Senate Budget and Fiscal Review— Mark Leno, Chair

SUBCOMMITTEE NO. 2 Agenda

S. Joseph Simitian, Chair
Jean Fuller
Alan Lowenthal

Agenda – Part B

Hearing Outcomes

Day: Thursday, February 10, 2011
Time: 9:30 a.m. or upon adjournment of session
Room: Rose Ann Vuich Hearing Room (2040)

Consultant: Brian Annis

Transportation

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2720 California Highway Patrol

Department Overview: The mission of the California Highway Patrol (CHP) is to ensure the safe and efficient flow of traffic on the state's highway system. The CHP also has responsibilities relating to vehicle theft prevention, commercial vehicle inspections, the safe transportation of hazardous materials, and protection and security for State employees and property.

Budget Summary: The Governor proposes total expenditures of $1.9 billion (no General Fund) and 11,380.7 funded positions, a decrease of $87 million and a decrease of 28 positions. The year-over-year budget change is primarily explained by the reduction in funding for the almost-complete public-safety radio project and by the workforce cap.

(see issue on next page)

1. **Policy for License Plate Reader – Budget Trailer Bill:** Last year the Subcommittee approved trailer-bill language that would place the CHP's internal policies for license plate readers (LPRs) in statute. LPRs are mounted on freeway signs or mobile units and capture the license plate number of passing vehicles. The language was additionally approved by the Budget Conference Committee and placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff's understanding is that the LPR language was not a factor in the failure of the legislation.

   Detail: The language was developed in consultation with the CHP and mirrors that department's existing policies. Staff understands the intent of the Subcommittee was to place these privacy-protection elements in statute so that legislative concurrence would be necessary in the future for any change to this policy that might weaken privacy protection. The language in AB 1614 is copied below (amending Vehicle Code Section 2413):

   > *(b) The Department of the California Highway Patrol may retain license plate data captured by a license plate reader (LPR) for no more than ~~72 hours~~ 90 days, except in circumstances when the data is being used as evidence or for legitimate law enforcement purposes.*
   > *(c) The Department of the California Highway Patrol shall not sell LPR data for any purpose and shall not make the data available to an agency that is not a law enforcement agency or an individual who is not a law enforcement officer. The data may only be used by a law enforcement agency for purposes of locating vehicles or persons when either are reasonably suspected of being involved in the commission of a public offense.*
   > *(d) The Department of the California Highway Patrol shall monitor internal use of the LPR data to prevent unauthorized use.*
   > *(e) The Department of the California Highway Patrol shall, as a part of the annual automobile theft report submitted to the Legislature pursuant to subdivision (b) of Section 10901, report the LPR practices and usage, including the number of LPR data disclosures, a record of the agencies to which data was disclosed and for what purpose, and any changes in policy that affect privacy concerns.*

   The highlighted section above represents a possible modification to last year's language. It would provide that the data could be retained up to 90 days, instead of 72 hours.

   Staff Comment: The Subcommittee may want to again consider adopting this placeholder trailer bill language – with highlighted modification – for LPRs.

   Action: No action – Subcommittee may consider issue during spring hearings.

2740 Department of Motor Vehicles

Department Overview: The Department of Motor Vehicles (DMV) regulates the issuance and retention of driver licenses and provides various revenue collection services. The DMV also issues licenses and regulates occupations and businesses related to the instruction of drivers, as well as the manufacture, transport, sale, and disposal of vehicles.

Budget Summary: The Governor proposes total expenditures of $922 million (no General Fund) and 8,251 positions, an increase of $9.6 million over the revised 2010-11 level and a decrease of 15.6 funded positions. The year-over-year budget change is primarily explained by employee compensation adjustments.

(see issue on next page)

1. **Veterans Optional Check-off – Trailer Bill Language:** Last year, the Budget Conference Committee adopted a package of measures to aid veterans in obtaining federal benefits. One component of that package was statutory change that required the DMV to add a voluntary veteran's check-off box on driver license applications that would allow a veteran's name and address to be shared with the California Department of Veterans Affairs (CDVA). The CDVA would reimburse the DMV for the cost of the program and use the information to alert veterans about federal benefits. The language was placed in the omnibus transportation budget trailer bill (AB 1614). The transportation budget trailer bill, which included many other provisions, failed passage in the Senate and the provisions were not enacted. Staff's understanding is that the veterans language was not a factor in the failure of the legislation.

   Detail: The language was developed in consultation with the DMV and CDVA. The relevant language in AB 1614 is copied below (amending Vehicle Code Section 12811). The language highlighted notes recent DMV amendments to last year's language. First, "All applications" replaces "The front of an application". Second, statement for the application would be specified in statute.

   (c) (1) ~~The Front of an application~~ All applications for a driver license or identification card shall contain a space for an applicant to indicate whether he or she has served in the Armed Forces of the United States and to give his or her consent to be contacted regarding eligibility to receive state or federal veteran benefits. The application shall contain the following statement:

   "By marking the veteran box on this application, I certify that I am a veteran of the United States Armed Forces and that I want to receive veteran benefits information from the California Department of Veterans Affairs and that I was notified and consent to DMV transmitting my name and mailing address to the California Department of Veteran Affairs for this purpose only."

   (2) The department shall collect the information obtained pursuant to paragraph (1).
   (3) ~~Periodically, as~~ As mutually agreed between the department and the Department of Veterans Affairs, the department shall electronically transmit to the Department of Veterans Affairs the following information on each applicant who has identified that he or she has served in the Armed Forces of the United States since the last data transfer and has consented to be contacted about veteran benefits:
   (A) His or her true full name.
   (B) His or her mailing address.
   (4) Information obtained by the Department of Veterans Affairs for the purposes of this subdivision shall be used for the purpose of assisting individuals to access veteran benefits and shall not be disseminated except as needed for this purpose.

   Staff Comment: The Subcommittee may want to consider adoption of the revised placeholder trailer bill language intended to aid veterans.

   Action: Approved revised language on a 2 – 1 vote with Senator Fuller voting no.

