

SUBCOMMITTEE NO. 4

Agenda

Senator Richard D. Roth, Chair
Senator Steven M. Glazer
Senator Janet Nguyen
Senator Richard Pan



Thursday, April 7, 2016
9:30 a.m. or upon adjournment of session
State Capitol - Room 2040

Consultant: Samantha Lui

PART B

PROPOSED FOR VOTE-ONLY

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

ISSUES PROPOSED FOR VOTE-ONLY**7760 DEPARTMENT OF GENERAL SERVICES****Issue 1: Equipment Maintenance Management Insurance Program**

Budget. The department requests a permanent augmentation of \$231,000 in Service Revolving Fund authority, and to make permanent two existing assistant risk analyst positions to sustain and expand the Equipment Maintenance Management Insurance Program (EMMP).

Background. Businesses, including most state agencies, purchase equipment maintenance service contracts for equipment, such as copiers or telephone systems, which extends beyond a manufacturer's warranty period. In 2010, the Department of General Services (DGS) piloted an insurance program designed to replace expensive equipment maintenance service contracts. EMMP replaces an organization's multiple service contracts with a comprehensive program that consolidates the cost of equipment maintenance and repair. Once the existing warranty expires, the equipment is eligible for enrollment in the EMMP program.

EMMP guarantees the insurance premium paid by an organization will only be 75 percent of what it previously paid in maintenance service contracts. Participating departments are guaranteed to save at least 25 percent of what they had spent on prior equipment maintenance service contracts.

The Budget Act of 2014 included Service Revolving Fund expenditure authority to fund two positions on a two-year limited-term basis to expand the EMMP. The limited-term expenditure authority and two positions will expire on June 30, 2016. In order to maintain current service levels and continue to expand EMMP to other departments interested in participating, DGS proposes to permanently establish the positions.

Staff Comment. The program now includes 28 departments, with more than 30,000 pieces of equipment covered by the program. Since the program's inception, the state's annual savings has risen from \$261,280 in 2010-11, to \$3,374,801 in June 2014, for a total savings of \$9,836,692 to date. The department indicates that service rates will not be impacted.

Staff Recommendation. Approve as requested.

Issue 2: Human Resources Modernization, Workforce Planning, and Customer Satisfaction

Budget. The department requests \$511,000 (\$413,000 Service Revolving Fund, \$83,000 Public School Planning, Design and Construction Review Revolving Fund, \$13,000 from Disability Access Account, and \$2,000 Disability Access and Education Revolving Fund) for four positions in the budget year, and ongoing. The positions are:

- Two associate governmental program analysts (AGPA).
- One senior personnel specialist to work on reducing employee accounts receivable.
- One personnel supervisor to manage the Disability Transactions Unit, which assesses accounts receivable.

Background. This request addresses four major issues:

- **Large amount of accounts receivable (AR).** An AR is created when an employee is overpaid for reasons such as charging the wrong leave, issues arising from a disability claim, or supervisors approving a time sheet late; and, money is owed to the state. When employees change their benefits with an eligible event, the forms for the new deductions must be processed by SCO before the deductions begin appearing on the employee's warrant. Even if the deductions have not yet begun, the benefit is still active on the effective date. Once SCO processes the deduction forms, an AR is issued to pay for the gap of time. SCO recently announced their current backlog on processing these forms is approximately six months, which causes substantial ARs for DGS employees.
- **No supervisor for transactions unit.** Currently, there is no supervisor for the unit that processes state disability insurance (SDI), non-industrial disability insurance, and enhanced industrial disability leave claims. The supervisor would reduce errors and assist in working ARs related to disability claims.
- **DGS University.** The department requests one AGPA to address anticipated increased workload due to a self-initiated mandatory training for all DGS programs, approximately 1,600 additional students.
- **Recruitment.** The department requests one AGPA to serve as the department-wide recruiter to reduce high turnover and difficult-filled specified classifications.

Staff Comment. Pursuant to the State Administrative Manual, payroll deductions to repay overpayments do not exceed 25 percent of the employee's net monthly or semi-monthly salary, except from separating employees. The department works with employees who have an outstanding AR, so as to prevent a significant adverse financial impact to the employee. To prevent future AR cases, the department is currently providing training for personnel specialists and employees, and HR staff is conducting three-year leave audits on all employees.

Staff Recommendation. Approve as requested.

ISSUES PROPOSED FOR DISCUSSION/VOTE

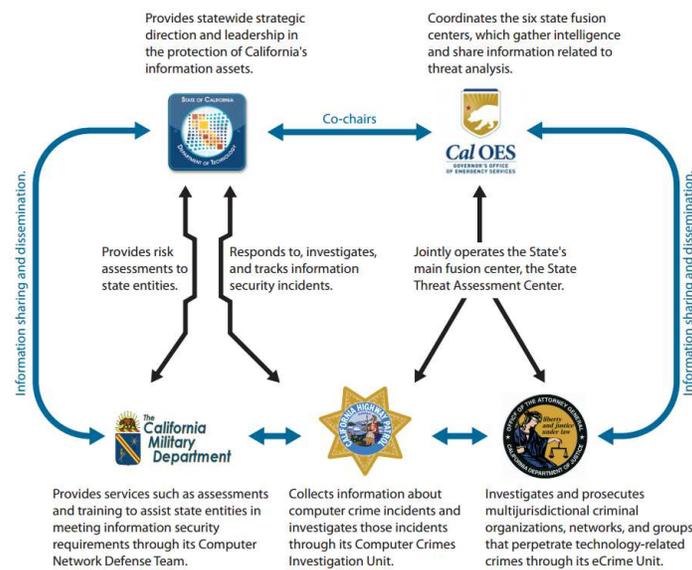
7502 CALIFORNIA DEPARTMENT OF TECHNOLOGY
8940 MILITARY DEPARTMENT

The following section provides context for how the subcommittee may wish to evaluate and consider two proposals related to cybersecurity.

Background on cybersecurity. Cybersecurity protects computers, networks, programs, and data from unintended or unauthorized access or changes.¹ In 2012, according to the Attorney General’s *2014 Data Breach Report*, 17 percent of the nation’s recorded data breaches occurred in California. In 2014 and 2015, Target, Home Depot, JP Morgan Chase, Wells Fargo, Sony, the University of California, and Los Angeles Health all experienced significant cyberattacks. Because California administers a variety of programs, employs over 220,000 people, and its various state entities house sensitive client information (such as medical records, Social Security numbers, tax filings, location of oil resources, and defense or law enforcement information), the Governor established the California Cybersecurity Task Force, comprised of stakeholders, subject matter experts, and cybersecurity professionals, to enhance the state’s digital information. The figure below, created by the State Auditor’s Office, shows the interaction of several state entities on the Task Force.

