SUBCOMMITTEE NO. 4 Agenda

Senator Michael J. Rubio, Chair
Senator Noreen Evans
Senator Doug LaMalfa

Tuesday, January 25, 2011
9:00 a.m.
Room 112

Consultant: Kris Kuzmich

Item Number and Title

0840	State Controller's Office
0845	Department of Insurance
0890	Secretary of State
2320	Department of Real Estate
	State Operations Efficiencies

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

AGENDA – VOTE ONLY ITEMS

(Please see summary chart on Page 3)

AGENDA – DISCUSSION / VOTE ITEMS

Issues Proposed for Vote Only:

	Issue	2011-12 Amount	Fund Source	Staff Recommendation
	State Controller's Office (0840)			
1	Women, Infants, and Children Audits	$1.8 million and 12.6 one-year limited-term positions	Reimbursements	APPROVE
2	Electronic Claim Audits	$462,000 and 4.2 two-year limited-term positions	Reimbursements	APPROVE
3	Federal Oil and Gas Audits	$314,000 and 2.0 permanent positions	Federal Funds	APPROVE
4	California Automated Travel Expense Reimbursement System	$524,000	Reimbursements	APPROVE
	Department of Insurance (0845)			
1	Paperless Workflow System Project	$2.6 million	Insurance Fund	APPROVE

Vote:

VOTE ONLY ITEMS – ISSUE DESCRIPTIONS

0840 STATE CONTROLLER'S OFFICE

For overview and budget information regarding this department, please see page 7 of this agenda.

Issue 1 – Women, Infants, and Children Audits

Governor's Budget Request. The Governor requests an increase of $1.1 million (reimbursements) in 2010-11 and 6.3 positions, and $1.8 million and 12.6 one-year limited-term positions in 2011-12, to augment existing personnel providing audit services to the California Department of Public Health (CDPH) Women, Infants, and Children (WIC) program.

Background. The SCO has been providing audit and review services on WIC providers and vendors for the CDPH for more than 20 years. Recently, the federal Department of Agriculture changed audit requirements mandating that the CDPH audit at least five percent of the WIC vendors/providers in California each year. This federal mandate will result in an additional 135 audits per year, bringing the total number of vendor compliance audits to 200 in 2010-11 and 2011-12. The CDPH is increasing the audit coverage to include national retail stores such as WalMart, Food for Less, Safeway, and WinCo. The process of auditing vendors of this size requires audit teams rather than individual auditors because of the volume of records requiring scrutiny. Therefore, the SCO audit responsibility will grow by the number of audits and in workload capacity. The SCO reports that prior WIC vendor audits disclosed a 2:1 recovery ratio for every contract dollar provided by CDPH; the SCO estimates that the $3.4 million contract amount for audit services will yield approximately $7 million in questioned costs.

Staff Comment. These audits are federally funded and required, and provided by the SCO to the CDPH on an interagency contract. This request will allow CDPH to attain the minimum level of audits mandated by the federal Department of Agriculture. The resources are requested as limited-term; should the interagency agreement between the CDPH and the SCO be extended, a future budget request would be presented.

Issue 2 – Electronic Claim Audits

Governor's Budget Request. The Governor requests 4.2 two-year limited-positions and $462,000 (reimbursements) for two years beginning in 2011-12 for processing of electronic claims.

Background. The SCO, and its Division of Audits, is responsible for auditing disbursements of State funds and to withhold payment for any claim until it has been audited in conformity with applicable laws, rules, and regulations. The Division of Audits is split into two bureaus to perform these audit functions: (1) Operations Bureau, Claim Audits – responsible for auditing manual (paper) claims; and (2) State Agency Audits Bureau, Electronic Data Processing (EDP) Audits – responsible for auditing electronic claims. In 2009-10, the EDP Audits processed approximately 9,000 claim schedules resulting in more than 36.3 million payments. Agencies contract with the SCO to implement the electronic claims process, and pay the SCO an average of $50,000 for the actual implementation costs. The EDP Audits workload has increased in recent years and is projected to continue to increase. For instance, new implementations, which average 660 hours each, have increased from 10 in 2007-08 to 16 in 2009-10, a 60 percent increase. The SCO has determined that its current resources, funded by reimbursements from client agencies, are insufficient to meet workload needs and existing staff cannot be redirected to meet the increased workload.

In 2009-10, 14.2 million in audit exceptions were found by 19.2 EDP Audits staff. Therefore, the SCO estimates that the additional 4.2 EDP Audit staff requested can produce $3.0 million in audit exceptions and potential savings to the state.

Issue 3 – Federal Oil and Gas Audits

Governor's Budget Request. The Governor requests 2.0 permanent positions and $314,000 (federal funds) to reconcile the current federal contract of $1.1 million with the federal Department of the Interior, Bureau of Ocean Energy Management, Regulation, and Enforcement.