2665 High-Speed Rail Authority

Department Overview: The California High-Speed Rail Authority (HSRA or Authority) was created by Chapter 796, Statutes of 1996, to direct development and implementation of inter-city high-speed rail service that is fully coordinated with other public transportation services. The cost to build "Phase I" (from San Francisco to Anaheim) is currently estimated by the HSRA to cost $43 billion (in year-of-expenditure dollars). Of the $43 billion cost, about $12.1 billion is currently "in hand" – $9 billion from Proposition 1A of 2008 (Prop 1A) and $3.1 billion in federal funds. The HSRA 2009 Business Plan indicates the remainder of project funding will come from the federal government (about $14.9 billion), local governments (about $4.5 billion) and private investment through selling the concession (about $11 billion). The majority of work on the project is performed by contractors – there are approximately 604 contractors (full-time equivalents) and 37 State staff. Most of these positions were authorized last year, and due to the prior Governor's hiring freeze, only about 17 positions are currently filled.

Budget Overview: The January Governor's Budget proposes funding of $192 million for the HSRA ($102.4 million Prop 1A and $89.7 million federal funds). This compares to 2010-11 funding of $221 million. The 2011-12 budget included 37.1 funded positions for HSRA, which is unchanged from the adjusted 2010-11 level.

Issues for Discussion and Vote:

1. **Budget Reporting Language Vetoed by Governor Schwarzenegger:** Last year, the Subcommittee adopted budget bill language that required the HSRA to report to the Legislature with updates and additional analysis on how the Authority plans to implement the high-speed rail system – this language was vetoed by the Governor. The language required a report by February 1, 2011, which would include:

   (a) a complete legal analysis of the revenue guarantee and alternative options;
   (b) a report on community outreach;
   (c) an updated financing plan with alternative funding scenarios;
   (d) a copy of the strategic plan required by the State Administrative Manual;
   (e) a report on the performance of the Program Manager Contractor; and
   (f) a report on how the HRSA was addressing the recommendations of the Bureau of State Audits.

   The language included "expenditure-contingent" language to withhold $55.3 million in 2010-11 spending authority pending receipt of the report and 60-day review by the Joint Legislative Budget Committee (JLBC).

   Background: Most of the reporting requirements in the vetoed language involve deficiencies in the HSRA plan as identified in reports of the Legislative Analyst's Office, the Bureau of State Audits, and more recently, the peer review group. At the May 24, 2010, Subcommittee hearing, the HSRA (represented by Interim Executive Director Carrie Pourvahidi and Board Member Richard Katz) agreed to provide the information by February 1, 2011.

   Staff Comment: At the February 1, 2011, Subcommittee hearing, the HSRA presented a letter dated January 29, 2011, which outlined its timeline for responding to issues (a) – (f) above. The HSRA letter indicates it will provide reporting on four of the six elements (b), (d), (e), and (f), within two weeks (by February 14). The letter indicates the remaining two elements, (a) and (c) are tied to an updated funding plan to be completed by October 14, 2011, and an updated business plan to be completed January 1, 2012. At the hearing, the HSRA Chief Executive Officer, Mr. Roelof van Ark, indicated that the *draft* business plan would be available in the October period and could be reviewed in concert with the financial plan.

   Staff Recommendation: (1) Adopt trailer bill language to restore the vetoed 2010 budget reporting language, and expenditure-contingent language for the 2010-11 fiscal year, for the four reporting elements HSRA indicates will be provided this month (b, d, e, and f above).
   (2) Adopt budget bill language for the 2011 Budget Act to restore the vetoed 2010 budget reporting language, and expenditure-contingent language, for the two reporting elements HSRA indicates will be available in either draft or final form in October, 2011 (a and c above).

   Action: Approved staff recommendation on a 3 – 0 vote.

2. **Budget Change Proposals:** The Administration submitted the following Budget Change Proposals:

   - **Program Management Contract (Part of COBCPs #1-7):** The Administration requests a total of $41.5 million from Prop 1A bond funds and federal funds for the 2011-12 cost of the program-management contract. The funding request is $4.5 million higher than the amount provided for 2010-11.

   - **Program Management Oversight Contract (BCP #1):** The Administration requests a total of $3.0 million from Prop 1A bond funds for the 2011-12 cost of the program-management oversight contract. The funding request is $1.0 million higher than the amount provided for 2010-11.

   - **Public Information and Communication Services Contract (BCP #3).** The Administration requests a total of $1.8 million from Prop 1A bond funds for the 2011-12 cost of specialty contracts with a private vendor in the areas of communications. The amount of the funding request is the same as the funding provided for 2010-11.

   - **Financial Plan and Public Private Participation Contracts (BCP #4).** The Administration requests a total of $750,000 from Prop 1A bond funds for the 2011-12 cost of financial consulting services, including development of a Public Private Partnership Program (P3) plan. A total of $1.0 million was provided in the 2010-11 budget for this same purpose.

   - **Interagency Contracts for DOJ and DGS (BCP #7).** The Administration requests an augmentation of $1.1 million in Prop 1A bonds to add to base funding of $359,000 for inter-departmental legal and general services performed by the Department of Justice (DOJ) and the Department of General Services (DGS).

   - **Engineering contracts for preliminary design and environmental impact reports (Part of COBCPs #1-7):** Excluding the amount for the Program Management Contract (which is discussed separately as issue #4 in this agenda), the Administration requests a total of $137.9 million for the 2011-12 cost of multiple contracts to continue work on the project-level environmental impact reports and preliminary design. The cost would be funded 50-percent Prop 1A funds and 50-percent federal stimulus funds.

Staff Comment: Additional detail should be available later this spring on the workload and deliverables for these BCPs.

Staff Recommendation: Reject all BCPs without prejudice and review again during spring Subcommittee hearings.

Action: Rejected all BCPs "without prejudice" on a 3 – 0 vote.