State Entities in the California Cybersecurity Task Force

Figure 1
 Key State Entities Related to Information Security That Are Members of the California Cybersecurity Task Force



Sources: California State Auditor’s review of the joint assembly informational hearing on state-level cybersecurity and documents related to the California Cybersecurity Task Force and its members.

¹ “Cyber Security Primer,” University of Maryland, University College, <http://www.umuc.edu/cybersecurity/about/cybersecurity-basics.cfm>, (January 10, 2016)

Over time, as domestic and international networks and interconnections have grown, failure to respond and protect state assets could have severe ramifications on public safety and the state's economy. The increase in cyber threats and limited statutory protections governing electronic information² prompted Governor Brown, in August 2015, to sign Executive Order B-34-15.

California Cybersecurity Integration Center (CSIC). Executive Order B-34-15 requires the Office of Emergency Services (OES) to establish and lead the California Cybersecurity Integration Center (CSIC). CSIC will be the centralized hub of the state government's cybersecurity efforts and, among other activities, will coordinate information sharing for at least 15 specified organizations.³ In addition, the Executive Order specifies the Integration Center's other mandated activities:

- Operate with the U.S. Department of Homeland Security – National Cybersecurity and Communications Integration Center.
- Develop a statewide cybersecurity strategy, as informed by recommendations by the California Task Force on Cybersecurity, which will improve how cyber threats are identified, understood, and shared.
- Establish a Cyber Incident Response Team, the state's primary unit to lead cyber threat detection and coordinate public and private responses with law enforcement agencies.

Although beginning coordination efforts have been underway, to date, OES has not yet signed a formal MOU with any of the identified stakeholders, discussed below.

Department of Technology (CDT). CDT is responsible for ensuring that nearly 114 state entities maintain the confidentiality, integrity, and availability of their information systems. As part of its efforts to protect information assets, the department requires entities to comply with the State Administrative Manual (SAM)'s IT security and privacy policies, standards, and procedures.⁴

Military Department's Cybersecurity Network Defense Team. The Budget Act of 2014 provided six permanent positions to the California Military Department's Cybersecurity Network Defense Team (CNDT), which provides network health assessments, website vulnerability scans, and continuous network monitoring. From 2012 to 2014, CNDT, which was funded for \$500,000

² Most state laws that make cyberattacks a crime are related to unauthorized computer use and access (Penal Code §502); credit card fraud (Penal Code §484(e)); identity theft (Penal Code §530.5); anti-phishing (Business and Professions Code §22948); cyber-bullying (Penal Code §653.2 and Education Codes §32261,32265,32270, 489000); and notification for breach of computerized data (Civil Codes §1798.29 and 1798.82).

³ Office of Emergency Services; Department of Technology; California State Threat Assessment Center; California Highway Patrol; California Military Department; Office of the Attorney General; Health and Human Services Agency; California Utilities Emergency Association; California State University; University of California; California Community Colleges; U.S. Department of Homeland Security; U.S. Federal Bureau of Investigation; U.S. Secret Services; U.S. Coast Guard; and other members as designated by the Director of OES.

⁴ The standards include 64 different compliance sections; set forth minimum IT security control requirements pursuant to the National Institute of Standards and Technology *Special Publication 800-53* and the *Federal Information Processing Standards*; and reference the *Statewide Information Management Manual*.

per year from the Assembly Speaker's Office, provided assessments to state agencies at no cost to the state agency. Following the termination of the funding in 2015, the CNDT began providing assessments services to agencies on a fee-for-service basis. Agencies request the CNDT assessment and reimburse the Military Department for the associated costs. Typically, assessments ranged from \$10,000 to \$50,000, and are calculated based on the services requested and the size of the agency.

According to the Military Department, CNDT uses federal cybersecurity training, paid for by the Department of Defense, to assist state agencies through its access to classified federal cyber intrusion information. In addition, members of the CNDT retain certifications in a wide variety of core commercially-recognized cybersecurity competencies, and have reportedly demonstrated their rapid response capabilities and sensitivity for preserving agency confidentiality on multiple occasions.

Attorney General's eCrime Unit. In addition to cyber threat prevention, California has taken several steps to investigate and prosecute technology crime, including the establishment of the eCrime Unit in August 2011. The nine-person unit investigates large-scale identity theft and crimes with losses in excess of \$50,000. Since August 2011, the unit has filed 111 cases, with 51 cases related to identity theft, 11 of which directly relate to electronic intrusion or hacking. The cases include *People v. Charlie Evens*⁵, in which the accused was determined to have compromised 317 Gmail accounts wherein account holders were tricked into providing a recovery code for their Gmail account. Another example occurred in May 2015, when the former IT Director of Consolidated Tribal Health Project, Inc., in Mendocino County and others were involved in illegally accessing a secure computer system that led to \$65,000 of damages and loss of confidential information from the Consolidated Tribal Health Project. The budget includes \$2 million for the eCrime Unit in the 2016-17 year.

Other IT policies. Assembly Bill 670 (Irwin), Chapter 518, Statutes of 2015, requires that 35 agencies receive external cyber security assessments. The Department of Technology and OES are identifying the 35 agencies in a priority order, with CDT finalizing the assessment methodology. Once the list and assessment are finalized, the Military Department's CNDT will begin the assessments. AB 670 specifies that agencies pay for the assessments within their existing budgets.

State Auditor Findings. A September 2013 State Auditor Report found CDT's cybersecurity oversight to be a high-risk issue because two of the audited entities (California Department of Corrections and Rehabilitation and the Employment Development Department) inappropriately self-certified to CDT their compliance with the security standards despite outdated security policies and insufficient risk management programs. The Department of Corrections and Rehabilitation's weaknesses were "deemed too sensitive to release publicly," so the Auditor instead issued a confidential management letter.