Background. California receives a percentage of the royalty income from onshore and offshore federal leases located within its borders. Pursuant to state law, most of the money is distributed to public education and counties. For twenty years, the federal Department of the Interior has contracted with the SCO to ensure royalties are correctly reported and paid by oil and gas, geothermal resources, and solid minerals companies producing and selling energy resources from the federal leases in California. Since 2007-08, the SCO has proposed and executed a more aggressive audit approach and work plan which has increased royalty recoveries – from $2.3 million in 2007-08 to $7.8 million in 2008-09 and $3.03 million in 2009-10. The federal government has since increased the audit contract from $650,000 in 2007-08 to $1.1 million in 2010-11. This request will reconcile the current federal contract of $1.1 million with the federal Department of the Interior. The SCO reports that the resources will generate $5 million in revenue.

Issue 4 – California Automated Travel Expense Reimbursement System (CalATERS)

Governor's Budget Request. The Governor requests an increase of $524,000 (reimbursements) in 2011-12, and $702,000 in 2012-13 and ongoing, to fully support the cost of administering the CalATERS system.

Background. Prior to 2000, state employees and department accounting offices processed travel advances and expense reimbursement claims using manual, paper-based processes. In 2000, the SCO developed CalATERS, an automated system to replace the paper system and to process claims more rapidly and accurately. The system allows employees to process claims through the internet or intranet. Funding for the system came from agencies who voluntarily determined they needed a more efficient way to process travel advances. In addition to a one-time development fee, a participating agency pays a $6 transaction fee for each reimbursement claim processed through CalATERS to support the ongoing program expenditures. In 2007, legislation was passed that mandated all state agencies use the web-based CalATERS system by July 1, 2009.

Currently, approximately 105 departments use CalATERS. A few departments were granted exemptions from the statutory mandate to utilize CalATERS due to limitations of the current system, including that the system is not ADA compliant and computer incompatibility. CalATERS has since been upgraded to resolve these issues. With the increased usage of CalATERS, the upgrade to the system, and increased maintenance costs, the reimbursement authority is no longer aligned with program costs. This request will realign the reimbursement authority with programs costs; increased volumes of employee users will generate the funds to cover costs without the need to increase the fee.

0845 CALIFORNIA DEPARTMENT OF INSURANCE

For overview and budget information regarding this department, please see page 11 of this agenda.

Issue 1 – Paperless Workflow System Project

Governor's Budget Request. The Governor requests increased expenditure authority of $2.6 million (Insurance Fund) in 2011-12 to complete the final year of implementation and provide ongoing maintenance of the Paperless Workflow System Project (PWSP), which is intended to replace the current paper process with an electronic-based system

2010-11 Budget. The 2010-11 Budget provided $2.4 million (Insurance Fund) and two two-year limited-term positions to complete the second year implementation phase of the PWSP.

Staff Comment. The original implementation schedule of the PWSP was over three fiscal years (2008-09 through 2010-11). In 2008-09 and 2009-10, respectively, the Legislature approved funding for the first and second year implementation of the PWSP. However, the PWSP encountered unforeseen procurement delays in 2009-10 which pushed back the startup of the project by eight months. These delays were largely out of the control of CDI and involved problems with the Department of General Services renewing the state's Master Services Agreement. These delays have not resulted in an overall increase in the cost of the PWSP project.

0840 STATE CONTROLLER'S OFFICE

Department Overview. The State Controller is the Chief Fiscal Officer of the state. The primary functions of the State Controller's Office (SCO) are to provide sound fiscal control over both receipts and disbursements of public funds; to report periodically on the financial operations and condition of both state and local government; to make certain that money due the state is collected through fair, equitable, and effective tax administration; to provide fiscal guidance to local governments; to serve as a member of numerous policy-making state boards and commissions; and, to administer the Unclaimed Property and Property Tax Postponement Programs.

Budget Overview. The January Governor's Budget provides the SCO with 1,491 authorized positions and $218.9 million ($76.5 million GF). This is an increase of two positions and $65,000.

Issues Proposed for Discussion / Vote:

Issue 1 – 21st Century Project

Governor's Budget Request. The Governor requests $63.7 million ($34.2 million GF, $1.0 reimbursements, and $28.4 million special funds) to fund the 21st Century Project in 2011-12. The 21st Century Project will result in an integrated human resource management system that will replace the existing payroll, employment history, position management, and leave accounting systems.

2010-11 Budget. The 2010-11 budget provided 111 two-year limited-term positions and $66 million ($30 million GF, $1 million reimbursements, and $35 million special fund) for the 21st Century Project.