3. **Trailer Bill Language (TBL) that failed passage in 2010:** The 2010-11 Budget, as adopted by the Budget Conference Committee, included TBL in three areas related to HSRA. The omnibus transportation budget trailer bill failed passage in the Senate so the statutory changes did not take effect. The Subcommittee may want to re-examine each issue to see if the TBL is still warranted. The following HSRA issues were included in last year's omnibus transportation budget trailer bill:

   - Peer Review Group: Requires that the members of the High-Speed Rail Independent Peer Review Group be designated by October 1, 2010, and requires that group to designate a chairperson. Authorizes the members of the peer review group to collect a $100 per-day per diem that cannot exceed $500 per month. This language originated in the Senate.

     Issue Update - The peer review group has been formed and did meet and elect a chairperson in the fall of 2010. A report dated November 18, 2010, was provided to the Legislature. The HSRA indicates no reimbursement was requested or provided to members of the peer review group.

   - Exempt Positions: Authorizes the Governor to appoint six management-level exempt positions to the High-Speed Rail Authority (HSRA) upon the recommendation of the executive director. Compensation for these positions shall not exceed the highest comparable compensation for a position of that type, as established through a salary survey, and shall require approval of the Department of Personnel Administration. This language originated in the Assembly.

     Issue Update – Assembly Member Galgiani's AB 58, as introduced, would authorized five new exempt positions at HSRA. Alternatively, the Governor could shift existing exempt-position authority from other departments to the HSRA.

   - Biannual Reporting: Requires the HSRA to report biannually to the Legislature, beginning March 1, 2011, on the status of development and implementation of intercity high-speed rail service. This report was intended to be modeled off the quarterly Toll Bridge Seismic Retrofit reports. This language originated in the Assembly.

     Issue Update – Assembly Member Galgiani's AB 145, as introduced, would establish a new annual reporting requirement.

   Staff Comment: The Senate Subcommittee's calls for the peer review group to meet and report appear to have produced the desired result, even if the requirement was not placed in statute. The exempt positions and reporting requirements may be addressed via a policy bill or could again be place in a budget trailer bill.

   Staff Recommendation: Adopt the 2010 "Exempt Positions" trailer bill language as placeholder language for the 2011 budget.

   Action: Approved "Exempt Position" language on a 2 – 0 vote, with Senator Fuller not voting.

2600 California Transportation Commission

Department Overview: The California Transportation Commission (CTC) is responsible for the programming and allocating of funds for the construction of highway, passenger rail, and transit improvements throughout California. The CTC also advises and assists the Secretary of the Business, Transportation and Housing Agency and the Legislature in formulating and evaluating State policies and plans for California's transportation programs.

Budget Overview: The January Governor's Budget proposes expenditures of $3.9 million and 18.1 positions for the administration of the CTC (no General Fund) – an increase of $183,000 and no change in positions. Additionally, the budget includes $25.0 million in Clean Air and Transportation Improvement Bond Act funds (Proposition 116 of 1990) that are budgeted in the CTC and allocated to local governments. The Administration submitted one Budget Change Proposal, which is described below.

Issues proposed for Discussion / Vote:

1. **Design Build / Public Private Partnership Review (BCP #1):** The Administration requests a limited-term, three-year, annual increase of $400,000 (State Highway Account) to contract out with a financial consultant to assist in the review of proposed projects under the design build contract method and the public private partnership (P3) program. This request is related to SB X2 4 (Statutes of 2009, Cogdill), which mandates that the CTC establish criteria and review projects for inclusion in these programs. The 2010 Budget Act included a one-time appropriation of $200,000 for this same activity.

   Staff Comment: The CTC indicates it spent $160,000 in consulting services to review the most-recent P3 project proposal – Doyle Drive in San Francisco. This year's BCP anticipates about two P3 projects for annual review with an average cost of $200,000 each. Given the fiscal risk of these projects to the State, investing in a complete analysis of the proposed projects should be a prudent investment. The Legislature has been interested in following the P3 program and the Subcommittee may want to consider some type of notification requirement through budget bill language.

   LAO Recommendation: The Analyst recommends the request be rejected without prejudice for review later this spring, because additional information may be available at that time on the specific projects for review and the number of actual projects ready for review.

   Staff Recommendation: Reject this request without prejudice to be reconsidered during spring hearings.

   Action: Rejected the request "without prejudice" on a 3 – 0 vote.

2660 Department of Transportation

Department Overview: The Department of Transportation (Caltrans) constructs, operates, and maintains a comprehensive state system of 15,200 miles of highways and freeways and provides intercity passenger rail services under contract with Amtrak. The Department also has responsibilities for airport safety, land use, and noise standards. Caltrans' budget is divided into six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and the Equipment Service Center.

Budget Overview: The January Governor's Budget proposed total expenditures of $12.8 billion ($83 million General Fund) and 20,377 positions, a decrease of about $332 million and a decrease of 249 positions over the revised current-year budget.

Activity: (in millions):

Activity	**2010-11**	**2011-12**
Aeronautics	$7	$7
Highway: Capital Outlay Support	1,781	1,826
Highway: Capital Outlay Projects	6,231	5,689
Highway: Local Assistance	2,356	2,117
Highway: Program Development	75	82
Highway: Legal	121	122
Highway: Operations	219	245
Highway: Maintenance	1,374	1,513
Mass Transportation	805	1,024
Transportation Planning	169	183
Administration (distributed costs)	(447)	(484)
Equipment Program (distributed costs)	(228)	(255)
TOTAL	**$13,141**	**$12,808**

Major Funding Sources (in millions)**:**

Fund Source or Account	**2010-11**	**2011-12**
Federal Funds	$4,684	$4,284
State Highway Account (SHA)	3,343	3,573
Proposition 1B & Prop 1A Bond Funds	3,276	3,476
Reimbursements	1,323	1,125
General Fund (Proposition 42 – Loan Repayment)	(83)	(83)
Federal Revenue Bonds (GARVEEs)	1	1
Public Transportation Account	374	210
Other funds	139	141
TOTAL	**$13,141**	**$12,808**

Issues proposed for Vote Only:
(see also the summary table with actions taken on page 14)

1. **Fuel Cost Increase (BCP #2):** The Administration requests a permanent increase of $1.7 million (State Highway Account) to the department's fuel budget. Caltrans assumes fuel prices will average $3.17 per gallon in 2011-12, instead of the baseline level of $3.06 per gallon. This would bring Caltrans' total fuel budget up to $43.3 million – the department consumes about 13.6 million gallons of fuel per year.