In August 2015, the State Auditor released another report, *High Risk Update—Information Security*, which again raised questions about CDT's oversight abilities, specifically:

⁵ People of the State of California v. Charlie Robert Evens, Case No. 2486390 (Criminal Complaint, 10 June 2015), https://oag.ca.gov/system/files/attachments/press_releases/complaint%20filed.pdf

- **CDT provided inadequate oversight or guidance.** To determine whether entities have met security standards, the department relies on a self-certification form. The report found, “Until the audit, (CDT) was unaware that 37 of the 41 entities that self-certified compliance with security standards in 2014, indicated in the State Auditor’s survey that they had not actually achieved full compliance in 2014.”
- **CDT did not ensure that entities comply with the state’s information security standards.** The State Auditor found 73 of the 77 entities that participated in the survey report had “yet to achieve full compliance with the security standards.” Because of the nature of its self-certification process, the technology department was unaware of vulnerabilities in these reporting entities’ information security controls; thus, it did nothing to help remediate those deficiencies.
- **Constitutional offices and entities in the judicial branch are not subject to CDT’s security standards or oversight.** State law does not require certain state entities, like the judicial branch, constitutional offices, or executive branch entities that are not under the direct control of the Governor, to comply with security standards. Often, these entities maintain some of the most critical services to the state.⁶ For example, the State Auditor, in December 2013, reported that the Administrative Office of the Courts’ information security documents were “either nonexistent or, in one case, had not been updated since 1997.”

Recent developments. Below is a chart of the number of IT incidents across state government and the associated financial loss per fiscal year. Incidents include unplanned events that cause interruption or outage in service, loss of data, malware infections, risks to personal data, or security breaches.

	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
Number of incidents	1,211	1,778	1,655	1,893	1,762	2,121	2,471
Reported estimate of financial loss associated with incidents	\$1,623,890	\$2,065,056	\$735,810	\$1,725,777	\$2,566,953	\$217,590 (position was vacant – SIMM 5340-B (g) Total Cost of Incident was not recorded for all Incidents)	\$615,195 (position was vacant – SIMM 5340-B (g) Total Cost of Incident was not recorded for all Incidents)

OIS incident report tracking statistics based on incidents reported by state agencies.

On February 22, 2016, the Assembly Privacy and Consumer Protection Committee and Assembly Select Committee on Cybersecurity held a joint oversight hearing to assess the implementation of the Governor’s Executive Order. Last month, the Director of the Department of Technology and Chief Information Security Officer resigned.

⁶ The State Treasurer’s Office finances public works, like schools and higher education facilities. The Department of Justice represents Californians in civil and criminal matters.

Issue 1: CDT - Security Audit

Budget. The department requests an increase of \$1.6 million Technology Services Revolving Fund in the budget year, and ongoing, for 11 permanent positions (six new positions and five limited-term positions to become permanent) in a permanent audit unit within the Department of Technology's Office of Information Security. The department assumes 15 audits to be completed by 2017, with 23 entities to be audited in 2017-18, and ongoing, for a three-year auditing cycle for all noncompliant entities.

Issue 2: Military Department - Cyber Network Defense Team

Budget. The budget proposes an increase in reimbursement authority from \$774,000 to \$1.4 million, for eight permanent positions (six existing positions and two new permanent positions) for the department's Cyber Network Defense Team (CNDT) to implement provisions of AB 670. If necessary, the department could also expand to include eight National Guard (part-time) security experts to immediately respond to a cyber-incident. The proposal will also fund hardware and software needs to conduct the assessments for 35 state agencies. The department will be reimbursed through CDT through an existing Memorandum of Agreement.

Staff Comment. The CDT audit team proposal will review departments' compliance with mandated state and federal IT policies; whereas CNDT assessments assess network vulnerabilities. In both proposals, the audited or assessed entity must pay for the audit or assessment.

The subcommittee may wish to consider how CDT and the Military Department are collaborating to ensure an intentional and effective sequencing of an audit versus and assessment. More broadly, the subcommittee may wish to discuss how the various approaches (policy evaluation, network examinations, or other) effectuate effective oversight, and how the state can better protect its assets proactively.

Staff Recommendation. Hold open both proposals.

7502 CALIFORNIA DEPARTMENT OF TECHNOLOGY

Overview. The department approves and oversees statewide IT projects, IT professional development, and provides centralized IT services to state and local governments and non-governmental entities. Between 2013 and 2016, of 34 reportable IT projects, the department implemented 25, terminated four⁷, suspended two⁸, and withdrew three⁹. In total, this represents an estimated \$243.2 million in amounts approved for terminated projects, and \$378.4 million in amounts approved for suspended projects.

Budget. The budget includes \$316 million and 919 positions to support the department and its services.

Issue 1: Statewide Information Technology Project Workload

Budget. The department requests \$1.7 million (Technology Services Revolving Fund) for twelve full-time permanent positions that will provide project oversight for reportable IT projects and extended procurement support. The positions would be located in:

- **Statewide Technology Procurement Division (STPD)**, which acquires IT goods and services with market research and develops mid-level requirements earlier in the project approval lifecycle (PAL) of an IT project.
- **Information Technology Project Oversight Division (ITPOD)** provides independent project oversight to keep projects on budget and implemented on time.

Background. PAL includes four stages: (1) business analysis, (2) alternatives analysis, (3) solution development, and (4) project readiness and approval. Each medium- and high-criticality IT projects has independent oversight at the beginning of Stage 2.

Currently, ITPOD evaluates the state and stage of each medium- or high-complexity project and assigns oversight staff on that basis. According to the department, it is difficult to determine how many resources may be needed for projects. For example, CDT may have one staff handling three projects, and in other cases, need two or three resources for other projects. Further, ITPOD resources are funded through a cost-recovery model of \$9,380 per month for each medium- and high-criticality project on an average of two to five years.

According to the department, STPD does not have “sufficient staff to address all the new PAL pre-solicitation and procurement specific functions for current and approved procurements. The

⁷ Department of Transportation’s Construction Management System; Peace Officer Standards and Training Commission’s Exam System Project; Department of Education’s Standardized Account Code Structure System Replacement; and Department of Motor Vehicles’ Information Technology Modernization.

⁸ State Controller’s 21st Century Project; Department of Social Services’ County Expense Claim Reporting Information System.

⁹ Department of Toxic Services’ Hazardous Waste Tracking System; Department of Consumer Affairs’ Bureau of Automotive Repair California Vehicle Inspection System; and Department of Public Health’s CalHEART.

number of complex system integration projects is increasing, based on approved project workload projections.”

Additional resources are needed to address the incoming procurement workload related to procurements that have already been approved to go through PAL. These additional positions are needed to ensure the successful development and implementation of pre-solicitation and procurement-related functions for approved projects. This will result in better procurements and contracts for IT project and telecommunication solutions.

Staff Comment. The department has a total of 51 reportable projects (37 medium-criticality and 14 high-criticality). The department acknowledges that some departments are concerned about paying the \$9,340 per month charge, which has been steady since its implementation in July 2014. However, absent these positions, the department notes that vendor oversight is not as effective because it cannot require the remediation of project risks.

Staff Recommendation. Hold open.