Background. The SCO pays approximately 249,000 employees, including state civil service, California State University and Judicial Council employees, judges, and elected officials. The 21st Century Project (Project) will replace the existing statewide human resource management systems in order to improve management processes and fulfill payroll and reporting obligations accurately and on time. The Project began in May 2004. The first deployment wave is scheduled for October 2011, comprised of 25 departments and 14,281 employees. That initial wave will be followed by three successive wave rollouts in January 2012 (50 departments and 75,841 employees), July 2012 (10 departments and 68,065 employees), and October 2012 (77 departments and 84,650 employees). The current estimated total cost (one-time and continuing) of the 21st Century Project is $303.2 million.

Staff Comment. The need to transition the State from a transaction-based system to an enterprise database system that supports the business needs of state government is clear. The key question before the Subcommittee with regard to the 21st Century Project is risk management in the deployment, including transition and training, for the new human resources system. Significant organizational change management activities will have to be undertaken to assist more than one hundred and sixty state departments to transition to the new system. Additionally, staff notes that in light of state budget cuts, a reasonable question can be raised about the capacity of departments to participate in system transition activities. In short, it is critical for the Project to have a comprehensive plan for working with departments to ensure a successful transition.

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

1. The 21st Century Project will be rolled out in waves. Which departments are included in the first wave? Why were these departments chosen? Which departments are included in the final wave, scheduled to occur in October 2012?
2. What is the current SCO deployment plan, including transition activities? Can the SCO summarize the organizational change management activities that will have to be undertaken as the 21st Century Project roll out begins this fall?

Staff Recommendation: Approve the budget request.

Vote:

Issue 2– Unclaimed Property Accounting Workload

Governor's Budget Request. The Governor requests $293,000 (Unclaimed Property Fund) for 1.0 permanent and 3.1 two-year limited-term positions in 2011-12 ($281,000 in 2012-13 and $68,000 ongoing) to support increased workload in compliance with the Unclaimed Property Law.

Background. Under current law, the SCO is responsible for safeguarding unclaimed property until it is returned to its rightful owner. As custodian for unclaimed property, the SCO must maintain accurate accounting of unclaimed property assets, and meet statutory requirements associated with such assets. In recent years, there have been legislative changes, as well as the replacement of the system used to manage the Unclaimed Property Program, which increased workload in the areas of financial accountability, corporate actions, and the collection of securities. More specifically, under Sections 1540, 1562, and 1563 of the Code of Civil Procedure (CCP), the SCO's statutory responsibilities include ensuring that claims by owners of security properties are properly paid, including the return of any unsold securities, the net proceeds of any sale, and any income or increments earned upon the property. Additionally, the SCO is statutorily required under Section 1563 CCP to sell securities that have not been claimed by the owner. Without the resources requested in this proposal, the SCO will have significant difficulty in meeting these statutory requirements.

Staff Recommendation: Approve the budget request.

Vote:

Issue 3 – Unclaimed Property Legal Costs

Governor's Budget Request. The Governor requests a two-year augmentation of $300,000 (Unclaimed Property Fund) beginning in 2011-12 to provide proper representation in legal matters associated with representing the Unclaimed Property Program in lawsuits filed against the SCO.

Background. Under current law, the SCO is responsible for safeguarding unclaimed property until it is returned to its rightful owner. Claims processed through the Unclaimed Property Program are paid, returned for insufficient information, or denied. When a claim is denied, claimants are notified of their right to commence an action against the SCO pursuant to law. When these actions are taken, the SCO has 60 days to respond. In addition to these actions by individual claimants, other actions, including class action type suits in both state and federal court have been brought against the SCO. These suits allege the program is unconstitutional, claiming the SCO has not properly administered the program and is not seeking restitution for plaintiffs. The Attorney General normally represents the SCO, but the SCO reports that the Attorney General does not have the resources to respond to all of the actions brought against the SCO. To secure proper representation, the SCO's Legal Office has contracted with outside firms to address these actions. The SCO estimates the costs of these services will be $650,000 in 2011-12 and 2012-13. The SCO is requesting the additional funds for a limited amount of time to clear the existing lawsuits for only the most complex cases; the SCO views this as more cost effective than hiring permanent staff and training them for what may eventually result in lack of workload. The SCO reports that it will be in a better position in two years to gauge the volume and complexity of lawsuits and perhaps the need for permanent staff, whether at the SCO or the Attorney General's Office.

Staff Comment. Staff notes that outstanding questions remain with regard to why the SCO would need to seek outside counsel on the unclaimed property litigation. Therefore, staff recommends that the Subcommittee hold this request open pending receipt of additional information from the SCO and Attorney General.

Staff Recommendation: Hold open pending receipt of additional information.