   Staff Recommendation: Approve this request, but direct staff to bring this issue back after the May Revision *if* the outlook for fuel prices changes significantly between now and then.

2. **Enterprise Resource Planning Financial (E-FIS) IT Project – Staff Reduction (BCP #11):** The Administration requests a permanent decrease of $3.0 million (special funds) and a decrease of 35 positions. This reduction recognizes a workload decrease that will result from the new E-FIS information technology (IT) project. E-FIS is a new accounting system for Caltrans that replaces almost 70 legacy IT systems. E-FIS was recently placed in operation. Caltrans committed to eliminating the positions when the project was initiated because the Feasibility Study Report suggested a workload decrease upon implementation of the system.

   Staff Recommendation: Approve this request.

3. **Project Resource and Scheduling Management System (PRSM) IT Project – Extension of Funding (BCP #14):** Caltrans requests an extension of the liquidation period for the PRSM system. Any unliquidated amount from the original $8.3 million appropriation would be available for cash expenditure through 2011-12. PRSM will enable the Department to effectively manage State employee project time in the $1.8 billion Capital Outlay Support Program that funds environmental studies, design services, construction engineering and right-of-way acquisition services for the state highway system. This project provides a commercial-off-the-shelf software system to provide project managers, and first line supervisors, vital information including the amount of dollars programmed for each project, amounts expended to date, dollar estimate to complete work, and amount remaining in the project budget.

   Staff Recommendation: Approve as budgeted, but revisit in the spring, as warranted, if savings are found.

4. **Load Rating of Local Bridges (BCP #3):** Caltrans is requesting an increase of 9 positions and $1.3 million in funding for a 6-year limited term to complete the load rating on 3,564 locally-owned bridges in order to comply with federally-mandated load rating evaluation requirements. This proposal will be funded essentially through Federal Funds that would otherwise be allocated to local governments for local transportation funding. California has 11,850 city and county-owned bridges in the National Bridge Inventory. The Department inspects and provides load ratings for all of these bridges except those owned by the counties of Los Angeles and Santa Clara who inspect and load rate their own bridges. Load rating of bridges is performed to determine the loads (vehicles) that structures can safely carry. Last year, the Subcommittee augmented staffing to accelerate load ratings on State-owned bridges from a ten year period to a six-year period. This proposal requests roughly the same staff-to-workload ratio as was approved last year.

   Staff Recommendation: Approve this request.

5. **Fund Shift for One Position in Mass Transportation (BCP #7):** Caltrans is proposing a fund shift for one position over a two-year period. The position would provide oversight of commuter rail line and urban rail system capital improvement projects funded by the Proposition 1A, the High Speed Rail Bond. Note, these activities would not be reimbursed by the High-Speed Rail Authority, but are rather appropriated directly to Caltrans for the rail connectivity portion of Prop 1A bonds. This position will be responsible for oversight of contract development, agency and project certifications, programming actions, project monitoring and reporting requirements. This proposal results in an identical savings in the Public Transportation Account (PTA) where the position was formerly funded. The amount in question is $94,000.

   Staff Recommendation: Approve as budgeted.

6. **Fund Shift for Prop 1B Audits (BCP #13):** Caltrans is requesting a net-zero shift in funding among various Proposition 1B special funds to meet the projected workload for auditing services in 2011-12 by specific bond programs. The audits are performed by the State Controller's Office on behalf of the Department under an interagency agreement. The amount shifted among funds is $2.4 million, but all the shifts are within the various special funds that are associated with Proposition 1B.

   Staff Recommendation: Approve as budgeted.

7. **Eureka Office Building – Repairs (COBCP #1):** Caltrans is requesting an appropriation of $8.7 million from the State Highway Account to fund the construction phase for the Eureka district office building fire, life safety, and infrastructure repairs project. The total project cost is $10.1 million which also includes $695,000 for preliminary planning, and $687,000 for working drawings. The Department of General Services has determined that the Department must correct various Fire, Life, Safety, and additional Americans with Disability Act (ADA) code compliance violations as well as other building life cycle improvements such as: Fire sprinkler expansion; fire suppression system replacement; north stairway repairs for ADA compliance; heating and ventilation replacement; electrical upgrades; and, replacement of caulking on exterior windows.

   Staff Recommendation: Approve as budgeted.

8. **Job Access Reverse Commute (JARC) / New Freedom – Continuation of Federal Funds and 3 positions (BCP #8):** Caltrans is requesting an extension of 3 previously approved temporary positions and $274,000 in federal funds to support on-going administration of the federal JARC and New Freedom transit grant programs. Both programs are mandated by the Safe, Accountable, Flexible, and Efficient Transportation Equity Act – Legacy for Users (SAFETEA-LU). The staff currently being used to support these programs was approved on a limited-term basis set to expire on June 30, 2011, while the grant funds will continue until a new federal legislation is passed. Public and private transportation agencies, social service agencies, community-based non-profit agencies, tribal governments, faith-based organizations, and private for profit agencies are eligible to apply for funding. The New Freedom program is designed to provide transportation services that are beyond requirements of the American with Disabilities Act.

   Staff Recommendation: Approve as budgeted.