Issue 2: Position Authority for Permanent Employees

Budget. The department requests shifting 50 employees from the temporary help blanket to permanent positions with no increase to the General Fund. The positions are:

- One office technician (typing);
- Six staff information systems analysts;
- One senior personnel specialist;
- Five senior information systems analyst supervisors;
- 12 system software specialist technicians;
- One office assistant;
- Eight department managers of varying levels;
- Five associate information systems analyst specialists;
- One associate systems software specialist;
- One business services assistant and one officer;
- Two staff services manager and one analyst;
- Four associate governmental program analysts; and,
- One associate personnel analyst.

Background. The temporary help positions were created on July 1, 2012, in response to Budget Letter 12-03 (March 2012), which required departments to eliminate budgeted salary savings and rebase funding for state operations. Overall, BL 12-03 reduced the department's permanent positions by 96, but did not reduce the overall state operations budget authority. Instead, the budget letter merely reallocated it to temporary help.

Staff Comment. The temporary help blanket was utilized to maintain service levels and ensure program continuity. Over time, employees were moved from temporary positions as permanent positions became available. At the same time, managers who lost the vacant, permanent positions were then given the flexibility to hire into the temporary help blanket. This rotation of positions is paperwork intensive and time consuming.

The budget request appears consistent with CalHR policy to provide departments the flexibility to manage personnel decisions with funding. Further, the department is providing staffing transparency that these are positions which, though funded out of the temporary help blanket, perform permanent services.

Staff Recommendation. Approve.

1111 DEPARTMENT OF CONSUMER AFFAIRS**Issue 1: Oversight – BreZE**

Background. The Department of Consumer Affairs (DCA) licenses more than 2.5 million licensees in more than 100 business and 200 professional categories, including doctors, dentists, contractors, cosmetologists, and automotive repair facilities. Annually, the DCA processes more than 350,000 applications for professional licensure and an estimated 1.2 million license renewals.

BreZE is the department's online licensing and enforcement system. In 2011, after receiving approval from the California Department of Technology (CDT), the department entered into a nine-year contract, overseen and approved by DGS, with a systems integrator vendor. BreZE was originally scheduled to be completed by 2014; however, the automation project ran into implementation and oversight challenges, which resulted in entities on Release 3 being suspended from the rollout of BreZE. In total, DCA executed three contracts with the vendor, Accenture, LLP, totaling \$45.7 million and executed contracts with other entities for other services and expertise (such as contracting with private companies to obtain database consulting services and system testing manager), which totaled another \$6.3 million.

The board and bureau, by release, along with the number of licensees impacted, are below.

IMPLEMENTED		IMPLEMENTATION PLANNED		IMPLEMENTATION UNKNOWN	
PHASE 1		PHASE 2		PHASE 3 *	
RELEASE DATE: OCTOBER 2013	NUMBER OF LICENSEES	RELEASE DATE: MARCH 2016 (PLANNED)	NUMBER OF LICENSEES	RELEASE DATE: UNKNOWN	NUMBER OF LICENSEES
Board of Barbering and Cosmetology	484,420	Board of Optometry	26,500	Acupuncture Board	15,490
Board of Behavioral Sciences	90,600	Board of Vocational Nursing and Psychiatric Technicians	141,800	Board of Accountancy	134,670
Board of Podiatric Medicine	2,650	Bureau of Security and Investigative Services	1,290,960	Board of Chiropractic Examiners	46,430
Board of Psychology	20,950	California Board of Occupational Therapy	17,680	Board of Guide Dogs for the Blind	110
Board of Registered Nursing	514,640	Dental Board of California	178,420	Board of Pharmacy	257,810
Medical Board of California	153,820	Dental Hygiene Committee of California	28,970	Board for Professional Engineers, Land Surveyors, and Geologists	236,050
Naturopathic Medicine Committee	540	Physical Therapy Board of California	46,200	Bureau of Automotive Repair	149,530
Osteopathic Medical Board of California	7,890	Veterinary Medical Board	33,800	Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation	137,710
Physician Assistant Board	9,900			Bureau for Private Postsecondary Education	2,150
Respiratory Care Board	20,430			California Architects Board	47,540
				California Athletic Commission	2,780
				Cemetery and Funeral Bureau	35,330
				Contractors State License Board	286,620
				Court Reporters Board	13,030
				Landscape Architect Technical Committee	5,270
				Professional Fiduciaries Bureau	800
				Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board	32,720
				Structural Pest Control Board	118,240
				Telephone Medical Advice Services Bureau	60
Totals	1,305,840		1,764,330		1,522,340

Source: [State Auditor's Report, 2015.](#)

As of February 22, 2016, BreEZe had almost 1,000,000 registered users, and has processed almost \$200,000,000 in on-line transactions. Since the Release 2 go-live on January 19, 2016, over 14,000 new licenses have been issued, and over 90,000 licenses have been renewed using BreEZe.

Findings by the State Auditor. In 2015, the State Auditor made several key findings about the project:

- The estimated costs for the BreEZe project drastically outpaced initial projections and its anticipated use has decreased. In 2009 the project was estimated to cost about \$28 million while current estimates are closer to \$96 million, and implementation will include only half of the regulatory entities that originally planned to use it.
- Department of Technology (CDT) did not ensure oversight for BreEZe until more than one year after the project's commencement, and despite being aware of the significant problems with the project, it continued to approve additional funding and allowed the project to press forward without intervening to ensure DCA took corrective action.

Release 2 of the BreEZe Project successfully went live on January 19, 2016. User acceptance testing was conducted between September and December of 2015 wherein the Release 2 programs successfully executed 1,744 test scripts across their 68 license types. With the implementation of Release 2, 429 new on-line transactions have been added, increasing the total number of BreEZe on-line transactions to 549 across all Release 1 and Release 2 programs.

The department continues to struggle with filling the 34 BreEZe positions. As of the end of January 2016, only 10 of the 34 positions have been filled. The department is procuring contractor staff augmentation to make up for the shortfall in order to provide a minimally acceptable level of maintenance services to all BreEZe programs.

Next steps. According to the department, DCA is currently working with the Administration and CDT to work through strategic concepts of Release 3 entities. The pathways will consider the most effective way to address the Bureau of State Audit's (BSA) recommendation to perform a cost-benefit analysis before investing more in BreEZe implementation.

Staff Comment. The subcommittee may wish to clarify the percentage impact of BreEZe rollout into existing boards and bureaus' current fee levels and identify the department's next steps to plan Phase 3 of the boards and bureaus.

Staff Recommendation. No action is necessary.