Vote:

Issue 4 – Airport Customer Facility Fee Audits (SB 1192)

Governor's Budget Request. The Governor requests one position and $140,000 (reimbursements) for 2010-11, and $134,000 for 2011-12, to conduct mandated independent audits of airport customer facility fees as a result of Chapter 642, Statutes of 2010 (SB 1192).

Background. Beginning in 1999, a series of bills were passed authorizing local airports to collect a customer facility fee to finance and construct a consolidated rental car facility and common-use transportation system, subject to certain conditions. The fee is now capped at $10 per customer and local airports charging the fee are required to complete an independent audit to ensure that the aggregate amount collected does not exceed the reasonable costs paid by the airport to finance, design, and construct those facilities. Further, statute requires that the independent audit be performed prior to the initial collection of, or prior to any increase in, the alternative customer facility fee and every three years thereafter.

Chapter 642, Statutes of 2010 (SB 1192) requires that the SCO review the audits and independently examine and substantiate the necessity for, and the amount of, the customer facility charge. Chapter 642 requires that the SCO's costs be reimbursed by the individual airport being audited.

Staff Comment. Chapter 642 represents new responsibility and workload for the SCO. The request before the Subcommittee is narrowly crafted in that it represents one audit position and accompanying reimbursement authority only through 2011-12. The SCO indicates that this workload is anticipated to be ongoing and may therefore request to continue this funding at a later time.

Staff Recommendation: Approve the budget request.

Vote:

0845 CALIFORNIA DEPARTMENT OF INSURANCE

Department Overview. The California Department of Insurance (CDI) regulates the California insurance market and enforces the California Insurance Code, conducting examinations and investigations of insurance companies and producers and working to ensure the financial solvency of companies so that they will meet their obligations to policyholders and claimants. CDI investigates more than 300,000 complaints annually and responds to consumer inquiries. CDI also reviews and approves insurance rates to enforce the statutory requirement that rates are not excessive or unfair. CDI also administers the conservation and liquidation of insolvent and delinquent insurance companies and fights insurance fraud in conjunction with local and state law enforcement agencies.

Budget Overview. The January Governor's Budget provides CDI with 1,338 authorized positions and $224.94 million (Insurance Fund and reimbursements). This is an increase of 71 positions and $16.4 million.

Issues Proposed for Discussion / Vote:

Issue 1 – Implementation of Federal Health Care Reform

Background. The California health insurance market is regulated by two separate agencies, the Department of Managed Health Care (DMHC) and the CDI. DMHC oversees health care service for more than 21 million insured Californians in the: individual; small employer group; large group market; Medicare Select; Medicare Supplement; and, specialized health care service plans; and regulates, 59-full service health service plans and certain preferred provider organization products operating in California. The CDI regulates all other PPO and indemnity health products provided by 98 insurers to approximately 9.3 million covered lives in the individual, small employee group, large group, and Medicare Supplement markets.

On March 23, 2010, President Obama signed the Patient Protection and Affordable Care Act (PPACA) into law, a comprehensive health reform proposal intended to expand coverage, control health care costs, and improve the health care delivery system. The PPACA makes several fundamental changes to the private health insurance market, including setting up a new competitive private health insurance market through state Exchanges beginning in 2014, and prohibitions on lifetime benefit coverage limits and rescissions of coverage. In 2010, several state statutory changes were enacted to align California law with the new federal mandates under the PPACA. These statutory changes drive 2011-12 budget requests for both the CDI and the DMHC. The following three requests pertain to increased workload at the CDI; the Subcommittee is scheduled to consider requests from the DMHC at its February 7, 2011, hearing. Generally speaking, the increased workload included in the following three requests is a result of changes in federal law; however, it is important to note that each of the bills created California-specific statutory requirements beyond the parameters of the federal PPACA mandates, as detailed in Attachment 1 to this agenda.

Issue 1.a – Health Insurance Premium Rate (SB 1163)

Governor's Budget Request. The Governor requests $1.2 million (Insurance Fund) in 2011-12, $1.1 million in 2012-13 and $100,000 ongoing, to fund 10.0 positions (8.0 two-year limited-term, 1.0 one-year limited-term, and 1.0 ongoing) to address new workload associated with the review of health insurance rate filings as a result of Chapter 661, Statutes of 2010 (SB 1163).

Background. Chapter 661 amends the law regulating health care service plans and health insurers in order to ensure that both the DMHC and CDI have the authority necessary to review the rate filings for all markets consistent with the requirements of the PPACA. The new workload consists of expanded scope and extent of the actuarial review to be undertaken by CDI, and new actuarial reporting and data trend analysis requirements.