Summary of Vote Only Issues:

Issue #	Issue Description	Action Taken	Vote
1	Fuel Cost Increase	Reject without prejudice, revisit when an update fuel price forecast is available in May.	3-0
2	Enterprise Resource Planning Financial (E-FIS) Staff Reduction	Approve	3-0
3	Project Resouce Schedule Management (PRSM) IT Project Fund Extension	Approve – revisit in the spring as warranted if savings are found.	3-0
4	Load Rating of Local Bridges	Approve	3-0
5	Fund Shift for 1 Position	Approve	3-0
6	Fund Shift for Prop 1B Audit Work	Approve	3-0
7	Eureka Office Building Repairs	Approve	3-0
8	Job Access Reverse Committee transit programs.	Approve	3-0

Issues proposed for Discussion and Vote:

9. **Weight Fee / Fuel Swap Proposal (Governor's Budget):** The Governor's budget includes the following package of proposals to maintain funding levels for highways and transit and to provide a total of $1.7 billion in General Fund solutions over the current year and budget year. This package conforms transportation funding and prior General Fund solutions with the requirements of Proposition 22 and Proposition 26 – both of 2010. The General Fund budget solutions include both the use of transportation funds to pay bond debt and the use of transportation funds for loans to the General Fund. This table below ($ in millions) summarizes the proposals by category and fiscal year:

General Fund Relief	**2010-11**	**2011-12**	**Two-Year Total**
Debt service from weight fee revenue	$262	$700	$962
Loans from weight fee revenue	$494	$166	$660
Debt service from non-Article XIX funds	$0	$78	$78
Total by year	$756	$944	**$1,700**

Detail: The proposal would be implemented with budget trailer bill language and includes the following components.

- Truck Weight Fees – for GO Debt: Use vehicle weight fees, rather than gasoline excise tax revenues, to fund general obligation (GO) bond debt service. This shift is being proposed because Proposition 22 restricts the State from using fuel excise tax revenues for general obligation bond debt service. This would provide $962 million of the two-year General Fund solution.
- Truck Weight Fees – for General Fund Loans: Loan vehicle weight fees, rather than gasoline excise tax revenues, to the General Fund. Similar to the above bullet, this shift is being proposed because Proposition 22 restricts the State from using fuel excise tax revenues for loans to the General Fund. This would provide $660 million of the two-year General Fund solution.
- Non-Article XIX Funds – for GO Debt: Use $77.5 million in transportation revenues that are not restricted by the California Constitution (non-article XIX), such as revenue from rental property, for general obligation bond debt service payments for Proposition 116 bonds. This provides $78 million of the General Fund solution.
- Re-enact the Fuel Tax Swap: Re-enact the fuel tax swap with a two-thirds vote in order to protect transportation revenues. Proposition 26 requires that any tax measure passed after October of 2009 that would require a two-thirds vote under Proposition 26, must be re-enacted with a two-thirds vote, or will be considered void. If the fuel tax swap is not re-enacted with a two-thirds vote, it is unclear what would happen, but one interpretation suggests that annual transportation

revenue could drop by billions (if the excise tax increase becomes void, but the sales tax does not automatically increase to its former level).

- Maintain Funds for Transit Operations: Make changes to keep local transit assistance funding near the target of $350 million that was approved in the fuel tax swap. The swap increased the diesel sales tax by 1.75 percent (as an offset, the excise tax on diesel was reduced) and changed the allocation formula of the total sales tax so that 75 percent of revenues would be provided to Local Transit Assistance and 25 percent would be allocated to Caltrans' inner city rail and transit STIP programs. Prop 22 changed the base sales tax back to 50 percent transit. The proposed language would provide 100 percent of the new diesel revenue to transit operators to approximate the allocation in the fuel swap package. As part of the non-Article XIX shift above, and to still maintain the transit funding, the diesel sales tax is temporarily (for three years) increased above 1.75 percent increment to as high as 2.17 percent. Again, the excise tax on diesel is lowered to maintain revenue neutrality.
- Transportation Special Funds – Cashflow Loans: Removes the statutory sunset to continue the authority to make cashflow loans among transportation special funds. This proposal does not provide General Fund relief, but allows Caltrans to better manage cash across the many transportation special funds. Deletes a few funds from this pool to conform to the requirements of Proposition 22.

A Brief History of the Fuel Tax Swap: The fuel tax swap was enacted in early 2010 to increase the flexibility of transportation funds so that additional funds could be utilized to pay debt service on transportation-related GO bonds, which results in General Fund relief. The largest component of the swap involved eliminating the state sales tax on gasoline and increasing the gasoline excise tax. Since there are different constitutional and voter-initiative restrictions on these different taxes, the swap provided additional flexibility for these revenues. The package provided benefits for both highways and transit. The highway and local streets and roads funding of Prop 42 (part of the sales tax), was fully protected – with additional revenue available in the out-years. Funding for transit operations, which has been suspended for a four and one-half year period, was restored early, and ongoing funding was set at a high level of $350 million.

Proposition 22 and Proposition 26: These two propositions approved by voters at the November 2010 election both have implications for the Fuel Tax Swap. Proposition 22 prohibits loans to the General Fund from gasoline-excise-tax revenue and from Public Transportation Account (PTA) revenue, and restricts the use of gas-excise revenues for GO debt. Prop 22 also requires that base transit revenue be divided 50 / 50 between local transit operations and State programs instead of the 75 / 25 respective split that was part of the Fuel Tax Swap. Prop 26 might result in the Fuel Tax Swap becoming void in November 2011, or it could result in the Fuel Swap remaining in place, but with a risk of repeal if there is litigation.

LAO Options: The LAO indicates that additional General Fund relief would be constitutionally allowable if the Legislature desired to increase or maximize General Fund relief from transportation funds. It should be noted that Proposition 22 does place new limits on fuel excise taxes, so the options post-Prop 22 are more constrained than before. The table below indicates the three LAO options ($ in millions):

LAO General Fund Relief – Additional Options	**2010-11**	**2011-12**	**Two-Year Total**
1) Maximize loans from weight fee revenue	$150	$44	$194
2) Reduce transit operations funding – transfer balance to General Fund*	$0	$110	$110
3) Eliminate transit operations funding, eliminate sales tax on diesel, increase truck weight fees (new revenue-neutral tax swap) – direct revenue to General Fund*	$0	$300	$300

* Option 2) and 3) above include the same portion of the diesel sales tax, so either, but not both, could be implemented.

The LAO has produced a policy brief on this issue and can present its findings to the Subcommittee.