7760 DEPARTMENT OF GENERAL SERVICES

Overview. The Department of General Services (DGS) provides a variety of services to state departments, such as procurement, management of state-owned and leased real estate, management of the state's vehicle fleet, printing, administrative hearings, legal services, development of building standards, and oversight over school construction. The department generally funds its operations through fees charged to client departments.

Budget. The Governor's budget proposes \$1.1 billion from various funds for support of DGS in 2016-17. This is an increase of \$19 million, or about two percent, from current-year estimated expenditures.

Issue 1: Cap-and-Trade Expenditure Plan – Energy Efficiency for Public Buildings

Budget. The department requests a one-time augmentation of \$30 million (Greenhouse Gas Reduction Fund), and \$952,000 (Greenhouse Gas Reduction Fund) ongoing, for five permanent positions, beginning in the budget year, and to accelerate and expand the Statewide Energy Retrofit Program to reduce greenhouse gas (GHG) emissions.

Of the \$30 million, \$1.9 million will be used for staffing and administration of contracts, and \$28.1 million will be transferred to the Energy Efficiency Retrofit State Revolving Fund to fund projects in bond-funded facilities, including:

- \$8 million to the California Department of Corrections and Rehabilitation (CDCR) for two retrofit projects:
 - California Institute for Women, Chino (\$6.5 million to replace the existing steam system and related equipment)
 - California Men's Colony, San Luis Obispo (\$1.5 million) to replace dorm water heaters, deaerator tank, and economizers/controls.
- Junipero Serra Building, Los Angeles (\$5 million)
- Attorney General's building, Sacramento (\$5 million)
- Veteran's Homes, Chula Vista and Barstow (\$7.1 million)
- State special schools, Riverside (\$3 million)

Background. The Statewide Energy Retrofit Program is one of three statewide programs related to the California Global Warming Solutions Act of 2006 (AB 32) and the Governor's Executive Order B-18-12, which requires state agencies to reduce overall water use at state-facilities by 10 percent by 2015, and by 20 percent by 2020 and to reduce grid-based electricity purchases by 20 percent by 2018.

DGS has developed an energy efficiency program using Energy Service Companies (ESCOs) for existing state-owned facilities that reduces energy consumption. The contract delivery vehicle is through an Energy Savings Performance Contract that guarantees the energy savings. The projects are currently funded via one of three loan programs: the DGS-managed Energy Efficiency State Property Revolving Fund (Revolving Loan Fund), the DGS-managed GS \$Mart, and the Investor Owned Utilities' (IOU) On-Bill Financing.

The Statewide Energy Retrofit Program was designed to assist state departments and agencies in budget-challenged times to implement energy efficiency measures without requiring any upfront capital investment. The Statewide Energy Retrofit Program is designed to implement a comprehensive bundle of energy efficiency measures that are suitable, appropriate, and economically feasible for the facility. Measures typically considered and implemented include, lighting upgrades (interior and exterior), lighting controls, HVAC upgrades (chillers, cooling towers, rooftop packaged units, boilers, heat exchangers, pumps), HVAC controls upgrades, data center optimizations, motor upgrades, envelope, retro-commissioning, water efficiency measures, and transformer upgrades.

Staff Comment. Other components of the cap-and-trade plan are discussed in Senate Budget and Fiscal Review Subcommittee No. 2 on Resources and Environmental Protection.

Staff Recommendation. Hold open.

Issue 2: Mercury Cleaners Site Remediation

Budget. The department requests a one-time \$2.1 million General Fund to continue the remediation efforts (testing, cleanup, and monitoring is necessitated by the detection of contaminant dry cleaning solvents in soil, soil vapor, groundwater, and indoor air samples caused by historical discharge of hazardous wastes and products associated with previous businesses) at the former Mercury Cleaners site located in downtown Sacramento.

Funding will include activities to (a) confer with the Central Valley Regional Water Quality Control Board (RWQCB); (b) conduct indoor air quality studies; (c) conduct investigation and treatment of the groundwater; (d) conduct onsite and offsite studies and monitoring near the Mercury Cleaners property as requested by the RWQCB; and (e) continue soil vapor extraction testing and treatment to remediate hazardous materials.

Background. Since 1967, the state has owned the site, which has been used by commercial dry cleaning businesses since 1947. From 1942 to 1950, an auto repair shop occupied a portion of the site.

In July 2013, DGS submitted a "Request for Agency Oversight of a Brownfield Site" application, and in August 2013, the RWQCB was designated as the lead regulatory oversight agency related to the cleanup of contamination at the site. DGS is undertaking the cleanup in a "voluntary" compliance mode, but if the state does not meet the expectations of the RWQCB, as it relates to abatement of the condition of the site, the state could be in violation of the Porter-Cologne Water Quality Control Act and multiple Water Code provisions, resulting in citations and fines, including civil liability that could incur fees up to \$15,000 per day for each day the violation occurs; or the RWQCB could undertake the cleanup and bill the cost to the state.

DGS received \$3.7 million one-time General Fund authority in 2014-15, and \$9.3 million one-time General Fund authority in 2015-16 for site investigation and assessment work. Funding is required in the budget year to continue testing, cleanup, and monitoring activities as directed by the RWQCB. No insurance policies have been identified to cover all or part of the remediation costs. DGS receives no revenue from the operation of the site.

Staff Comment. The total cost for full remediation is unclear, until the full extent of the plume is defined. The department has not investigated other sites and is unable to answer with certainty whether other remediation sites may exist. In addition, it is unknown whether demolition, hazardous materials abatement, or relocation of neighboring tenants will need to occur. In regards to whether the site will generate revenue, at this time, there is no established long-term use defined for the site. The Capitol Area Plan designates this site as residential. The department will continue to finance the remediation through the budget process, as the state has the obligation to remediate state-owned land.

Staff Recommendation. Approve as requested.

Issue 3: Procurement Cost Savings for FI\$Cal

Budget. The department requests an augmentation of \$670,000 in expenditure authority and four positions in the budget year, and \$1.26 million and eight positions in 2017-18 and ongoing, from the Service Revolving Fund. The positions, by year, are as follows:

CLASS TITLE	FY 2016-17	FY 2017-18
Associate Procurement Engineer to develop and review contract specifications.	1.0	1.0
Senior Electronic Data Processing Acquisition Specialist (Sup) to supervise the assignment of technical acquisition projects.		1.0
Senior Electronic Data Processing Acquisition Specialist (Tech) to act as lead in negotiations with state agency personnel on difficult procurements.		2.0
Staff Electronic Data Processing Acquisition Specialist to lead agency staff and vendor representatives to purchase electronic hardware, software and associated services through statewide contracts, and bidding processes.	3.0	2.0
Staff Services Analyst (General) to review, collect, and present data related to technology procurements.		2.0

DGS-Procurement Division (DGS-PD) will recover the cost of the positions without any increase to its billable hourly rate or the acquisition surcharge.