Issue 1.b – Health Care Coverage (AB 2470)

Governor's Budget Request. The Governor requests $602,000 (Insurance Fund) in 2011-12, and $602,000 in 2012-13, to fund 6.0 Staff Counsel positions on a two-year limited-term basis to support the additional rate filings and new cancellation and non-renewal appeal process as a result of Chapter 658, Statutes of 2010 (AB 2470).

Background. Chapter 658: (1) imposes new requirements on an insurers' ability to cancel, rescind, and non-renew health insurance policies; (2) creates a system whereby the Commissioner will review the propriety of cancellations, rescissions, and non-renewals where the insured has complained with the insurer being entitled to a hearing; and (3) provides a mechanism for a policyholder, certificate holder, or other insured who alleges that a policy or coverage has been or will be cancelled, rescinded, or not renewed in violation of law to require a review by the Commissioner. This request will provide the resources to implement new workload required by Chapter 658 regarding industry cancellation, rescission, and non-renewal practices and to provide policyholders with the required review mechanisms.

Issue 1.c – Health Benefit Exchange (SB 900 and AB 1602)

Governor's Budget Request. The Governor requests $107,000 (Insurance Fund) in 2011-12, and $100,000 in 2012-13, to fund one staff counsel position on a two-year limited-term basis to support the additional policy form review activities required as a result of the implementation of the California Health Benefits Exchange established by Chapters 659 and 655, Statutes of 2010 (SB 900 and AB 1602, respectively).

Background. Chapter 659: (1) creates the California Health Benefits Exchange (Exchange), an independent public entity, and delineates its composition and the operation of the executive board of the Exchange, and (2) requires a review of the federal Health and Human Service internet portal prior to January 1, 2015, to determine whether it provides sufficient information to facilitate fair and affirmative marketing of all individual and small employer health insurance. If the review determines the federal portal to be inadequate, Chapter 659 requires the establishment and maintenance of an electronic clearinghouse.

Chapter 655 enacts the California Patient Protection and Affordable Care Act, and provides the Exchange with operational authority, as well as authority to implement the Exchange and navigator provisions of the PPACA by 2014.

Staff Comment. With the exception of one the ongoing position included in request Health Insurance Premium Rate (SB 1163), these three budget requests represent limited-term resources. This is appropriate, as the full extent of the workload related to PPACA and changes in state law is not fully known. By approving these requests as limited-term, the Legislature can review the workload and ensure the appropriate budget resources are provided in future budget cycles. Additionally, staff notes that approving the resources as limited-term will also allow time for study and analysis of whether or not California wants to continue to have two departments, DMHC and CDI, regulating the insurance market.

Staff Recommendation: Approve the budget requests; with regard to request Health Insurance Benefit Premium (SB 1163), staff recommends that the position proposed as ongoing instead be approved as two-year limited-term.

Vote:

Issue 2 – Department of Insurance Workload Resource Augmentation

Governor's Budget Request. The Governor requests an increase of $7.9 million (Insurance Fund) in 2011-12, and $7.0 million ongoing, to fund 54.0 positions to address increased workload while continuing to meet statutory mandates.

Background. The CDI reports that its workload has increased in recent years without a commensurate increase in staffing resources. Further, in 2009-10 the CDI budget was permanently reduced by $17.4 million through a line-item veto action. As a result of this reduction, CDI reports that backlogs are increasing throughout the department, including in the Rate Regulation Branch, which has a backlog of 1,080 files; the Field Examination Division, which has examined only two title companies compared to 19 in 2008; and, the Consumer Services Division, where complaints have increased 11 percent and complex health insurance complaints have increased 118 percent. CDI indicates that the resources in this request will not eliminate the backlog throughout the department. Rather, the resources will allow the Department to address the backlog and then remain even with workload going forward. CDI proposes to apportion the resources in this request as follows:

Division	2010-11 Positions	2011-12 New Positions	2011-12 Add'l Funding
Rate Regulation	88.0	2.0	268,000
Financial Surveillance	161.0	5.0	774,000
Executive	26.0	2.0	156,000
Consumer Services & Market Conduct	151.0	10.0	1,175,000
Investigation	92.0	6.0	1,019,000
Fraud	289.0	14.0	2,931,000
Legal	125.0	14.0	1,492,000
Administration & Licensing	280.0	1.0	121,000
		54.0	**$7,936,000**

Staff Comment. Staff notes that the LAO is currently undertaking a workload analysis of this request and is therefore withholding any recommendation to the Legislature until that analysis is complete. The Subcommittee may wish to wait to consider this request until after the LAO analysis is complete.

Staff Recommendation: Hold open pending receipt of the LAO's workload analysis.