Staff Comments: When this issue was heard in the Assembly Subcommittee, there was a broad group of transportation interests that testified in support of the Governor's proposal. Since the LAO options reduce transportation revenue, without providing any additional benefit specifically for transportation, many of the transportation stakeholders testified in opposition to the LAO options. Because this proposal is a major component of the Governor's General Fund budget solution, the Subcommittee may want to hold this issue open so it can be considered in the full Budget Committee in the context of the other non-transportation budget proposals.

Staff Recommendation: Hold open for action in the full budget committee.

Action: Held open for action in full Budget Committee. (Direction to hold open approved on a 3 – 0 vote)

10. Outstanding Loans and New Loans (Governor' Trailer Bill Language): The Administration has proposed trailer bill language related to the repayment of outstanding loans and the implementation of new loans. The chart below summarizes the loan activity for funds related to Caltrans. The loans highlighted indicate inclusion in proposed trailer bill language. The loans related to weight fees, were discussion in the prior agenda issue.

Year of Loan and Description		Loan Repayment by Fiscal Year					Total
Newer Loans		**2011-12**	**2012-13**	**2013-14**	**2014-15**	**2015-16**	
2008-09	Various Transportation Special Funds	$231					$231
2009-10	State Highway Acct	$0	$135				$135
2010-11	State Highway Acct			$80			$80
2010-11	Highway User Tax Acct (pre-Prop 22)		$329				$329
2010-11	Public Transportation Acct (pre-Prop 22)			$29			$29
2010-11	Weight Fees (post-Prop 22)			$205	$144	$144	$494
2011-12	Weight Fees (post-Prop 22)				$166		$166
Older Loans							
2001-02 & 2002-03	Traffic Congestion Relief Fund (repaid with tribal gaming revenues)	$0	$0	$0	$0	$0	$0
2003-04 & 2004-05	Prop 42 - Repayment schedule in Constitution	$83	$83	$83	$83	$83	$415
	Total	**$314**	**$547**	**$397**	**$393**	**$227**	**$1,879**

Note: By the end of 2015-16, most loans would be repaid, the exception would be those loans repaid with tribal-gaming funds – about $880 million would remain outstanding.

Detail and Comment:

- 2011-12 Loan Repayment: A total of $314 million (plus $22.5 million in interest) is proposed for repayment in 2011-12. Of this amount, $83 million is required by the Constitution and the remaining $231 million is statutorily due.
- 2011-12 Loan Repayment Deferrals: The Governor proposes to defer from 2011-12 to 2012-13 the repayment of a $135 million State Highway Account loan. Additionally, the Governor proposes to direct specified tribal-gaming revenue from transportation loan repayment to the General Fund. The table above indicates "$0" for the tribal gaming revenues, but under current law an annual amount of $101 million would repay the Traffic Congestion Relief Fund loan. The proposed action would mirror action taken in the last three budgets.

Staff Comment: While there has been a lot of recent loan activity, the combination of Proposition 22 and the Weight Fee / Fuel Swap proposal will greatly reduce the ability to borrow from transportation funds in the future. In the out-years, the weight fee revenue would be fully used for GO debt service, and none would remain for loans. Prop 22 prohibits any future loans from the fuel excise tax revenues and the Public Transportation Account.

Staff Recommendation: Approve as "placeholder" the Administration's loan plan and loan language.

Action: Approved placeholder language on a 3 – 0 vote.

11. Proposition 1B Budget Request: The Governor requests $2.3 billion in Prop 1B bond funds for programs administered by Caltrans. Prior budget actions have appropriated a total of $12.7 billion (after reversions), or 64 percent, of total Proposition 1B funds – the requested budget would bring the total to $15.5 billion, or 78 percent. The table below, based on Caltran's numbers, summarizes past action on Prop 1B and the Governor's proposal (dollars in millions):

Proposition 1B Category	Total 1B Amount	Total Approp'd thru 10-11 (after reversions)	2011-12 Requested Amount	Budget Entity
Corridor Mobility Improvement Account (CMIA)	$4,500	$2,789	$631	Caltrans
State Transportation Improvement Program (STIP)	$2,000	$1,993	$0	Caltrans
State Highway Operations and Preservation Program (SHOPP)	$500	$308	$0	Caltrans
State Route 99 Improvements	$1,000	$284	$392	Caltrans
Local Bridge Seismic Retrofit	$125	$38	$22	Caltrans
Intercity Rail	$400	$100	$117	Caltrans
Grade Separations	$250	$250	$0	Caltrans
Traffic-Light Synchronization	$250	$250	$0	Caltrans
Trade Infrastructure	$2,000	$581	$972	Caltrans
State/Local Partnership	$1,000	$339	$200	Caltrans
Local Streets & Roads	$2,000	$1,950	$37	Shared Revenues
Transit	$3,600	$2,450	$0	State Transit Assistance
School Bus Retrofit	$200	$196	$0	Air Res. Board
Trade Infrastructure Air Quality	$1,000	$697	$282	Air Res. Board
Port Security*	$100	$99	$0	Emerg Mgt Agency
Transit Security*	$1,000	$407	$103	Emerg Mgt Agency
TOTAL	**$19,925**	**$12,731**	**$2,756**	

* These Prop 1B Appropriations are heard in Subcommittee #4.

LAO Recommendation: The LAO indicates that there may be some appropriation authority provided for 2010-11 that may go unused and would carry-over into 2011-12. Carry-over appropriation authority may reduce the new appropriation level for 2011-12.

Staff Recommendation: Approve the proposed funding level as placeholder amounts, but review again in the spring, when updated information should be available.

Action: Approved the requested funding on a 3 – 0 vote. Subcommittee will review again this spring as warranted.

12. Proposition 1A Bonds – Funding for Intercity and Urban Rail (Governor's Budget): The Administration requests $27.8 million in Prop 1A bond funds for positive train control safety projects in various local and intercity rail corridors. Positive train control is a technology that provides for limited automation of train speed controls based on location and other factors. Proposition 1A is the Safe, Reliable High-speed Passenger Train Bonds Act of 2008. Most of the Prop 1A bonds are specifically for high-speed rail, but about 10 percent of the funds are available for other intercity and urban rail. According to the ballot summary: Prop 1A "provides $950 million for connections to the high-speed railroad and for repairing, modernizing and improving passenger rail service, including tracks, signals, structures, facilities and rolling stock."