Background. FI\$Cal is a single integrated financial management system for the state that is envisioned to, among other things, track purchase volumes and costs by vendor, commodity and/or service code, to increase sourcing opportunities, reduce purchase prices, and capture total state spending data. FI\$Cal is a technology business transformation project that will enable the state to combine its accounting, budgeting, cash management, and procurement operations into a single, integrated financial management system.

In October 2011, The Hackett Group benchmarked that the new FI\$Cal system will provide improved purchasing compliance functionality and opportunity assessments for new statewide contracts and leveraged procurement agreements. The Hackett Group estimates a minimum projected annual cost avoidance of \$213.4 million, achieved through the ability to increase strategic sourcing.

DGS-PD is a fee-for-service entity and recovers its costs through a billable hourly rate and an acquisition surcharge. According to the department, the positions requested are expected to generate \$200 million in leveraged procurement agreement savings and the entire cost of the positions will be recovered without any increase to the billable hourly rate or the acquisition surcharge. Therefore, there is no negative impact to the state.

The additional staff will analyze departmental contract spending data through the FI\$Cal system, identify where the state is making numerous purchases of "like" products and combine all of those purchases into a single, statewide contract. Utilizing larger volume purchases will achieve

greater savings for the state. For example, if 50 departments are currently buying 1,000 widgets at an average of \$100.00 each, DGS-PD can consolidate the departmental purchases together and negotiate one contract at a lower per-unit cost (e.g., \$80.00 each) saving the state a significant amount of money.

Currently, DGS-PD has fully deployed all current personnel, and although there are currently 15.2 vacancies, all those positions are in the process of being filled. Currently, DGS-PD is at full capacity and cannot redirect existing staff to the new workload.

Staff Comment. It is still unclear the savings to be realized through the implementation of FISCAL. As the budget is an annual process, staff recommends amending the proposal to allow further deliberation and monitoring the success of the staff, proposed for this year, to implement the savings.

Staff Recommendation. Amend proposal and approve \$670,000 in expenditure authority and four positions in the budget year from the Service Revolving Fund.

Issue 4 + Oversight: Procurement Workload Increase

Budget. The department requests six permanent positions to be funded by redirecting \$520,000 in operating expenses and equipment. The department notes there will be no fee increases to cover expenditures.

- **Certification and Compliance Unit.** The Certification and Compliance Unit, which certifies entities to compete and participate in annual state contracting, includes 25,649 entries of SBs/DVBEs. The department requests two associate program governmental analysts to evaluate small business (SB) and disabled veteran business enterprise (DVBE) certification applications.
- **Communication and Outreach Section.** The section must provide advocate training to over 125 department advocates and assist state agencies that have failed to meet the contract goals. The department requests one staff services analyst and one office technician for SB/DVBE for outreach, training, education services, and creating an advocate database.
- **Contract and Logistics Response Unit.** The unit must develop contracts, agreements, and missions for commonly procured items needed during an emergency or prior to an emergency, in compliance with the State Emergency Plan. The department requests one staff services manager and one associate materials analyst to develop, maintain, and administer statewide contracts for use prior to and during a catastrophic disaster.

Background. DGS is the state's lead agency in promoting small business (SB) and disabled veteran business enterprise (DVBE) access to state contracts. To ensure the state meets its participation goals of 25 percent for SBs and three percent for DVBEs,¹⁰ DGS participates in statewide outreach events, including certification workshops, training, and government contracting panels. Executive Order S-02-06 requires the department to partner with the State Small Business Advocate at the Governor's Office of Business and Economic Development (GO-Biz) to conduct a minimum of five regional workshops.

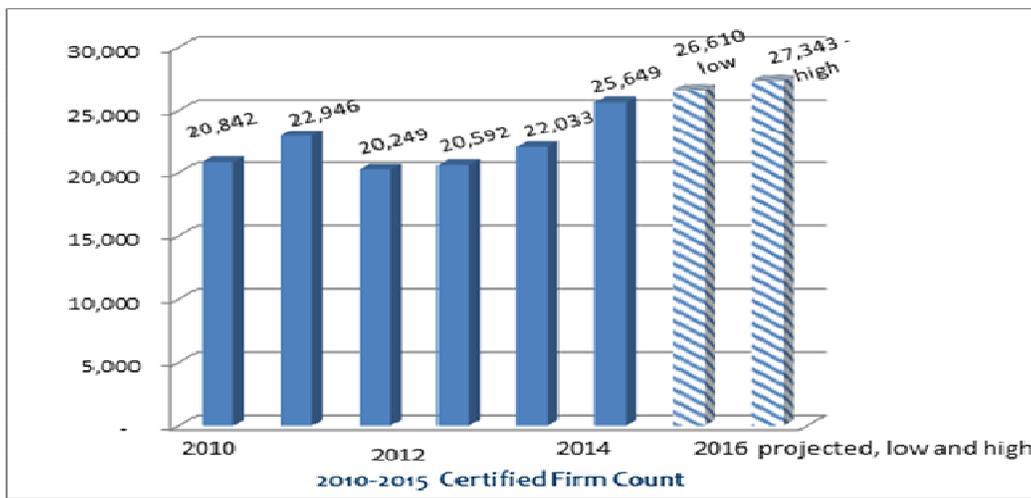
Over the last two fiscal years, the SB goal of 25 percent was met and exceeded statewide. The DVBE goal of three percent was met and exceeded for the past six years. However, the department reports that 20 state departments missed the SB 25% goal; 29 state departments missed the DVBE 3% goal; and 12 of the above missed both goals. DGS assists departments' contracting participation goals by providing training.

¹⁰ Public Contract Code §10111 outlines the reporting requirements for State Departments. Military and Veteran's Code §991.1 establishes that a minimum of three percent of total contract value should be awarded to DVBE entities, and EO S-02-06 and D-37-01 establish the 25 percent participation benchmark for SBs.

SB / DVBE	Total Number of SB / DVBE Firm Contracted				
Certified Firms	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	Proj 2015-16
SB	3704	3327	1732	3378	3143
DVBE	17	11	7	17	16

Source: SCPRS 2011, 2012, 2013, 2014, 2015 available at:
<http://www.dgs.ca.gov/pd/Programs/caleprocure/SCPRSDData.aspx>

In 2013, the State Auditor recommended the Legislature enact legislation aimed to increase the number of DVBEs that contract with the state. For 2016, the department projects an increase in the number of certified firm (SBs and DVBEs) ranging between 26,610 and 27,340.