Vote:

0890 SECRETARY OF STATE

Department Overview. The Secretary of State (SOS), a constitutionally established office, is the chief election officer of the state and is responsible for the administration and enforcement of election laws. The SOS is also responsible for the administration and enforcement of laws pertaining to filing documents associated with corporations, limited partnerships, and perfecting security agreements. In addition, the SOS is responsible for the appointment of notaries public, enforcement of notary laws, and preservation of documents and records having historical significance. All documents filed are a matter of public record and of historical importance. They are available through prescribed procedures for public review and to certify authenticity.

Budget Overview. The January Governor's Budget provides the SOS with 505 authorized positions and $161.5 million ($31.1 million GF). This is a decrease of no positions and $10.9 million.

Issues Proposed for Discussion / Vote:

Issue 1 – Help America Vote Act Amended Spending Plan

Governor's Budget Request. The Governor requests expenditure authority of $70 million (federal funds) in 2011-12 to continue implementation of the statewide mandates of the federal Help America Vote Act of 2002 (HAVA).

2010-11 Budget. The 2010-11 budget provided $4.2 million (federal funds) to continue implementation of HAVA-related state mandates, including assistance for individuals with disabilities, voting systems testing/certification, voter education, performance measures, and administration.

Background. Generally speaking, the federal HAVA requires state and localities to meet uniform and nondiscriminatory election technology and administration requirements applicable to federal elections. Federal HAVA funding was originally received by the state in 2003, and a spending plan was required by the Legislature in 2004 and approved in April 2005. The SOS revises the HAVA spending plan annually to accurately reflect actual spending, and propose changes for future spending based on new funding and changes in expenditures.

Of the $70 million (federal funds) included in this request, $66.9 million is proposed as local assistance to counties and $3.2 million is for state operations. Of the $66.9 million in local assistance, $65.9 million is for voting system upgrades and $1.0 million is for elections assistance for individuals with disabilities. The voting system upgrades are required under HAVA to ensure an accessible, voter-verifiable paper audit trail. The state operations funding will be utilized for the continued administration of statewide modernization and replacement of voting equipment; education and training programs for elections officials and poll workers; and, development and dissemination of voting information to increase voter participation and confidence.

Staff Comment. This request does not include funding for the VoteCal project, which is the HAVA-required uniform, centralized, interactive computerized voter registration database that is defined, maintained, and administered at the state level. That request is discussed as Issue 2 below.

Staff Recommendation: Approve the budget request.

Vote:

Issue 2 – Help America Vote Act, VoteCal

Governor's Budget Request. The Governor requests expenditure authority of $11.6 million (federal funds) in 2011-12 to continue implementation of VoteCal, the federal Help America Vote Act (HAVA)-required and funded uniform, centralized, interactive computerized voter registration database that is defined, maintained, and administered at the state level.

2010-11 Budget. The 2010-11 budget included $23 million (federal funds) to continue implementation of VoteCal.

Background. Under federal HAVA requirements, VoteCal must coordinate electronically with systems similar to the one used by the Department of Motor Vehicles, the Department of Health Care Services, and the Department of Corrections and Rehabilitation for identification and list maintenance purposes. VoteCal must also provide a functional interface for counties. California reached an interim solution to satisfy the requirements of HAVA, but must achieve a long-term solution per an agreement with the U.S. Department of Justice. VoteCal is that solution.

Staff Comment. The 2011-12 request is consistent with previous updates and continues to appropriately administer the HAVA-required VoteCal system. Staff notes, however, that due to the fact that the initial system integration (SI) vendor failed to provide the contractually required performance bond, which required the SOS to terminate the contract in May 2010, the SOS now estimates that the VoteCal project will be extended until June 2014. This is 1.25 years beyond the previously projected and approved February 2012 completion date. The greatest impact on the schedule is the 16 months it will take to sign a contract with a new SI vendor. Approximately $6.6 million of the resources included in this request are for payment to the SI vendor in 2011-12. Due to the re-procurement delay, it is highly unlikely that these funds will be fully expended in 2011-12, but staff notes that the allocation level is within the parameters of the approved project documents. Further, it would be difficult at best to estimate the 2011-12 SI vendor costs and, in any case, the unused federal funds will roll forward to 2012-13 and be reflected in a budget request for that fiscal year.

Staff Recommendation: Approve the budget request.

Vote:

2320 DEPARTMENT OF REAL ESTATE

Department Overview. A primary objective of the Department of Real Estate (DRE) is to protect the public in real estate transactions and provide licensing, regulatory, and subdivision services to the real estate industries. The DRE is entirely special funded (Real Estate Fund) and derives its revenues from examination, license, and subdivision fees. The core functions of the DRE are to administer license examinations, issue real estate licenses, regulate real estate licensees, and qualify subdivision offerings.

Budget Overview. The January Governor's Budget provides DRE with 381 authorized positions and $46.0 million (RE Fund and reimbursements). This is an increase of two positions and $1.5 million.