Background: At the May 19, 2010, California Transportation Commission (CTC) meeting, the CTC adopted the Prop 1A program of intercity and urban rail projects for 2010-11 to 2012-13. The adopted program of projects includes the intercity rail services run by Caltrans in cooperation with Amtrak, as well as regionally-run rail services around the state. The CTC program includes positive train control projects, but also includes projects for double tracking, new rail cars, etc. The Schwarzenegger Administration did not propose any Prop 1A funding for this program in 2010-11, however, the Legislature added funding consistent with the CTC's plan. The amount appropriated totaled $234.4 million, but Governor Schwarzenegger vetoed the amount down to $100.1 million. His veto message indicated that the funds not vetoed were only to be spent for positive train controls. The veto message did not provide any specific criticism of the CTC plan, but indicated that a statewide strategy should be developed by the High-Speed Rail Authority, the Department of Transportation, and local jurisdictions. Staff is not aware of any efforts in this regard since the prior Governor's veto message.

Staff Comment: Governor's Brown's proposed budget is consistent with Governor Schwarzenegger's policy to only use these Prop 1A bonds to fund positive-train-control projects. However, the CTC's program of projects included many ready-to-go intercity and urban rail projects that may be delayed without these Prop 1A bond funds. The Department of Finance should indicate how the new Administration views these Prop 1A bond funds and when these bonds funds should be made available for projects other than positive train control. There is some uncertainty with the amount of both Prop 1B and Prop 1A bond funds required for project expenditures in 2011-12. The Subcommittee may want to consider putting in a placeholder amount for Prop 1A and return in the spring to re-evaluate the appropriate funding level.

Staff Recommendation: Augment the requested funding for positive train controls by $133.4 million for other projects in the CTC's plan. This is the amount that Governor Schwarzenegger vetoed last year, but it would serve as a placeholder amount until the overall bond program is reviewed later this spring.

Action: Augmented funding by $133.4 million on a 2 – 1 vote, with Senator Fuller voting no.

13. Air Quality Mandates – Equipment Retrofit and Replacement (BCP #1): The Governor requests an augmentation of $63.2 million from the State Highway Account (SHA) on a one-time basis to comply with various air quality control mandates. The Department developed this request based on the joint compliance agreement between the California Air Resources Board (ARB) and the Department. This funding is intended to address the required replacement and repower of the Department's affected equipment to ensure compliance with the mandates adopted by the ARB and the United States Environmental Protection Agency (US EPA). The following Table summarizes the costs:

Summary of Equipment Compliance Costs				
Mandate	**Compliance Strategy**	**# of Equip.**	**Cost (in 000s)**	**Type of Request**
ARB On-Road Heavy Duty Diesel Vehicles (On-Road)	Replace	497	$60,381	One-Time
ARB Air Toxic Control Measures (ATCM)	Replace	3	$1,404	One-Time
	Repower	1	$40	One-Time
ARB Large Spark Ignition (LSI)	Replace	7	$295	One-Time
US EPA Diesel Emission Standards (US EPA 10)		128	$1,152	One-Time
Total		**636**	**$63,272**	

Background: The 2010-11 budget appropriated $57.3 million to bring 435 vehicles into compliance. Following the passage of the budget, it was determined that the Department's overall compliance plan did not actually bring the Department into compliance with the ARB. Subsequently, the Department worked with the Air Resources Board to develop a new compliance plan.

Staff Comments: When the Department and the ARB revised their diesel regulation compliance plan, the Legislature was made aware that the Department would only need roughly $10 million in the current year of the total $57 million that was appropriated in the budget. To date, it is unclear to staff how the Administration is planning on addressing last year's excess appropriation authority for regulatory compliance in the current budget. Additionally, it is unclear whether the agreed upon plan for Caltrans is being fully followed in the current year and whether the overall plan actually brings the Department into compliance. At the hearing, the Administration may want to clarify these issues but in light of these ongoing uncertainties, staff recommends that the Subcommittee act to hold these issues open without prejudice until the spring.

Staff Recommendation: Reject the request without prejudice to review again during spring hearings.

Action: Rejected request "without prejudice" on a 3 – 0 vote.

14. Project Initiation Documents (PIDs) – Staffing and Funding (BCP #4): The Administration is proposing to increase budgeted positions for PIDs workload from 242 positions to 260 positions and also shift the funding for 66 of these positions from State Highway Account (SHA) to local reimbursements. The overall funding for PIDs would increase $2.4 million – from $30.6 million to $33.0 million (with $24.3 million SHA-funded and $8.6 million reimbursement-funded). A "PID" is a preliminary planning document, or tool, that includes the estimated cost, scope, and schedule of the project—information needed to decide if, how, and when to fund the project.

Recent History of PIDs Issue in the Budget: In the proposed budget for 2009-10, Governor Schwarzenegger proposed to shift $2.5 million in PIDs funding from SHA to local-reimbursed funding. The Legislative Analyst performed a zero-based analysis of the program and suggested it was significantly overstaffed and recommended that all PID's work for projects that would be locally funded at the capital phase (local PIDs) should be funded with local reimbursements. The local reimbursement funding was intended to provide a mechanism to self-regulate the volume of PIDs workload (because locals would not request more PIDs than was warranted under capital-funding estimates) and a dialog would begin between Caltrans and locals on the appropriate PID scope and cost for local PIDs. In the 2009 May Revision, the Administration basically concurred with the LAO direction and proposed a staff decrease and reimbursements for local PIDs. The Legislature ultimately approved the staff reduction, but rejected the shift to reimbursements. There was no veto to the funding.