In 2012, the department’s certification staff reviewed approximately 6,300 paper applications and conducted 440 SB/DVBE compliance reviews. In 2014, the department granted two-year certification extensions to 17,500 firms in anticipation of increased workload due to FISCAL implementation in July 2015. OSDS will grant additional extensions (based on the maximum statutory extension allowed) to 7,800 certified firms expiring in the first six months of 2016 to accommodate the FISCAL project. On average, 1,050 certifications (including extensions) will expire every month starting in July 2016.

Staff Recommendation. Approve as requested.

Issue 5: TBL – Energy Service Contracts

Budget. The department proposes the following trailer bill provisions:

- Expands the authorized list of services to include energy efficiency and water conservation services, for which a state agency may enter into an energy savings contract with a qualified energy service company (ESCO).
- Authorizes the department or any other state agency to establish a pool of qualified energy service companies, based on qualifications, experience, pricing, or other factors.
- Defines “energy retrofit project” as a project for which the state works with a qualified energy service company to identify, develop, design, and implement energy conservation measures in existing facilities to reduce energy use or make energy efficient.
- Prohibits the erection or installation of a power generating system, power purchase, or project utilizing a site license or lease agreement to be considered, as an energy retrofit project.

Background. An ESCO is a single firm that manages and coordinates all phases of an energy project and provides many types of services. Typically, ESCOs provide energy audits, project financing, construction management services, and equipment maintenance and servicing.

Currently, only three ESCOs actively bid on types of processes. In the last three years, the department has released twenty requests for responses/proposals (RFPs). With the proposed language, the department would like to establish a pre-qualified pool of ESCOs, who would meet specified criteria, and could be ready to be assigned to a project.

Each energy savings company must be re-qualified every two years.

Staff Comment. The department hopes to provide a more expedient process at awarding projects, including 40 projects in the next six months.

Staff Recommendation. Hold open to allow additional time for language review.

Issue 6: Capital Outlay – Central Plant, Capitol Irrigation Project

Budget. The department requests \$1.7 million in existing lease-revenue bond funds, sold in 2009, to provide a reclaimed water system to reuse cooling tower water from the Sacramento Downtown Central Plant as irrigation water for the Capitol Park. The project will include piping, piping modifications, underground water storage tanks, chemical treatment, and signage.

Background. The Central Plant provides chilled water and steam to cool and heat various state buildings in downtown Sacramento. In 2003-04, the Legislature approved \$214 million in lease revenue bond funds to replace the state's 1960s-era Central Plant in Sacramento with a larger, more modern, and more efficient facility. The project also included the construction of a new thermal energy storage tank, new cooling towers, and a new steam turbine distributed generation system. The project is now essentially complete, and the Administration estimates that there will be an estimated project savings of \$2.7 million.

Currently, the Central Plant cooling tower blow down water is reclaimed and utilized on the Central Plant site for irrigation, toilets, urinals and a water feature. The remaining cooling tower blow down water is discharged to the city's sewer system and sent to the county's water treatment facility. The department anticipates the Plant could supply over 5.6 million gallons of reclaimed water, saving the purchase of potable water from the City of Sacramento and treating Sacramento County sewer water for the Capitol Park. However, there is no infrastructure that connects the Central Plant and Capitol Park for irrigation water at this time, nor is there any source for reclaimed water within the state's downtown 23 buildings (or 4.5 million square feet). The department anticipates future projects to include tapping into the piping to use reclaimed water for toilets and urinals. The department projects a net savings of \$5,750 per year based upon current usage and rates.

LAO Comment and Recommendation.

- **Project does not appear cost-effective, either by number of gallons of water saved by dollar invested or the number of years the project must be in operation to repay costs of the project.**

DGS estimates that the proposed project would result in annual savings of about three gallons of water per dollar invested, based on the current operations of the Central Plant. In contrast, an audit of Los Angeles Department of Water and Power (LADWP)'s water conservation programs found that its residential turf removal program will save 34 gallons of water per dollar invested per year.

In addition, based on information provided by the department, the project is expected to result in annual net savings of just over \$10,000 given current operations of the Central Plant. These net savings account for savings from (1) purchasing less water to irrigate Capitol Park, and (2) lower fees associated with discharging less water from the Central Plant into the sewer system, offset by increased operational costs associated with treating and pumping water from the Central Plant to Capitol Park. When compared to the

\$1.7 million cost of the project, DGS estimates that the payback period for the proposed project would be 166 years, which is an unusually long repayment period. (The payback period would fall to an estimated 88 years if the Central Plant were used at its maximum capacity.) By contrast, recently funded water savings projects at state buildings have payback periods that average about 30 years.

- **Recommends rejecting the Governor’s proposal.**

Staff Comment. The subcommittee may wish to clarify why the length of the payback period (or when the project will “break even”) is 166 years. In addition, the subcommittee may wish to ask about the sequencing of this project, given another large infrastructure proposal to be discussed below, and determine the department’s prioritization of this project above other possibly more cost-effective water-saving projects, such as water fixture replacements and turf removal.

Staff Recommendation. Hold open.

Issue 7: BCP and TBL – State Office Infrastructure Plan

Budget. The state’s fiscal health and robust revenues over the past two years have provided the Administration the opportunity to propose a major capital outlay programs for state buildings in Sacramento. The Governor’s budget proposes to transfer \$1.5 billion from the General Fund to be used for improvement or replacement of three state office buildings in the capital. The resources would be transferred to the State Office Infrastructure Fund (SOIF), with monies in the fund subject to continuous appropriation. The \$1.5 billion is intended to provide pay-as-you-go funding to replace the Natural Resources Building, Food and Agriculture Annex, and State Capitol Annex. Of the total, about \$10 million is required for 2016-17 to begin study and design activities for the proposed projects. The projects are as follows:

- **Natural Resources Building.** The proposal calls for the state to contract for a privately-constructed lease-to-purchase building or complex at a cost of \$530 million and completed by 2020.
- **O Street Office Building.** The proposal calls for the demolition of the currently vacant Department of Food and Agriculture Annex and the construction of a new facility at a cost of \$226 million.
- **Capitol Annex.** The proposal calls for either the renovation of the existing 1950s era building, or its demolition and the construction of new office space for elected officials and staff at an unknown cost.

The proposed trailer language would establish the SOIF, authorize the transfer of \$1.5 billion to the SOIF, and continuously appropriate those monies to the Department of General Services (DGS) to be used for the planning, acquisition, construction, and maintenance of state buildings and property.