Issue Proposed for Discussion / Vote:

Issue 1 – SB 36 Mortgage Loan Originator Licensure (SAFE Act)

Governor's Budget Request. The Governor requests $216,000 (Real Estate Fund) and two positions for continued implementation of the federally mandated Secure and Fair Enforcement Licensing Act of 2008 (SAFE Act) which requires states to implement a new licensing program for mortgage loan originators (MLOs).

2010-11 Budget. The 2010-11 budget included $2.8 million (Real Estate Fund) and 27 positions to begin implementation of the SAFE Act.

Background. The federally mandated SAFE Act requires all states to license and register their MLOs through a nationwide registry called the National Mortgage Licensing System (NMLS). Chapter 160, Statutes of 2009 (SB 36), brought California into compliance with the SAFE Act by requiring those engaging in MLO activities to obtain a license from the Department of Corporations or, if a real estate licensee, obtain a license endorsement from the DRE.

The SAFE Act requirements are similar to, but somewhat different from, the requirements for licensure under California's Real Estate Law. At this point in the SAFE Act implementation process, the main drivers of new licensing and enforcement workload for the DRE will be the MLO notification process and the annual Business Activities Report requirement for all MLO brokers. The amount of new workload will be driven by the number of NMLS registrants; as of December 31, 2010, an estimated 37,373 individuals and over 6,133 real estate companies who perform MLO activities registered on NMLS. The DRE expects additional late registration activity, as licensees become aware of the NMLS registration requirement.

DRE reports that it will be able to comply with existing SB 36 requirements with the resources in this request. However, because DRE is only now compiling final workload data based on the total number of licensees who registered on the NMLS, and the complexity of licensing and enforcement is better known, DRE indicates that this request is a precursor to an additional request for positions, technology enhancements, and budget authority in a Spring 2011 Budget Letter.

Staff Comment. In approving SB 36, the Legislature approached SAFE Act compliance in a narrow sense by requiring a new endorsement on existing real estate licenses. Licensees pay a $300 fee for that endorsement. Staff notes that while this approach has resulted in the least disruption to existing systems and minimized compliance costs to both the state and licensees, the SAFE Act has represented, and will continue to represent, new workload for DRE.

However, as noted above, DRE indicates that a Spring 2011 Budget Letter is planned to request budget authority and positions beyond that contained in this request. Additionally, DRE faces a facility issue which remains unresolved from 2009-10. Last year, this Subcommittee specifically requested that DRE present a formal request during the 2011-12 budget process to ensure that DRE did not absorb the costs of relocating and consolidating its Sacramento facilities within its existing budget, an action that could result in decreased enforcement and consumer protection activities. DRE indicates that it plans to present a separate Spring 2011 Budget Letter for the Sacramento headquarters move costs. Finally, staff notes that the Senate Business and Professions Committee is holding an oversight hearing on February 28, 2011, focused on DRE enforcement and consumer protection issues. Given these factors, staff recommends that this request be denied without prejudice and instead wait to consider this request in the context of the Spring 2011 requests from DRE, as well as the findings from the Senate Business and Professions Committee oversight hearing.

Staff Recommendation: Deny the budget request without prejudice; consider during the Spring 2011 budget process.

Vote:

STATE OPERATIONS EFFICIENCIES

Issue Proposed for Discussion Only

Issue 1 – State Operations Efficiencies

Governor's Budget Request. The January Governor's Budget includes $363 million ($200 million GF) in savings associated with identification of efficiencies in state operations, including identification of agencies, departments, and programs that can be reorganized to eliminate duplication and unnecessary functions; review of state peace officer and safety classifications; and reductions in other areas like contracting, fleet operations, and cell phone use.

Background. The Governor's January budget begins what is described as an ongoing effort to make state government more effective and efficient by reducing costs, improving timelines, and reducing overlapping responsibilities. In 2010-11, the Governor has taken steps to accomplish these goals by taking the following actions: (1) eliminating the Office of the Secretary of Education; (2) eliminating the American Recovery and Reinvestment Act Inspector General and transferring ongoing work to other established oversight entities, including the Bureau of State Audits and State Controller's Office; and (3) reducing the Governor's Office budget by 25 percent. Additional 2010-11 savings were achieved by spending only $120,000 of the $770,000 budgeted for transition costs.

Separately, the Governor has directed agency secretaries and department directors to immediately review their operational costs and identify options to generate savings. Two immediate areas of focus are use of cell phones by state employees and the number of state vehicles:

1. With regard to cell phones, the state currently pays for approximately 96,000 cell phones, one for over 40 percent of all state employees. Via an Executive Order issued on January 11, 2011, the Governor ordered all agency secretaries and department directors to: (1) document and review all authorized cell phone and smart phone procurement and related phone, data, internet and other usage plans for and by their employees and (2) identify and implement by June 1, 2011, cuts sufficient to meet or exceed a 50 percent decrease in the number of cell phones and smart phones for which the state is currently responsible and achieve at least $20 million (all funds) in savings.

