention activities and requires regular reporting on the status and use of the fund.

Background. The State Board of Forestry and Fire Protection (BOF), as required by ABx1 29, adopted emergency regulations to establish the fire prevention fee. The pending BOF regulations establish a $150 fee for all habitable structures, as defined, with a $35 credit for those applicable structures within a local fire protection district. Under the legislation, CalFIRE is required to submit to the Board of Equalization a list of the appropriate names and addresses of those required to pay the fee.

Staff Comments. The proposal is consistent with statements made by CalFIRE when the fee legislation passed in 2011. However, staff are concerned that the expansion of the fee to include suppression does not meet the nexus for a fee and therefore out of an abundance of caution should be denied. Absent a written legal opinion that clearly specifies that this is an eligible use of the fund, staff recommends denying the expanded use of the fund for suppression.

Recommendation. (1) APPROVE Budget Proposal. (2) DENY Trailer Bill Language expanding the use of the fee for suppression.

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APPROVE Budget Proposal: (2-1, Fuller)
DENY Trailer Bill Language: (3-0)