Background. In July, DGS released a study that provided information regarding the condition of state office buildings and office space in the Sacramento region. Based on the analysis, the report ranked 29 buildings, identifying nine in poor condition, four in fair condition, and 16 in good condition. The structures ranked in the worst condition (and with the highest ratio of estimated repair cost to replacement value) were the Natural Resources building, Personnel Building and the Bonderson Building. (The Capitol Annex was not included in the assessment due to its specialized nature atypical of most office space.)

The proposal indicates that the project has several advantages to traditional means of paying for state buildings. The Administration notes that the state would avoid interest and administrative costs associated with long-term debt financing, eliminate risk associated with bond compliance and disclosure, ensure flexibility in future build-associated contracts and agreements, allow for project timing flexibility, and allow greater opportunities for mixed use structures. Most state infrastructure is financed over time. The state last used a cash-funded approach for a building was in 2000, when the Office of Emergency Services had a building constructed at Mather. The

last time DGS paid cash for a building was for a relatively small project almost 30 years ago, when the Legislative Garage was constructed.

Legislative Analyst's Comments. In its analysis of the Governor's proposal, the Legislative Analyst's Office (LAO) raises a number of concerns. The LAO indicated that although the chosen project components appear to address reasonable needs, its analysis noted the paucity of detail in the projects, especially with regard to scope, cost by project phase, and timeline. LAO staff also noted the lack of project sequencing (the Administration subsequently provided additional detail on this issue) and the absence of information on how future projects would be funded. LAO also expressed concerns regarding the continuous appropriation language and noted the 'weak rationale' for bypassing the traditional budget process.

Staff Comments. There are benefits and drawbacks to pursuing a cash, pay-as you-go approach to capital investment. While the approach would allow the state would avoid the interest costs of financing such infrastructure with long-term debt, this benefit must be weighed against other considerations. Current interest rates are at a generational low, with yields on 20- to 30-year municipal paper hovering at around three percent. It may be wise to consider retaining some or all cash and use it for needed investment during periods of prevailing higher rates. In this way, a retained capital reserve account could function for capital outlay project in a manner similar to the role the Budget Stabilization Account's (BSA) plays in state operating expenses. Financing also has the advantage of attributing the costs of capital projects with long useful lives across time. The costs of capital investment can then be allocated over the entire population that benefits from such investment, thus promoting intergenerational equity. The committee may want the DOF and LAO to comment of the relative costs and benefits of the Administration's approach.

Regardless of the financing approach, LAO's concerns regarding the continuous appropriation are well-considered. There appears to be no convincing need for continuous appropriation, and certainly not at this time. Instead, the committee may want to consider an appropriation for the preliminary initial studies for the project for the budget year – an amount of approximately \$10 million. Should the timing for the project pose a constraint relative to the timing of the annual state budget, there would be an opportunity to develop approval structures that would allow for project continuity while retaining the Legislature's ability to exercise its constitutional appropriation authority. The granting of continuous appropriation bears close scrutiny under any circumstances; to consider it for a proposal still in the process of formulation is particularly problematic.

Staff Recommendation. Hold open.

CONTROL SECTION 6.10

Issue 1: Funding for Deferred Maintenance Projects

Budget. Budget Control Section 6.10 gives the Department of Finance the authority to allocate \$500 million General Fund in the amounts identified below for deferred maintenance projects for the following state entities:

Department of Water Resources	100,000,000
Department of State Hospitals	64,000,000
Judicial Branch	60,000,000
Department of Parks and Recreation	60,000,000
Department of Corrections and Rehabilitation	55,000,000
California State University	35,000,000
University of California	35,000,000
Department of Developmental Services—Porterville Facility	18,000,000
Department of Fish and Wildlife	15,000,000
California Military Department	15,000,000
Department of General Services	12,000,000
Department of Veterans Affairs	8,000,000
Department of Forestry and Fire Protection	8,000,000
State Special Schools	4,000,000
Network of California Fairs	4,000,000
California Science Center	3,000,000
Hastings College of the Law	2,000,000
Office of Emergency Services	800,000
California Conservation Corps	700,000
Department of Food and Agriculture	300,000
San Joaquin River Conservancy	200,000

In addition, the control section allows for DOF to allocate \$18 million from the Motor Vehicle Account for deferred maintenance projects for the California Highway Patrol and Department of Motor Vehicles.

Under this proposal, departments would provide DOF a list of deferred maintenance projects for which the funding would be allocated. The DOF would review and provide the approved list to the Chairperson of the Joint Legislative Budget Committee (JLBC) 30 days prior to allocating any funds. The amounts specified above would be available for encumbrance or expenditure until June 30, 2018. If a department made a change to the approved list after the funds have been allocated, DOF's approval is required and the JLBC would be notified 30 days prior to the change being approved.

Background. The proposed control section is virtually identical (except for the amounts and departments) to that proposed last year as part of the Governor's budget. Outside of this program, most deferred maintenance is funded through the baseline support budget provided to

individual departments. Departments have some discretion to use these funds for maintenance projects or other higher priority needs within the department.

The Legislative Analyst Office (LAO) continues to express concern regarding the Legislature's abrogation of its authority for capital outlay and deferred maintenance and recommends steps that would reinsert the legislative perspective in this process. For the current deferred maintenance proposal, the LAO recommends: (1) requiring lists of proposed projects to be funded by each department by April; (2) requiring individual departments to report at budget hearings regarding the projects; (3) modifying departments' funding levels based on project reviews; and (4) requiring that funded projects be listed in a Supplemental Report to the 2016 Budget Act.

Staff Comments. Given the similarity of the proposal to last year's, staff concerns are equally similar. The Governor's proposal to provide funding for deferred maintenance is a positive step toward addressing the problem. However, the proposed process for the allocation of the \$500 million (which in some cases could be for projects costing tens of millions of dollars) is not likely to provide for adequate Legislative oversight. The process proposed for allocation of the \$500 million would not provide the Legislature with an understanding of how each department prioritized projects. Neither would the proposed process allow the Legislature an opportunity to provide its input on other projects that it considers a high priority. Finally, this process would not allow the Legislature to consider other potentially appropriate funding sources for deferred maintenance projects, such as using bond funds or user fees, rather than state General Fund. Given these considerations, the Legislature may want to develop an alternative approach to allocating some of the funding proposed for deferred maintenance projects. Last year, the department provided lists of deferred maintenance projects to be funded in conjunction with the budget discussions.

Staff Recommendation. Hold open.