2. With regard to the state fleet, which totals 13,600 vehicles (not including some 12,000 vehicles that are used for public safety), the Administration indicates it will reduce the number of vehicles the state maintains by requiring each vehicle's purpose and necessity to be rejustified. Only vehicles necessary for critical state functions will be retained, and only when retaining such vehicles is cost effective.

The mechanism to achieve these savings is Control Section 3.91, which requires that the Director of Finance allocate the reductions necessary to each item of appropriation in the budget to accomplish the required savings.

Staff Comment. The overarching goal of seeking greater efficiency and effectiveness in state operations is worthwhile. By beginning with cell/smart phones and fleet management, the Administration has identified two areas which will likely bear some fruit. Staff understands that the Administration has a "living list" of additional areas of exploration, including micro items such as toll-free telephone lines and macro items such as executive branch reorganization plans. At some point, this list will have to be narrowed, or triaged, to permit the focused work to occur to build to the point where real savings are achieved in 2011-12.

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

1. What other specific areas is the Administration currently considering for increased efficiency and effectiveness?
2. What is the timeframe for this process?
3. How can the Legislature be of assistance to the Administration in this process?

Staff Recommendation: No action; information item only.

ATTACHMENT 1

Differences Between the Federal Affordable Care Act and 2010 California Health Reform Legislation That Have a Workload Impact on the Department of Insurance

	Federal	State
SB 1163: Rate Review		
Individual/Small Group rate filings	Only rate increases in excess of 10% must be filed. (45 CFR 154.200), does not apply to grandfathered plans. (45 CFR 154.103(b))	**All** individual and small group rates must be filed. (IC 10181.3(a))
Data required in filing	18 elements (45 CFR 154.210(e),(g))	25 elements (e.g., IC 10181.3(b))
Examples of differences in data requirements:		
Trend projections	Utilization, service/unit co st (45 CFR 154.215(e)(2))	Utilization, price inflation, fees and risk, broken down into 7 aggregate benefit categories (e.g., IC 10181.3(b)(19))
Cost containment/quality improvement data	Not required	Required (e.g.: IC 10181.2(b))
Actuarial certification by outside actuary	Not required	Required (IC 10181.6)
Criteria re: independence of outside actuary	Not required	Required. CDI will have to evaluate.
Filing must be actuarially sound	Not required	Required (IC 10181.6). CDI will have to evaluate.
Aggregate Reporting Requirements	Medical loss ratio data (45 CFR 158.110-170)	9 data elements, not including medical loss ratio (IC 10181.3(c), 10181.4(c))
Carrier-provider contract rates	Not discussed	Received by CDI, must be segregated, kept confidential. (IC 10181.7(b))
Actions Required of CDI	Receive filings (PPACA 2794), provide information to HHS, including premium trends (PPACA 2794(b),(c))	CDI must review filings to detect violations (IC 10181.11), CDI must make findings regarding rate justifications and post on website (IC 10181.11(f)),CDI must make all submitted information public (IC 10181.7(a)), CDI must make quarterly reports to Legislature (IC 10181.11(d)).

AB 2470: Cancellation/Nonrenewal/ Rescission		
Applicable to non-renewal?	No. Applies only to rescission. (PPACA 2712)	Applies to rescission, cancellation, non-renewal (IC 10273.4(b)). Expanded scope means expanded CDI policy form review beyond federal requirements.
CDI review and hearing process for cancellations, rescission, non-renewal	Not required in federal law.	Requires CDI to establish a process to review complaints to determine adequacy, reinstate coverage, and a hearing process for carrier appeals.
SB 900/AB 1602: Exchange		
Review of Exchange policy forms by CDI	Required if federal government operates exchange	Required if state operates exchange
Include California health mandates	California mandates not required.	State has option to include California mandates in Exchange policies, which increases complexity of policy review.
Plans offered	Policies offered in exchange need not all be offered outside exchange.	All policies offered inside exchange must also be offered outside exchange (IC 10112.3 (c)). Increases CDI review load.
Federal Internet Portal	Maintained by HHS	CDI & DMHC must review HHS site to determine if meets requirement for affirmative marketing, especially outside exchange. If inadequate, CDI & DMHC must establish clearinghouse.
Catastrophic coverage	Carriers that do not participate in Exchange may sell catastrophic coverage	Carriers that do not participate in exchange cannot sell catastrophic coverage (IC 10112.3(d)). Adds additional element to CDI market conduct examinations.

Bruce Hinze, January 22, 2011