In the proposed budget for 2010-11, Governor Schwarzenegger again proposed to shift PIDs for locally-funded projects on the state highway system to reimbursements. The total PIDs resources were proposed at 309 positions with 78 positions reimbursed. The Legislature approved 11 positions to be reimbursed by the High-Speed Rail Authority, but believed the "local" PIDs should continue to be funded with SHA instead of reimbursements. The Governor vetoed the 67 positions budgeted with SHA funds, and indicated the positions should be reimbursed. Since the Governor cannot augment reimbursement authority through a veto, the final 2010-11 budget reflects the elimination of $7.4 million SHA and 67 positions. However, if locals did desire to fund the work through reimbursements, there are administrative mechanisms to receive the reimbursements. Staff understands that, so far, locals have not initiated reimbursements to Caltrans for PIDs – at least not in significant numbers.

The proposed budget for 2011-12 again includes a shift of local PIDs funding from SHA to reimbursements. This time 66 positions and $7.3 million are proposed to shift from SHA to local reimbursements. While this reflects Governor Brown's budget, the new administration may not have had an opportunity to fully review this issue.

The table below shows the budgeted positions for PIDs with the original base level in 2008-09, the revised base for 2010-11, and the proposed level for 2011-12.

	PIDs Staffing as budgeted		
	State Highway Account (SHA) funded	*Reimbursement funded*	Total PID Workload
2008-09 Base	456 positions	0 positions	456 positions
2010-11 (Legislature's budget)	298 positions	11 positions	309 positions
2010-11 (after Governor's veto)	231 positions	11 positions*	242 positions
2011-12 Proposed	183 positions	77 positions	260 positions

* The prior Governor vetoed $7.4 million SHA and 67 positions in the 2010-11 budget with the intent to administratively fund these same positions as reimbursed – if this was successful, then 78 positions might be funded with reimbursements in 2010-11.

Goals and Options: While there have been different approaches to finance PIDs, there are common goals for the PID's program. The first goal is to appropriately staff Caltrans to produce the number of PIDs necessary to evaluate and program projects. Staffing should be sufficient to avoid any delays for funded projects, but also not too large so that scarce dollars are wasted on too many PIDs for projects without funds to build. The second goal is to size and scope each PID to provide sufficient information for decisions makers, but not include supplemental detail that is not needed for the decision makers and that adds cost and time. The LAO and the Department of Finance have believed these goals are best addressed for local PIDs by internalizing costs at the local level. An alternative option is to retain SHA funding and task the Administration with better management and allocation of PIDs workload, so that Caltrans staff are sized and deployed for local projects to match local capital resources. While the Senate has entertained the LAO and DOF approach, the Budget Conference Committee has ultimately decided in each of the last two years to maintain SHA funding for PIDs.

Poor Execution from the Administration: As indicated, the Schwarzenegger Administration rejected the Legislature's approach and through administrative means is pursuing local reimbursements for PIDs. Putting aside the policy considerations of this approach, the Administration has poorly executed its policy. Last May, the Administration estimated there was 67-positions-worth of workload for local PIDs. Caltrans is unable to say whether any of this workload is moving forward by reimbursement or otherwise. Finally, the Administration has not resolved issues with locals on the scope and size of PIDs.

April 1, 2011, Report: Last year's budget included the adoption of Supplemental Report Language (SRL) to require that the Department report back to the Legislature on local PID workload during 2009-10 and 2010-11 so that there would be a stronger basis for evaluating the proposed policy shift. The report must include information on the PIDs requested by locals including funding source for the capital-phase of the project and timelines for the individual projects.

Staff Comment: There is legitimate concern over the status of the PIDs work because reimbursement funding is not materializing at the levels the Administration indicated last May. It is unclear if this poses risk for project delays, or if locals are instead contracting out to private firms for these services. Since a report is pending, the Legislature may want to consider rejecting this proposal without prejudice to defer a full review to this spring. This would allow the new Administration more time to review and/or better-implement the reimbursement policy, and allow the Legislature to review the report due April 1, 2011.

Staff Recommendation: Reject the request without prejudice to review again during spring hearings.

Action: Held open for action in full Budget Committee. (Direction to hold open approved on a 3 – 0 vote)

15. Trailer Bill Language (TBL) that failed passage in 2010: The 2010-11 Budget, as adopted by the Budget Conference Committee, included TBL for the below issues. This omnibus transportation budget trailer bill failed passage in the Senate so the statutory changes did not take effect. The Subcommittee may want to re-examine each issue to see if the TBL is still warranted.

Detail – Language included in SB 854 and AB 1614 (2009-10 Legislative Session):

- Prop 1B Bonds – Trade Corridors Improvement Fund Programs: Requires the California Transportation Commission (CTC) to report to the Legislature semiannually on the expenditure of Transportation Corridor Improvement Funds (TCIF) for railroad projects. Additionally, requires the CTC to report and provide a copy of any memorandum of understanding executed between a railroad company and any state or local transportation agency where TCIF funds are a funding source for the project.

- Prop 1B Bonds – Transit Security for Water Transit: For recipients of Prop 1B bond funds for regional public waterborne transit, extends the expenditure period from three years to four years for any allocation made prior to June 30, 2011. Proposition 1B provides $250 million to Regional public waterborne transit agencies. The funds are available to build ferry terminals, among other uses.

- Prop 1B Bonds – Local Streets and Roads Program: Provides cities and counties a one-year extension to expend Proposition 1B Local Streets and Roads funds for any year in which Highway Users Tax Account (HUTA) funds for local transportation projects are borrowed, deferred, or shifted. Note, HUTA borrowing, deferrals, and shifts are now prohibited under Proposition 22.

- Caltrans Capital Outlay Support Budget Data: Requires the Department of Transportation (Caltrans) to report annually to the Legislature with supplemental information on the Capital Outlay Support budget request, including anticipated and realized project costs and schedules for the Capital Outlay Support Program.

- Fuel Swap – Local Transportation Subventions: Provides additional clarification that local governments are not subject to the same maintenance-of-effort and other requirements under Proposition 42 when they are apportioned fuel excise tax revenues.

Staff Comment: Staff is not aware of any controversy with the above trailer bill language, and understands the failure of the 2010 transportation budget trailer bill was unrelated to these issues.

Staff Recommendation: Approve 2010 language as placeholder language in the 2011 budget.

Action: Approved language on a 3 – 0 vote.